

Business news

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Judge drops charges against HP's Dunn

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SAN JOSE, Calif. — California's criminal case surrounding Hewlett-Packard Co.'s ill-fated boardroom spying scandal has all but evaporated, although the four defendants still aren't off the hook with federal prosecutors.

A judge dropped all charges Wednesday against former HP Chairwoman Patricia Dunn, while three other defendants avoided jail time by pleading no contest to misdemeanors.

But the U.S. attorney's office in San Francisco, which already has secured one conviction against a low-level investigator in the case, said it continues to investigate the boardroom spying scheme that rocked one of Silicon Valley's most respected companies. Spokesman Luke Macaulay declined further comment.

The sudden end to the state's high-profile case, however, may not bode well for federal prosecutors' probe, with some legal experts saying Wednesday's developments may indicate the evidence wasn't very strong.

"At some point the attorney general's office knew that this case wasn't going to hold a lot of water," said James Post, a Boston University professor and expert on corporate governance and business ethics.

All four defendants had initially been charged with felonies, including identity theft and fraud, for their roles in a scheme to unmask the source of boardroom leaks. Investigators' tactics included "pretexting," or pretending to be someone else, to obtain the calling records of directors, employees and journalists.

The original charges carried hefty fines and prison terms.

Former HP ethics chief Kevin Hunsaker and two private investigators — Ronald DeLia and Matthew DePante — ultimately pleaded no contest to misdemeanor charges of fraudulent wire communications charges.

Santa Clara County Superior Court Judge Ray E. Cunningham did not immediately accept their pleas and said the charges against them would be dropped in September after they complete 96 hours of community service and make restitution.

Prosecutors said Dunn's health — she's been undergoing treatment for advanced ovarian cancer — played a role in the decision to drop the charges against her.

"Based on her level of involvement in the pretexting scheme, and her health condition, (Attorney General Jerry Brown) believed dismissal of her case was appropriate," said Brown's spokesman, Nathan Barankin.

The other three defendants appeared to be more "directly and actively involved in the pretexting activities" than Dunn, he said.

HP's investigation, which took place in 2005 and 2006, erupted into a national scandal after HP disclosed that detectives it had hired obtained the private phone records of directors, employees and journalists.

The case made a household word out of "pretexting," a shady tactic in which detectives use their targets' Social Security numbers to fool telephone companies into divulging their detailed call logs.

Dunn ordered the investigators to find the source of the leak after a board member gave company information to a reporter. But she said she didn't know the detectives would go to such extremes.

She resigned last September at the height of the scandal.

"I have been strengthened by wonderful support during this difficult time — both from my dear friends and from people I have never met," Dunn said in a statement Wednesday. "I have always had faith that the truth would win out and justice would be served — and it has been."

None of the four defendants attended Wednesday's hearing.

Outside court, defense lawyers for Hunsaker and the two investigators said the deal with prosecutors — which did not include an admission of guilt — was an appropriate resolution to the case.

"This was a worthless case — this was never a criminal case," said Thomas Nolan, one of Hunsaker's lawyers. "All these people acted in good faith. They believed that what they were

doing was right and legal."

The four were charged in October with four felony counts: use of false or fraudulent pretenses to obtain confidential information from a public utility, unauthorized access to computer data, identity theft, and conspiracy to commit each of those crimes.

Each of the charges carried a sentence of up to three years in prison and a \$10,000 fine.

But while the deal with state prosecutors allows all four defendants to escape jail time, they may not be entirely out of trouble.

To date, only one person has been charged by federal authorities in connection with the boardroom spying.

Private investigator Bryan Wagner pleaded guilty to identity theft and conspiracy and agreed to testify for the prosecution. Wagner had also been charged by the state, but those charges were dropped after he struck a deal with federal investigators.

Legal experts have repeatedly questioned whether the state would be able to win convictions given the murky legal statutes surrounding pretexting. Deep-pocketed defendants Dunn and Hunsaker also hired topflight attorneys and mounted vigorous public defenses.

"On the governance side and the privacy side, we're better off today when we were when this first broke," Post said. "But I'm not trying to excuse the kind of example that was made of Dunn and Hunsaker."

Prosecutors said the case has led to important reforms in the area of corporate governance and privacy protections.

"What we heard from critics from the start was that this (practice) was perfectly legal," Barankin said. "I think this outcome disproves that."

AT&T Inc. has reported a dramatic decline in the amount of pretexting since the HP scandal broke, he said.

Wednesday's news broke as HP's shareholders gathered for their annual meeting — their first chance to grill Chief Executive Mark Hurd about the scandal.

Hurd declined to discuss the criminal probes but said the company is committed to transforming the board and creating "a board that you as shareholders can be proud of." Shareholders voted down a proposal to let stockholders nominate candidates for the board of directors.

There was some confusion early Wednesday about the agreement between prosecutors and the defendants. The attorney general's office initially said Dunn and the three others had agreed to plead guilty, but the office later said that was inaccurate.

Through the investigation, shares of the region's oldest and biggest technology company remained immune to the scandal, steadily rising through much of last year.

HP's stock closed up 24 cents to \$39.79 in Wednesday trading on the New York Stock Exchange.



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