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Outside auditor is called target of fraud at Peregrine

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The lead outside auditor who was responsible for reviewing and certifying the accuracy of Peregrine Systems' financial statements was not part of the fraud that pervaded the San Diego software company, his lawyer said yesterday.

If anything, former Arthur Andersen partner Daniel F. Stulac was a target of the deceit orchestrated by Peregrine's top executives, defense lawyer Michael Attanasio said yesterday in a downtown federal courtroom.

Attanasio emphasized during his opening presentation in the financial-fraud trial that Stulac never personally profited from a three-year scheme to exaggerate Peregrine's financial performance.

Prosecutors contend that the former outside auditor and others charged with conspiracy and fraud were part of a sustained effort to keep the company's stock price high.

The chicanery included backdating some multimillion-dollar software sales contracts so they could be included in financial results for the previous quarter. Other sales contracts were subject to secret side agreements that said the customer didn't have to pay.

But Stulac never owned Peregrine stock and was paid only a salary by Arthur Andersen, Attanasio said. As a just-promoted junior partner at the firm, Stulac didn't get to share in the partnership's profits.

Attanasio told jurors to think about Stulac's circumstances. He was "the lowest of the low" for the one year he headed Peregrine's audit team and made "zero dollars" in the financial-fraud case.

"Follow the money," Attanasio said. "Side letters. Backdating. These techniques were not used by Mr. Stulac. They targeted Mr. Stulac."

Eleven others have pleaded guilty in connection with the corporate accounting scandal, which emerged in early 2002 and resulted in billions of dollars in investor losses.

But Stulac and three former Peregrine executives are the first to go to trial, and opening statements began Thursday before U.S. District Judge Thomas J. Whelan. The other three defendants are:

- Gary L. Lenz, who had four jobs during his 19-month tenure at Peregrine, including a five-month stint as the company's president and chief operating officer. He previously was a longtime consultant for Arthur Andersen.

- Joseph Reichner, who was the senior vice president of alliances and business development during his 15-month tenure at Peregrine. He also worked previously as a consultant for Arthur Andersen.

■Patrick Towle, who was Peregrine's revenue accounting manager for three years. When Towle began working at Peregrine in 1999, he was 31 years old and had little practical experience, his lawyer, Kathryn Leff, told jurors.

Defense lawyers for all four argued that their clients had no incentive to participate in Peregrine's fraud, unlike others who personally reaped millions of dollars from Peregrine stock sales – and who have pleaded guilty.

Attanasio argued that the Peregrine executives who have pleaded guilty in the case were lying to Stulac while he headed the Peregrine audit team and falsified documents that Stulac and others reviewed.

“Garbage in, garbage out,” Attanasio said. “The information was bad going into the audit team because all of the executives (providing the information) were involved.”

Attanasio, like other defense lawyers, suggested that those who pleaded guilty also would be motivated to lie as witnesses in the trial. Their cooperation with the prosecution will be a crucial factor in their sentencing recommendation, Attanasio said.

But the prosecutor said in his opening statement Thursday that the government's case would include e-mails that provide a window into their frame of mind at the time, as well as other supporting evidence.

Assistant U.S. Attorney Sanjay Bhandari told jurors that after Peregrine's collapse, Stulac told federal investigators that he knew certain accounting practices at the company were ridiculous.

“He knew and told others it was done to deceive the public,” Bhandari said. “He told others that he had a sick feeling in his stomach about it – but he did it anyway.”

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