

CASE TYPE: Wrongful Termination
RESULT: \$2.393 million

COUNTY: Los Angeles
REPORT TYPE: Jury Trial

SUMMARY: Exec removed from his position two years after outsider fraud taints his division; Male, 55

CASE: Maurice Dahn v. Rockwell International
CASE NO. C 501 692
PLTF ATTY: Greene, Broillet et al., By: Timothy J. Wheeler &
Brian J. Panish, Santa Monica
DEFT ATTY: Gibson, Dunn & Crutcher, By: William F. Highberger &
Richard J. Doren, Los Angeles
PLTF TECH'L: Raymond Schultz, Economist, Pasadena
George Ott, Executive Search, Pasadena
DEFT TECH'L: Martin Wertlieb, Executive Search, Malibu
Roger Shlonsky, Economist, Los Angeles
DEMAND: \$800,000 per CCP §998 in 1986. **OFFER:** None



BRIAN J. PANISH
Pltf Co-Counsel

FACTS: Pltf, age 55, was employed by Deft Rockwell International as the Vice President of Information Systems Center (ISC) in charge of an operating unit with 1,100 employees and \$150 million budget. ISC provided computing services to the Deft's numerous business units. The Pltf had been employed for 20 years with excellent performance reviews, pay raises, bonuses and stock options.

In 1981 Deft Rockwell became the victim of fraud perpetrated by a third party lease broker for computers, OPM. The fraud was originally discovered by a subordinate of Pltf. OPM altered and forged computer lease contracts with Rockwell and used them as security for loans exceeding \$300 million from financial institutions. Pltf's division recommended the purchase of particular computer equipment and was responsible for its installation and operation, but the actual leasing was handled through Rockwell's legal and purchasing Departments. All leases had to be approved by Rockwell's Chief Financial Affairs Controller and management committee consisting of the President, CEO and Chairman of the Board; the leases could not be approved or authorized by Pltf.

Subsequently, OPM principals were indicted and convicted in New York. Rockwell and others were sued by the financial institutions in 19 separate lawsuits for legal malpractice by in-house attorneys, for securities violations, etc. The suits alleged that Rockwell attorneys never attended the closings for these very large lease transactions, giving OPM the opportunity to fraudulently alter the leases; also, that the Rockwell legal staff didn't review the final, executed copies of the leases. The Rockwell lawsuits were eventually settled for \$38 million (reduced by later recoveries). Additionally, Rockwell paid \$9 million in attorney's fees to Chadbourne, Pach in New York.

In April 1983 Pltf was advised he was to be transferred to a staff job once his replacement at ISC was hired. Pltf refused the transfer and left the company on July 11, 1983.

PER PLTF: That Pltf had an implied contract not to be terminated without good cause; that he was constructively terminated in breach of that agreement; that the offered staff job was never formally established or offered and that, at most, the staff job would last only 3-4 months followed by certain layoff; that Pltf was the only Rockwell employee punished over the OPM affair; that he was made the scapegoat and fall guy for the fraud of a third party - a fraud which was, in fact, assisted by the negligence of Rockwell's corporate legal, financial and purchasing departments. That the making of a scapegoat was common practice at Rockwell, and that Rockwell did not follow its personnel policies regarding regular performance reviews and creation of new positions.

INJURIES: Lost earnings ranging between \$1.8-\$3.1 million only on breach of contract action; no emotional distress or punitive damages available.

DEFENSE: Contended that the Pltf was not terminated but quit; that he was removed from his position and offered a staff job but that the Pltf refused that job because of pride; that high-level executive staff positions could last indefinitely; that if the Pltf were terminated, good cause existed because of poor job performance and performance problems with his superior, customers and the government liaison representatives. Deft contended that in February, 1981 due to corporate reorganization the Pltf was assigned a new supervisor; that executives of various business units working with ISC and a government liaison official had complained regarding the level of service and cooperativeness of ISC in general and the Pltf in particular. Deft also contended that Rockwell acted in conformance with

JICT: its personnel practices for persons in executive positions.
ARY POLL: \$2.393 million
NOTES: 12-0 on liability; 11-1 on damages
 The case was initially pending in State Court but removed to U.S. District Court where summary judgment for Deft was granted by Judge Ronald Lew. The Pltf then made a motion claiming lack of subject matter jurisdiction as Rockwell had its principal place of business in California, and therefore, diversity jurisdiction did not exist. Pltf's motion was granted and the case was remanded to State Court where summary judgment for Deft was granted by Judge Zebrowski. The case was reversed on appeal by the Court of Appeal and sent back for trial.
DATE: 6/19/92 **TRIAL TIME:** 15 days *says Pltf*; 12 days *says Deft*. **JURY OUT:** 2 days
JUDGE: James Hastings (Ret.) **COURT:** L.A. County Superior Court, Los Angeles **CRA #** 3449

CASE TYPE: Insurance Broker Malpractice **COUNTY:** Los Angeles
RESULT: \$16,923,116 **REPORT TYPE:** Jury Trial
SUMMARY: Health care coverage for 2,000 insureds found fraudulent

CASE: Adams, Clay Insurance Brokerage/Transcare Association, Inc. v. National Underwriters et al.
CASE NO. C 736 047
PLTF ATTY: Engstrom, Lipscomb & Lack, By: Walter J. Lack and Michael T. Whitaker, *Los Angeles*
DEFT ATTY: King & Williams, By: Thomas M. Donovan and David J. Sapienza, *Los Angeles* for Hoskie/National Ward, Kroll & Jampol, By: Gerald L. Kroll and John Levit, *Beverly Hills* for Shipley/Mocatta
PLTF TECH'L: Peter Formuzis, Economist, *Irvine*
 Eric Haessler, Esq., Securities Attorney, *Portland, OR*
 Sam Farmer, Insurance Broker/Dealer, *New Orleans, LA*
 Gary Alec, C.P.A., Accountant, *Los Angeles*
 Thomas Whitaker, Surplus Lines Ins. Broker, *Los Angeles*
DEFT TECH'L: Frank Damon, Esq., Insurance, *Los Angeles*
 Jennifer Polhemus, Economist, *Los Angeles*
 Jack Elliott, Surplus Lines Ins. Broker, *Rancho Santa Fe*
 John Hirshleifer, Insurance Broker/Dealer, *Los Angeles*
DEMAND: *According to Pltf*, \$500,000 per CCP §998 raised to \$2 million at MSC and \$6 million at trial to Hoskie/National; Pltf's attorney asked the jury for \$18,383,116. \$3 million each to Hoskie/National and BS/BM *says Deft*.
OFFER: \$1 million policy limits at trial from Hoskie/National; None, no consent from BS/BM; Deft's attorneys for Hoskie/National asked the jury to award no more than \$225,000 which was 25% of the outstanding Transcare medical claims of approximately \$900,000 as divided by the 4 brokers.
FACTS: Pltf Transcare Association, Inc. was a corporation formed to provide insurance benefits to the moving/storage industry; Pltf Adams, Clay Insurance Brokers was a retail and surplus lines insurance brokerage that conceived the program and marketed it on a nationwide basis and was the broker of record for Transcare.

Deft said Pltf failed to terminate the plan when fraud was first discovered.

In December, 1987 the Transcare accident/health program was placed with the Victoria Insurance Company in Georgia by Adams, Clay but in September, 1988 the Georgia Department placed Victoria under a cease and desist order. In the fall of 1988 the president of Victoria contacted Deft Hoskie, an officer of Deft National Underwriters (a Florida surplus lines insurance broker) and introduced Hoskie to Anthony Dyson, who purported to represent the Arab Insurance Group (ARIG). Dyson proposed to replace Victoria with ARIG, whom he purported to represent, based in the Middle East.

Pursuant to Dyson's authorization on December 1, 1988 Pltf Transcare, Inc. was issued a binder by National Underwriters evidencing placement of Accident and Health care coverage for its 2,000 member insureds and confirming that ARIG had agreed to insure Transcare. At Adams, Clay's request, the binder was supposed to be followed within 10 days by a Cover Note issued by a London Lloyd's broker, Ian McCall's Ltd.

By late January, 1989 no Cover Note had been issued which caused Adams, Clay to hire Berisford Mocatta and Brown Shipley, Lloyds of London insurance brokers, to complete the placement and issue