IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO: 16-15426

SPENCER DUKE

Plaintiff/Appellant,

V

PRESTIGE CRUISES INTERNATIONAL, INC., et. al.

Defendant/Appellee

ON APEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
HONORABLE JAMES LAWRENCE KING
(14-cv-23017-JLK)

APPELLANT'S INITIAL BRIEF

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CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

Appellant, Spencer Duke, pursuant to FRAP 26.1 and 11th Cir. R. 26.1-1, 26.1-2 and 26.1-3, hereby files his Certificate of Interested Persons and Corporate Disclosure Statement:

1. Scott M. Behren, Plaintiff's counsel

2. Arlene Kline, Defendants' counsel

3. Melissa Zinkil, Defendants' counsel

4. Honorable James Lawrence King, District Court Judge

5. Prestige Cruises International, Inc., Defendant

6. Prestige Cruise Services, LLC, Defendant

7. Prestige Cruise Holdings, Inc.

7. Spencer Duke, Plaintiff.

STATEMENT REGARDING ORAL ARGUMENT

Appellant believes oral argument will assist the court's disposition of this case. Oral argument will assist in focus and will test the basis and validity of the contentions of the parties.

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PARTIES AND CORPORATE DISCLOSURE STATEMENT....................2

STATEMENT REGARDING ORAL ARGUMENT....................3

TABLE OF CONTENTS....................4

TABLE OF CITATIONS....................5

STATEMENT OF JURISDICTION....................6

STATEMENT OF THE ISSUES....................6

COURSE OF PROCEEDING BELOW....................6

STATEMENT OF THE FACTS....................9

STANDARD OF REVIEW....................17

SUMMARY OF THE ARGUMENT....................17

ARGUMENT....................18

I. The Trial Court Erred in Dismissing Count II of the Amended Complaint with Prejudice Wherein Duke Brings Claims for Violation of the Dodd-Frank Act....................18

II. The District Court Erred In Dismissing Counts I and II of the Third Amended Complaint With Prejudice in that The Defendants Are Companies Subject to the SOX Anti-Retaliation Provisions....................21

CONCLUSION....................30

CERTIFICATE OF COMPLIANCE....................30

CERTIFICATE OF SERVICES....................31

TABLE OF CITATIONS

Cases

American Dental Association v. Cigna Corporation, 605 F.3d 1283, 1288 (11th Cir. 2010) 17

Asadi v. G.E. Energy (USA), LLC, 720 F.3d 620, 623 (5th Cir. 2013)..........*19*

Berman v. NEO@ Ogilvy, 801 F.3d 145 (2d Cir. 2015)..........19

Bussing v. COR Clearing, LLC, Case No: 8:12-CV-238 (D. Neb. 5/21/14)..........20

Chaparro v. Carnival Corporation, 693 F.3d 1333, 1335 (11th Cir. 2012)..........17

Connolly v. Wolfgang Remkes, Case No: 5:14-CV-01344-LHK (N.D. Cal. 10/28/14)..........20

Egan v. Tradingscreen, Inc., 2011 U.S. Dist. LEXIS 47713 (S.D. NY 5/4/11)..........20

Genberg v Porter, 935 F.Supp. 2d 1094 (D. Colo. 2013)..........20

In re Burlington Coat Factory Securities Litigation, 114 F.3d 1410, 1431 (3d Cir. 1997) 27

Khazin v. TD Ameritrade Holding Corp., Case No: 13-4149 (D. N.J. 3/11/14)..........19

Kramer v. Trans-Lux Corp., 2012 U.S. Dist. LEXIS 136939 (D. Conn. 9/25/12)..........20

Nollner v. S. Baptist Convention, Inc., 852 F.Supp.2d 986, 995 (M.D. Tenn 2012)..........20

Randall v. Scott, 610 F.3d 701, 705 (11th Cir. 2010)..........17

Somers v. Digital Realty Trust, Inc., Case No: 15-17352 20,21

Somers v. Digital Realty Trust, 119 F.Supp. 3d 1088 (N.D. Cal. 2015)..........20,21

U.S. S.E.C. v. Brown, 740 F.Supp.2d 148, (D.D.C. 2010)………27

Statutes

Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010)("Dodd-Frank") ……………………………………………………………………………..18,19, 20,21

Sarbanes-Oxley Act of 2002, Pub. L. No. 107, 116 Stat. 745 ("SOX")…………………………………………………………………21,22,23,24,25,26,27

SEC Rule 21F-2 of the Securities Exchange Act of 1934

Section 15(d) of the Securities Exchange Act of 1934

STATEMENT OF JURISDICTION

This case is a plenary appeal of a final decision of a district court of the United States, especially, the United States District Court of the Southern District of Florida, rendered on August 14, 2015 and July 13, 2016, followed by a Notice of Appeal on August 10, 2016. Accordingly, jurisdiction lies under 28 U.S.C. Section 1291.

STATEMENT OF THE ISSUES

1. Whether the District Court erred in dismissing Spencer Duke's claims under the Sarbanes Oxley Statute and the Dodd-Frank Act?

COURSE OF PROCEEDINGS BELOW

1. On or about November 24, 2104, Spencer Duke ("Duke") filed his Amended Complaint. In the Amended Complaint Duke asserted claims for violations of Sarbanes

Oxley, the Dodd Frank Act and the Florida Whistleblower Act (Fla. Stat. Section 448.101-448.105) (App. 7). These claims were brought against multiple Defendants. (App. 7).

2. On January 31, 2015, Defendants Oceania Cruises, Inc., Prestige Cruise Holdings, Inc., Prestige Cruise Services, LLC, Prestige Cruises International, Inc. and Seven Seas Cruises S. DE R.L. LLC filed a Motion to Dismiss Amended Complaint (App. 16).

3. On February 7, 2015, Duke filed his Opposition to Motion to Dismiss Amended Complaint (App. 25).

4. On February 25, 2105, Defendants filed their Reply in Support of Motion to Dismiss Amended Complaint (App. 34).

5. On March 2, 2015, Duke voluntarily dismissed Defendant Appollo Global Management, LLC (App. 36). On March 5, 2015, the District Court entered an Order of dismissal of Apollo Global Management, LLC (App. 38).

6. On August 14, 2015, the District Court entered an Order Granting Motion to Dismiss Amended Complaint with leave to amend Counts I and III and dismissal of Count II (Dodd Frank claims) with prejudice (App. 43).

7. On October 2, 2015, Duke filed an Unopposed Motion for Leave to File Third Amended Complaint (App. 49). On October 7, 2015, the District Court entered an Order

granting leave to Amend (App. 51). On October 12, 2015, Duke filed his Third Amended Complaint (App. 52). On November 27, 2015, Duke filed his Corrected Third Amended Complaint (App. 57).

8. On November 2, 2015, Defendants filed their Motion to Dismiss Third Amended Complaint with Prejudice (App. 54). On November 27, 2015, Duke filed his Memorandum in Opposition to Motion to Dismiss Third Amended Complaint (App. 58). On December 21, 2015, the Defendants filed their Reply in Support of their Motion to Dismiss Third Amended Complaint (App. 61).

9. On July 13, 2016, the District Court entered its Final Order Dismissing Case (App. 63) dismissing the SOX claims as to Prestige Holdings and Seven Seas.

10. On August 10, 2016, Duke filed his Notice of Appeal of the Dismissal of his claims (App. 64).

STATEMENT OF THE FACTS

1. On or about January 2013, Duke was hired by Defendants as Senior Director of Compliance and Security (App. 57). Duke was an experienced corporate compliance and data security expert (App. 57).

2. Duke’s responsibilities as an employee of the Defendants included serving as subject matter expert for

the Defendants related to internal controls over financial reporting and data security controls, providing objective assessments of the Company's compliance with legislation and applicable regulations, including but not limited to the Sarbanes Oxely Act of 2002 ("SOX") and Health Insurance Portability and Accountability At ("HIPPA") and reporting deficient internal controls over financial reporting and/or data security controls to management (App. 57).

3. During 2012, Duke identified that all of the Key SOX IT General Controls identified by the Employer's management were not operating effectively, identified that the Employer was not in compliance with any of the Payment Card Industry Data Security Standard ("PCI DSS") Requirements, and was informed of potential violations of the Foreign Corrupt Practices Act ("FCPA") by the Employer. (App. 57). The Key SOX IT General Controls identified were in the following categories: Change Management, Access to Programs and Data, and Computer Operations. (App. 57).

4. Duke was awarded a raise on December 21, 2012 and a 30% bonus for his performance during the 2012 year. (App. 57).

5. On or about February 11, 2013, the Employer offered Duke stock options in Prestige Cruises International, Inc. (App. 57).

6. On or about March 1, 2013, an information technology engineer of the Employer ("Whistleblower"), was in the midst of departing from the Employer when he came to Duke and requested a private meeting with Duke. During that meeting, the Whistleblower made a significant number of serious allegations related to violations of US GAAP, misappropriations, deficient internal controls over financial reporting, deficient security controls, backups not being performed regularly, a lack of documented procedures, and lies / misrepresentations made to the Employer's auditors from early in 2010 to March 1, 2013. (App. 57). Duke believed that the issues reported by the Whistleblower were highly material, therefore he believed that he had a duty to communicate them to the Employer's management, particularly as required under SOX. During the meeting with the Whistleblower, Duke requested that the Whistleblower meet with Steve Roth, the head of Internal Audit, and/or Harry Sommer, Chief Information Officer, to express his serious allegations to them directly (App. 57). By doing so, Duke provided information, caused information to be provided, and / or assisted in an investigation regarding these serious allegations (App. 57). Furthermore, on the same day, Duke opened an investigation

to investigate the serious allegations raised to Duke by the Whistleblower (App. 57).

7. Following his meeting with the Whistleblower, Duke notified Mr. Lago, Duke's direct supervisor at the time, about the allegations made by the Whistleblower, and Duke called Mr. Roth to let him know that Duke was sending an "anonymous source" (i.e., the Whistleblower) to speak with him about the serious allegations (App. 57).

9. After Mr. Roth met with the Whistleblower, Duke discussed how best to proceed with the allegations raised by the Whistleblower (App. 57). Mr. Roth indicated to Duke that he believed the issues raised by the Whistleblower were indeed significant and that he was reluctant to report them to the Employer's Chief Financial Officer, Jason Montague (App. 57). Moreover, both Mr. Roth and Duke concluded that if the issues were reported only to the Chief Financial Officer, Mr. Montague, that they may not go any further up the Employer's chain of command, notwithstanding their seriousness (App. 57). Mr. Roth and Duke both agreed that the issues that were raised by the Whistleblower, and moreover when taken collectively with their shared knowledge of the deficient state of the internal control environment, warranted being brought to

the attention of the Board of Directors of the Employer (the "Board")(App. 57).

10. After hearing the allegations of the Whistleblower and discussing them with Mr. Roth, Duke believed that he had a duty to attempt to have the allegations brought to the attention of the Chairman of the Board of the Audit Committee, Russell Galbut (App. 57). On March 2, 2013, Duke issued an "Ethics and Compliance" Report that described the substance of the Whistleblower's various complaints (App. 57).

11. On May 4, 2013, Mr. Roth met with Mr. Montague and Mr. Sommer to discuss the Allegations (App. 57).

12. On or about March 5, 2013, Mr. Lago directed Duke to meet with the Employer's external auditors, PricewaterhouseCoopers, and to give them whatever time and information that they requested from Duke (App. 57). Duke followed Mr. Lago's instructions and in doing so, provided information to PricewaterhouseCoopers, caused information to be provided to PricewaterhouseCoopers, and assisted in the investigation of PricewaterhouseCoopers (App. 57).

13. On March 5, 2013, Duke was informed by Harry Sommer, Senior Vice President of Finance and Chief Information Officer, that Mr. Alonso would be terminated at a date sometime within the next two months and that he

intended to provide Mr. Alonso notice of his termination sometime within the next week (App. 57).

14. On the morning of March 6, 2013, Mr. Sommer walked into Duke's office and began a conversation with Duke by stating, "Well, you won" and then Mr. Sommer went on to inform Duke that Mr. Sommer had just notified Mr. Alonso of Mr. Alonso's future termination from the Employer (App. 57). Duke responded to Mr. Sommer that it would be "Bad Karma" to feel good about someone else losing their job (App. 57).

15. On March 5, 2013, Duke was assigned the duty of investigating the Allegations by Harry Sommer, the Employer's Senior Vice President of Finance and Chief Information Officer (App. 57). Duke promptly began an investigation, and on March 11, 2013, Duke, at the request of Mr. Sommer, sent an email to Mr. Sommer and Mr. Lago summarizing the findings of the investigation performed by Duke to date (App. 57).

16. On March 7, 2013, despite the serious Allegations related to violations of US GAAP, misappropriations, deficient internal controls over financial reporting, deficient security controls, backups not being performed regularly, a lack of documented procedures, and lies / misrepresentations made to the Employer's auditors from

early in 2010 to March 1, 2013, the Employer knowingly and willfully publicly filed an 8-K for SEVEN SEAS CRUISES S. DE R.L. ("Seven Seas") with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, which contained the 2012 Year End Financial Results (App. 57). This 8-K was knowingly and willfully signed by Jason Montague, the Employer's Executive Vice President and Chief Financial Officer, despite him having direct knowledge of the Allegations and Duke's open investigation (App. 57).

17. On March 8, 2013, despite the serious Allegations related to violations of US GAAP, misappropriations, deficient internal controls over financial reporting, deficient security controls, backups not being performed regularly, a lack of documented procedures, and lies / misrepresentations made to the Employer's auditors from early in 2010 to March 1, 2013, the Employer knowingly and willfully publicly filed the 10-K for the year ended December 31, 2012 for Seven Seas under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))(App. 57).

18. Beginning as early as March 1, 2013, Duke intended to discuss the Allegations with the Securities and Exchange Commission ("SEC"), and Duke subsequently reported his investigations to the SEC (App. 57).

19. On or about April 17, 2013, Mr. Alonso was terminated from the Employer (App. 57). Duke was on vacation for his previously scheduled honeymoon from Thursday, May 2, 2013, through Friday, May 12, 2013. When he returned to work on May 20, 2013, without any notice whatsoever, Duke was also terminated from the Employer (App. 57). The Employer's stated reason for terminating Duke was that the Employer had undergone restructuring and that his position had been eliminated as part of that restructuring (App. 57). To Duke's knowledge, Mr. Roth was never involved in investigating any of the Allegations, nor for that matter any of the other wrongdoing alleged by the Whistleblower. To the knowledge of Duke, Mr. Roth, Mr. Sommer, Mr. Montague and Mr. Lago are all still employed by the Employer (App. 57).

20. On or about November 15, 2013, Duke filed a complaint with OSHA under Sarbanes Oxley for Prestige Cruise Holdings, Inc. (Case No. 4-1050-14-014 SOX)(App. 16). On or about November 26, 2013 Duke filed a Complaint Supplement against Prestige Cruise Holdings, Inc. as holding company to Seven Seas. (App. 16).

STANDARD OF REVIEW

This Court must review orders granting Motions to Dismiss *de novo*, applying the same standard as the District Court and accepting as true all facts set forth in the Complaint. *American Dental Association v. Cigna Corporation,* 605 F.3d 1283, 1288 (11th Cir. 2010); *Randall v. Scott*, 610 F.3d 701, 705 (11th Cir. 2010); *Chaparro v. Carnival Corporation*, 693 F.3d 1333, 1335 (11th Cir. 2012). Moreover, all reasonable inferences must be drawn in favor of the Appellant. *Id.*

SUMMARY OF THE ARGUMENT

The District Court erred in dismissing count II of the Amended Complaint with prejudice ruling that Duke could not state a cause of action for violations of Dodd Frank because he never directly reported his employer's legal violations to the SEC. The language of Dodd Frank as well as the SEC Rules interpreting same demonstrate that external complaints under Dodd Frank are also to be covered under the law.

The District Court also erred in dismissing Counts I and II of the Third Amended Complaint, with prejudice, ruling that Duke could not state a cause of action against Seven Seas or Prestige Holdings for SOX violations. Seven Seas and Prestige Holdings were clearly covered by the provisions of SOX and Duke should have been provided with an opportunity to conduct discovery on the issues before the counts were dismissed with prejudice.

ARGUMENT

I. The District Court Erred in Dismissing Count II of the Amended Complaint with Prejudice Wherein Duke Brings Claims for Violation of the Dodd-Frank Act

In the District Court's Order Granting Motion to Dismiss, entered on August 14, 2015, the Court held that Duke could not state a cause of action under Dodd-Frank because he did not actually participate in an investigation with the Securities and Exchange Commission ("SEC").

The Court cites to the decision in *Asadi v. G.E. Energy (USA), LLC, 720 F.3d 620, 623,* from the Fourth Circuit Court of Appeals to support its dismissal of Duke's claims under Dodd-Frank. However there have been other decisions from District and Circuit Courts around the country that disagree

with the holding in *Asadi finding it to be too restrictive* and not serving the legislative intent of Dodd-Frank.

These other courts have held that Dodd Frank applies, as here, regardless of whether the employee reported the information to the SEC. For instance, the Second Circuit, in *Berman v. NEO@ Ogilvy*, 801 F.3d 145 (2d Cir. 2015) held that under SEC rule 21F-2(b)(1), that Berman was entitled to pursue claims under Dodd-Frank for reports of wrongdoing to his employer even where such complaints were not made to the SEC prior to his termination. *Id.*; See also, *Boris Khazin v. TD Ameritrade Holding Corp.*, Case No: 13-4149 (D. N.J. 3/11/14)(Under the SEC Rules the Dodd Frank anti-retaliation provisions would also apply to individuals who report potential violations to supervisory authorities and not only to the SEC itself); *Julie Bussing v. COR Clearing, LLC*, Case No: 8:12-CV-238 (D. Neb. 5/21/14)(subsection iii of the anti retaliation provisions of Dodd Frank applies to a vast array of situations where the applicable laws or regulations call for disclosure to entities other than the SEC); *Karen Connolly v. Wolfgang Remkes*, Case No: 5:14-CV-01344-LHK (N.D. Cal. 10/28/14)(a broader reading of whistleblower comports with Dodd Frank's scheme to incentivize broader reporting of illegal activities); *See also, Genberg v Porter*, 935 F.Supp. 2d 1094 (D. Colo. 2013); *Nollner v. S. Baptist Convention,*

Inc., 852 F.Supp.2d 986, 995 (M.D. Tenn 2012); *Kramer v. Trans-Lux Corp.*, 2012 U.S. Dist. LEXIS 136939 (D. Conn. 9/25/12); *Egan v. Tradingscreen, Inc.*, 2011 U.S. Dist. LEXIS 47713 (S.D. NY 5/4/11).

This issue is also currently pending before the Ninth Circuit Court of Appeals in the case of *Paul Somers v. Digital Realty Trust, Inc.*, Case No: 15-17352. In that case, the District Court held, on a Motion to Dismiss, that under Dodd Frank, an external complaint to the SEC is not required under Rule 21F2-(b)(1) and that the rule is entitled to *Chevron* defense. *Somers v. Digital Realty Trust*, 119 F.Supp. 3d 1088 (N.D. Cal. 2015). The District Court further allowed an interlocutory appeal by Defendant of this Order to the Ninth Circuit. *Id.*

As evidenced by *Berman* and *Somers*, *Asadi* and the District Court's Opinion, are contrary to the very SEC rules interpreting Dodd-Frank. In particular, the SEC has opined that Section 21F(h)(a)(A)(iii) includes all whistleblowing activity including internal complaints such as those made by Duke.

Furthermore, Section 1057(a)(1) of the Dodd-Frank Act provides protection for employees who "provided, cause to be provided, or is about to provide or cause to be provided, information to the employer… relating to any violation of, or

any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau." Therefore, Plaintiff's conduct in providing and causing information to be provided to Defendants was protected.

Based upon the foregoing, the District Court's dismissal of Count II of the Amended Complaint should be reversed and the matter should be remanded back to the District Court for further proceedings.

II. The District Court Erred In Dismissing Counts I and II of the Third Amended Complaint With Prejudice in that The Defendants Are Companies Subject to the SOX Anti-Retaliation Provisions

The District Court ruled that the Third Amend Complaint did not states a claim upon which relief may be granted as to Counts I and II because neither Prestige Holdings or Seven Seas were covered by the provisions of SOX. However, as alleged in the Third Amended Complaint, all Defendants are subject to the SOX anti-retaliation provisions because they are subsidiaries, affiliates, officers, employees, contractors, subcontractors, and / or agents of Apollo Global Management, LLC ("Apollo"), a company that has a class of securities registered under

section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or is a nationally recognized statistical rating organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c). *See* the Form 8-A on sec.gov filed by Apollo on March 21, 2011, which provides evidence that Apollo, has a class of securities registered under section 12 of the Securities Exchange Act of 1934. Also, see the Form 10-Ks for Apollo, filed on sec.gov which provides evidence that Apollo, continues to be required to file reports under section 15(d) of the Securities Exchange Act of 1934. Defendants are subsidiaries or affiliates of Apollo whose financial information is included in the consolidated financial statements of Apollo. Even if the financial information of the Defendants was not included in the consolidated financial statements of Apollo, the SOX Anti-Retaliation Provisions still apply to the Defendants as the SOX Anti-Retaliation provisions prohibit retaliation by "any officer, employee, contractor, subcontractor, or agent of" Apollo. As alleged in the Third Amended Complaint, all Defendants are an officer, employee, contractor, subcontractor, or agent of Apollo.

Even if the above were untrue, Defendant Seven Seas issued debt securities on May 10, 2012, and became subject to the filing requirements of Section 15(d) of the Securities Exchange Act of 1934. When this occurred, the SOX anti-retaliation provisions became applicable to Defendant Seven Seas and all other Defendants (as subsidiaries, affiliates, officers, employees, contractors, subcontractors, and / or agents of Seven Seas. Furthermore, contrary to what the Defendants argued in their Motion to Dismiss, the Plaintiff did allege in the Third Amended Complaint that his work for Prestige Holdings was performed for the benefit of Defendant Seven Seas

Defendants previously argued that Counts I & II should be dismissed because the retaliation allegedly occurred at a time in which Seven Seas was not required to file reports under Section 15(d) of the Exchange Act. It is just false that the Seven Seas was no longer required to file reports under 15(d) of the 1934 Act.

Defendants previously argue that "Any Duty That Defendants Had to File… Reports Under Section 15(d) of the Exchange Acts Expired as of January 1, 2013" because Seven Seas Cruises S. DE R.L. had "fewer than 300 holders of record" as of January 1, 2013. In addition to not being backed by any authority at all, other than a cross

reference to the Defendants' own previous statement (a footnote in its own 10-K), the Defendants' analysis misapplies § 15 (d) of the Exchange Act and misstates the facts. A suspension of periodic reporting obligations does not mean that Defendants were no longer required to file any reports under section 15(d) of the Securities Exchange Act of 1934. Even if the Defendants' interpretation was correct, the applicable registration statement was filed with the SEC on May 7, 2012 (not in 2011 as the Defendants claim), which means that any suspension would not have taken effect until the 2014 calendar year, which was after Mr. Duke filed his complaint with the Secretary of Labor. Moreover, it is a question of fact whether Seven Sea had "fewer than 300 holders of record" as of January 1, 2013.

Regardless of whether the suspension applied, Seven Seas was required to file reports under Section 15(d) of the Securities and Exchange Act beyond January 1, 2013. Seven Seas filed its first Form 10-Q with the SEC on May 18, 2012, and as such, at a minimum, Seven Seas obligation to file reports under section 15(d) of the Securities Exchange Act of 1934 continued until Seven Seas filed the 10-K for the fiscal year ended December 31, 2012 on March 8, 2013. Furthermore, Seven Seas has continued to file reports under Section 15(d) of the Securities Exchange Act

beyond January 1, 2013. Even if the Defendants' filed these reports voluntarily at first, Section 15(d) of the Securities Exchange Act requires a voluntary filer to continue to file reports under Section 15(d) of the Securities Exchange Act until its registration is withdrawn. Notably, § 1513A(a) does not have any exemption for companies that file reports "voluntarily." Moreover, Seven Seas is required to file reports under section 15(d) of the Securities Exchange Act of 1934 as a result of statements made in its debt covenants. In its initial registration filed on Form S-4, Seven Seas made the following statement about filing reports:

> . . . In addition, the Issuer has agreed that, for so long as any Notes remain outstanding during any period when it is not subject to Section 13 or 15(d) of the Exchange Act, . . . it will furnish to the holders of the Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

And in the following paragraph, the Company states as follows:

> . . . the Issuer is deemed to have furnished such reports referred to above to the Trustee and the holders if the Issuer has filed such reports with the SEC via the EDGAR filing system and such reports are publicly available.

Seven Seas Cruises S. DE R.L. Registration Statement, p. 148. In other words, Seven Seas is required to file under section 15(d) of the Securities Exchange Act of 1934 even "during any period when it is not subject to … 15(d) of the Exchange Act." And Seven Seas continued to file reports under Section 15(d) of the Securities Exchange Act well beyond January 1, 2013. Therefore, under even the narrowest reading of § 1513A(a), it applied to Seven Seas and in turn to all other Defendants.

It is undisputed that Seven Seas Cruises was required to file reports under Section 15(d) of the 1934 Act from May 5, 2012 to December 31, 2012, and therefore the anti-retaliation/whistleblower provisions applied to all Defendants during that time. Mr. Duke reported wrongdoing that dated from March of 2010 to March of 2013 (i.e., before January 1, 2013). It is well settled that the Company had a duty (and it was reasonable for Mr. Duke to believe that the Company had a duty) to correct any false information on previously filed disclosure statements,

including during the period that the Company admits that Seven Seas was obligated to file reports under section 15(d) of 1934 Act. *See e.g., U.S. S.E.C. v. Brown*, 740 F.Supp.2d 148, (D.D.C. 2010) (duty to correct false information in "proxy statements" and "periodic reports"); *In re Burlington Coat Factory Securities Litigation*, 114 F.3d 1410, 1431 (3d Cir. 1997) (explaining duty to correct as follows: "when a company makes a historical statement that, at the time made, the company believed to be true, but as revealed by subsequently discovered information actually was not. The company then must correct the prior statement within a reasonable time") (quoting *Stransky v. Cummins Engine Co., Inc.*, 51 F.3d 1329, 1331-32 (7th Cir. 1995)). Therefore, the substance of Plaintiff's protected conduct involved the conduct and public disclosures of Seven Seas during a period of time that the Company admits Seven Seas Cruises S. DE R.L. was required to file truthful disclosure statements.

Thus, the District Court's dismissal of Counts I and II of the Third Amended Complaint should be reversed.

CONCLUSION

The Court should reverse the Orders of Dismissal against Duke and remand to the trial court for further proceedings.

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitations set forth in Fed. R. App. P. 32(a)(7)(B)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with this Court on November 17, 2016, with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following: Arlene Kline, Esq. and Melissa Zinkil, Esq., Akerman LLP, 777 South Flagler Drive, Suite 110-West Tower, West Palm Beach, FL 33401.

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