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Legal Pad

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An In-House Lawyer's Wild Backdating Ride

A plea deal released today by federal prosecutors in LA shows how in-house lawyer Richard Hirst's California dreams got squashed. He's not the guy who pleaded guilty; rather, he comes off in the documents as the unwitting instrument in a corporate coverup at KB Home. And while he'll likely escape jail, Hirst's role is very far removed from what he probably had in mind when the out-of-town attorney hit Wilshire Boulevard to ride the housing bubble.

In 2004, Hirst left his GC slot at Burger King to become KB Home's top lawyer. The stock option backdating scandal broke in spring 2006, though, and two KB Home executives — CEO **Bruce Karatz** and HR chief Gary Ray — got scared: they knew the company had been misdating options since the 1990s. So they came up with a plan: they'd lie to Hirst, who was conducting an internal investigation, and lead the company to file a false SEC document that told the world, essentially, nothing to see here.

"And we would've gotten away with it, too, if not for those kids from Irell & Manella, and that darn dog" ... after the jump.

The criminal masterminds got away with their scheme for all of a few months — until the company brought in Irell & Manella to do a proper internal investigation, and the charade fell apart. Those two executives departed the company; today Ray pleaded guilty to obstruction, which will likely mean at least a couple years in jail.

"Mr. Ray has taken responsibility for a mistake in judgment he made in 2006," said his lawyer, Orrick partner Mark Beck. "This allows him to put the matter behind him."

Ray's deal includes a cooperation provision, which nicely hikes the government's leverage on Karatz and his lawyer, John Kecker. The former CEO settled out SEC charges in September for \$7 million, but that doesn't let him off the hook with the feds. Kecker didn't respond to an email.

And whatever happened to Hirst? He resigned from KB Home at the same time Karatz and Ray left, no doubt displeased with how his colleagues used him (although Legal Pad notices that the company admitted improper options through 2005, after Hirst joined the company; his lawyer Bert Deixler at **Proskauer** Rose didn't return a message. Also — how's that housing market doing these days?). Hirst went back to Minnesota and landed with Delta Airlines, where he had worked back in the day (along with the Minnesota Twins and the ProJo, according to this profile; Legal Pad is starting to get a crush on this guy). Still, next time a gold rush hits, he best take a deep breath before heading West.

— Dan Levine

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