

New York Lawsuit Alleging Corporate Cover-Up at The Weinstein Company is a Lesson in What Not to Do

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New York Attorney General Eric Schneiderman has filed a civil rights lawsuit against Harvey Weinstein, his brother Robert Weinstein, and their company, The Weinstein Company (TWC).

The lawsuit, which details allegations of harassment and intimidation of TWC employees by Harvey Weinstein, was filed on Sunday, February 11, 2018, because of an anticipated sale of TWC expected to be completed on that day.

The lawsuit also describes how many groups of predominately female employees were used to facilitate and cover-up Weinstein's misconduct. TWC allegedly "employed one group of female employees whose primary job it was to accompany [Weinstein] to events and to facilitate [his] sexual conquests." A group of predominately female executives allegedly were similarly required to meet with Weinstein's prospective victims to facilitate sexual activity and to follow through on his promises of career advancement.

The allegations in the lawsuit not only focus on Weinstein's treatment of TWC's employees, but also claim executives turned a deaf ear to employee complaints. As set forth in the lawsuit, there were numerous complaints to Human Resources and Weinstein's conduct was widely known by executives. The Attorney General's investigation allegedly revealed that TWC executives and the board of directors repeatedly failed to protect employees from or address Weinstein's misconduct.

The lawsuit further asserts that when Human Resources received complaints about Weinstein's conduct, the complaints were forwarded by the Human Resources Director to the Chief Operating Officer. The Human Resources Director, however, was not involved in any investigation or resolution process. According to the lawsuit, despite complaints of harassment, Weinstein was never subject to a formal investigation or any adverse employment action based on his conduct. Moreover, complaints made to Human Resources were not treated as confidential or were not investigated. Likewise, and more troubling if true, the lawsuit alleges that employees who complained were separated from TWC, and were required to sign non-disclosure agreements.

Schneiderman reports the lawsuit resulted from a four-month investigation that included interviews with Weinstein's alleged victims, in addition to TWC employees and executives. The Attorney General's office also conducted a review of TWC's records and emails. While the investigation is ongoing, Schneiderman filed the lawsuit to seek immediate judicial intervention based on the findings to date and the impending sale of TWC. According to Schneiderman, "[A]ny sale of The Weinstein Company must ensure that victims will be compensated, employees will be protected going forward, and that neither perpetrators nor enablers will be unjustly enriched."

Corporate Governance Lessons for All Organizations

The need for all organizations to develop and maintain an effective anti-harassment program, in both policies and practice, continues to be vital and clear. Corporations will be held responsible for failing to address and correct improper behavior, and the responsibility for doing so may rise to the level of the company's board of directors.

The allegations of misconduct by TWC executives underscores the significance of proper and coherent management of employee complaints. This includes the following:

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1. Harassment complaints should be routed to Human Resources and/or the appropriate individual(s) at the organization based upon the allegations and individuals raising the issue or accused of improper conduct;
2. Complaints must be investigated and properly handled;
3. Employees who make such complaints must be protected from retaliation of any kind; and
4. The company must take corrective action based on the findings of the investigation.

Companies cannot seek to end a crisis merely by separating the complaining party, which just appears to facilitate and perpetuate the wrongful conduct of the executive at issue.

Please contact Jackson Lewis for assistance with this and other workplace issues.

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