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Ex-Bai Brands Workers Say They Were Cheated On \$1.7B Sale

By **Emma Cueto**

Law360, New York (July 5, 2017, 4:48 PM EDT) -- Three former sales employees of Bai Brands have filed suit in Pennsylvania state court against the company and its founder and former CEO Ben Weiss, claiming Weiss fired 20 employees with ownership stakes in the company just before it was sold to Dr. Pepper Snapple Group Inc. and thereby cheated them out of a cut of the \$1.7 billion sale price.

Michael Scarry, Alexis Rodriguez and Barton Bennett said in a June 29 complaint that Weiss fired them and over a dozen other employees from Bai's early days without cause and bought back their ownership units for no money while the beverage company was in the process of being sold, claiming Weiss was attempting to increase his own payout by reducing the outstanding ownership units.

"At its core, this case is about the greed of Weiss and the all too familiar story of the underlings that sacrificed and worked hard to build a business for their boss, only to be cut out of the rewards at the end — by the privileged and powerful," the complaint said.

The suit accused Bai Brands LLC and Weiss of tortious interference, breach of contract, and violations of Pennsylvania and New York labor laws.

A fourth employee, Michael Herman, also filed a separate suit June 29 only against Bai Brands, saying he was fired separately and alleging only breach of contract. Herman did not claim in the complaint to have been fired in order to cheat him out of a payout, but did claim Bai was incorrect to say that his profit interest units were not worth any money.

Scarry, Rodriguez and Bennett allege that they and at least 17 other longtime Bai employees were fired on Aug. 26, 2016, less than three months before the \$1.7 billion sale to Dr. Pepper was announced and allegedly at least three months after Weiss began seeking buyers.

All three employees were hired during the company's early days, according to the complaint, and some were asked to work in exchange for profit interest units instead of salary while the company was struggling to get off the ground. Their contracts stipulated that Bai could buy back the units when the employees left the company for "fair market value," according to the complaint.

When Scarry, Rodriguez and Bennett were fired, however, Bai determined the units had no monetary value, despite the fact that a billion-dollar sale was in the works, the complaint claimed.

"Weiss's actions were taken to the detriment of the people who, through their sacrifice and hard work, helped build the company," the complaint said.

Mark Rhoades, an attorney for the former employees, told Law360, "Without them, this brand would never have taken off."

"These employees were the sales people who built Bai by lugging cases of product into stores and convincing store managers to stock Bai's products," Rhoades said in a statement. "It was the work of the plaintiffs, among others, that created a \$1.7 billion company."

Scarry, Rodriguez and Bennett calculate that their profit interest units were worth an average of

about \$200,000 apiece, and are seeking the value of the units, attorneys' fees and punitive damages.

Weiss was replaced as Bai's CEO in June.

Weiss and representatives for Bai did not respond Wednesday to requests for comment.

The employees are represented by Mark L. Rhoades of Gowen Rhoades Winograd & Silva.

Counsel information for Bai was not immediately available.

The case is Michael Scarry et al. v. Ben Weiss et al., case number 170603533, in the Court of Common Pleas of the State of Pennsylvania, County of Philadelphia.

--Editing by Breda Lund.

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