

PwC Paints Whistleblower As Disgruntled Worker At Trial

By **Hannah Albarazi**

Law360, San Francisco (February 25, 2021, 10:24 PM EST) -- PricewaterhouseCoopers' counsel dug into the motives and frustrations of a former employee suing the auditing powerhouse for retaliation, suggesting during cross-examination in a California federal bench trial Thursday that his unfruitful complaints about the firm's auditing integrity to regulators stemmed from his long-brewing resentment over not being promoted.

During cross-examination of plaintiff Mauro Botta, who claims superiors at the Big Four accounting behemoth went easy on audits to keep clients happy and fired him for filing a complaint with the U.S. Securities and Exchange Commission, PwC's counsel painted a picture of Botta as a foul-mouthed man unsatisfied with his career, bogged down in conspiracy theories and, at times, out of touch with reality.

PwC attorney John Charles Hueston of Hueston Hennigan LLP, elicited testimony from Botta and presented evidence during the fourth day of a bench trial held via Zoom before U.S. Magistrate Judge Alex Tse, that suggested Botta's unhappiness at the firm had prompted him to declare war on PwC.

Botta wrote, in a message to an acquaintance presented as evidence at trial, that he "sure as shit" should have been made a managing director at PwC.

Hueston presented screen after screen of text and email evidence to the judge in which Botta expressed in writing his feelings of frustration with PwC partners and with not being promoted. Hueston suggested that the anger and dissatisfaction expressed in those messages stemmed from years of being passed over for promotion while others — including those he deemed less qualified — climbed PwC's corporate ladder.

Botta's discontent, Hueston suggested during cross-examination, morphed into conspiracy theories and a desire for revenge.

"Project Genesis was your name for your war against the accounting industry in Silicon Valley, right?" Hueston asked Botta, pointing to communications about the project Botta sent out to acquaintances while employed at PwC.

"The audit swamped gotta be drained," Botta wrote in messages at the time.

But Botta disagreed with the characterization of Project Genesis as a crusade against the auditing

industry or the suggestion that he had become fixated on conspiracy theories. Botta maintains PwC blacklisted him for raising concerns with its auditing practices.

Botta, an auditor for PwC for nearly two decades, began his PwC career in his home country of Italy before transferring to the firm's office in San Jose, California. Botta rose to the rank of senior manager, but never made partner at PwC.

He filed suit in 2018, alleging that PwC fired him in 2017 in retaliation for his having filed a whistleblower complaint with the SEC. He seeks to be reinstated at the firm as well as \$5 million in damages for back pay, lost earnings and emotional distress.

The bench trial opened Monday with Botta's counsel, Alexander Gabriel Cabeceiras of Derek Smith Law Group PLLC, describing a "culture of complacency" and a "profit first, public second" mentality at PwC that he said keeps investors and the public in the dark.

Botta's counsel maintains that the law protects Botta's right to express his reasonable beliefs of accounting improprieties by client companies without being subject to retaliation, regardless of the SEC not bringing enforcement actions as a result of the investigation into Botta's complaint.

PwC says Botta's allegations lack merit and are fueled by vengeance. The firm says it is committed to thorough and accurate audits and that it terminated Botta for violating firm policy and professional standards, not for his purported whistleblowing.

During direct examination Tuesday, Botta testified that he felt "punished" for following firm protocol. He told the judge that when he came across accounting irregularities during audits, his superiors expressed disinterest.

Hueston launched into his cross-examination of Botta Wednesday, pointing to positive reviews Botta received for his thoroughness on audits, countering Botta's assertion that PwC fired him for being too thorough. Botta testified during cross-examination that his superiors did not directly pressure him to sign off on audits, despite stating the opposite in his 2018 deposition.

Hueston also pointed to rude text and emails that Botta exchanged while at the firm, in which he criticized and insulted colleagues, including calling a superior a "pussy."

PwC maintains that it fired Botta "for violating both firm policy and professional standards after he stated twice that he fabricated an internal control and falsified audit documentation on a PwC audit client engagement."

The cross-examination of Botta Thursday included the presentation of messages that Botta sent while at PwC, stating that "thanks to me creating a control," the client Cavium — a technology company that would go on to be acquired by Marvell Technology Group for \$6 billion — had avoided a material weakness. Such weaknesses are often caused by deficiencies in a company's control environment and must be reported in their public filings to the SEC.

Hueston said Botta admitted in those messages to creating a control, but would not admit at trial that he had done so.

"Today, you've tried to run away from this," Hueston said.

Hueston grilled Botta on his claims that he had been blacklisted for raising concerns about client's accounting practices and the firm's auditing integrity, saying he didn't want to work on big ticket projects, such as Google, because, "You knew in your own mind this would damage your case because it was totally inconsistent with your blacklisting conspiracy."

"You yourself said at the time it didn't make sense to go from blacklisted to being offered work on Google, right?" Hueston asked. Botta acknowledged writing that.

"It didn't make sense to go from blacklisted to leading the biggest job, because you weren't blacklisted. Isn't that right?" Hueston asked. Botta disagreed.

PwC also took aim Thursday at Botta's actions after PwC terminated him.

Hueston drew Judge Tse's attention to messages in which Botta resigns from a subsequent employer and states "my idea of audit is probably too utopia to find it in reality" and elicited testimony from Botta that upon filing a complaint against a subsequent employer, he wrote to an acquaintance, "How many firms must I blow up before someone listens to me?"

Counsel for the parties declined to comment.

Mauro Botta is represented by Ingrid M. Evans of The Evans Law Firm Inc. and Alexander Gabriel Cabeceiras of Derek Smith Law Group PLLC.

PwC is represented by John Charles Hueston and Moez Kaba of Hueston Hennigan LLP.

The case is Mauro Botta v. PwC et al., case number 3:18-cv-02615, in the U.S. District Court for the Northern District of California.

--Editing by Peter Rozovsky.