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Execs Rejoice: Titan Of Torts Is Taken Down

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by STEVEN B. HANTLER

For years, trial lawyer William Lerach was known as a master of “rush to the courthouse” class-action lawsuits, specializing in billion-dollar securities cases against American companies. But now Mr. Lerach is rushing off in a different direction — to prison — and his downfall has a lesson to offer for trial lawyers everywhere.

In a deal with prosecutors filed this week, Lerach pleaded guilty to a conspiracy charge following a federal investigation into allegations that he and his former law firm, Milberg Weiss, covertly (and illegally) funneled at least \$11 million in kickbacks to plaintiffs who served as frontmen in dubious shareholder class-action lawsuits.

Lerach: Prison-bound.

Lerach's guilty plea has saved him from the worst, and he'll serve a prison sentence of just one to two years. But the plea agreement cannot spare class-action litigation in general — and many shareholder lawsuits in particular — from harsh judgment.

The Shakedowns

This one trial lawyer's fate only confirms what many critics of the trial bar have long suspected: The “shareholder” lawsuits pioneered by Milberg Weiss were phony cases concocted solely to enrich tort lawyers at the expense of innocent companies and their shareholders.

Lerach and his colleagues got rich by threatening companies that had volatile stock prices. Those firms included dozens of Silicon Valley startups and other high-tech firms. Corporate executives began to fear that any unexpected decline in a company's stock could be greeted with a shareholder lawsuit, often filed within

hours of the price drop.

But to file a shareholder lawsuit, you need a plaintiff — and that's where the kickback scheme came in: Why wait for legitimate plaintiffs to show up when you can just hire them?

Lerach and his fellow attorneys paid frontmen millions of dollars to participate in class actions. These frontmen would buy stock hoping it would go down in exchange for kickbacks after a lawsuit was filed. The arrangement was highly profitable — until they got caught. Prosecutors say these illegal kickbacks helped Milberg Weiss reap at least \$216 million in legal fees.

One of the Lerach/Milberg Weiss frontmen — a man named Howard Vogel — admitted in his own plea deal to accepting more than \$2.4 million in payments from the firm after acting as a plaintiff in 40 class action suits.

Seymour Lazar, a California businessman, has been accused of taking part, or having his family take part, in 70 lawsuits in exchange for another \$2.4 million in kickbacks.

Lerach and Milberg Weiss knew that kickbacks are illegal, so they went to great lengths to conceal the arrangement. According to last year's indictment of Milberg Weiss, payments were channeled through cutout law firms.

Milberg partner David Bershada — who last summer agreed to turn on his former colleagues in a plea deal with prosecutors — even kept a stash of cash in his office safe to dole out to plaintiff frontmen.

What A Waste

While Lerach will get prison time, if not all that he deserves, it's critical to remember that the economic damages of these phony cases with paid-off plaintiffs has yet to be addressed.

American companies have paid more than

\$45 billion in damages because of Milberg Weiss cases. That's \$45 billion that did not go into medical research, \$45 billion that did not create a single new business, \$45 billion that did not go toward creating a single new job.

Asked to comment on Lerach's undoing, a law professor at Columbia described it to the Washington Post as "the fall of a titan." Even this epitaph gives Lerach far too much credit. His plea agreement and the arraignment and imprisonment that await him mark the fall of a common shakedown artist who contributed nothing to the welfare of shareholders and brought nothing but shame to the legal profession.

Worst of all, while Lerach "crossed a line and pushed too far," as he put in a statement this week, he remains admired and emulated by the trial bar.

Most other class-action trial lawyers have the good sense to avoid criminal methods in advancing their cases. But in his greed, arrogance and relentless abuse of the legal system, Lerach was a perfect representative of the type.

The "titan" of frivolous litigation has fallen, but in courtrooms across America his legacy lives on.

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