Fired London Traders Use Whistle-Blower Law to Sue (Update2)

By James Lumley

June 18 (Bloomberg) -- Cantor Fitzgerald LP says it refused to pay the former head of a U.K. trading unit millions of dollars in incentives because he'd quit. Lewis Findlay says he was pushed out for complaining about business practices and is using a whistle-blower law to seek $30 million.

The lawsuit is one of at least 10 in London courts involving executives earning six-figure salaries who are suing under legislation designed to protect employees who raise workplace concerns about illegal or dangerous behavior.

It's an effective way for ``stale, pale, males'' to win big damages after a series of unfavorable judgments on labor claims, said Tim Leaver, a lawyer at Herbert Smith, one of the U.K.'s biggest litigation firms. While most wrongful dismissal damages are capped at 60,000 pounds ($120,000), employment tribunals can award unlimited amounts in whistle-blower cases.

``For some senior employees, particularly in finance, 60k is a drop in the ocean, and could rapidly get eaten up by legal fees, so claimant lawyers can try to bolster their client's complaints with whistle-blower allegations,'' said Leaver, who works in the firm's London office.

Daniel Naftalin, a lawyer who represents workers, said that because of the unlimited damages, employers see ``the tactic as akin to blackmail.''

``I have two cases on at the moment that I know, when push comes to shove, will settle,'' said Naftalin, a lawyer at London- based Mishcon de Reya, which also represents Heather Mills in her divorce battle against ex-Beatle Paul McCartney.

Free Enterprise

In 1999 the U.K. introduced the Public Interest Disclosure Act, which barred companies from punishing employees who raised concerns about illegal or unsafe practices. The legislation was a reaction to transport disasters in the late 1980's and early 1990's, resulting in the deaths of hundreds of people.

The most famous was the 1987 sinking of the Herald of Free Enterprise, a British passenger ferry that sank outside the Belgian port of Zeebrugge, drowning 193, when it set sail leaving its bow doors open.

The law has been used as much by executives seeking to recoup lost bonuses as blue-collar workers uncovering hazardous conditions. GLG Capital Partners LP settled a case last month by a hedge fund manager just before trial and Nomura International Plc faces a lawsuit filed by a former bond salesman who says he uncovered securities violations.

Nomura's attorney, Richard Brown, won't specify Piero Burragato's allegations, except to say the company will mount a ``staunch defense.'' The company has ``clear procedures in place'' to ensure allegations of malpractice are brought to the attention of management, head of human resources Stephen Sidebottom said.

Confidential Claims

``There are more cases going on at the moment than I have ever seen,'' said Paul Daniels, a lawyer at Russell Jones & Walker, who represents workers in several whistle-blower cases, including Findlay. Most settle before they reach trial, he said.

Unlike in the U.S. where lawsuits display claims in initial filings, most U.K. employment tribunal proceedings are confidential until hearings are held. Many of the claims aren't made public before trial, building pressure to settle the cases.

Findlay, 46, who has already received 1 million pounds from New York-based Cantor in a settlement of a separate London High Court suit over his right to shares in the spread betting business he managed, still hasn't given anything but the briefest outline of the allegations behind his $30 million claim in a whistle- blower action.

``I believe that the company dismissed me because I made disclosures about financial and other serious irregularities in the business,'' Findlay said in a statement last month.

Adrian Thomas, a spokesman for Cantor in London, declined to comment. The company said last month that the employment tribunal claims were ``without merit.''

`Blackmailers'

If the details of claims were disclosed earlier, ``blackmailers'' would lose leverage, said Guy Dehn, the director of Public Concern at Work, a lobbying group that helped draft the 1999

Disclosure Act. Dehn said the law was never intended to become a means for ``people to dress up their own private agendas.''

``We may have reached a tipping point,'' he said. ``It is very important that companies and their lawyers, if they receive a specious claim, should fight it and get it thrown out.''

Still, employment lawyers would be ``negligent'' not to include a whistle-blowing claim on behalf of their clients, said Ronnie Fox, who has his own law firm in London.

`Raise the Temperature'

``Whistle-blowing and sex discrimination claims really raise the temperature like nothing else,'' he said.

The claims are usually constructed ``ex post facto,'' or after the event, Herbert Smith's Leaver said, with lawyers quizzing their client to identify something that could be interpreted as a criticism of the employer's conduct.

Most whistle-blower claims Leaver has seen are from people ``motivated by trying to line their pockets, rather than highlighting any alleged wrongdoing,'' he said.

Daniels dismissed most of the criticism of the cases and said many of his clients in London aren't ``straight, white males.''

``Numerous employees in the city face reprisals for blowing the whistle,'' Daniels said. ``There is an unfortunate culture in the city of shooting the messenger and rather than dealing with the problem, paying for it to go away.''

To contact the reporter on this story: James Lumley in London at **jlumley1@bloomberg.net** .