JACOBY, Ex-Execs Trade Lawsuits

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Former employees claim Jacoby cheated them, mishandled projects; developer says workers broke contract

Developer James F. Jacoby, who led the rebirth of the Atlantic Steel site as Atlantic Station, and several former executives at one of his energy companies are trading accusations of fraud, conspiracy, defamation and bad-faith dealings in suits filed in Fulton County Superior Court.

At stake, according to the ex-employees' lawyer, is at least $1.3 million in disputed wages, bonuses and other benefits, and more than $10 million in what he describes as contractually guaranteed equity interest in several Jacoby companies and projects. The employees were involved in Jacoby 's Live Oak Landfill project in DeKalb County, a joint venture between Jacoby and AGL Resources that would generate power from methane gas.

Jacoby himself is accused of mismanaging the Live Oak project, as well as another trash-to-energy project in St. Lucie County, Fla. According to court filings and Jacoby attorney David R. Hughes of Davis, Pickren & Seydel, the roots of the dispute lay in a proposed merger between one of Jacoby 's energy companies, Jacoby Energy Development Inc. (JEDI), and another alternative energy firm, Xethanol Corp.

In March, the two companies signed non-disclosure and non-compete agreements that provided, among other things, that neither firm would attempt to hire away the others' employees. The merger never came to fruition.

But “[u]unbeknownst to Plaintiffs,” according to the a complaint Hughes' filed on July 28, then- Jacoby Chief Operating Officer Michael Ellis; Senior Engineer Frank Pucciano; the vice presidents of business development and sales, Charlie Wall and Donald White; and consultant Rom Papadopoulos, engaged in a “secret plan whereby [they] would work for Xethanol and take the Live Oak project, and other projects, away from Plaintiffs.”

“We were forced to act to protect our intellectual property,” said Hughes, who added that talks between the parties broke down over their demands for salaries and benefits, as well as assertions that agreements between Jacoby and his former executives guaranteed them equity interests in JEDI and other Jacoby energy companies, and a share in potential profits from the two projects.

“We categorically deny that,” said Hughes. He notes that a separate suit, filed by Ellis and the other former

JEDI employees on Friday, “does not have any documents attached showing any sort of equitable interest.”

In their own suit, filed Aug. 8, Ellis and the other former employees say that Jacoby chronically underfunded the Live Oak and St. Lucie projects and that “the projects began to flounder badly.”

“While the projects were in serious trouble,” wrote the ex-employees' lead attorney, **Richard L. Robbins** of newly formed **RobbinsLaw, LLC**, “Jacoby spent his time and money generating publicity about himself and his companies. This greatly distracted him from focusing on the timely and successful development of the projects.”

The plaintiffs say Jacoby actions threaten their purported financial interests in the companies and ask the court for—among other things—an injunction “to prevent the waste of assets and to preserve any proceeds from the operations and/or sale of the Live Oak and St. Lucie projects … .”

“There's a huge disconnect between what has been stated publicly and what has gone on behind the scenes” regarding the Live Oak project, said Robbins. “There's a lot of intrigue going on.”

His complaint also claims that, once it became clear that Jacoby intended to sack the executives, they asked for and received explicit—and written—confirmation that they could seek employment with Xethanol.

“Plaintiffs made a good faith effort to address the disputes before bringing this lawsuit,” wrote Robbins. “Instead of responding to Plaintiffs' demand letter or negotiating in good faith, Defendants raced to the courthouse to file a frivolous and malicious lawsuit … . That lawsuit should be dismissed.”

“Jacoby Y hired a team of extremely experienced energy people, and he made a lot of promises in writing,” said Robbins. “In turn, they helped him put together the Live Oak project. … Later, he told them he wanted to downsize, so they started looking for jobs with a new firm.

“We were just trying to get him to confirm the arrangements,” said Robbins. “Instead, we started getting threatening letters about, 'Oh you shouldn't have left, you violated your non-compete clause,' and all this stuff. We just wanted to negotiate in a reasonable business environment.”

Robbins said he was appalled because, after repeated efforts to get a reply from Jacoby, the developer sued. “It aggravates me because I told them I was going to file suit if they didn't respond, and they went running off and sued us,” he said.
An AGL spokesman said the legal department there was unaware of either lawsuit or the allegations contained in them.

St. Lucie County spokesman Eric Gill said the facility there, an advanced plasma gasification project, is still only in the planning stages, and has been “stalled” while lawyers “hammer out the details between the county and GeoPlasma,” another JACOBY company.

Hughes, meanwhile, dismisses the ex- Jacoby executives' suit as “a group of disgruntled former employees trying to get a leg up in a very competitive environment. They've made a number of claims for which, we think, there is no support.”

Not so, counters Robbins.

“My clients were given a lot of promises, and helped to pull off what looks to be a major and significant energy project in Atlanta, and one that could make Jim Jacoby a lot of money. But," said Robbins, "he has to share, which his mother should have taught him."

The cases are Jacoby Energy Development v. Ellis, No. 2008CV154224; Ellis v. Jacoby, No. 2008CV154821.