

SunTrust Sued a Year After A Quick and Public Firing

American Banker | Tuesday, November 22, 2005

By PAUL DAVIS

Thirteen months ago SunTrust Banks Inc. sought to shore up its reputation by moving quickly to oust its chief credit officer and other employees in response to an accounting problem.

Now that swift action may come back to haunt the \$170 billion-asset Atlanta company; in a lawsuit filed this month, the former credit officer, Sandra W. Jansky, accuses SunTrust of libel and slander.

The suit, which Ms. Jansky filed in Fulton County Superior Court against SunTrust and L. Phillip Humann, its chairman, president, and chief executive, forces the unresolved accounting issue into the public forum again.

At issue is SunTrust's admission in October of last year that it had overstated its quarterly allowances for loan losses and would have to restate its first- and second-quarter earnings for that year. It delayed its third-quarter report for that year and said that it had put Ms. Jansky and controller Jorge Arrieta on paid administrative leave while it investigated the matter.

The Securities and Exchange Commission also got involved by launching a formal investigation, which it is still conducting.

Ms. Jansky, 56, claims in her suit that SunTrust and Mr. Humann made her the "scapegoat" for the scandal by naming her in the original press

release Oct. 11, 2004, on the issue and during subsequent conference calls on the matter.

On Nov. 10, Ms. Jansky and two other executives were terminated, but the names of the other two were not released, the suit said. Because the names of the other two employees were not released - and because Mr. Humann said in a conference call later that day that some employees acted improperly by falsifying minutes of board meetings - SunTrust has made it difficult for her to get another job, according to the suit.

According to the suit, which was first reported in the Atlanta Business Chronicle, Ms. Jansky is seeking \$7 million in lost wages and future income she says she lost "because of damage to her reputation." SunTrust retained Mr. Arrieta, who now works in its risk management division.

Barry Koling, a SunTrust spokesman, said Mr. Humann was unavailable for comment Monday. Mr. Koling said the suit was "hardly a surprise." He also said it is "unfounded, it has no merits, and we look forward to prevailing in court." He would not say whether SunTrust indemnified Mr. Humann against litigation.

However, Mr. Koling reiterated SunTrust's assertion that it acted "swiftly, decisively, and properly" to address the accounting issue.

Frank Barkocy, the director of research at Keefe Managers Inc., a fund manager that specializes in the banking industry, said the suit may cause other banking companies to reconsider how quickly they respond to scandals.

"These things can come back to haunt you," Mr. Barkocy said Monday in an interview. "If you have your facts in hand, it's prudent to act as quickly as you can. But if there is even a shadow

of a doubt, than you have to be careful in a litigious society."

In recent conference calls, Mr. Humann has said that SunTrust has addressed the errors that led to the restatement, but he has not commented publicly on the status of the SEC probe.

Through her attorney, William Norwood of Pope, McGlamry, Kilpatrick, Morrison & Norwood LLP in Atlanta, Ms. Jansky declined to discuss the matter.

According to the suit, in September of last year the SunTrust board's allowance committee, which Ms. Jansky led, adopted a loan-loss accounting method that used lower reserves. The committee agreed to use the new method in the third-quarter report, but it decided not to apply the method retroactively to the first and second quarters, the suit said.

A week later, according to the suit, an auditor at PricewaterhouseCoopers LLP told Ms. Jansky that an error had been made in the calculation of second-quarter reserves. The suit said she then proposed changes to the meeting's minutes to reflect the committee's decision.

After Ms. Jansky held a series of meetings with senior executives, including Mr. Humann, a

team of lawyers interviewed her Oct. 10, at SunTrust's request, and she was put on administrative leave later that day for an "unspecified violation of the company's code of conduct," the suit said.

Rod Taylor, the president of Taylor & Co., an Atlanta executive search firm that specializes in credit officers, would not specifically discuss Ms. Jansky's suit, but he said such a termination would be damaging to any professional. However, by suing her former employer, Ms. Jansky may make it more difficult to find a similar job, he said.

"It would make that person radioactive," Mr. Taylor said. "Once an employee has ... [sued the employer], the marketplace typically becomes more apprehensive" about hiring the worker.

Ms. Jansky, who chaired the Risk Management Association from September 2002 to August 2003, does not appear to have let that issue stymie her desire to remain in banking. She is currently an investor in an effort to create Old Southern Bank, a startup planned near Orlando, according to Mr. Norwood. He would not discuss the lawsuit further.