

BMC suit alleged data departed with executive **Company said director landed position at HP, took secrets along**

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A senior director at BMC Software, lured across town to rival HP, spent more than two weeks stealing valuable secret documents and data before telling his employer about his new job, according to a federal lawsuit filed against him.

For 14 months, Steven Jackson headed the BMC accounting office responsible for negotiating the company's biggest contracts to ensure the deals resulted in "optimum revenue recognition for the company," according to the U.S. District Court suit filed by Houston-based BMC last year. The revenue recognition accounting office handled BMC's most sensitive and confidential information, the suit said.

Besides being a gripping cloak-and-dagger tale, the affair also speaks to the mounting high-stakes competition among heavyweights like BMC, HP, IBM and CA in the information technology software management business.

After three days of using his BMC computer — but his personal Yahoo e-mail account — to negotiate a new salary and benefits at HP, Jackson accepted the job at 8:21 p.m., July 26, according to e-mail messages cited in BMC's complaint. But he waited until Aug. 13 to send a late-night resignation e-mail to his supervisor.

Between accepting the job and telling BMC, Jackson allegedly carried out a plan to take sensitive information with him, employing co-workers to copy documents and putting 150 confidential files on a portable storage drive, according to the case file. He also asked several BMC co-workers to jump to HP with him, a violation of his employment with BMC, the suit alleged.

HP is based in Palo Alto, Calif., and has a large operation here that includes the software unit.

Neither BMC nor HP would comment on the lawsuit. Jackson's attorney, Ed Harrell, did not return multiple calls seeking a response.

Efforts to reach Jackson were unsuccessful. An e-mail sent to his Yahoo address was returned as undeliverable. There was no phone listing for the Missouri City address where court papers were served to his wife. Phone messages left for Steven Jackson at HP's Houston campus were not returned, though it is not clear whether that number belongs to the same Steven Jackson.

No response

In the federal court case filed Sept. 17, Jackson's side never submitted a response to BMC's complaint, and the matter was resolved within a week. The final judgment barred Jackson from disclosing any BMC information to HP or anyone else, and it ordered him to return any documents and data. Jackson never admitted any wrongdoing in the lawsuit or final judgment, which Harrell signed.

BMC would not say whether it was satisfied its secrets had not been breached.

"We are not in a position to comment," BMC spokesman Mark Stouse said.

HP would not say whether Jackson was still employed by the company.

"We do not comment on personnel topics," spokeswoman Jean Kondo said.

The business of helping companies automate their information technology systems and aligning those systems to help the company operate more efficiently has been a growing piece of the software industry for several years.

But it's heated up recently with the four primary players competing not only for customers, but also to buy smaller companies. In 2007, BMC bought three firms to boost its offerings and stay competitive.

In September, HP sealed a \$1.6 billion acquisition of Ops-ware, whose products automate management of data centers, making them cheaper and easier to operate and expanding HP's IT automation platform.

Just 30 percent of the world's top 2,000 companies use IT management software, said Patricia Adams, an industry analyst at Gartner, a technology research and advisory company. That means there is still a lot of market share left to conquer.

"IT asset management has really started to see growth," she said. "We do see that it will all start to take off."

Richard Sherman, a software analyst at MKM Partners, said more companies are seeing the value of aligning their IT functions with their overall business strategy.

"It is a very hot area," he said. "It seems that BMC has the leadership here. HP is a fast up-and-comer."

Sensitive information

At BMC, Jackson was senior director of the revenue recognition accounting department, the office that reviewed all contracts with license revenue greater than \$100,000 to make sure the company was following its own financial policies and procedures. As such, Jackson had access to BMC's most sensitive information, including pricing, internal costs, credit approvals and other contract terms, according to the affidavit of James Copeland, a BMC assistant controller.

Such an office did not exist at HP. The company wanted Jackson to replicate what he was doing at BMC, according to excerpts of e-mails from an HP official that were quoted in the complaint. In the e-mail, HP agreed to pay Jackson \$216,000 a year, plus 10,000 stock options, a \$50,000 bonus and reimbursement of \$107,866 in moving expenses that BMC had paid Jackson but he would have to partially return because he didn't stay with the company for two years.

BMC alleged Jackson would have known the company would dismiss him immediately when they learned he took a job with a competitor, so he kept it secret after he accepted the job.

The following Monday, Jackson asked a subordinate to compile a binder of revenue recognition policies, memos, reports and other documentation, the suit alleged. Over the next three days, he sent the co-worker multiple e-mails asking for more documents to be added to his request and for two extra copies to be made.

"This information would allow a BMC competitor to compete unfairly against BMC since it reveals strategies employed, and the procedures utilized, to minimize BMC's internal costs, which directly impact BMC's current and future pricing," the company's lawsuit said. "Much of

this information was derived over a long period of time and the result of a substantial expenditure of resources."

Copies requested

On Aug. 3, Jackson asked for copies of BMC documents that detailed contracts for the previous five quarters — more than 300 deals and a stack of papers more than a foot high, according to the affidavit of the woman whom Jackson asked to compile the information.

Then, before he resigned, Jackson took a weeklong trip to Europe, according to the suit. It wasn't specified whether the trip was business-related or vacation.

On Aug. 12, Jackson was back at work, the lawsuit said. A forensic analysis of his office computer found he moved about 150 files, some consisting of confidential BMC documents, onto a removal storage drive attached to the computer, the suit said. He then deleted 46 files from his computer, the suit said.

The following night, at 8:54 p.m., Jackson went to his office. A BMC security video cited in the suit showed him leaving at 9:15 p.m. with a cart full of items. Five minutes later, he returned with the empty cart. At 9:27 p.m., the video showed him exiting the building again carrying a binder that looked similar to the one he'd earlier asked a subordinate to compile.

At 10:40 p.m., Jackson sent his supervisor an e-mail announcing his resignation.

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