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Former SeaWorld CEO refuses to answer questions in shareholder lawsuit

Jim Atchison invokes Fifth Amendment privilege against self-incrimination

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Posted: 5:31 PM, February 23, 2018

Updated: 6:09 PM, February 23, 2018



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ORLANDO, Fla. - The former chief executive officer of SeaWorld [https://www.clickorlando.com/topic/SeaWorld?entityid=139334&lang=en] Entertainment Inc. is refusing to answer questions in a lawsuit alleging the company misled investors about the impact of the 2013 documentary "Blackfish."

Jim Atchison, who resigned from SeaWorld in 2015, has invoked his privilege against compulsory self-incrimination under the Fifth Amendment of the U.S. Constitution, court records show.

The U.S. Department of Justice is conducting a criminal fraud investigation [https://www.clickorlando.com/news/seaworld-under-criminal-investigation] into SeaWorld following allegations that company officials deceived investors when they originally claimed "Blackfish" was not hurting theme park attendance and revenue.

The plaintiffs accuse Atchison of making "suspicious" sales of his personal SeaWorld stock at the same time the former CEO was publicly downplaying the film's impact on the business.

"It is not unusual for an individual in Mr. Atchison's position to follow the advice of his counsel and decline to respond to discovery requests in civil litigation when a governmental investigation is pending," said Jacquelyn Heard, a spokeswoman for Katten Muchin Rosenman, the law firm representing Atchison. "We continue to believe Jim acted in the best interest of SeaWorld throughout his tenure with the company."

[READ: Internal SeaWorld emails

[https://media.clickorlando.com/document_dev/2017/11/08/SeaWorld%20emails_15101832169]

The plaintiffs, which include the Arkansas Public Employees Retirement System and a teacher's pension fund based in Denmark, submitted a series of written questions known as interrogatories to Atchison as part of their lawsuit against him and the company.

Among the questions Atchison refused to answer was one involving statements he made during a SeaWorld earnings call in March 2014 declaring "we have seen no impact on the business" in relation to the documentary and that "the movie, in some ways, has actually made perhaps more interest in marine mammal parks, and actually even about us."

The interrogatory asked Atchison to identify the materials he relied upon as the basis for those statements.

Five months after that earnings call, SeaWorld officials publicly acknowledged theme park attendance was being impacted by proposed legislation in California inspired by "Blackfish" that would have banned killer whale performances.

The plaintiffs submitted similar interrogatories to other defendants, including SeaWorld Entertainment Inc., current Chief Financial Officer Marc Swanson and former CFO James Heaney.

Those defendants also refused to answer many of the interrogatories, claiming the questions are "vague, ambiguous, overbroad, unduly burdensome ... and calling for information not relevant to the claims or defense of any party," court records show.

Internal SeaWorld emails made public last year as part of the shareholder lawsuit indicated company officials had concerns about "Blackfish" as early as December 2013, with one executive writing, "we look like idiots [<https://www.clickorlando.com/theme-parks/-we-look-like-idiots-seaworld-execs-knew-blackfish-was-bad-for-business>] " after musician Willie Nelson canceled a concert at the theme park over concerns about its treatment of killer whales.

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