



DALLAS MAVERICKS

Cuban, Mavericks 'on the legal hot seat' over sexual harassment claims

BY DREW DAVISON
ddavison@star-telegram.com

February 22, 2018 04:09 PM
Updated 4 hours 28 minutes ago

DALLAS — It took Under Armour less than two months to part ways with a high-profile employee, Terdema Ussery, after a co-worker complained of sexual harassment.

The Dallas Mavericks kept Ussery employed for almost two decades at the highest level despite multiple complaints to human resources about his behavior, according to a Sports Illustrated investigation.

Although he is not accused of sexual harassment himself, owner Mark Cuban and the Mavericks became the latest high-profile entity caught in the #MeToo movement as SI painted a disturbing pattern of sexual misconduct within the organization. Ussery, the former team president, reportedly told a female employee that he envisioned her being “gang banged,” among other similar episodes.

ADVERTISING



Ussery denied such actions to SI, but multiple female employees brought complaints to the Mavericks' human relations department. After Under Armour received a complaint about Ussery, the company removed him.

"It really shows two different approaches in corporate America," said Jason Smith, a Fort Worth-based employment lawyer who in 1999 won the first sexual harassment jury verdict in Tarrant County. "One is 'we're not going to stand for sexual harassment.' The other is 'we're going to let those in power get away with it and turn a blind eye.'"

"The fact that Under Armour, after only a few months, said 'we're not doing this' and, by comparison, what the Mavs did? It's really going to put the Mavericks on the legal hot seat."

Another Mavericks employee, Mavs.com writer Earl K. Sneed, had multiple domestic violence incidents and remained employed until this week, according to SI. One of the incidents involved a team employee he was dating at the time.

Employees generally have 300 days to file a sexual harassment complaint with the U.S. Equal Employment Opportunity Commission. Employees subjected to unwanted touching, as has been accused with Ussery, have two years to file.

Rodney Klein, an outreach and education manager for federal agency, declined to comment on the Mavericks' situation. But a continuance of that sort of environment could put the Mavericks in legal trouble, as Smith said.

"It appears that the Mavericks didn't have an effective program to prevent sexual harassment in the workplace," Smith said.

The SI report provides disturbing issues on every level, particularly with Ussery and Sneed. The Mavericks have taken steps being made aware of the report. They issued a statement before the SI story was published, and then later announced an independent investigation to examine the issues. The Mavericks hired attorneys Evan Krutoy and Anne Milgrim to lead the investigation.

In a statement, the team said investigators "will be holding confidential interviews with all Mavericks staff members, as well as previously employed individuals who wish to speak, to help better understand and fix the issues."



The #MeToo movement sweeping the nation has cost the jobs and reputations of high-profile men like Hollywood mogul Harvey Weinstein, comedian Louis C.K., national TV host Matt Lauer and U.S. Sen. Al Franken.

"Our society is getting a wake-up call on taking seriously how women are mistreated in the workplace," Smith, the employment lawyer, said. "The Mavericks, as an organization, appear to have fallen way short. All they can do now is take serious steps to improve their environment.

"Sexual harassment is a big problem for employers because it gets in the way of their productivity," he added. "No wonder the Mavericks have been losing the last couple of seasons with this kind of distraction in their back office."

Cuban admitted in an ESPN interview that he made a "horrible mistake" in keeping Sneed employed after learning of his domestic violence history. He refused to comment on the Ussery allegations.

Aside from possible legal issues, the scandal is a significant blow to Cuban's and the Mavericks' reputations. If Cuban were harboring thoughts about running for president in 2020, this could make things more difficult.

"I think it'll depend if this is a one-off or if it was a cultural endemic," Dallas-based attorney Rogge Dunn said. "People will say, 'Hey, when he ran a big, important billion-dollar enterprise, he was asleep at the controls.' Running for office and the presidency is about leadership. If you can't lead a company, how are you going to lead the country?

"If this is one-off? Maybe. But if other people have the guts to come forward, I think he'll be in for real reputational risk."

But Smith and Dunn also understand the precarious situation employees can put their employer in. Cuban might, for example, have had good intentions by giving Sneed a chance to seek counseling.

"I think the real issue isn't whether they give him a second chance or not, it's if the organization is going to send a message that they have a strong stance against sexual harassment, [that they] take action immediately upon it occurring," Smith said. "Not so much what an employee brings from their personal life so much as it is what the company does to prevent it in the workplace."

Added Dunn: "I think it's a case-by-case basis. My personal opinion, obviously from a PR standpoint, the safest thing for a company to do is fire somebody. On the other hand, if a person admits they have a problem and are seeking counseling, maybe you give them a second chance.

"Sometimes you might consult the victim and talk with them about how you don't want him or her to lose a job. Being fired and on the street is not exactly going to help them with this problem."

There could also be more fallout. Multiple emails to ABC regarding Cuban's status on the reality show "Shark Tank" were not returned.

Cuban appears determined to get the organization fixed, though he's admitted he was "embarrassed" by the scandal. And the NBA said it's going to "closely monitor" the independent investigation.

"This alleged conduct runs counter to the steadfast commitment of the NBA and its teams to foster safe, respectful and welcoming workplaces for all employees," the league said in a statement.

Drew Davison: 817-390-7760, @drewdavison

