

Ex-Everglades Org. Scientist Found Guilty Of Deleting Docs

By **Carolina Bolado**

Law360 (May 26, 2023, 4:45 PM EDT) -- A scientist embroiled in a fight with his former employer The Everglades Foundation is facing jail time after he was found guilty of indirect criminal contempt on Thursday for deleting foundation materials that were on his electronic devices despite a court order barring him from doing so.

Miami-Dade Circuit Judge Carlos Lopez found Thomas Van Lent guilty of intentionally violating a temporary injunction that prohibited him from destroying, copying or distributing the confidential information he allegedly took from the foundation just before he resigned.

At a two-day trial on this issue earlier this month, Van Lent explained that he had been trying to clean up the files and to make sure that none of his personal data was made available to the Everglades Foundation during the forensic examination of his devices and accounts. But Judge Lopez said this is not credible.

"If Dr. Van Lent was truly concerned with the dissemination of his personal data, then he could have asked the foundation or the court to enter a stipulation that would safeguard his sensitive information," Judge Lopez said. "But Dr. Van Lent never requested such a stipulation or any other protective measures."

The judge noted that Van Lent has caused an "extraordinary drain on the foundation's resources" and that the organization has spent nearly \$300,000 in addressing the violations of the temporary injunction.

"Rather than focusing on their mission to restore the Everglades, some foundation employees have dedicated substantial time and effort to chasing down the data that Dr. Van Lent deleted," the judge said.

Van Lent spent 17 years as the chief scientist at the Everglades Foundation before quitting in February 2022. He was the "go-to" IT person at the foundation and was the administrator of the foundation's servers, according to the order.

But several years ago, he and the foundation's leadership began to disagree on a policy position relating to an Everglades restoration project and in 2020, he was transitioned to a staff position without leadership responsibilities, according to the order.

The Everglades Foundation sued Van Lent in April 2022 for allegedly misappropriating trade secrets by stealing and destroying the foundation's materials just before his resignation in February 2022. A temporary injunction issued just a few days after the suit was filed barred Van Lent from further destroying, copying or distributing any foundation materials or confidential information. The injunction also ordered him to return the materials "in a reasonably usable format" to the foundation and provide his computer equipment and other devices to a forensic examiner.

Van Lent fought the injunction, claiming that he would be irreparably harmed by being forced to hand over his devices that could disclose his and his family's personal information.

The parties settled the case in August, but the following month, the foundation filed an emergency motion stating that Van Lent had violated the temporary injunction and deleted massive amounts of data from his devices and accounts in the days leading up to the settlement.

A forensic analyst found that in August 2022, Van Lent deleted more than 760,000 files from his laptop, including materials that belonged to the foundation, used a data destroying program to delete files, and downloaded an anti-forensics program that he later un-installed.

Jorge Piedra of Kozyak Tropin & Throckmorton, who represents Everglades Foundation, said that his client has tried from the beginning to get its data back "directly and amicably from Dr. Van Lent."

"When those good faith efforts failed, it was forced to take legal action," Piedra said. "Today's verdict of guilt vindicates the foundation's legal actions. We are thankful to the court for its attention to this matter. The foundation looks forward to putting this matter behind it and continuing the work of restoring America's Everglades."

Michael Rayboun, who represents Van Lent, said he has already taken steps necessary to appeal the court's decision.

"It was a foregone conclusion," he said. "We are absolutely appealing."

The Everglades Foundation is represented by Jorge L. Piedra, Harley S. Tropin and Michael R. Lorigas of Kozyak Tropin & Throckmorton LLP.

Van Lent is represented by Michael C. Rayboun of Rayboun Winegardner PLLC.

The case is Everglades Foundation Inc. v. Van Lent, case number 2022-006441-CA, in the Eleventh Judicial Circuit Court of Florida.

--Editing by Kelly Duncan.