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Seed Co. Gets Award For Stolen Trade Secret Upped To \$9M

By **Adam Lidgett**

Law360 (June 1, 2020, 8:15 PM EDT) -- A dietary supplement maker is on the hook for more than \$9 million after a federal judge found it owed attorney fees and double what a jury said it had to pay after finding it wrongly obtained a seed company's trade secret on broccoli seeds and sprouts.

In a Sunday decision, U.S. District Judge Charles Ralph Simpson III entered a final judgment on a jury's 2019 verdict that said Jarrow Formulas owed more than \$2.4 million to Caudill Seed and Warehouse Co. over claims that a former Caudill executive **stole research** and development information and gave it to his new employer, Jarrow Formulas Inc.

On top of that, the judge on Sunday awarded Caudill an additional \$2.4 million in exemplary damages, and also \$4.2 million in attorney fees. The judge said that "the evidence supports a conclusion that Jarrow deliberately and systematically courted" former Caudill director of research Kean Ashurst and told him to give Jarrow information regarding the trade secret at issue to get an unfair leg up on Caudill.

"It did so surreptitiously and with complete disregard for the injury it could not help but know that its misappropriation would cause," the judge wrote. "A doubling of the damages will educate Jarrow Formulas and others that such deceitful and unethical practices are beyond the bounds of legitimate industry competition."

Caudill claimed in its suit that Ashurst left the company in 2011 after he worked out a deal with Jarrow, a customer and competitor of Caudill. Before Ashurst's departure, Jarrow instructed him to take confidential and proprietary information belonging to Caudill, in violation of agreements he previously signed with the seed company, according to the suit.

Caudill said Ashurst alone possessed information and research in a notebook and on a hard drive that was not duplicated elsewhere within the company — information that was critical for Caudill's efforts to acquire two major accounts, according to the suit.

Jarrow, in turn, had claimed Caudill violated state and federal regulations by selling irradiated products and lied about the products' regulatory compliance on its website.

Jarrow also had said Ashurst left Caudill because of a hostile work environment, not because of a conspiracy to steal information. Ashurst's nondisclosure and noncompete agreements with Caudill were terminated and invalid, Jarrow had said.

On top of the \$4.2 million in attorney fees awarded to Caudill, the judge on Sunday found that Caudill was owed costs, but that amount would be decided later.

"We're pleased that justice has been served and final judgment has been entered," J. Mark Grundy, an attorney for Caudill, told Law360 on Monday.

Counsel for Jarrow did not respond to requests for comment.

Caudill is represented by J. Mark Grundy, Jared A. Cox, Benjamin J. Lewis, Amanda L. Dohn and Kyle W. Miller of Dentons.

Jarrow is represented in-house by Jonathan Leventhal, and by Joel T. Beres, Michael D. Risley and Bethany A. Breetz of Stites & Harbison PLLC.

The case is Caudill Seed and Warehouse Co. Inc. v. Jarrow Formulas Inc., case number 3:13-cv-00082, in the U.S. District Court for the Western District of Kentucky.

--Additional reporting by Sarah Jarvis. Editing by Adam LoBelia.

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