

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 12, 2007

No. 06-11368

Charles R. Fulbruge III
Clerk

DALE R. TEMPLIN,
Individually and on Behalf of All Others Similarly Situated,

Plaintiff-Appellant,

v.

SOURCECORP, INC.; ED H. BOWMAN, JR.;
BARRY EDWARDS; IMAGE ENTRY, INC.,

Defendants-Appellees.

* * * * *

DALE R. TEMPLIN,

Plaintiff-Appellant,

v.

SOURCECORP, INC.; ED H. BOWMAN, JR., BARRY L. EDWARDS,

Defendants-Appellees.

* * * * *

GEORGE REICHL,
Individually and on Behalf of All Others Similarly Situated,

Plaintiff-Appellant,

DALE R. TEMPLIN,

Appellant,

v.

SOURCECORP, INC.; ED H. BOWMAN, JR.; BARRY EDWARDS,

Defendants-Appellees.

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DALE R. TEMPLIN,

Appellant,

v.

SOURCECORP, INC.; ED H. BOWMAN, JR.; BARRY EDWARDS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
No. 3:04-CV-2387

Before REAVLEY, SMITH, and GARZA, Circuit Judges..

PER CURIAM:*

We have reviewed the briefs and applicable law, have consulted pertinent portions of the record, and have heard oral argument. We conclude that the district court properly dismissed for failure to state a claim under § 10(b) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78j(b), against SourceCorp, Inc., Ed Bowman, or Barry Edwards. Plaintiffs also have failed to state a claim against Image Entry, Inc., because plaintiffs did not adequately plead that Bill Deaton's alleged fraud should be imputed to it. See *Kaplan v. Utilicorp United, Inc.*, 9 F.3d 405, 407 (5th Cir. 1993). Because plaintiffs' claims under § 20(a), 15 U.S.C. § 78t(a), were against SourceCorp, Inc., for controlling Image Entry, Inc., and against Bowman and Edwards for controlling SourceCorp, Inc., and Image Entry, Inc., all of whom have committed no "predicate securities fraud offense under § 10(b)," the plaintiffs "have necessarily failed to state a claim . . . for 'controlling person' liability under § 20(a)." *Lovelace v. Software Spectrum Inc.*, 78 F.3d 1015, 1021 n.8 (5th Cir. 1996).

The judgment is AFFIRMED, essentially for the reasons given by the district court.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.