A Blogger Walks Into A Bar And Finds Criminal Collusion

Yesterday I was tipped off about a "secret meeting" between a group of "Super Angels" being held at Bin 38, a restaurant and bar in San Francisco. "Do not come, you will not be welcome," I was told.

So I did what any self respecting blogger would do – I drove over to Bin 38, parked my car and walked in.

in the back of the restaurant in a private room was a long oval table. Sitting around the table, Godfather style, were ten or so of the highest profile angel investors in Silicon Valley. These investors, known as "super angels" because they have mostly moved on to launch small venture funds of their own, are all friends of mine. I knew each person in the room very, very well.

I certainly didn't think anything was amiss and I expected a friendly hello and an invitation to sit down for a drink or two before being shooed off while they talked about whatever they thought should be kept off record. But instead it went something like this:

Me: Hey!
Person who was talking: oh, oh no.
Me: Hi. I heard you guys were here and I wanted to stop by and say hi.
Them: dead silence.
Me: so….
Them: Deafening silence.
Me: This is usually where you guys say "sit down, have a drink."
Them: not one sound
Me: This is awkward. I guess I'll be leaving now.

I've never seen a more guilty looking group of people. But that alone isn't that big of a deal. Lively conversations often die quickly when I arrive, and I've learned not to take it personally. But I did sniff around a little afterwards, and have spoken to three people who were at that meeting. And that's where things got interesting.

[redacted]

This group of investors, which together account for nearly 100% of early stage startup deals in Silicon Valley, have been meeting regularly to compare notes. Early on it was mostly to complain about a variety of things. But the conversation has evolved to the point where these super angels are actually colluding (and I don't use that word lightly) to solve a number of problems, say multiple sources who are part of the group and were at the dinner. According to these souces, the ongoing agenda includes:

•Complaints about Y Combinator's growing power, and how to counteract competitiveness in Y Combinator deals

•Complaints about rising deal valuations and they can act as a group to reduce those valuations

•How the group can act together to keep traditional venture capitalists out of deals entirely

•How the group can act together to keep out new angel investors invading the market and driving up valuations.

•More mundane things, like agreeing as a group not to accept convertible notes in deals (an entrepreneur-friendly type of deal).

•One source has also said that there is a wiki of some sort that the group has that explicitly talks about how the group should act as one to keep deal valuations down.

At least two people attending were extremely uneasy about the meetings, and have said that they are only there to gather information, not participate.

So what's wrong with this?

Collusion and price fixing, that's what. It is absolutely unlawful for competitors to act together to keep other competitors out of the market, or to discuss ways to keep prices under control. And that appears to be exactly what this group is doing.

This isn't minor league stuff. We're talking about federal crimes and civil prosecutions if in fact that's what they're doing. I had a quick call with an attorney this morning, and he confirmed that these types of meetings are exactly what these laws were designed to prevent.

I'm not going to say who was at the meeting since at least a couple of the attendees are saying they were extremely uncomfortable with the direction the conversation was going. But like I said, it included just about every major angel investor in Silicon Valley.

On a side note, this is a difficult post to write, because I call nearly every person in that room a friend. But these actions are so completely inappropriate it has to be called out.

A couple updates:

•Finger-Pointing, Emails, Deleted Tweets, Rage. AngelGate Is Far From Over

•Ron Conway Drops A Nuclear Bomb On The Super Angels [Email]

•Ron Conway Would Like To Clarify His Nuclear Attack On Fellow Angels

AngelGate: Chris Sacca Responds To Ron Conway

 **Michael Arrington / TechCrunch:**
So A Blogger Walks Into A Bar... Yesterday I was tipped off about a “secret meeting” between a group of “Super Angels” being held at Bin 38, a restaurant and bar in San Francisco. “Do not come, you will not be welcome,” I was told. — So I did what any self respecting blogger would do …

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Discussion: Techdirt, PC World, Hillicon Valley, Silicon Alley Insider, Gawker, VentureBeat, GigaOM, bizjournals, Adventures in Capitalism, the Econsultancy blog, Marc's Voice, HipMojo.com, FM Blog, A Bajillion Hits, Gizmodo Australia, Gizmodo and broadstuff, more at **Mediagazer »**, **Thanks:**louisgray

RELATED:



Dave / Master of 500 Hats:

Fire in The Valley, Fire in My Belly... and Yes, Mike, I Have Stopped Beating My Wife. — So i've been debating whether to write this post all day. — Unfortunately i probably have more balls than sense, but it drives me f**king insane to see some bulls**t superangel conspiracy theory …

Discussion: VentureBeat, **Thanks:**davemcclure

Fred / A VC:

Collusion — Mike Arrington posted about a secret meeting of angels and super angels in San Francisco the other night. In the post he suggests that they are colluding to keep valuations down, terms intact, and traditional venture capital firms, such as ours, out of their deals.

Discussion: Feld Thoughts, Victus Spiritus and VentureBeat



Henry Blodget / Silicon Alley Insider:

Hooray For Mike Arrington — If you haven't already, go read Mike Arrington's story about how he barged into a secret meeting of Silicon Valley's super-angels and discovered that the angels were discussing how to screw traditional venture capitalists and entrepreneurs, the latter by pushing down the prices of early-stage deals.

Quora:

Who are the Super Angels that Michael Arrington is talking about in his 9/21/10 Techcrunch post, "So a Blogger Walks into a Bar..."? — And if you can elucidate, what merit is there in his accusations? — Article: http://techcrunch.com/2010/09/ 21... — 4 Answers

Discussion: Venture Chronicles and Stowe Boyd

Angelgate is a controversy[1] surrounding allegations of price fixing and collusion among a group of ten angel investors in the San Francisco Bay Area.[2]

Emergence

The issue

The scandal began in September 2010 after Michael Arrington, editor of the TechCrunch publication, wrote in his blog that he had been turned away from a secret meeting among so-called "super angels" he knew,[3] held at Bin38, a wine bar in San Francisco's Marina District.[4] The participants at the meeting, among other things, discussed how they could compete with other angels, venture capitalists, and the Y Combinator business incubator for the limited pool of worthy investment opportunities.[5] Arrington said that after the meeting, he had been informed by two of the attendees that the investors had discussed how to fix low valuations for new start-up companies, and how to keep better-funded venture capitalists from investing.[6]

The blog became the subject of discussion among the Silicon Valley start-up community over the next several days.[7][8] Investor Ron Conway, whose business partner attended the meeting, wrote an email highly critical of the angels involved and called the event "despicable and embarrassing".[9] Dave McClure, a well-known angel present at the event,[7] wrote in a blog that Arrington's account was inaccurate, and a tweet (later deleted) complaining about Conway.[10] Chris Sacca wrote a lengthy email that defended the participants and was critical of Conway, which was also leaked to TechCrunch.[11]

Aftermath and critique

Reports arose that the United States Federal Bureau of Investigation began reviewing the incident.[12]

There was skepticism that there was actually any collusion or that price fixing could succeed if it was attempted.[1][13][14] The event also gave rise to various online cultural phenomena. Among other things there was a flash mob at the wine bar, a Hitler *Downfall* parody, a spike in the establishment's Google rank, a number of Twitter jokes,[4] and so-called "fakeplans" for super-angel meetups on the site plancast.com.[7] On Monday, September 27, 2010, Ron Conway, Dave McClure, Chris Sacca, and others appeared at a panel discussion hosted by Arrington at his "TechCrunch Disrupt" conference in San Francisco[15][16] where, despite Arrington's prodding, they avoided a "Jerry Springer moment".[17]

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17. *Jessica Guynn (September 27, 2010). "'AngelGate' disrupts TechCrunch conference but no 'Jerry Springer' moment". Los Angeles Times.*

External links

- "A blogger walks into a bar" - Arrington's blog entry
- Subject: Super Angels Gathering - Ron Conway's letter (reproduced in TechCrunch)

High-Tech Employee Antitrust Litigation

- Article
- Talk

- Read
- Edit
- View history

Appearance

Text

- ○ Small
  ○ Standard
  ○ Large

Width

- ○ Standard
  ○ Wide

Color

- ○ Automatic
  ○ Light
  ○ Dark

From Wikipedia, the free encyclopedia

High-Tech Employee Antitrust Litigation	
Court	U.S. District Court, N.D. California
Decided	September 2, 2015
Claim	Antitrust, unfair competition
Outcome	
$435 million settlement	
Court membership	
Judge sitting	Lucy H. Koh

High-Tech Employee Antitrust Litigation is a 2010 U.S. Department of Justice (DOJ) antitrust action and a 2013 civil class action against several Silicon Valley companies for alleged "no cold call" and no-poaching agreements which restrained the recruitment of high-tech employees.

The defendants were high-technology companies Adobe, Apple Inc., Google, Intel, Intuit, Pixar, Lucasfilm and eBay, each of which was headquartered in Silicon Valley, in the southern San Francisco Bay Area of California.

The civil suit was filed by five plaintiffs. It accused the tech companies of collusion between 2005 and 2009 to refrain from recruiting each other's employees.

A 2025 study found that this collusion reduced wages at the colluding firms by 5.6%, reduced stock bonuses for employees, and led to worse job satisfaction.[1]

"No cold call" agreements

Cold calling is one of the main methods used by companies in the high-technology sector to recruit employees with advanced and specialised skills, such as software and hardware engineers, programmers, animators, digital artists, Web developers and other technical professionals.[2] Cold calling involves communicating directly in any manner with another firm's employee who has not otherwise applied for a job opening. Cold calling may be done in person, by phone, letter, or email.[3] According to the legal brief

filed by a plaintiff in one of the class-action cases, cold calling is an effective method of recruiting for the high-technology sector because "employees of other [high-technology] companies are often unresponsive to other recruiting strategies... [and] current satisfied employees tend to be more qualified, harder working, and more stable than those who are actively looking for employment."[4]

The challenged "no cold call" agreements are alleged bilateral agreements between high technology companies not to cold call each other's employees. The DOJ alleges that senior executives at each company negotiated to have their employees added to 'no call' lists maintained by human resources personnel or in company hiring manuals. The alleged agreements were not limited by geography, job function, product group, or time period. The alleged bilateral agreements were between: (1) Apple and Google, (2) Apple and Adobe, (3) Apple and Pixar, (4) Google and Intel, (5) Google and Intuit,[5] and (6) Lucasfilm and Pixar.[6]

The civil class action further alleges that agreements also existed to (1) "provide notification when making an offer to another [company]'s employee (without the knowledge or consent of the employee)" and (2) "agreements that, when offering a position to another company's employee, neither company would counteroffer above the initial offer."[4]

Department of Justice antitrust action

On September 24, 2010, the United States Department of Justice Antitrust Division filed a complaint in the US District Court for the District of Columbia alleging violations of Section 1 of the Sherman Act. In *US v. Adobe Systems Inc., et al.*, the Department of Justice alleged that Adobe, Apple, Google, Intel, Intuit, and Pixar had violated Section 1 of the Sherman Act by entering into a series of bilateral "No Cold Call" Agreements to prevent the recruitment of their employees (a similar but separate suit was filed against Lucasfilm on December 21, 2010).[7] The DOJ alleged in their Complaint that the companies had reached "facially anticompetitive" agreements that "eliminated a significant form of competition ... to the detriment of the affected employees who were likely deprived of competitively important information and access to better job opportunities." The DOJ also alleged that the agreements "were not ancillary to any legitimate collaboration", "were much broader than reasonably necessary for the formation or implementation of any collaborative effort", and "disrupted the normal price-setting mechanisms that apply in the labor setting".[5] The same day it filed the suit, the DOJ and the defendants proposed a settlement.[8]

A final judgment enforcing the settlement was entered by the court on March 17, 2011.[9] Although the DOJ Complaint only challenged the alleged "no cold call" agreements, in

the settlement the companies agreed to a broader prohibition against "attempting to enter into, entering into, maintaining or enforcing any agreement with any other person to in any way refrain from, requesting that any person in any way refrain from, or pressuring any person in any way to refrain from soliciting, cold calling, recruiting, or otherwise competing for employees of the other person", for a period of five years, a period which the court was allowed to extend.[9] The settlement agreement did not provide any compensation for company employees affected by the alleged agreements.[10] Lucasfilm entered into a similar settlement agreement in December 2010.[6]

Civil class action

In re: High-Tech Employee Antitrust Litigation (U.S. District Court, Northern District of California 11-cv-2509[11]) is a class-action lawsuit on behalf of over 64,000 employees of Adobe, Apple Inc., Google, Intel, Intuit, Pixar and Lucasfilm (the last two are subsidiaries of Disney) against their employer alleging that their wages were repressed due to alleged agreements between their employers not to hire employees from their competitors.[12][13] The case was filed on May 4, 2011 by a former software engineer at Lucasfilm and alleges violations of California's antitrust statute, Business and Professions Code sections 16720 et seq. (the "Cartwright Act"); Business and Professions Code section 16600; and California's unfair competition law, Business and Professions Code sections 17200, et seq. Focusing on the network of connections around former Apple CEO Steve Jobs, the Complaint alleged "an interconnected web of express agreements, each with the active involvement and participation of a company under the control of Steve Jobs ... and/or a company that shared at least one member of Apple's board of directors". The alleged intent of this conspiracy was "to reduce employee compensation and mobility through eliminating competition for skilled labor".[14]

On October 24, 2013, the United States District Court for the Northern District of California granted class certification for all employees of Defendant companies from January 1, 2005 through January 1, 2010.[10]

As of October 31, 2013, Intuit, Pixar and Lucasfilm had reached a tentative settlement agreement. Pixar and Lucasfilm agreed to pay $9 million in damages, and Intuit agreed to pay $11 million in damages.[10] In May 2014, Judge Lucy Koh approved the $20 million settlement between Lucasfilm, Pixar, and Intuit and their employees. Class members in this settlement, which involved fewer than 8% of the 65,000 employees affected, were to receive around $3,840 each.[15]

The trial of the class action for the remaining Defendant companies was scheduled to begin on May 27, 2014. The plaintiffs intended to ask the jury for $3 billion in compensation, a number which could in turn have tripled to $9 billion under antitrust

law.[16] However, in late April 2014, the four remaining defendants – Apple Inc, Google, Intel and Adobe Systems – agreed to settle out of court. Any settlement was to be approved by Judge Lucy Koh.[17][18]

On May 23, 2014, Apple, Google, Intel, and Adobe agreed to settle for $324.5 million. Lawyers sought 25% in attorneys' fees, plus expenses of as much as $1.2 million, according to the filing. Additional award payments of $80,000 were sought for each named plaintiff who served as a class representative.[19] Payouts were to average a few thousand dollars based on the salary of the employee at the time of the complaint.[20][21]

In June 2014, Judge Lucy Koh expressed concern that the settlement would not be a good one for the plaintiffs. Michael Devine, one of the plaintiffs, said the settlement was unjust. In a letter he wrote to the judge he said the settlement represented only one-tenth of the $3 billion in compensation the 64,000 workers could have made if the defendants had not colluded.[20]

On August 8, 2014, Judge Koh rejected the settlement as insufficient on the basis of the evidence and exposure. Rejecting a settlement is unusual in such cases. This left the defendants with a choice between raising their settlement offer or facing a trial.[22]

On September 8, 2014, Judge Koh set April 9, 2015 as the actual trial date for the remaining defendants, with a pre-trial conference scheduled for December 19, 2014. Also, as of early September 2014, the defendants had re-entered mediation to determine whether a new settlement could be reached.[23]

A final approval hearing was held on July 9, 2015.[24] On Wednesday September 2, 2015, Judge Lucy H. Koh signed an order granting Motion for Final Approval of Class Action Settlement.[25]

The settlement website stated that Adobe, Apple, Google, and Intel had reached a settlement of $415 million and other companies settled for $20 million.[21] According to the settlement website, Gilardi & Co., LLC distributed the settlement to class members the week of December 21, 2015.[26]

See also

- Eric Schmidt § Role in illegal non-recruiting agreements
- Antipoaching

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