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Coca-Cola's GC Fiasco: The Takedown of an Audacious Black Lawyer

By Vivian Chen

Column

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It's hard not to take this as a cautionary tale of what happens when people of color push too hard for diversity.

As spectacle, the Oscars were a dud in my opinion. Much more captivating is the drama at Coca-Cola—namely, what happened to Bradley Gayton, its erstwhile general counsel who suddenly got bumped out of his post? One minute, he was Coke's star hire, lauded for his bodacious ideas, then, eight months after joining the company, he's toast.

Granted, we don't officially know what happened (Coca-Cola CEO James Quincey issued a "thank you for your service"—literally using that term—statement about Gayton's departure) but it sure looks like the company paid big bucks to push him out. And the going rate for getting rid of a high profile hire is a cool \$12 million. That package includes a \$4 million lump sum payout, plus \$666,666.67 a month in consulting fees for which Gayton "shall work a maximum" (not minimum!) of 40 hours per month. Do the math, that's \$16,666.67 per hour. Eat your heart out you Big Law partners!

No one is saying boo about what really transpired, and that total lack of transparency about Gayton's ouster is making my imagination run wild. (I've asked both Gayton and Coca-Cola about the reason for Gayton's departure and neither is commenting.)

So did Gayton screw up? I think we can eliminate the possibility that he did something really egregious, like committing murder, stealing from the corporate coffers or engaging in inappropriate behavior with a colleague or an underling. If Gayton had done something truly awful or embarrassing, wouldn't Coke distance itself from him instead of continuing a "consulting" relationship?

Speculation is rampant that he ticked off the powers-that-be at Coke, particularly with his aggressive stance on diversity. In January, Gayton announced ambitious plans, requiring that firms involve at least 30% diverse lawyers (which include women, LGBTQ members and lawyers with disabilities) on new matters, with half of those hours going to Black lawyers. Moreover, if firms missed diversity targets for two quarters, their fees would be docked by 30%. Plus, firms are subject to quarterly reviews in which they must account for origination credit.

Gayton got a lot of positive publicity for that effort. It was hailed as a game changer, an effort that would move the needle. Certainly, no firm objected to it publicly. Now, though, you have to wonder if he ticked off folks who didn't come forward.

"Much of its core constituency—wealthy families down here who have owned Coke stock since it first went public—as well as many board members and leading law Georgia law firms don't want to be on the leading edge of the culture wars," says a former Coca-Cola lawyer. "They aren't racist," says this lawyer, drawing a distinction between being racist and wanting to steer away from politics. And the final straw for members of Coke's old guard? "It infuriated them to see Republican leaders in the Georgia legislature holding press conferences drinking Pepsi. Heresy!", surmises this lawyer about the reaction.

It might be unfair for companies to be drawn into the political fray, but that genie is out of the bottle. "It's a hot mess," says a former GC of a Fortune 500 company, who is African American. "Historically, corporations would not have taken a stance on this kind of issue. Now you have ESG. The 'S' can stand for social or shit. It is a muddy field you can get pulled into."

Gayton's strong stance on diversity issues arguably made it even more difficult for Coke to dodge taking a position on Georgia's controversial new voting law. At first, Coke was silent on the new law, then in late March under public pressure, CEO Quinceyn issued a declaration against it. Ultimately, though, it refused to join that big statement against voting restrictions signed by over 100 top corporations. Talk about corporate Jujutsu.

So here are two questions: Was Gayton dumped because Coke found his diversity initiatives an anathema to its core values? And did he exercise poor judgment in getting buy-in from the CEO and the board?

As a 30-year veteran of Ford, Gayton would presumably know the corporate drill. Still, it's possible that he went full speed ahead without making sure his diversity efforts wouldn't upset the apple cart. Maybe he thought he had carte blanche to implement diversity measures because that's what Coke had told him.

Gayton's experience seems to be a cautionary tale about the perils of taking corporations on their word about promoting change. "It seems ok to talk in the abstract about diversity—start affinity groups, put out training programs, bring in consultants," says Conway Ekpo, an in-house lawyer at a major Wall Street bank who's active on diversity matters. "But once you talk about cutting fees of firms because of their records on Black lawyers, that's apparently going too far."

Lloyd Johnson, founder of Minority Corporate Counsel Association, says there's no reason to be discouraged: "For those who are true diversity allies, Bradley's departure will have little impact. For those who were hesitant or wanted to maintain the status quo, they weren't allies in the first place. Progress will not slow down."

For most of us, though, the whole episode feels like a damper on bold diversity efforts. You can't help but think that a major corporation punished an audacious Black lawyer who aimed too high. And the fact that his replacement is an apparently highly qualified Black woman with 17 years of legal experience at Coca-Cola doesn't make the issue go away. Coca-Cola emailed me a statement that Monica Howard Douglas, the new general counsel, "is fully committed to the notions of equity and diversity in the legal profession, and we fully expect she will take the time necessary to thoughtfully review any plans going forward." But the company is cagey about whether Gayton's initiatives will fully stay in place.

Oh, I'm betting they won't. Just a hunch.

In any case, the optics are terrible—and that carries weight. "He came out so forcefully, took a bold position, got press, then suddenly he's gone," says the former Fortune 500 GC. She adds, "the timing of everything raises serious questions," alluding to Coke's announcement of Gayton's departure one day after the conviction of former police officer Derek Chauvin in the murder of George Floyd.

All things considered, says this lawyer, "it's the wrong time to take down a Black man."

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