

# U.S. Bank's legal fight with former Ascent boss is about trust and big money

NOVEMBER 10, 2018 — 3:26PM



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Michael Cole, the former president of U.S. Bancorp's Ascent Private Capital Management, its lucrative business that serves clients worth at least \$75 million, spent several hours on May 17 in an important meeting at San Francisco's luxury Hotel Vitale.

His office calendar indicated that he was out that day to prospect a potential client.

Rather, Cole, who had been employed by U.S. Bancorp (USB) in wealth management since 2010, was discussing a top job with Cresset Capital Management, a fledgling competitor.

Cole eventually was hired for the job. U.S. Bancorp has responded with a lawsuit, alleging among other things that Cole used confidential information about Ascent while still leading the firm to develop a strategic plan for Cresset.

The suit alleges Cole illegally used a data-storage thumb drive to download the confidential information about Ascent's strategy, clients and financial performance, and lured key employees to join him at Cresset, in violation of his duty to Ascent.

Cole denies that he illegally obtained anything or shared confidential information with Cresset.

"This is potentially a big deal for both USB and Cresset," said Ben Anderson, a lawyer in private practice who represents investment managers and broker-dealers. "It reflects the intense competition among large asset managers to hire consistently profitable investment teams, who in turn can attract institutional investors."

It also reflects the growing use of forensic technology to track access by departing employees to computers where high-value data is retained, he said.

USB's lawsuit alleges that in addition to using its confidential documents as the basis for the strategic plan he prepared for Cresset, Cole continued to misappropriate related data until the time he departed USB in late June.

Also, before he left, Cole allegedly recruited up to seven employees of Ascent who resigned in August and September to join Cresset.

"Cole acted as Cresset's eyes, ears and hands ... making decisions for the benefit of his future employer and adverse to Ascent, the company he was tasked with leading at the time," USB charged. "All seven of those employees remained employed by Ascent following Cole's departure ... so that time could pass in order to deflect suspicion that Cole was engaged in misconduct and to otherwise gather information from Ascent to benefit Cresset."

Cole and USB are doing their talking through lawyers in court. Virtually all of the financial records and other confidential documents involved have been sealed by the presiding judge at the request of the parties.

Cole, in answering USB's charges against him and Cresset in court several days ago, doesn't deny taking confidential Ascent information, or meeting with Cresset in May. However, Cole said he was accessing the material only in his role as the boss of Ascent.



U.S. BANCORP

Michael Cole, former president of U.S. Bancorp's Ascent Private Capital Management for the ultra-wealthy, has triggered a legal

And not to aid Cresset.

Cole and Cresset flatly deny several dozen accusations of swiping trade secrets and confidential financial information, and breach of contract and fiduciary responsibility.

USB wants the judge, pending trial, to order Cresset and Cole to surrender all USB technology and “confidential and proprietary information, in addition to covering USB’s legal expenses plus damages “out of Cole’s willful misappropriation of trade secrets.”

The stakes are very high for both companies in this ultra-lucrative business that can pay key executives and rainmakers millions annually.

The wealth -management and investment-services business of USB is its fastest-growing profit center, compared with traditional bank businesses such as corporate and consumer banking.

Net income increased 30 percent to \$623 million during the first nine months of this year on revenue that increased 9 percent to \$2.1 billion. Overall USB profits are growing 15 percent this year.

Working with wealthy families on money management, as well as how rich to make the kids, philanthropy and related issues is a boom business. The rich have been getting richer thanks to tremendous appreciation of property, business and stocks.

North America boasts more than 200,000 people worth at least \$20 million, according to Boston Consulting Group and Bloomberg, making it the richest continent on earth. The ultra-high-net worth crowd will pay up for royal treatment by silk-stocking financial advisers. And there’s money to be made on the folks worth just a few million as well.

Cresset, founded last year by two private-equity executives in Chicago, hired this summer California-based Cole and Kevin Long, formerly an executive with Abbot Downing, the pinnacle-wealth management unit of Wells Fargo.

Cresset, with assets of about \$3 billion, intends to serve rich families in several cities.

“What an incredible privilege to partner with two of the very top leaders and subject matter experts in the family-office community,” Cresset co-founder Eric Becker said in June. “Michael and Kevin have built three of the largest and most successful multifamily offices in the country. And now have chosen to build the next generation multifamily office on our independent, family- and employee-owned platform that is built for the very long term.”

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