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Behind the inside man: Mark Whitacre, talks about 'The Informant,' his time in prison and moving forward



Associated Press

Former Archer Daniels Midland executive Mark E. Whitacre takes off his coat on his way to federal court in Chicago Dec. 19, 1996. Whitacre, who secretly recorded conversations that snared the company in a global price-fixing case, pleaded guilty Friday, Oct. 10, 1997, to swindling ADM out of \$9 million.

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On the eve of his 1997 trial for wire fraud and embezzlement while he was employed earlier in the decade at Archer Daniels Midland Co., Mark Whitacre's lawyer was satisfied with the progress he had made.

As Whitacre recalls, the lawyer had a meeting with decision-makers in the Justice Department and thought he'd negotiated a deal. Whitacre would be sentenced to three years in prison but have the sentence reduced because of "mitigating circumstances." His work as an informant for the FBI in building a price-fixing conspiracy case against ADM, the lawyer argued to the Justice Department, should be considered when deciding Whitacre's fate.

"He felt comfortable with that," Whitacre said, "and said, 'I think I can get you six months in prison.'

"I fired him the next day. I wouldn't accept that. How could I get a felony conviction after everything I'd done for the government?"

Whitacre was released from prison in December 2006 after serving eight years and eight months.

The background

Whitacre's name is in the news again now for another high-profile reason. A film of Kurt Eichenwald's account of the ADM price-fixing scandal, in which Whitacre played a key role, is to begin filming in Decatur this month. Matt Damon, star of the "Ocean's" and "Bourne" film series, is to portray Whitacre in "The Informant."

Meanwhile, the 50-year-old Whitacre, who served as president of ADM's bioproducts division from 1989 to 1995, is rebuilding his life after 104 months in prison, working as the chief operating officer and president of operations for Cypress Systems Inc., a Fresno, Calif.-based biotechnology company.

In a series of phone call and e-mail communications, Whitacre discussed the film, his reflections on the ADM case, his time in prison and his plans for the future.

Whitacre will be the subject of a handful of stories in coming months as the film approaches release. Whitacre has been encouraged by his new employer to discuss the case - good and bad.

"I really want to put this behind me after a few such interviews," Whitacre said. "The case was only a part of my life and my family's, but we have moved on. It is the past. We are looking at the future."

Paul A. Willis, CEO and president, Cypress Systems Inc., while helping Whitacre get a federal pardon for one of his convictions, is looking to the future as well.

"Had it not been for that case," Willis said, "someone the caliber of Mark Whitacre would be the president of a Fortune 500 or a Fortune 100 company. He's that brilliant."

"It was a significant positive for us, because Mark was obviously going to have a chance to speak about this. We come into play with what we're doing now. This can help us raise awareness of the cancer-prevention benefits of our products."

"And this isn't just coming from Mark Whitacre, anybody, it's coming from Mark Whitacre, Ph.D. I'm thrilled with the passion he has for the project."

'The Informant'

Whitacre has some contact with the film, but not directly. "Especially in the last few weeks," he said, an intermediary connected with the filmmakers has been a go-between for questions.

"Not so much for information," Whitacre said, "but for me to send things to them, to help them set scenes. They're not asking how I feel about ADM or anything like that. And I've got no animosity toward ADM."

The facts of the case have been documented in a pair of books, "The Informant" and James Lieber's "Rats in the Grain." And ADM's current leadership feels the story is part of their past.

"I'm not sure we could add anything," said David Weintraub, ADM's director of external affairs. "We've moved on. Today, we are 27,000 employees across the globe who take great pride in the work we do and are excited about the opportunities that lie ahead."

"The story's so well-known," Whitacre said. "There's already so much out there. There were two books, and I don't know if it was thousands of newspaper articles, but there were certainly hundreds."

Whitacre agreed to act as an inside informant for the FBI, and helped build a case against ADM for conspiring to fix the price of the corn-based product lysine.

The issue was compounded, however, when Whitacre was found to have committed fraud against ADM, embezzling \$9 million from the company, most of which while he was working as an FBI informant.

The story is a complex one, and has some observers wondering how it will transfer to film. Filmmakers are reaching to Whitacre for small details.

"They're not asking, 'How did it feel to attempt suicide?'" Whitacre said. (He made two attempts on

his life during the fallout of the 1995 FBI raid on ADM's offices.) "They're asking trivial things.

"Not so much for information, but, to help them set scenes. They're not asking how I feel about ADM or anything like that. And I've got no animosity toward ADM.

"I'm cooperating, but I'm not getting paid for it. Being this close to it for 15 years, I think I and my family would just as soon forget about it."

"Let me put it this way - my youngest son was 6 when I started working with the FBI. He's 22 and a senior in college now."

The beginning

"When I talk about that case," Whitacre said, "I always feel like I'm talking about a different person. I hope most people would have handled it differently than me."

The FBI was investigating a case of corporate espionage against ADM in 1992, and that led an agent meeting with Whitacre in his Moweaqua home. While the espionage case eventually proved to be baseless, Whitacre - pressured by his wife, Ginger - led the government to the price-fixing.

"My wife didn't even know what price-fixing was. I didn't tell the FBI agent everything, and he was walking out of the house. She was going to stop him and say, 'Mark has more to tell you.' "

Instead, Whitacre said, he stopped the agent from leaving, and began talking about what he knew.

The mole

"It's like I was two people," Whitacre said. "I assume that's why they chose Matt Damon for the movie, because he plays those roles that have such psychological intensity. In the 'Bourne' movies, he doesn't even know who he is."

"When you're working for three years undercover, you get to the point where you don't know who you are. There was one point where my wife said to me, 'Who do you work for now?'"

Whitacre began wearing a wire to work, tape-recording conversations with those at the highest levels of ADM. He was in the middle of an attempt by ADM and other corporations to fix the worldwide price of the food supplement lysine.

"I was working full-time at ADM," Whitacre said, "and meeting FBI agents twice a week to hand over tapes and give them background about what was being discussed."

"It was like two full-time jobs. Anybody would have been under pressure."

Whitacre said Dean Paisley, the FBI agent who oversaw the start of the case in 1992 until his April 1994 retirement, "told me they have courses they send agents to when they're going to go undercover, and even some of them will crack after a year. I was in for 2½ years with no training."

As if the case weren't already complex and confusing enough for the layman, it took an even stranger turn when Whitacre began embezzling.

He set up a fictitious offshore company, which sent ADM a faked invoice, and then OK'd the bills being paid.

"I definitely lost my moral compass. When you don't know who you're working for, you start working for yourself."

The beginning of the end

"Maybe people can learn from my story," Whitacre said. "I made a lot of mistakes. But I'm not going to do any finger-pointing. It was my own fault."

He blames his lack of patience with the FBI, along with a clouded thought process, at least in part for the embezzlement case.

"When we were getting toward the end" of building the price-fixing case, Whitacre said, "the FBI

agents were telling me, "If there's anything else we should know, tell us now. We can clean it up."

"I don't know how they would have done it, but that's what they said."

They gave me every opportunity to tell them.

"When I was trying to save myself, I wasn't thinking clearly."

Maybe if he had come clean about the embezzling at that time, the next dozen years of his life would have been significantly different. But he kept his crimes secret and was attempting to protect himself in yet another way.

"I was thinking they had my back," he said, "but then I was going to be kicked out of ADM, and this will be my safety net. I was even taping them at the time."

One story about the case said Whitacre got the idea for taping federal agents from the film of the John Grisham book "The Firm."

"There was nothing I learned from 'The Firm' that applied to my case," Whitacre said. "I was trying to provide some security for my family."

The lie, and the recant

In 1997, Whitacre compounded the complexity of the issue even further by filing a lawsuit against Decatur-based FBI agent Brian Shepard, who was spearheading the investigation and was Whitacre's primary contact.

The lawsuit charged that Shepard ordered Whitacre to destroy evidence in the case that Whitacre characterized at the time as "favorable to ADM."

Whitacre recanted the story a year later, and the lawsuit was dismissed with prejudice, meaning it could not be re-filed.

"If I list all the regrets I have," Whitacre said now, "what I did to my family is first, and second would be what I did to Brian."

Prison

Whitacre began serving prison time in 1998, first in Mississippi, then in North Carolina, then in Pensacola, Fla., where he now resides.

Through building the case, the fallout, the trials and the prison time, the Whitacre family managed to stay together. Whitacre credits Ginger, to whom he's been married for 29 years.

"My wife has been such a solid rock," he said. She followed him through each of his three locales and regularly visited her husband.

"Actually, we saw each other more when I was in prison than we do now.

She was there every Friday, Saturday and Sunday. We'd have 20-hour weekends. That was good quality time."

His experience was that wasn't the case for all of his fellow inmates.

"I saw a lot of people split up," he said, "especially being in three different locations. I'd see the same dozen wives every weekend, and even though some people had already been through divorces and some never married and some were too young, there were still 600 people there, and I know more than a dozen of them were married."

A prison outreach program sponsored by Cypress Systems was one of the touchstones that brought Whitacre together with his new employer.

"Knowing what he went through," said FBI agent Paisley, who remained in contact with Whitacre and Whitacre's family during the prison term, "and what his wife and family went through, losing those years of watching your kids grow up - I think he has a lot of strength through religion."

Whitacre wasn't the only ADM executive to wind up behind bars. Michael D. "Mick" Andreas and Terrance S. Wilson were sentenced to prison time for their role in the price-fixing scheme.

"I'm sure they're mad at me, but I never dreamed they'd go to prison," Whitacre said. "I had no intention of anything like that happening. Everything I ever saw about things like that was the company would have to pay a fine."

"It had to be as hard for their families as it was for mine."

Much of what Whitacre saw fueled his feelings about a need for a change in prison policy.

"I wish it would have turned out differently," he said. "I'm not sure anybody won. The whole case was a mess."

Clemency/pardon

"You would think people would desert you," Whitacre said of beginning his 10 1/2-year prison sentence. "But people like Paisley and the plaintiff lawyers stayed in touch and helped."

Paisley said his reason for staying in touch with the Whitacres, along with his further involvement in the case, came from a basic reason.

"It's very simple," said Paisley, now a Chatham-based private investigator. "I believe strongly in what's right and wrong and in doing the right thing. I did not believe he should have been charged in the antitrust case. He did everything he was asked to do."

"Without him, the biggest antitrust case we've ever had would never have been."

Paisley goes further in his praise of Whitacre.

"Had it not been for the fraud conviction," Paisley said, "he would be a national hero. Well, he *is* a national hero."

"Much more went on besides what he was doing. He was caught in the middle between doing the right thing and doing his job. It's sad when somebody is put in that position."

Whitacre and his wife married before she finished college, so she finished college and went into teaching to support the family while he was in prison.

"The government allowed us to keep my 401(k)," Whitacre said, "and that helped keep my wife going for a little while."

As the cases where Whitacre's information led to convictions and fines, the plaintiff lawyers recommended amounts of the settlements be given to his family.

"That was our savior financially," he said. "The money wasn't like we'd get rich, but it was enough to supplement what she had so she could move to where I was and we could get the kids to college."

Meanwhile, concern and in some cases outrage over the length of Whitacre's sentence grew. A sentence in the price-fixing case - 30 months, tacked on to the end of his embezzlement sentence - left some in the Justice Department concerned about the message being sent to potential whistle-blowers.

"Paisley says he feels like I never got recognition for what I did right," Whitacre said. "I got plenty for what I did wrong."

Paisley and others began campaigning for clemency (early prison dismissal) for Whitacre.

"What I'm amazed about," Whitacre said, "is even for all the mistakes I made - and I made a lot of big ones - I still have the support from the FBI and the prosecutors for a pardon."

"I had a lot of FBI support even then, even though I'd cut their legs off."

"Dean Paisley was in contact with my wife almost monthly. That amazes me."

The clemency case has turned into a pardon case, now that Whitacre is out of prison.

"He's probably got the longest-running request on the books," Paisley said.

A new job

The clemency campaign also contributed to Whitacre's new job.

The connection between Cypress Systems and Whitacre comes via Cornell University, where Whitacre did his doctoral thesis on the mineral selenium.

Cypress does selenium-based cancer prevention research.

Cypress was working with the professor who worked with Whitacre on his thesis. Cypress officials remembered Whitacre and first visited him in prison in 2001.

Those officials joined Paisley in the pursuit of clemency.

"We starting talking about a job in 2002," Whitacre said, which was more than four years before he actually started working for the company. "I think they thought maybe the pardon would happen earlier.

"But I know for some people, pardons don't come along until 10 or 20 years after their release."

Throughout, Cypress stayed in touch, believing Whitacre's combination of selenium research and business background was ideal for them and being impressed with the active role he'd taken in the company's faith-based prison outreach program.

"It was five years of relationship building." Said Willis, Cypress president. "There were numerous times we visited him. By that time, it was a very easy decision to offer a job to him."

Willis knew that ultimately at some point, his company would have to deal with fallout from Whitacre's convictions.

"We talked about it," Willis said. "It was addressed very early in our meetings. One of our board members had a long-term relationship with Mark during his time at ADM, and that helped."

"I think they were not so worried about the felony," he said, "because being involved in the pardon process, they understood the circumstances of the felony."

"Mark openly admits to his mistakes and wishes that things had turned out differently," Willis said in the news release announcing the addition of Whitacre to the company. "We are fully aware of the details of this case and Mark's specific involvement."

"We are strong believers in second chances, and Mark most certainly has earned the right to a second chance."

Willis additionally was impressed with Whitacre's attitude throughout his time in prison.

"That's genuine," Willis said of Whitacre's apparent lack of anger or bitterness. "He's really accepted his responsibilities."

"There's an old cliché, you can either get bitter or get better. He made a decision early on to get better, and he shared that with his family during his time in prison."

Whitacre said, "I pointed fingers the first day I went to prison, particularly at the government. But I eventually realized, 'Gosh, I can't blame them.' And I tried to teach my children the same thing."

"But I think if you'd talked to me right when I got to prison, I'd have been really bitter."

Second chance

Whitacre works in Cypress Systems' Pensacola, Fla., office. The company also has offices in Georgia and Mexico.

The company's East Coast branch was opened specifically for him "three or four weeks before I got out of prison" in December 2006.

The "office" is in a building that houses several companies. "There's so much travel," he said, "it wouldn't really matter where I was located."

The conclusion of his prison term and the start of a new job are helping Whitacre continue closure on the ADM case.

"I think the closure is already there," he said. "That had come starting with the FBI agents, and when I started hearing from others in '99 and 2000."

He doesn't even necessarily mind reliving some of those dark moments, or resent that the film is bringing his case back into the limelight.

"The same questions you're asking me are the ones Dean Paisley asked me," Whitacre said, "the ones the people who support me have asked me."

"My family and I have talked about this.

"I've been having these discussions for a decade. It's not like I put this stuff in a freezer.

"It's a lot easier now."

Yet the most important closure for Whitacre came as he patched things up with FBI agent Shepard. The contact came about when Paisley and Shepard were talking about something else, and Whitacre's name came up.

The two made contact.

"This has all happened this month," Whitacre said. "I've had at least two hour-long conversations with him."

Unprompted, Shepard made an offer to Paisley to write a letter supporting what is now an attempt to get a presidential pardon for Whitacre.

"In the letter he sent supporting the pardon," Whitacre said, "he never mentioned one thing I did to him. That really impressed me. This is a guy I told some horrible things about, I made up some things about."

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