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Wednesday, June 23, 2010

## [Miami-Dade Jury Renders \\$14+Million Verdict in Real Estate Partnership Dispute](#)

MIAMI, FL - After a hotly contested seven-day trial, a jury verdict and Final Judgment exceeding \$14 million was awarded to Franco Investments, LLC in two separate cases involving conspiracy, civil theft and breach of fiduciary duty against several entities and individual defendants, who were managers and members of Pine Run Developers LLC, a company engaged in the purchase, development and marketing of real estate in Florida.



Plaintiff Franco Investments, LLC (Franco) was represented by attorneys Robert Zarco (top right photo) and Alejandro Brito (top left photo) with Zarco, Einhorn, Salkowski and Brito in Miami.

The first case stemmed from an investment Franco made in 2003 to purchase a 25% ownership interest in Pine Run Developers, which then owned a 9.88-acre parcel located at Melaleuca Lane in Palm Beach County, Florida.



In March of 2004, Franco purchased an additional 9.375% property interest in Pine Run by becoming a member of Green Palm, which owned 50% of Pine Run Developers.

Later in June of 2004, Franco agreed to sell back its total ownership interest to the partnership for \$1,100,000 based on a \$3.2 million valuation of the property.

But according to the lawsuit, the individual defendants actually got a higher valuation at one point for \$3.657 million, but deliberately failed to disclose this higher

valuation to Franco.

Instead, the individual defendants breached their fiduciary duties to Franco by fraudulently inducing Franco to sell his interest at a lower price, according to the complaint. To make matters worse, Pine Run failed to show up at the closing to acquire Franco's interest!

Most importantly, when Franco joined the business venture, one of his non-negotiable conditions was that all checks drawn from the Pine Run account needed to possess the signatures of all three of Pine Run's managers (including Franco's), and all three managers, acting together, were required to approve any expenses and make all company decisions unanimously.

The Operating Agreement was modified to incorporate this important condition. However, immediately after the Agreement was signed, the company and its managers proceeded to write checks for unapproved expenses and did so without

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the proper number of signatures.

"The signature and permission of Franco Investments, LLC was like the third key to the safe that would protect all the members," said Zarco. "Rather than keeping the checks and balances of the company in place, the individual defendants proceeded to withdraw substantial monies inappropriately."

In the trial, it was determined that more than \$1.47 million was taken from the company's bank accounts inappropriately.

The jury awarded civil theft damages of \$2M, which is tripled as a matter of law to \$6 million, and \$2.7 million for pre-judgment interest, for a total of \$11.7 million against the individual defendants - Michael Levin, Hannah Levin, Jose Corkidi, Irving Carpman, Max Carlos Lederman and Jacques Aghion.

In the second case, three of the defendants in the initial case, Max Carlos Lederman, Jacques Aghion and Jose Corkidi, were found guilty of conspiracy and breach of fiduciary duty. An additional verdict of \$2.7 million was awarded, bringing the total verdict to more than \$14 million.

The cases were heard by **Senior Judge Eugene Fierro (lower left photo)** who was appointed by the Miami-Dade Circuit Court's Complex Litigation Division.



"Judge Fierro did a fabulous job in controlling the parties in a way that allowed us to conclude the trial in less than eight days, even though the trial was originally scheduled to last no less than two or three weeks," said Zarco.

"The judge acted decisively in the administration of the proceedings, in handling the evidence and in ruling promptly throughout the entire process in a way which kept the case flowing smoothly."

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**Media Contact:** Jennifer Clarin or Todd Templin of Boardroom Communications, 954-370-8999 or [jclarin@boardroompr.com](mailto:jclarin@boardroompr.com).

Posted by Alex at 5:28 PM 

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