



CONTINENTAL FRANCHISE REVIEW

Published 26 Times a Year By Sparks Publishing and Reporting Corporation, Inc.
P.O. Box 260558, Highlands Ranch, Colorado 80163-0558 (303) 450-7744 / FAX (303) 450-6711

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Sept. 8, 1995

LEGAL

Jury Decides in Favor of Florida Upscale Pizza Franchisee

FT. LAUDERDALE - A jury has awarded a Vito & Michael's pizza restaurant franchisee \$380,000 for fraudulent inducement, in what Miami franchisee lawyer Robert Zarco is calling a "very significant verdict."

While Zarco contends that the case has been won, the attorney for Vito & Michael's Franchising Inc., Herbert Dell, said the case is far from being over. No judgement has been entered as yet, and Dell said he is filing motions for a new trial and for a directed verdict from the judge. The basis for one of the motions is that the attorney for the other side, Zarco, committed a "fundamental error in trying the case," Dell said. The post verdict motions must be filed 10 days from Aug. 24, when the trial verdict was rendered.

The case centers around Beverly Lindo's claim that she lost \$50,000 in the first six months her Coral Springs, Fla. restaurant was opened, according to Lawrence Ashe, Zarco's associate. Lindo also maintains that she never received the support from the franchisor needed to operate the restaurant successfully. Vito & Michael's is a gourmet pizzeria and restaurant, with seven company-owned stores, primarily in Florida. The Coral Springs site was its first franchise. The name of the restaurant has since been changed to Tripello's.

Lindo's attorneys said the franchisors made sales projections and profit statements prior to the signing of the contract, which was contrary to the Uniform Franchise Offering Circular. Those figures were the reason Lindo decided to purchase the franchise, Ashe said. The jury based the case on the statements made by the franchisor and not what was offered in the UFOC. It was the franchisors' "eagerness and aggressiveness in selling the franchise" that led them to make representations they could not possibly live up to, Ashe said.

In a phone interview, Lindo said she felt like a guinea pig. "They were not ready (to offer franchises)," she said, adding, they may never be ready. Vito & Michael's is the second franchise Lindo has bought. Her first experience with Checkers, she said, "was excellent." Her two Checkers restaurants were sold back to corporate for a "handsome price" when the chain went public, she said.

The franchisor claimed that the integration and merger clause in the contract had been broken (when Lindo changed the name of the restaurant) Ashe said. The jury disagreed.