

Jury Finds John Sarkisian Liable for Fraud, Breach of Fiduciary Duty to Former Business Partner

SAN DIEGO, Sept. 6, 2012 -- A San Diego Superior Court jury returned a verdict against San Diego businessman John Sarkisian on Friday, August 31, 2012, after a 3-week trial in a civil dispute between Sarkisian and his former business partner Rudy Medina. Medina was successfully represented in the trial by Chapin Fitzgerald & Bottini, a trial-oriented boutique litigation law firm in San Diego, California.

The jury awarded Medina \$1,591,586 in damages against Sarkisian, finding that Sarkisian was liable to his former partner for intentional misrepresentation, fraudulent concealment, breach of fiduciary duty, and breach of contract. The jury also awarded Sarkisian \$200,000 against Medina on a cross-complaint for breach of contract. The verdict caps a litigation battle between the former partners that has lasted over five years.

Sarkisian is the former CEO of Pat & Oscar's Restaurants and the current CEO of Pro Performance Sports, LLC, maker of athletic training devices marketed under the "SKLZ" brand name. He has been a founding investor of a number of companies in San Diego, including Semtek Innovative Solutions, Inc.

The case that culminated in Friday's verdict concerned Sarkisian and Medina's real estate development company, Del Mar Heritage, LLC. Sarkisian and Medina were 50/50 partners in Del Mar Heritage, which developed and owned commercial and residential properties throughout San Diego. In June of 2006, Sarkisian informed Medina that he wanted to disassociate from Medina and separate their interests. Shortly after their business divorce was finalized, a number of disputes arose between them.

The case began in June of 2007, when Sarkisian sued Medina for defamation and tortious interference, after Medina sent a letter about Sarkisian to Del Mar Heritage investors and others. The letter detailed what Medina claimed were improprieties by Sarkisian in the management of a condo conversion project in which Medina's mother and aunt had invested, and in the separation of their interests in Del Mar Heritage. Medina cross-complained against Sarkisian for fraud, breach of fiduciary duty and breach of contract, and Medina's mother Carolyn Medina and his aunt, Shirley Jensen, joined the suit against Sarkisian based on their losses in a Del Mar Heritage condominium conversion project in which they had invested. Sarkisian amended his complaint to include claims for fraud and breach of contract, based on allegations that Medina owed money to Sarkisian to cover costs on projects that were unfinished at the time their separation was finalized.

That case went to trial in November, 2010, and the jury reached a partial verdict in January, 2011. Sarkisian dismissed his tortious interference claims at the beginning of trial, and the jury rejected Sarkisian's defamation claim, based on a finding that the allegedly defamatory statements in Medina's letter were substantially true. The jury also rejected Sarkisian's fraud claim against Medina and found in favor of Carolyn Medina and Shirley Jensen, awarding them compensatory damages against Del Mar Heritage, but deadlocking on the questions of whether punitive damages were warranted. The jury also deadlocked on the remaining claims, including all of Rudy Medina's claims against Sarkisian.

The trial that ended in Friday's verdict was a re-trial of the remaining counts against Sarkisian personally, and a re-trial of Sarkisian's complaint against Medina to recover allegedly unpaid costs on several of the Del Mar Heritage projects.

Medina claimed that he was misled into signing his final separation agreement with Sarkisian by misrepresentations and concealments of fact. According to Medina, Sarkisian duped him into selling his interests in two Del Mar Heritage projects to Sarkisian's friend Willy Ayyad, a San Diego real estate investor, for roughly 50% of their value, as part of the process of separating from Sarkisian. Medina claimed that Sarkisian persuaded him to sell his interests to Ayyad for a fraction of their values, based on statements by Sarkisian that one of the projects would be held for life, and on statements that another project was not likely to be sold. According to Medina, shortly after his separation was complete, the projects were actually sold for substantial gains, leading Ayyad to reap substantial short-term profits off of Medina's interests. According to Medina, in the negotiations leading up to their final separation, Sarkisian failed to disclose the extent of his business dealings with Ayyad, and he failed to disclose his plan to generate quick profits for Ayyad, in order to further his relationship with him, at Medina's expense. Medina claimed that Sarkisian misstated and withheld other material information from him during the process of separating their interests, while knowing that Medina was compromised by the effects of prescription pain medication and a recent major back surgery.

The jury agreed with Medina, awarding him \$1,591,586: the amount Medina would have made if he had retained his interests in the two projects which Sarkisian arranged for him to sell to Ayyad. Sarkisian had sought roughly \$500,000 against Medina on his breach of contract claim, but the jury awarded only \$200,000.

Medina was represented in trial by Ken Fitzgerald and Ed Chapin, of Chapin Fitzgerald & Bottini LLP. Said lead trial attorney Fitzgerald, "This was a hard-

fought and long-running complex case, which included a previous trial with a partial verdict in Rudy Medina's favor. We are pleased with the jury's verdict on the remaining claims, and we intend to vigorously pursue collection of Mr. Medina's award. In addition to the compensatory damages awarded to Mr. Medina, he is entitled to pre-judgment interest and costs of roughly \$500,000. We would like to think that Mr. Sarkisian will do the honorable thing by satisfying the judgment that will be entered against him. But we're prepared to aggressively enforce the judgment if he does not."

"I am pleased that a jury was able to see the truth and reach a verdict that was just," said Medina. "It has been a long and draining fight, but I am gratified by the jury's findings."

Chapin Fitzgerald & Bottini LLP is a boutique trial law firm in San Diego, California, focused exclusively on trying cases and handling controversies for its clients. The firm has a broad body of trial experience and represents both plaintiffs and defendants, advocating for corporate entities as well as individuals.