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REGIONAL NEWS

Nursing Home Operator Wins \$1.8 Million Jury Award

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A Philadelphia jury awarded a nursing home management company more than \$1.8 million in a breach of contract, conspiracy and tortious interference case against another management company and its president.

Of the \$1.83 million awarded late last month in *Reliant Healthcare Management Inc. v. Ashton Hall Inc.*, nursing home owner and operator Ashton Hall Inc. was found liable for \$829,269 in damages for breach of its contract with Reliant Healthcare Management. Ashton Hall's president, Stanley Segal, was found liable for \$1 million in punitive damages for his role in tortiously interfering with the contract, conspiring with others to interfere with the contract and doing so in a way that was "outrageous, done with bad motive or done with reckless indifference" to Reliant, according to the verdict sheet and docket in the case.

Reliant was seeking \$2 million in damages for what it said was a conspiracy to relinquish its management control of Ashton Hall nursing facility when Segal needed to sell it because he was running out of financing to pay for operation of the facility, according to Reliant's pretrial memorandum.

Ashton Hall and Segal were seeking \$6.6 million in counterclaims against Reliant for breach of contract, breach of fiduciary duty, intentional and negligent misrepresentation and contribution and indemnification, according to Ashton Hall's pretrial memorandum. Segal and Ashton Hall argued Reliant misappropriated the cash calls from Segal for its own use and conspired to drive down the value of the facility so that Reliant could purchase it at a lower price, according to court papers.

The 25 counterclaims were knocked down to five after the preliminary objection stage and the remaining five were dismissed on summary judgment in April, according to the docket and Reliant's attorney, Mark L. Rhoades of Mitts Milavec.

Rhoades said Reliant is a company that comes in to run failing nursing homes when federal agencies find there are problems with the facilities. Segal approached Reliant about taking over his other nursing home, Ridge



Mark L. Rhoades of Mitts
Milavec

Crest, but Reliant declined, saying the facility was too financially troubled. That facility was eventually closed, but Reliant had agreed to take over control of Ashton Hall, according to court papers.

Under the four-year management agreement struck between Reliant and Ashton Hall, Reliant would manage the operations of Ashton Hall and bar Segal from the facility, but Segal would retain financial responsibility for the facility, Rhoades said.

After Reliant made several cash calls to cover capital improvements and payroll, Segal began to run out of money and asked that Reliant help him find funding sources, which Rhoades said the company did. No financings were ever completed from those discussions, however. There were also discussions between Reliant and Segal about Reliant purchasing Ashton Hall, but they too never materialized. Segal had simultaneously been talking to other possible buyers of Ashton Hall and entered a deal with a company known as 50 Jersey, which was formed by Newt Weinberger and Eli Friedman, according to court papers.

"Because the purchase of Ashton Hall would not close unless Reliant's management agreement was terminated, 50 Jersey and Segal worked together to fabricate a basis to terminate the management agreement," Reliant said in its pretrial memo.

The company was terminated nine months into its four-year contract without a chance to cure the alleged deficiencies in its management. The basis of Reliant's defamation claim against the defendants was the allegedly false information contained about the company's work at Ashton Hall that was sent to federal oversight agencies, Rhoades said.

With Reliant's breach of contract claim won on summary judgment, the 12-member jury only had to decide how much in damages the company was owed on that claim, returning an award of \$829,269. Philadelphia Common Pleas Judge Mark I. Bernstein had previously ruled that Reliant did not pierce the corporate veil on the breach of contract issue, which meant those damages could only be against Ashton Hall and not Segal personally.

In order to make Segal personally liable for the punitive damages related to tortious interference, Rhoades said, Reliant had to show that Segal conspired with third parties to help them interfere with the contract because Pennsylvania law says you can't interfere with your own contract.

"We had to prove that 50 Jersey, Newt or Eli interfered with our contract, then next we had to establish that Stan Segal conspired with them to do that," Rhoades said.

The facts of the case lent themselves to that finding, he said.

Rhoades said Reliant previously settled with 50 Jersey, Weinberger and Friedman, though he wouldn't disclose the amount. He said the settlement, in part, was in exchange for their willingness to participate in the trial against Segal and Ashton Hall. It also included an agreement that their attorney, Bruce Baron, would participate as well. Bernstein had previously determined that privilege did not apply to Baron's discussions with Segal, according to the docket. Rhoades said Segal and Ashton Hall never made a settlement offer.

He said his client basically received punitive damages for a breach of contract claim because Segal breached the contract by conspiring to terminate Reliant. Rhoades said it is his client's position that Segal is responsible for the full \$1.83 million award because he was found to have breached the contract through the conspiracy.

Through post-trial motions filed last week, Reliant is seeking nearly \$814,000 in attorney fees under the argument that the management agreement included a provision for the payment of such fees.

Rhoades said he is concerned about the ability to collect on the jury award and fees. It is unclear who at this point owns Ashton Hall, he said.

Jury selection in the trial took place July 16 and openings occurred July 19. The jury deliberated for about two hours on July 27, coming back with a unanimous verdict, Rhoades said. Laurence D. Rich of Samson Senior Properties in Michigan testified for Reliant as an expert in the operation and valuation of nursing homes to determine how much Reliant would have earned had it worked to the completion of the contract, Rhoades said.

Christopher J. Fox of Richman Berenbaum & Associates represented Segal and Ashton Hall. He was unavailable for comment by press time. •