

DAILY BUSINESS REVIEW

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Commercial Real Estate

Broker awarded \$3.4 million in owed commissions

By: Billy Shields

A Miami commercial real estate brokerage has won a \$3.4 million judgment after claiming a group of corporate defendants controlled by the defunct partnership Leviev Boymelgreen Developers and Africa Israel Properties didn't pay agreed commissions.

Laquer Corporate Realty, controlled by prominent broker **Edie Laquer**, took the developers to court claiming breach of contract on a stalled deal. Miami-Dade Circuit Judge Ronald Dresnick ruled in her favor July 13.

"Key to the judge's ruling was that the defendants took the deposit, spent the money," said Todd Levine, a partner with Kluger Kaplan Silverman Katzen & Levine in Miami. "The judge found that Laquer was entitled to its \$3 million plus interest."

Norman Segall, a Ruden McClosky partner in Miami who represents the sellers in Laquer Corporate Realty Group's lawsuit, said he is filing a motion for rehearing and plans to appeal.

"We think the judge made a mistake, with all respect to the judge," he said.

The lawsuit centers on a sales contract between the defendants and 150 NE 7th LLC, a company controlled by Boca Raton developer Arthur Falcone and Palm Beach Gardens developer Marc Roberts.

The defendants owned parcels of land that were being assembled by Falcone and Roberts for the proposed Miami Worldcenter project, a nine-block mixed-use development near the American Airlines Arena. Laquer was hired by Leviev Boymelgreen principal Shaya Boymelgreen in January 2006 to find a buyer for the properties. In May 2006, Laquer sealed a deal to sell the properties to Falcone's and Roberts' company.

After Boymelgreen and Africa-Israel broke up, Africa-Israel was left owning the land involved in the deal.

Laquer's company contends the defendants then attempted to carve her out of a subsequent March 2007 sales agreement that was crafted after the partners broke up.

Laquer's company filed suit in April 2008, alleging the defendants kept a \$6 million deposit from 150 NE 7th LLC in a late 2006 without paying her a commission. The original May 2006 sales agreement called for a purchase price of \$88.7 million.

Africa Israel also has declared 150 NE 7th LLC in default on the second sales agreement, according to Segall. Under that deal, the LLC extended the planned March 2008 closing date by chipping in

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more deposit money until the pot grew to about \$18 million, Segall said.

“They extend and they extend, and eventually the market goes south, and fast forward to January 2009 they have now extended and their deposit has grown, and they attempt to get out of the deal,” he said.

Segall said Laquer principal Edie Laquer is not entitled to money until another lawsuit is resolved that was filed by 150 NE 7th LLC against the same defendants seeking the return of the first deposit.

Laquer has also claimed in a third lawsuit that she holds a 10 percent interest in 150 NE 7th LLC. She referred inquiries to Levine.

The six defendants in the present suit are Arena Garage, Block 42 Acquisition, Independence Garage, Irene Garage, Market Garage and Seagull Garage, and they own a combined 23 acres between Biscayne Boulevard and Northwest 1st Avenue from 5th Street to 11th Street, and are controlled by Africa Israel.

This isn't the first real estate commission lawsuit to go through Miami-Dade Circuit Court in recent months.

In May, the 3rd District Court of Appeal gave brokerage Lonestar Alternative Solutions the green light to go after Leviev Boymelgreen Soleil Developers to collect commissions owed to Lonestar on condo sales that didn't close since 2005.

Lonestar claims Soleil unfairly refused to pay the last installment of its commissions after Lonestar's clients canceled their purchase contracts. Lonestar claimed its buyers canceled the contracts because Soleil changed the design of the units and, therefore, Lonestar should still get paid the commissions.

The 3rd DCA reversed Miami-Dade Circuit Court Judge Jennifer Bailey, who dismissed Lonestar's complaint, saying the company did not have a cause of action. The appellate panel ordered Bailey to set a trial.

Leviev Boymelgreen returned deposits on Soleil units in 2007.

Leviev Boymelgreen is one of the biggest flops of the downturn in South Florida. In 2004, the company backed by diamond billionaire Lev Leviev and Boymelgreen, a New York developer, announced plans to develop 3.5 million square feet of mixed-use space at six projects valued at \$1.5 billion by 2006. The 63-story Marquis condo tower was its one notable achievement.