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Project Investor Sues Attys For \$1.4M It Says Partner Stole

By Jeremy Heallen

Law360, New York (August 08, 2012, 9:45 PM ET) -- A foreign participant in a real estate joint venture filed a lawsuit Wednesday in Texas state court aimed at the project's banker and lawyers, alleging they secretly allowed the property to be used as collateral for \$1.4 million in loans funneled into an unrelated business.

Lichtenstein-based Immobiliere Jeunesse Etablissement claims that attorneys with Davis Cedillo & Mendoza Inc. and a banker at InterContinental National Bank enabled the project's general partner Michael H. Beucler to quietly obtain \$1.4 million in personal loans, using the venture's assets as security.

"Beucler with the help of his attorneys and Intercon collateralized partnership tracts of land that were at one time free and clear of any liens so that Beucler could be approved for the \$1.4 million loan and/or refinance of that loan," the suit said. "The loan proceeds were then used ... to enhance the balance sheet of an unrelated company."

Ricardo Cedillo, a partner with Davis Cedillo & Mendoza who was personally named in the suit, said in a statement Wednesday that Immobiliere's claims were without merit and that the firm would be vindicated.

"The factual assertions and the legal claims made are bulls--t," Cedillo said in the statement. "Plaintiffs' original petition is Rambo litigation at its worst. We have never even had a phone call from plaintiffs' counsel to discuss this matter and to allow us to point out to them the false basis of their factual allegations."

According to the suit, Immobiliere was a limited partner in a joint venture that owned two tracts of land in northern Harris County, which eventually were developed into an affordable housing apartment complex. Before construction, the partnership had paid off the debt on the land and owned it free and clear, the suit said.

But Immobiliere claims that sometime between December 2001 and March 2002, Beucler closed on two separate loans totaling \$1.4 million that were secured by the properties. InterContinental National Bank, which later merged with Amegy Bank NA, made the original loans.

Having obtained the loans without notifying the limited partners, Beucler was able to then use the proceeds to provide a capital infusion to a struggling construction management company he owned, the suit said.

"The loan was never taken out in the name of the original partnerships, the proceeds of the loan never went to any partnership account nor served any partnership purpose all of which was disclosed to [InterContinental] prior to obtaining loan approval," the suit said.

When the loan later matured, Beucler and lawyers with Davis Cedillo & Mendoza allegedly negotiated a refinance of the loan with Texas Capital Bank, the suit said.

In 2004, when the partnership obtained project financing for the apartment complex through KeyBank National Association, Immobiliere claims Beucler's personal loan was quietly paid off with the proceeds.

"As a result the partnerships were now straddled with an additional cost of \$1.4 million which ... had nothing to do with any partnership purpose," the suit said.

When Immobiliere questioned the payment, it claims Davis Cedillo & Mendoza partner J. Russell Davis concocted a partnership purpose for the use of the loan proceeds.

Davis allegedly told Immobiliere that the \$1.4 million payment was a fee owed to Beucler's construction management company for consulting services provided in connection with developing the real estate, the suit said.

Immobiliere claims since Beucler's lawyers also represented the limited partners, they breached their fiduciary duty by facilitating the loan transactions, the suit said.

The suit alleges negligence, negligent misrepresentation, breach of fiduciary duty, fraud and violations of the Texas Deceptive Trade Practices Act, among other things. Immobiliere is seeking actual damages, exemplary damages and treble damages. Beucler is not named in the suit.

Immobiliere is represented by David Eric Kassab and Lance Christopher Kassab of The Kassab Law Firm.

Counsel information for the defendants was not available

The case is Immobiliere Jeuness Etablissement v. Cedillo, et. al., case number 2012-45412, in the 215th Judicial District Court of Harris County, Texas.

--Editing by Richard McVay.

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