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'Willful' Fraud by Lawyer Results in Sanctions Against Client

Celia Ampel, Daily Business Review

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A Coral Gables lawyer carried out a fraud on a state court, falsifying documents to protect a client from having to hand over a \$13 million New York condo, a judge found.

Michael J. Freeman's actions resulted in sanctions against his client, 212 West 18 LLC, owner of the Chelsea condo inhabited by former petroleum executive Todd Kozel. The company will now be liable for a \$34.6 million judgment Kozel's ex-wife won against him last year.

"The fraud with respect to the lease and sales documents was willful, intentional, and it permeated the entire proceeding against 212," Sarasota Circuit Judge Nancy Donnellan ruled Thursday. "Further, it demonstrated a deliberate and contumacious disregard of the court's authority, bad faith and deliberate callousness in the face of the standards of integrity required of litigants."

Lawyers for the ex-wife, Ashley Kozel, said they are not sure whether the court's findings could result in Florida Bar discipline against Freeman.

"We're still assessing the full impact of the order, and we need to confer with our client before any judgment on the next steps," said Jeff Fisher, who worked on the case with colleague Zach Potter of Fisher, Bendeck & Potter in West Palm Beach.

The bar's website has no record of previous discipline against Freeman, who has been a lawyer for 43 years and is now with Michael J. Freeman P.A. Freeman did not respond to requests for comment by deadline.

The tussle over the 3,800-square-foot condo is part of the Kozels' six-year legal battle over the division of their assets after their divorce.

The former couple signed a settlement four years ago that required Todd Kozel, former CEO of Gulf Keystone Petroleum Ltd., to deliver 23 million shares of the company to his wife by a January 2012 deadline. He transferred the shares five weeks late, and a big change in the stock price led Donnellan to award Ashley Kozel \$34.6 million for the delay.

Since winning that judgment a year ago, Fisher and Potter have been working to collect Todd Kozel's assets from around the world, with limited success. One stumbling block was the ownership of two condos, which have since been sold: the New York condo, then owned by the 212 company,

and an \$11 million Miami Beach condo then owned by 3601 Setai LLC, a company also managed by Freeman.

Both companies were created by the Gokana Trust, set up by Todd Kozel in the Isle of Jersey and listing Doctors Without Borders, the American Red Cross and the United Nations Children's Fund as beneficiaries. The trustee, Swiss attorney Markus Hugelshofer, hired Freeman because the lawyers had a 30-year relationship, according to Donnellan.

In court filings, Todd Kozel argued the judgment against him did not entitle his ex-wife to the condos, since he didn't own them.

"The former husband maintained throughout this litigation that he had no control over the Gokana Trust and could not access any of its funds, which this court has repeatedly found to be not credible in the least," the judge wrote. "To the contrary, the former husband disguises his misconduct by using the trust, and the shell entities created by the trust's agents and lawyers, as his alter ego."

Donnellan forbade Todd Kozel from selling the New York condo in an asset injunction issued Sept. 11, 2015. According to the judge's findings, the condo was sold days after the injunction, but Freeman and Hugelshofer backdated documents to make it appear that the sale occurred Sept. 10. Freeman also created a document that said he resigned as manager of 212 on Sept. 10, which was "placed in the file so that the former husband's asset protection attorneys could thereafter use the cloak of the attorney-client privilege to hide evidence of their ensuing fraud of the court," the judge found.

Donnellan also found the lawyers had created a false lease and backdated it by one year to make it appear that Todd Kozel and his new wife, Inga, were tenants in the unit, rather than owners.

As sanctions, Donnellan entered a default judgment against 212.

Ashley Kozel's lawyers now turn their attention to her pending claim against 3601 Setai, which they say is also a part of the "sham" asset protection scheme.

"From a Florida public policy perspective, we believe this is important work," Potter said. "It's important to put a stop to this. Falsification of records undermines the courts' ability to function."

Freeman is the brother of Lew Freeman, a noted South Florida receiver and trustee who is serving time in federal prison for a multimillion-dollar fraud.

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