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David Stern's public company lawsuit accuses him of 'malpractice'

BY PAUL BRINKMANN

A lawsuit against foreclosure attorney David Stern focuses on his duties as a lawyer and his role as former executive with DJSP Enterprises, the public company he helped establish.

The lawsuit, which DJSP filed in Broward County Circuit Court in January, alleges that Stern defrauded DJSP by lying about his law firm business and committing foreclosure fraud in individual cases he was handling. DJSP is also suing accounting firms McGladrey & Pullen and Grant Thornton over their accounting work for Stern.

DJSP was formed in late 2009, at the height of Stern's foreclosure mill business, with the single purpose of processing tons of paperwork for the David J. Stern Law Firm.

But the law firm closed after state officials began investigating Stern for alleged "robo-signing," or fabrication of foreclosure documents.

Stern was removed as chairman, and then president, of DJSP. Now, the company's lawsuit alleges Stern committed fraud on the company, breach of fiduciary duty and malpractice.

Stern's attorneys with Keller Landsberg have filed a motion to dismiss the case, saying DJSP has failed to state a case and that DJSP cannot sue for malpractice because it was not a client of Stern's.

FILE PHOTO

The boat and Fort Lauderdale mansion that once belonged to David Stern.

DJSP's attorneys with Zarco Einhorn Salkowski & Brito, P.A. have fired back with examples of non-clients suing attorneys for malpractice. DJSP alleges that it was a legitimate "third-party beneficiary" of Stern's legal obligations to his clients, which were all major lenders.

"David Stern was in the foreclosure business, but malpractice was part of his business model," DJSP attorney Robert Zarco said.

David Keller, representing Stern, said malpractice claims against Stern are misdirected and the suit is without merit. Keller said non-clients can only sue attorneys for malpractice in narrow situations, such as if they are the beneficiary of a will the attorney crafted.

In January 2010, Stern earned $58.7 million in cash and stock interest in DJSP for selling the company to a group of investors. He handled 70,000 foreclosure cases in 2009 and was on pace to do that again in 2010. At the time, it may have seemed that the foreclosure epidemic would go on for years, Stern would continue to prosper and DJSP could land other law firms as clients.

But during investigation by the Florida Attorney General's Office, former Stern employees alleged in depositions that the firm forged notarized documents, and employees signed files without reviewing them, and hid problem files from Fannie Mae and Freddie Mac representatives.

DJSP has also alleged that P&M Corporate Finance, which provided financial advisory services in connection with the purchase of DJSP, failed to act with due professional care

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Robert Zarco | Zarco Einhorn Salkowski & Brito, P.A.

in preparing pro forma financial statements on which DJSP relied. P&M has also defended itself with a separate motion to dismiss the suit.

DJSP was formerly listed on the NASDAQ stock exchange, but was delisted in March 2011, after which shares fell to a low of 5 cents. The historic high was $13.65 on April 26, 2010. As of April 11, 2011, the stock had risen to 18 cents.

DJSP's buyer was a special purpose acquisition company, Chardan 2008 China Acquisition Corp., a subsidiary of Chinese-American investment banking firm Chardan Capital.

The company lost almost all of its business when Stern's law firm folded, and about 1,000 DJSP employees were laid off.

pbrinkmann@bizjournals.com | (954) 949-7562