

MONDAY, MAY 6, 2013

TOP DEALMAKERS OF THE YEAR

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THE PEOPLE WHO MADE THE BIGGEST AND
MOST COMPLEX DEALS OF 2012.

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LAND Winners

Emotions topped price in negotiations for historic Surf Club

Robert Zarco and Robert Salkowski
Zarco Einhorn
Salkowski & Brito

Robert Zarco and Robert Salkowski put together the sale of nearly nine acres of oceanfront land owned by the Surf Club Inc., a private social club in Surfside.

Miami-based SC Property Acquisition LLC, led by Nadim Achi's Fort Capital Management, acquired the club for \$116 million in December.

SC Property plans to renovate the historic clubhouse and build a 285-unit condo-hotel project on the property.

The pair represented the 122 proprietor members who owned the shares of the Surf Club, a corporation. For the corporation to be able to sell the property, all its members needed to agree to the deal. That became a problem when each of the members began expressing their opinions and demanding what the term of the deal should be.

"I had to deal with 122 very sophisticated, wealthy, elderly people with an average age of 75 years old," Zarco said. "Imagine putting all these people together and trying to get them all to agree on whether or not they want sell."

Zarco, himself a club member, said the members' personal and emotional needs were more important than the price. So, he asked them to write down a list of things each of them wanted to make part of the deal.

For example, one wanted to have access to a card room, another wanted a restaurant on the water, another wanted to be able to buy hamburgers for not more than \$10, another wanted a free lifetime membership to a club that cost \$10,000 to \$15,000 a

year and so forth, Zarco said.

Zarco and Salkowski then used the wish list to negotiate with at least 12 developers vying for the property. That eliminated at least half of the contenders, who refused to let the seller dictate the future of their project. And, despite that exercise, a few members still didn't want to sell, jeopardizing the deal.

The pair then masterminded a new ownership structure that would allow the majority of the members to go around those who were holding up the deal.

The pair decided to do a reverse merger transaction. They created a corporation capitalized with the transaction funds. The new corporation then merged with the Surf Club, which was able to buy back its own membership interests from the individual proprietor members.

The club bylaws required the sale of the membership interests to the Surf Club to be approved by 60 percent of the proprietor members.

"The reverse-merger structure facilitated the execution of the merger document without requiring all 122 proprietor members to sign individually," Zarco said.

The merger also provided the members — who received part of the transaction proceeds from the deal — some tax relief since the Surf Club was no longer a corporation subject to another layer of taxation.

"It provided tax benefits to the individual proprietor owners, who were only subject to capital gain taxes, instead of double taxation at a corporate level," Zarco added.



**TOP
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J. ALBERT DIAZ

Robert Zarco and Robert Salkowski represented the 122 proprietor members in the sale of nearly nine acres of oceanfront land owned by the Surf Club.