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Dallas Jury Awards \$22M to Ousted Real Estate CEO

FEBRUARY 13, 2024 | MICHELLE CASADY

A jury in Dallas recently sided with the former president and CEO of real estate company Pillar Income Asset Management in a breach of contract dispute with his former employer, awarding him about \$22 million in damages.

Daniel Moos, who formerly served as president and CEO of Gene Phillips-founded Pillar Income Asset Management, had filed suit in November 2020, accusing Pillar of ousting him from the company without paying him compensation he was owed under his employment contract. His suit also accused Pillar of improperly seizing his interest in a separate real estate venture worth \$15.7 million.

In January 2021 Pillar filed counterclaims against Moos, alleging he had breached his fiduciary duties to the company. In a late-filed damages model that Dallas County District Judge Aiesha Redmond struck on Moos' motion and did not allow to be presented to the jury, Pillar was seeking \$36 million in damages for the alleged breach. At trial, Pillar asked the jury to award it just \$40,000 in damages.

It took the jury less than two hours to unanimously side with Moos and reject Pillar's counterclaims in a verdict returned Feb. 5 after eight days of trial.

"Their defenses were nothing more than excuses, and accusations and baseless allegations of misconduct designed to avoid their contractual obligations," Mark Johansen, a Reed Smith partner and lead attorney for Moos told *The Lawbook* on Tuesday.

Pillar is represented by Gregory Shamoun and Brian Norman of Shamoun & Norman. The attorneys did not respond to an email seeking comment Tuesday.

The breach of fiduciary duty claim was based on Moos' alleged failure to disclose a banking relationship with Legacy Bank, Johansen said.

"We provided nine emails where he disclosed fully the existence of that banking relationship to multiple high-ranking officials," Johansen said. "It was excuse after excuse after excuse, none of which had any validity, but we had to address all of them."

While Pillar had authority to end the employment agreement with Moos at any time, termination triggered certain compensation obligations, and when the company refused to pay up, Moos filed suit. Moos was also seeking about \$5.1 million in unpaid bonuses he said he was owed from his time of employment, and the return of his interest in the real estate joint venture.

The jury awarded him about \$3.8 million in unpaid bonuses, about \$420,000 in damages for an unpaid termination payment and unexercised stock options, \$2.3 million in attorney fees and also found that he had not assigned his interest in the real estate joint venture to Pillar, entitling him to about \$15.7 million that was held in the registry of the court.

To prove Moos had not assigned his interest in the real estate joint venture to the company, his lawyers presented the jury with evidence that the letter that purportedly gave the company the interest had been doctored.

"It had a correct page two, signed by Mr. Moos, but it had been doctored with a different page one that was not there when he signed it," Johansen explained. "One of the most impactful witness testimonies that occurred was Louis Corna, the general counsel and head of corporate compliance at Pillar."

Johansen said Corna testified on cross-examination, which was handled by Reed Smith partner Brian Mitchell, that he took the letter and had an assistant use a typewriter to add a signature block "without anyone's knowledge purporting to show this is a three-way, agreed-upon document."

"So, essentially, Mr. Corna admitted in open court that he altered a document and concealed that from Mr. Moos," he said.

After trial, Johansen said a few jurors told him the doctored letter was the most impactful piece of evidence in the case.

"They just did not believe it was accurate or truthful that Mr. Moos had assigned this interest," he said. "So, that undermined the credibility of Pillar on everything else."

Moos' lawyers also kept out of the courtroom something Pillar raised in its counterclaims: that Moos was terminated for cause in part because of an affair with a colleague.

“First of all, that was not true,” Johansen said. “And secondly, it was properly excluded by the court.”

Johansen credited the testimony of Moos, who jurors heard from over three days, with helping secure the unanimous decision in his favor. Johansen said he told jurors in opening statements that Moos was a “loyal and dedicated” employee who “worked tirelessly” for the company.

“Danny Moos is a 74-year-old gentleman who had to endure three-plus years of litigation to fight for money that was owing to him that he should never have had to file a lawsuit to collect,” he said. “His testimony was credible, and the jury obviously believed what he had to say.”

Moos is also represented by Steve Smith, Alan York and Rachael Seidl of Reed Smith and Sen. Royce West of West and Associates.

The case number is DC-20-17668.

Michelle Casady

Michelle Casady is based in Houston and covers litigation and appeals — including trials, breaking news and industry trends — for The Texas Lawbook.

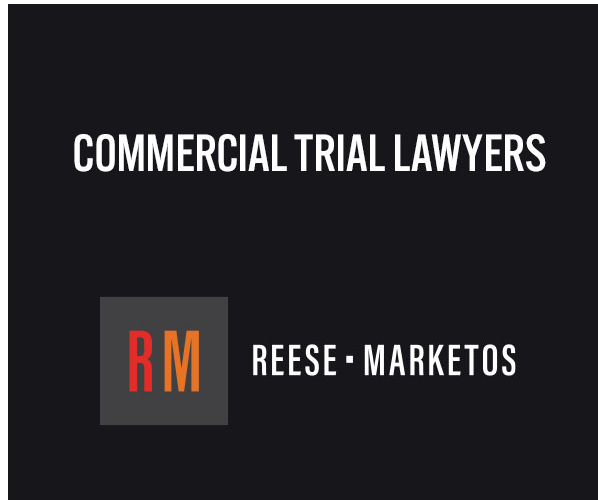
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