

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION AN
CASE NO. 502016CA013264XXXXMB

FLORIDA INSURANCE ADVISORY GROUP, LLC, *et al*,
Plaintiffs,

v.

RELIANCE AGENCY NETWORK, LLC, and
DESOTO MOULTON, LLC,
Defendants,

FINAL JUDGMENT

THIS CAUSE came before the Court for non-jury trial March 6, 7 and 12, 2018. All parties were represented by counsel.

The parties filed a Pre-trial Stipulation (D.E. 467) setting forth a "Statement of All Issues of Fact and Law for Determination at Trial". Attached hereto and incorporated by reference is Section III, pages 5 through 8, of that Stipulation, which the Court will treat as an interrogatory verdict.

Based upon the findings set forth in the verdict, it is hereby

ORDERED AND ADJUDGED that the Defendants/CounterPlaintiffs take nothing from this action and the Plaintiffs/CounterDefendants shall go hence without a day. And it is further

ORDERED AND ADJUDGED that Plaintiffs recover from the Defendants, **RELIANCE AGENCY NETWORK, LLC, and DESOTO MOULTON, LLC**, the sum of Three million one hundred seventy thousand and no/100 (\$3,170,000.00) dollars, for which let execution issue.

DONE AND ORDERED this 14th day of March, 2018, at West Palm Beach, Florida.



EDWARD A. GARRISON, Acting Circuit Judge

Gregory Weiss, Esq. gweiss@mrachek-law.com ✓

Zachary Glaser, Esq. zglaser@bjia-law.com ✓

U. On August 8, 2016, Buza's prior counsel emailed a Dispute Notice responsive to Defendants' Claims Notice to Defendants and the Escrow Agent. Defendants received Buza's Dispute Notice but the Escrow Agent's email address was misspelled, so the Escrow Agent did not.

V. On September 8, 2016, Defendants sent a second Claims Notice to the Escrow Agent asserting a claim for more than \$3,500,000 from escrow. On or around October 4, 2016, Buza's prior counsel mailed and emailed a second Dispute Notice to the Escrow Agent and Defendants responsive to Defendants' second Claim Notice. Defendants received Buza's Dispute Notice but the Escrow Agent did not.

W. The Escrow Agent, Oak Street Funding, released the escrowed funds to Defendants.

III. Statement of All Issues of Fact and Law For Determination At Trial.

Plaintiffs' Claims

A. Whether Defendants made either Claim Notice "in good faith" for indemnification under Section 8 of the Contract.1 *YES*

B. Whether Defendants made either Claim Notice by providing "in reasonable detail the facts giving rise to any claims ... including any relevant documentation in support of the claim..."² *NO*

C. Whether Defendants breached the Contract by failing to pay Plaintiffs the Purchase Price Total of \$18,800,000. *YES*

D. Whether Plaintiffs were damaged by Defendants' conduct in breaching the Contract. *YES*

¹ Defendants dispute this was an issue raised in the Amended Complaint.

² Defendants dispute this was an issue raised in the Amended Complaint.

E. Whether Defendants violated their obligation of good faith and fair dealing by failing to disclose their knowledge of either of Plaintiffs' Dispute Notices responsive to their both of their Claims Notices. **YES**

F. Whether Plaintiffs are owed the balance of the Purchase Price Total under the Contract. **YES, LESS THE \$130,000 IN ACCOUNTS PAYABLE AT CLOSING.**

Defendants' Defenses to Plaintiffs' Claims.

A. Whether Plaintiffs stated a claim for Breach of Contract. **YES**

B. Whether Defendants' acceptance of the escrowed funds was a breach of the Asset Purchase Contract. **YES**

C. Whether Plaintiffs damages were caused by Plaintiffs' own conduct, specifically, failing to notify the Escrow Agent of its dispute to the claim notices as required by the Escrow Agreement. **NO**

D. Whether Plaintiffs damages were caused by Plaintiffs' own conduct, specifically, providing false or inaccurate information in Schedule 7(c) and refusing to pay insurance premiums to their respective carriers and/or Defendants. **NO**

E. Whether the Plaintiffs failure to notify the Escrow Agent of its dispute to the Claim Notices was "an irrevocable acceptance of liability" for the amounts set forth in the Claim Notices. **NO**

F. Whether Plaintiffs prior breach of the Contract excused further performance by the Defendants. **NO**

G. Whether Plaintiffs suffered any damages. **YES**

H. Whether Plaintiffs failed to mitigate their damages. **NO**

I. Whether a claim for declaratory judgment can lie where Plaintiffs fail to allege any particular provision of the Asset Purchase Contract is unclear or ambiguous or was violated. **YES**

J. Whether a claim for a breach of the covenant of good faith and fair dealing can lie where Plaintiffs fail to allege any particular provision of the Contract that was violated. *YES*

K. Whether Plaintiffs consented to, or ratified, the acts taken by Defendants by virtue of Plaintiffs agreeing to the claim procedure in the Escrow Agreement and Asset Purchase Contract and failing to meet the time restrictions agreed to therein. *NO*

Defendants' Counterclaims.

A. Whether Schedule 7(c) is in any way false or inaccurate, and if so, what is the adjusted Purchase Price? *NO*

B. Whether the Seller Parties either knew they were providing false or misleading information, or failed to exercise reasonable care or competence in obtaining, communicating, compiling, and/or providing the information to the Buyers. *NO*

C. Whether Counter-Defendants' were damaged by Plaintiffs' conduct. *NO*

D. Whether the Plaintiffs failure to notify the Escrow Agent of its dispute to the Claim Notices was "an irrevocable acceptance of liability" for the amounts set forth in the Claim Notices. *NO*

E. Whether Counter-Defendants breached the Contract. *NO*

F. Whether Counter-Plaintiffs were damaged by Counter-Defendants' conduct in breaching the Contract. *NO*

Plaintiffs' Defenses to Defendants' Counterclaim

A. Whether a claim for declaratory judgment can lie where Defendants fail to allege any particular provision of the Asset Purchase Contract or Escrow Agreement is unclear or ambiguous. *YES*

B. Whether a claim can lie for Information Negligently Supplied for Guidance of Others where Defendants had the right to and actually did inspect the accounting, financial records and other business records as part of a due diligence review of the business. *NO*

C. Whether Defendants are estopped from making their claims regarding Net Income in light of having conducted complete due diligence pursuant to the Contract. YES

D. Whether Defendants failed to mitigate their damages. YES

IV. Lists of Trial Exhibits.

- A. Plaintiffs' Amended Exhibit List is attached as Schedule "A."
- B. Defendants' Exhibit List is attached as Schedule "B."
- C. Plaintiffs' Objections to Defendants' Exhibit list are attached as Schedule "C",
- D. Defendants' Objections to Plaintiffs' Amended Exhibit list are attached as Schedule "D."

V. Lists of Trial Witnesses

- E. Plaintiffs' Witness Lists are attached as Schedule "E."
- F. Defendants' Witness Lists are attached as Schedule "F."

VI. Statement Of Estimated Trial Time

The parties estimate this bench trial should last for 4 trial days.

VII. Names Of Attorneys To Try Case

G. For Plaintiffs, Gregory S. Weiss, Esq., Alan B. Rose, Esq., and Jessica Weitman, Esq.

H. For Defendants, Zachary J. Glaser, Esq., and David W. Adams, Esq.

VIII. Number of Peremptory Challenges per Party

None