Supplement to the Los Angeles and San Francisco

Daily Journal

February 13, 2013

TOP VERDICTS OF 2012

TOP DEFENSE VERDICTS

Garamendi v. Artemis

CASE INFO

Insurance Fraud

Central District of California

U.S. District Judge R. Gary Klausner

Defense attorneys:
Gibson, Dunn & Crutcher LLP, Robert L. Weigel, Marshall R. King and Christopher Chorba

Plaintiffs' attorneys:
Shartsis Friese LLP, Arthur Shartsis, Chip Rice and Tracy Salisbury; Rothgerber Johnson & Lyons LLP, Frank O'Loughlin and Cindy Oliver

ROBERT L. WEIGEL

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Sitting in a courtroom in Los Angeles, roughly 5,600 miles from home, French businessman Francois Pinault faced off against former California State Insurance Commissioner John Garamendi, who sought $4.2 billion in damages from Pinault and his company, Artemis S.A.

Garamendi claimed that a conspiracy, which Artemis was previously found to have joined, affected the 1991 sale of insurance company Executive Life's junk bond portfolio.

California insurance regulators sold the junk bond portfolio in 1991 for $3.5 billion to Altus Finance, which eventually sold some of the bonds to Pinault's company and Artemis. Along the way, authorities said, Altus engaged in "portage agreements" — selling the shares to a third-party company to sidestep federal ownership laws.

The junk bond market rebounded throughout the 1990s, earning Artemis a fortune. A whistleblower came forward in 1998, leading to an investigation by the Department of Justice and subsequent lawsuits by the California Insurance Commission targeting several defendants, including Pinault and Artemis.

A 2005 civil trial vindicated Pinault but hung on damages against Artemis. The 9th U.S. Circuit Court of Appeals later determined that the plaintiff's lawyers should be able to re-try the damages claim, setting up a 2012 trial before U.S. District Judge R. Gary Klausner in Los Angeles.

Plaintiffs argued that if the state insurance commission had known about the portage agreements, it would have sold the bonds to another group, such that the profits would go to Executive Life policyholders. Defense lawyers argued that Garamendi didn't sell the bonds to the other group because he deemed it "too risky at the time," not because of any conspiracy on the part of the defendant.

In October, a jury ruled that Artemis could retain the $4.2 billion in profits from the junk bonds.

"The key was that they could not prove that these portage agreements had anything to do with the decision that Garamendi made at the time," said Robert Weigel, a partner in Gibson Dunn & Crutcher's New York office.

— Ryne Hodkowski