

# TEW · CARDENAS LLP

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## **TEW CARDENAS PARTNERS DEFEAT \$200 MILLION ACCOUNTING MALPRACTICE CLAIM**

*Attorneys Thomas Tew and Joseph A. DeMaria Represented Rachlin Cohen & Holtz in  
Accounting Malpractice Case Stemming from Massive Tax Fraud Scheme*

**MIAMI** (Aug. 22 2011) – [Tew Cardenas LLP](#) partners [Thomas Tew](#) and [Joseph A. DeMaria](#) have defeated a \$200 million accounting malpractice claim that had been filed against the South Florida accounting firm Rachlin Cohen & Holtz, LLP and Senior Partner Laurie S. Holtz.

Judge Gregory A. Presnell of the U.S. District Court, Middle District of Florida in Orlando entered an order on August 22, 2011, dismissing the case that was filed by bankruptcy liquidator R.W. Cuthill on behalf of a defunct Orlando company known as Mirabilis Ventures, Inc.

Mirabilis was one of several entities involved in a massive tax fraud controlled by Frank Amodeo involving misappropriated payroll taxes from professional employer organizations (PEO's). Rather than turning the taxes collected by the PEO's over to the IRS, Amodeo and his co-conspirators used the funds to purchase real estate, a Learjet, automobiles, and other property. Amodeo pled guilty and was sentenced to 22 ½ years in prison and ordered to pay restitution to the IRS of approximately \$180 million for his role in the scheme. Mirabilis was also convicted for conspiring with Amodeo and was ordered to pay \$200 million as restitution and forfeiture based on its criminal conviction.

Cuthill filed suits against two law firms and two accounting firms, including the former Rachlin Cohen & Holtz firm. The complaints blamed the professionals for Mirabilis's criminal conduct and sought \$200 million in damages.

Following a June 24th evidentiary hearing, Judge Presnell entered two orders that excluded Plaintiff's liability expert and then excluded Mirabilis's \$200 million damages claim. Shortly after the orders were entered, Cuthill obtained permission to request that the case be dismissed.

Plaintiff had hired a nationally recognized accounting expert to support Mirabilis's accounting malpractice claim. During a *Daubert* hearing, Thomas Tew cross-examined the Plaintiff's expert to show that there was no basis to support his opinion. He successfully argued that Rachlin was not Mirabilis's auditor nor did it violate its duties to the company. On July 14, 2011, Judge Presnell entered the order barring Plaintiff's expert from testifying at trial. See **2011 WL 2784105**.

The second part of the hearing addressed the defendant's challenge to Mirabilis's \$200 million damages claim. Joseph DeMaria cross-examined Cuthill to establish that the damages claim was unsupportable. On July 28, the Court excluded the damages claim and held that: "Mirabilis relied on a bogus calculation on the \$200 million allowed claim and failed to produce any evidence supporting it." See **2011 WL 3236027**.

The Tew Cardenas partners stated that the combination of the willingness of the defendants and their insurers to fight to prove the truth, and the Court's willingness to take the time before trial to consider these defenses, led to this positive result.

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#### **ABOUT TEW CARDENAS LLP**

Tew Cardenas LLP is a Miami-based law firm that represents, advises and counsels for a full array of clients, including individuals, domestic and international companies and federal, state and local governments. The firm handles matters in state and federal courts as well as domestic and international arbitration matters. The Tew Cardenas team possesses vast experience across industries including advocacy and government affairs, business litigation, construction law, corporate and financial services, environmental, land use and local government law, immigrations and customs, insurance, international asset recovery, international litigation and arbitration, labor and employment, professional malpractice, real estate, regulatory and administrative law, securities litigation and enforcement proceedings, and white-collar criminal defense. For more information, visit [www.tewlaw.com](http://www.tewlaw.com) or call (305) 536-1112.