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DailyBusinessReview.com
An ALM Publication FEBRUARY 22, 2016
DAILY BUSINESS REVIEW

# Millionaire Beats French Lender for Control of Fisher Island Condo

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After years of litigation, Miami investor Manuel Medina won the right to foreclose on a plush Fisher Island condo at the center of a fraud scheme run by father-and-son developers. But more legal wrangling could be ahead.

The luxury condo has been vacant for about two years, caught in litigation between lenders claiming ownership. Medina could gain control after Miami-Dade Circuit Judge Robert Luck on Tuesday upheld his claim to the property. But another stakeholder, France's CDR Creances SAS, is weighing an appeal.

The founder and managing partner of Coral Gables-based Medina Capital spent years staving off lenders and CDR, which claims an interest in the Spanish-style condo once owned by convicted father-and-son real estate fraudsters Leon Cohen Levy and Mauricio Cohen Assor.

"It was not an easy foreclosure action — not at all the standard," said Medina's attorney, Melanie Damian of Damian & Valori in Miami, who teamed with Jeffrey Schneider of Levine Kellogg Lehman Schneider + Grossman on the litigation.

A.M. HOLT

**Jeffrey C. Schneider of Levine Kellogg Lehman Schneider + Grossman teamed with Melanie Damien of Damian & Valori on the litigation.**

Medina, founder of tech company Terremark Worldwide Inc., succeeded the original lender, Union Planters Bank N.A., which used the oceanfront condo at 7213 Fisher Island Drive on the exclusive island south of South Beach as collateral on a $5.25 million loan to the Cohens and their company, American Leisure Resorts Inc., in 2002.

In 2003, CDR began pursuing the pair's South Florida holdings, claiming the investors stole about $187 million and hid the funds through a complex corporate web. It also claimed the Cohens stole loan proceeds intended to purchase and renovate Manhattan's Flatotel hotel, sold the hotel and sent the proceeds to Swiss bank accounts without repaying the CDR loan.

"The scheme was without equal and involved a fraud in both the theft of funds and in the continuing effort to conceal the fruits of their crimes," CDR attorney Scott Cosgrove of Leon Cosgrove in Coral Gables wrote in court documents.

In 2010, the Cohens, once wealthy real estate developers, were accused of hiding $150 million and failing to report $49 million in income. They are serving 10-year sentences for tax fraud.

They defaulted on the loan from Union Planters, which was taken over by Regions Bank, and started foreclosure proceedings. The note and mortgage went to Medina's company, 7213 Fisher LLC, which took over the Regions suit. In 2012, Medina sold Terremark to Verizon Communications for $1.4 billion.

In late 2014, Medina obtained a judgment against the Cohens and their company, and CDR pursued the condo.

CDR maintained the Cohens bought the unit with funds stolen from the French lender, which obtained court awards against them. It challenged the foreclosure, raised affirmative defenses, filed a counterclaim, argued it was the property's equitable owner and accused the father-and-son team of working out a "cash-out" transaction with Regions Bank to hide millions derived from criminal activity.

"The Cohens were able to launder funds while saddling CDR's property with Regions' debt," Cosgrove wrote in its response to Region's foreclosure suit. "The illegal purpose cannot be enforced against CDR," and Regions' and Fisher's "sole recourse, if any, is against the borrower under the note."

**DOCTORED LETTER**

CDR also implicated Regions Bank in two fraudulent mortgages.

"The Cohens' scheme required the assistance of large financial institutions, such as Regions," Cosgrove wrote in its counterclaim.

Regions Bank's attorneys David Garbett, Philip Allen and Brian Yates of Garbett Allen & Roza in Miami declined comment, citing pending litigation.

CDR alleged the Cohens "worked hand in glove" with a former Regions banker, Ernesto Portuondo, who was charged with mortgage fraud, forgery and grand theft and pleaded no contest to grand theft.

CDR also called into question a letter purportedly from HSBC Bank found in the Cohens' loan file at Regions. The letter dated Jan. 10, 2002, said Mauricio Cohen had $14 million on deposit with HSBC. The document was reportedly a fake that changed the year on an earlier letter to prop up Cohen's financial standing in 2002.

But Luck found "no one at Union Planters created this forged letter," and the bank had not relied on the document in its underwriting.

Instead, Regions offered the Cohens a $5.25 million income-stated asset loan under a reduced documentation mortgage program that allowed borrowers to list income and assets without lender verification. It looked at credit scores, the borrowers' equity contribution on the property and the 70 percent loan-to-value ratio on the condo.

appraised at $7.5 million. Also working in the Cohens' favor was co-signer Leon Cohen's FICO credit score of 707 and his company's $1.8 million deposit with the bank.

"The Cohens were very high-net worth individuals with substantial real estate holdings across Florida," Damian said. "At the time when the mortgage was made in 2002, this was a very standard mortgage."

Much of their holdings have since come under the control of lenders.

CDR liquidated four properties to recoup about $100 million and hoped to gain control of two other pieces of South Florida real estate worth about $20 million more, but the properties remained in dispute. In October, it reached a deal with Regions to sell a storied 2-acre Miami Beach estate where President John F. Kennedy reportedly had trysts with actress Marilyn Monroe.

But the fight continued for control of the Fisher Island condo, leading to a three-day bench trial before Luck in October on CDR's claim.

Cosgrove told the Daily Business Review, "At this point the ink is still getting dry on the ruling, and we are considering what our next steps will be. My sense is we will take an appeal." CDR has taken its Cohen money chase to the Third District Court of Appeal in other cases.

With the right to foreclose, Medina is likely to schedule a sale and move to collect attorney fees.

"This was a very unusual foreclosure proceeding. We hope that this will put an end to the litigation," Damian said.

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