

Miami Receiverships Fight Ghosts of Past Bad Apples

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Four years ago, the world of court-appointed receivers in South Florida was turned inside out.

Lewis Freeman, arguably the best known court-appointed receiver in South Florida for decades, had been sentenced to eight years in prison for stealing from the trust accounts of clients, many of whom had been victims of fraud.

Another court-appointed trustee and receiver, Marika Tolz, was charged with embezzling millions of dollars and also was sent to a similar prison term.

Receivers and trustees are appointed by judges to take over insolvent companies, properties and entities torn apart by discord and financial ruin. But they also can be lightning rods.

The Daily Business Review sat down with Jeffrey Schneider and Stuart I. Grossman, partners at the Miami law firm Levine Kellogg Lehman Schneider + Grossman, who have served as receivers in numerous cases.



A.M. HOLT

Jeffrey Schneider and Stuart I. Grossman, partners at Levine Kellogg, say there are volatile situations where a court-appointed receiver is the best option.

What goes right in a receivership after highly publicized cases over the past few years that focused on what went wrong?

Schneider: We had a situation where two parties owned a home. They couldn't get anything done because they didn't agree on anything. It was classic situation where a receiver was needed. There's been so much press about receivers gone bad. This is a situation where Stuart got appointed, he did exactly what the parties and the court wanted him to do, he did it well, and he did it cheaply. In four months, he got the house, secured it, adjusted the price and sold. Every issue was handled to the party's and court's satisfaction, and he got out of Dodge.

Grossman: When it comes to the issues I've been reading about in the various publications and in the negative articles, we had the exact opposite experience here with the parties. I think that was because of the transparency we were able to employ, not only with the court but with the parties.

Do you believe a key to a good receivership is transparency?

Grossman: There are a number of issues that make a good receivership, but that is certainly a main one. The parties and the court have to be advised about what is happening in the court as it is happening.

What type of changes have you seen in receiverships since the fall of Freeman and Tolz.

Schneider: I've seen a number of changes. Judges are obviously

much more proactive now with receiverships than they were. In the past, sometimes judges would allow the receiver to operate on autopilot. Now the judges want monthly reports. They want financial reports to be provided to the parties and filed to the court. And that is not to say the trust is gone because receivers are still being appointed by the court, but judges are definitely taking a more proactive role, and it's noticeable, and it's positive. We think it's very good.

Grossman: I was before a judge recently, and one of the parties who was contesting her removal as a receiver basically said that the judge did not give her 'constitutional protection' associated with removing her as receiver. The judge basically said that's not how the Constitution works. It's a privilege and a honor to work as a receiver.

What kind of stain do you think was left on receivers by Freeman and Tolz?

Schneider: I don't think they left a big stain on receiverships. Judges in the community know those were two incredibly atypical situations and that most receivers are trustworthy receivers and would not even think about doing the things that they did. At the end of the day, those were two extraordinary situations.

When Freeman was arrested, some lawyers said there was favoritism toward certain receivers by judges and was jockeying among lawyers to receive that favored status. How do you respond?

Schneider: I don't think that was fair criticism. Certain receivers have a very active practice, and that means judges trust them, and so they have no problems appointing them in subsequent cases. It means they did a good job, and judges trust them as an agent and arm of the court. I don't think there was any favoritism. I simply think he had an active practice, which unfortunately he probably didn't deserve.

How has it evolved to the point that in the minds of certain receivers they have a right to due process?

Grossman: I attended this hearing, and I was shocked to hear the issues that arose in that receivership, including the receiver failing to comply with the judge's court order and timely filing various pleadings, various reports, etc. I want to make this clear. When I'm appointed I actually look at this as an honor and being a fiduciary. You've got to be crazy to violate a court order when you are actually given this privilege.

Schneider: This is why we substantially reduce our rates when we are appointed as receiver, and we require that all the lawyers at our firm or outside firms representing us to do the same thing. We certainly view it as an honor and a privilege. We also think it's tantamount to public service.

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