

Mid-Hudson firms victimized in bankruptcy case

By Jessica DiNapoli

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The businesses, which include Argenio Bros. in New Windsor and Pine Bush Equipment, are not accused of any wrongdoing. They were unfortunate participants in the construction of Jerry's Self-Storage, a colossal four-story storage complex in New Windsor. The story of how the building — dubbed “The Taj Mahal of Self-Storage” by founder Jerry Sabini — came to tower over Temple Hill Road starts with a shady real-estate investment fund now in bankruptcy.

The fund, called FKF 3, was started by a trio of Rockland County businessmen to borrow money from wealthy investors and then lend it to developers. By the time it was pushed into bankruptcy in 2010, it owed about \$60 million to about 100 lenders.

Sabini was a home-builder who'd gotten caught up in the irrational exuberance of the 2000s housing boom. By 2007, he had an inventory of 11 unsold spec homes and was carrying monthly mortgage payments of \$31,000. He'd had some success with previous ventures in the self-storage arena — selling two complexes he'd built for healthy profits — and had approvals in hand to build Jerry's Self-Storage, a business he expected would take in \$110,000 per month once it was fully rented.

With the nation descending into recession, Sabini couldn't find a bank that would “touch the deal” until he was introduced to FKF 3.

In October 2007, the fund lent him \$5 million at 14 percent interest. The loan had all the trappings of a regular mortgage, including a promissory note and a lien.

Sabini burned through the \$5 million before the complex was complete, and that's when FKF crossed the line, according to a lawsuit filed by Fred Stevens, the lawyer for the bankruptcy trustee. According to the complaint, FKF 3 financed the extra \$1 million Sabini needed by directly paying the vendors, including businesses like Argenio Bros. and Pine Bush Equipment, but the fund took no collateral. The trustee contends the nature of the payments to the vendors was improper, thus making them responsible for repaying the money.

In exchange for the payments, FKF 3's principals, Burton Dorfman, John Magee and Mitchell Klein personally took a combined 80 percent ownership interest in the business, the lawsuit says.

When construction was finished, FKF 3 found a bank to refinance its \$5 million loan. The money should have replenished the struggling fund. Instead, \$90,000 of it went to Klein's charity tennis tournament, the Kennedy Funding Invitational, and \$2.8 million went to Magee's companies and his brother, Patrick Magee. Those transfers still are being scrutinized by the trustee.

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Daniel Moriarty, one of the 100 or so lenders who gave money to FKF 3, cried foul on Magee and the entire deal.

“He shouldn’t own Jerry’s,” Moriarty said of Magee, who now owns 80 percent of the business. “It was our money he used to do it. FKF 3 should own it.”

The businesses the trustee is now targeting remember the gig as a run-of-the-mill job, if somewhat haphazardly executed. Some say the business still owes them money, though Sabini denies those claims.

The project “had no bearing on my life, and I went on to next job,” said Jerry Argenio of Argenio Bros. The trustee is seeking to claw back \$135,000 from Argenio Bros.

The trustee is pursuing \$38,000 from Strawridge Rock & Tape in Montgomery. Owner David Cordner said Jerry’s Self-Storage still owes him \$9,000, but he never filed a lien against the business because he thought Sabini would pay him.

“Nine thousand is a big blow, but he ain’t the only one who couldn’t pay,” Cordner said, adding he’s owed perhaps \$100,000 for various jobs he’s done in the past few years.

Sabini still has a spacious office with a view on the fourth floor of the business, but his stake in the business is up for public auction in August. The sale is part of the personal Chapter 7 bankruptcy he filed in 2009. He’s still trying to sell the last of his 11 spec homes.

Sabini doubts his share in the business will sell. The business is losing \$60,000 per month, so anyone who buys his piece will be responsible for \$12,000 each month. The minimum bid is \$7,500.

“No one would do it,” Sabini said. “No one would give good money away.”



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