

Real Estate CFO, Mogul's Daughter Dodge Two Trustee Claims

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Author: Aaron Keller

Summary

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Stamford Superior Court Judge Sheila A. Ozalis on Tuesday agreed to strike two aiding and abetting claims from a 15-count lawsuit the trustee and a minority stockholder together filed against the CFO, Christopher Sheskier, and the daughter, Julie ***Fareri***.

But the judge has otherwise left the case intact, advancing direct breach of fiduciary duty claims against both individuals and company chair John J. ***Fareri***.

"Our Supreme Court, when given the opportunity to do so, has declined to hold that a claim for aiding and abetting a breach of fiduciary duty exists and is actionable," Judge Ozalis wrote, citing *Flannery v. Singer Asset Finance Co. LLC*, a 2014 opinion.

"Thus, as there is currently no legislative nor appellate authority to support the assertion of a claim for aiding and abetting breach of fiduciary duty, this court finds that it has not yet been recognized in Connecticut jurisprudence," she added.

The judge also trimmed a portion of the trustee's prayer for relief seeking to ban Sheskier and the Fareris from "gaining any monies paid to the company's estate at the resolution of this action."

Judge Ozalis said that particular request sought equitable relief that could only be requested in bankruptcy court.

The trustee, Howard P. Magaliff, and company president, James ***Carnicelli*** Jr., sued all three defendants in Connecticut Superior Court in October 2020.

Among the surviving claims in a May 30, 2024, revised amended complaint are breach of contract, breach of fiduciary duty and fraud claims by ***Carnicelli*** against John ***Fareri***.

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Also remaining are the trustee's breach of fiduciary duty and Connecticut Unfair Trade Practices Act claims against all three defendants; further intact are the trustee's statutory theft and conversion of funds claims against John **Fareri** alone.

According to the revised amended complaint, **Carnicelli** owned 49% of Gateway Development and worked for the company. His deal included a \$250,000 per year salary plus distributions from company profits, the filing indicates.

John **Fareri**, a "real estate mogul" in the greater New York City area, owned the other 51% of the company and used it to provide construction services to other entities he owned, according to the most recent complaint.

Among other alleged financial wrongdoing, John **Fareri** failed to pay Gateway Development \$16 million for its work on a \$100 million Bronxville, New York, condominium project known as Gateway Kensington LLC, **Carnicelli** and the trustee alleged.

They also accused him of diverting or usurping an opportunity to work on a \$1.2 billion development in Mount Pleasant, New York.

Julie **Fareri** helped transfer Gateway Development's assets to other **Fareri** entities, and Sheskier manipulated financial records, according to the revised amended complaint.

Carnicelli said Gateway Development suspended its operations and terminated him in 2019 after he started asking questions.

Carnicelli's and Magaliff's claims landed back in Connecticut state court after being drawn into — and then ejected from — Gateway Development's 2021 bankruptcy in the Southern District of New York.

Counsel for **Carnicelli** declined to comment Thursday. Counsel for the trustee and for the three defendants did not immediately respond to requests for comment.

Chapter 7 trustee Howard P. Magaliff is represented by Irve J. Goldman and Kristin B. Mayhew of Pullman & Comley LLC.

James **Carnicelli** Jr. is represented by Joseph M. Pastore III, Melissa Rose McClammy, Paul Fenaroli and Tyler W. Rutherford of Pastore LLC.

The defendants are represented by Bijan Amini, Lita Beth Wright, Avery Samet, Jeffrey Chubak and Ariel Moore of Amini LLC, and Eric Grayson of Grayson & Associates PC.

The case is James **Carnicelli** Jr. et al. v. John J. **Fareri** et al., case number FST-CV-20-6048778-S, in the Stamford-Norwalk Judicial District of the Connecticut Superior Court.

--Editing by Drashti Mehta.