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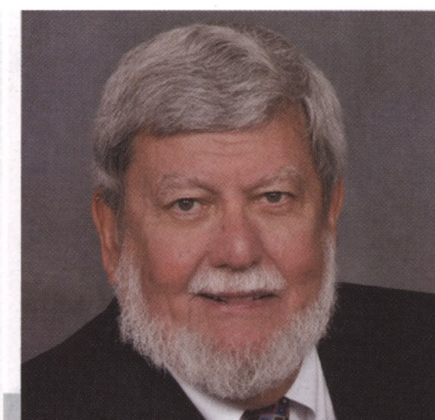
JACKSON HEWITT **FRAUD CASE** BREAKS NEW GROUND IN **FRANCHISE** LAW



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A Sarasota jury's verdict holding Jackson Hewitt Inc. responsible for failing to oversee the acts of its local franchisee sets a new precedent in agency law. It is also a significant legal victory for more than 100 victims of a fraudulent investment scheme, who otherwise had little hope of recovery for their losses.

Along with Robert E. Turffs, Orlando attorney James Burgess, and Gabrielle D'Alemberte, a trial attorney with our firm, we represented Sarasota dentist Frank Kaman and his wife Ellen. In this trial, the Kamans lost $575,000 in a series of investments that were promoted by the franchisee from the Jackson Hewitt Tax Service stores in Sarasota. Our firms jointly have another 100 cases we consider similar to this one filed on behalf of clients who collectively lost between $14 and $15 million. Since the Kaman trial, the remaining cases have been consolidated for the purposes of liability. Should Jackson Hewitt be found responsible as it was in the first trial, our firms will try separate damage trials on behalf of our clients.

The trial was unique because the jury found Jackson Hewitt, the franchisor, responsible for the actions of their franchisee, Simple Financial Solutions, whose operator and manager was Dan Prewett. Prewett had a criminal history dating back to the 1980s, including insurance fraud, but his criminal conduct had not been explored by Jackson Hewitt despite that he was known to the franchisor as the sole manager of the operations. In the late 1990s, when Prewett applied and became a manager of 15 Sarasota Jackson Hewitt Tax Stores, Jackson Hewitt had not conducted any investigation as to his fitness or his character. Operating from the tax service storefront in the Jackson Hewitt Plaza and wearing only polo-shirts imprinted with the Jackson Hewett logo, Prewett used his position at to learn confidential financial information of Jackson Hewitt Tax Service clients and induce those people to invest their funds with his unauthorized investment schemes.

When the case came to trial, one of the investors testified that she warned Jackson Hewitt's corporate headquarters about Prewett's fraud back in 2002 and later faxed details of the various investment opportunities. No one at the corporate office followed up with her. Jackson Hewitt's own general counsel admitted the information was shared with him. He later admitted that knowing the investor relied on the Jackson Hewitt name and financial backing.

On Feb. 10, 2010, a Sarasota jury returned a verdict against Jackson Hewitt Inc. for the full amount of damages sought in the case, the value of the Kamans' investments. The jurors also held the national tax preparation company liable for the conduct of its franchisee and sent the message that the franchisor should have done more to protect the investors.

Prior to this case, it was rare that any corporate franchisor was held responsible for the actions of its franchisees, particularly criminal conduct. The difference in this matter was the unique set of facts, which suggested that Jackson Hewitt Inc. should have conducted some type of oversight and investigation prior to allowing the franchisee to open stores under its brand, especially since the nature of the business includes confidential tax information. The verdict also suggests that Jackson Hewitt was found negligent because it failed to continuously monitor during the franchisee's operations and prevent customer confusion with the separate businesses being run from the same office.

This case is precedent setting in that the jury found that apparent agency of the investment services groups did indeed exist with Jackson Hewitt, Inc. The agency finding was important for two reasons. First, Prewett was held to be responsible under agency law, even though he was not an officer of the franchisee, and had a "front person" managing the offices. Second, it is usually the franchisor, not the con artist, who has "deep pockets" in a Ponzi scheme or other investment fraud case.

Pre-judgment interest was granted in this matter because there was evidence that Jackson Hewitt Inc. had knowledge of the investment scheme and the brand confusion since 2002 when Cort contacted corporate headquarters. That notice served to assist the Kamans' claim because their investments were all made after that date. With the pre-judgment interest, the final verdict on their behalf was $839,232.

While Jackson Hewitt has appealed the Kaman case, the consolidated trial is set to be tried on June 13, 2011.