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Snell & Wilmer Co-Defendants Say RICO Suit Is Full Of Holes

By **Dani Meyer**

Law360, New York (October 2, 2015, 5:12 PM ET) -- Two companies targeted by a lawsuit alleging Snell & Wilmer LLP and others aided and abetted a racketeering enterprise that conspired to bankrupt a payment terminal company urged a Florida federal court Thursday to dismiss them from the suit, saying it's unclear why they were included.

TBP Management Group LLC and Big Capital LLC argued that Edward Mandel and Vibe Micro Inc.'s counts against them are overly inclusive, "shotgun style pleadings" and that there are no statements detailing why they were named in the suit.

"In short, the complaint largely overlooks TBP and Big Capital in favor of other defendants and fails to properly allege their inclusion in any acts of conspiracy or underlying wrongdoing that allow them to properly gauge or understand the issues upon which they are being called to answer," the companies said.

Even if their inclusion were clearer, TBP and Big Capital said the underlying acts aren't Racketeer Influenced and Corrupt Organizations Act violations because the plaintiffs don't adequately allege an enterprise distinct from the alleged racketeering activity.

"In sum, because the complaint pleads a loose association in fact with a single goal and/or an identity indistinguishable from the alleged racketeering activity, it lacks an actionable 'enterprise' and, for this reason alone, it should be dismissed," the companies said.

TBP and Big Capital add that the complaint also fails to properly plead a pattern of criminal activity, which they said is critical in order to establish a RICO claim.

Mandel and his corporation, Vibe Micro, **launched the suit in July**, accusing Snell & Wilmer, other shareholders and several other individuals and corporate entities of conspiring to put 8 Speed 8 LLC into a bad faith bankruptcy and then selling it in order to reap an illicit profit.

Snell & Wilmer attorneys helped a group of 8 Speed 8 shareholders, who opposed Mandel's vision for the business, carry out a bankruptcy filing "to get Ed [Mandel] out of the picture" and withdraw their investments in 8 Speed 8 in order to purchase the company's assets — allegedly worth \$300,000 — and use \$25 million in funding from outside investors to help sell the business to another company called Payteller LLC for a substantial profit, according to the complaint.

The suit alleges that Snell & Wilmer not only knew that the bankruptcy litigation was being prosecuted in bad faith and for improper purposes, but it also helped the other shareholders set up shell companies and use other agreements to participate and acquire

an equity interest in the illegal transaction with Payteller, which purportedly netted those shareholders \$2 million in cash.

Mandel, who claims that the defendants' actions have rendered his interest in the business null, requests damages and injunctive relief against the defendants from further conducting business.

A representative for the plaintiffs deferred his comment to the amended complaint, while a representative for TBP and Big Capital didn't immediately respond to a request for comment.

The plaintiffs are represented by Geoffrey D. Ittleman of The Law Offices of Geoffrey D. Ittleman PA.

TBP and Big Capital are represented by Kai E. Jacobs of Maspons Sellek Jacobs LLP.

The case is Vibe Micro Inc. et al. v. Igor Shabanets et al., case number 9:15-cv-80999, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Alex Wolf. Editing by Jeremy Barker.

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