

Creditors seek millions from companies owned by Salvadoran elite

Sun, Jan. 20, 2008

The Miami Herald

By AP Hispanic Affairs Writer

The Associated Press

MIAMI --

More than a year after a Miami judge ordered companies owned by one of El Salvador's wealthiest families to repay a loan of nearly \$30 million, the judgment remains unpaid - buried in the bowels of El Salvador's supreme court.

Valat International Holdings Ltd., which owns the loan, is aggressively seeking its money from textile and telecommunications magnate Oscar Safie Zacarias and his family. Valat attorney Leoncio de la Pena says it is a test case to see whether El Salvador's business elites are above their country's law. A Safie first-cousin is that country's attorney general.

"The reason that the Salvadoran court isn't acting is because they are acting on the influence by Safie," de la Pena said. "You would assume a country that wants favorable trade with the U.S. would want to deal with this as quickly as possible."

The Safies' attorneys declined to discuss details of the lawsuit but maintain the case should have been tried in El Salvador, not Miami. In court papers, they also allege Ireland-based Valat, which has no employees, is merely a front for a failed Guatemalan bank that previously held the loans.

The Central American Free Trade Agreement, which went into effect last year, provides for international mediation over financial disputes between companies. But the Safie case does not fall under CAFTA because it concerns a bank loan - made before the treaty - not a U.S. company's investment in a Central American business.

"CAFTA solves problems, but not all of them," said Florida International University Professor Cristina Eguizabal, head of the Latin American and Caribbean Center.

Attempting to collect from foreign companies and individuals, be they from Central America or from China, always presents risk, she added.

The Safie case began when he, his wife, son and daughter-in-law personally backed several loans for their companies from the Florida-based Hamilton Bank in 1999. When that bank failed in 2002 amid fraud by its CEO, the Federal Deposit Insurance Corp. took over and sold its assets. Valat bought the Safie loan, which the family's businesses had already stopped paying despite owing about \$15 million.

Valat sued in Florida because the original Hamilton loans were made there and because the company was more likely to get a favorable verdict, de la Pena said.

In September 2006, a Miami Circuit Court judge ordered the Safies to pay Valat. The total by then had jumped to \$30 million with interest. The Safies refused and face arrest if they return to the U.S.

Valat collected what it could by garnishing bank accounts held by the Safies and their companies in the U.S., netting a little more than \$1 million.

Valat also sought to have the judgment "domesticated" by El Salvador's supreme court, so authorities there could confiscate Safie property and other holdings. The court initially affirmed the Miami ruling then tucked it away.

"The case is under study by the magistrates," Salvadoran Supreme Court spokesman Walter Raudales wrote in an e-mail to The Associated Press.

The Safies' Miami-based attorney Carolann Swanson said her clients had hoped for more favorable rulings in the U.S. but added, "it's always been our position that case should have been originally filed in El Salvador."

The Safies also allege Valat was set up by executives of Bancafe, a troubled Guatemalan bank. That institution and Valat are now under investigation in Guatemala in part of a larger banking scandal.

Meanwhile, a Salvadoran trustee was appointed to ensure the Safies did not move their holdings offshore while awaiting the justices' ruling. He has accused them of illegally blocking access to their financial records.

Attorney General Felix Garrid Safie - a first cousin of Oscar Safie - has yet to investigate the complaint, according to de la Pena. His office did not immediately respond to AP interview requests.

De la Pena said the problem is not the laws of El Salvador.

"Their laws are good laws if you read them on paper. Some of them sound more fair than laws in the United States or European laws," he said. "It's the execution of them."

Associated Press Writer Diego Mendez contributed to this story from San Salvador.