

FROM THE BUSINESS FRONT

BANKING

\$30 million award still sits in limbo

■ **Checking in: A company is waiting - and waiting - to collect on a \$30 million judgment in a case that stems from the failure of Miami's Hamilton Bank.**

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Almost two years ago, Miami attorney Leoncio de la Peña thought he had a straight shot to collect a \$30 million legal award from one of El Salvador's wealthiest industrial groups.

De la Peña, representing the Dublin-based Valat International, won a \$30 million summary final judgment in Miami-Dade Circuit Court in October 2006 against Salvadorean industrialist Oscar Antonio Safie Zacarías, members of his family and his companies.

De la Peña felt he had two advantages. In March 2006, El Salvador had joined the Central American Free Trade Agreement, which has rules strengthening international investor protection and other business-to-business safeguards.

El Salvador also has laws that, in case of disputes, allow companies to appoint a receiver to protect the assets from being siphoned off or otherwise touched before the debt is collected.

But still the Valat International judgment, now worth around \$40 million, sits in limbo.

This international legal tug-of-war is one of the many sequels to the seizure of Hamilton Bank, once one of South

Florida's most aggressive trade finance banks that was closed for fraud and other problems in January 2002.

After the bank closed, the Federal Deposit Insurance Corp. hired outsiders to collect or sell Hamilton Bank loans. Valat International was one of those: It bought loans and lines of credit that Hamilton Bank made in 1999 to Safie's telecommunications and apparel companies.

The Irish company sued for breach of contract in 2004 after the companies, El Salvador Network, Rayones de El Salvador and Hilanderías de Exportación, stopped paying interest on one loan and failed to repay two lines of credit.

Following 2½ years of litigation, Miami-Dade Circuit Court Judge Mindy S. Glazer ruled against the three companies, as well as Safie and his wife Leyla Emilia, his son by the same name and daughter-in-law Beatriz Eugenia Safie, who had signed personal guarantees for the funds. The Safie group also owns hotels and Grupo Megavision — Channels 15, 19 and 21 — in El Salvador.

Valat immediately filed to have a receiver appointed in El Salvador and won a Supreme Court decision recognizing the Miami-Dade Circuit Court order as a domestic debt payment order. But the Central American country's top court has not ruled on an appeal made by Safie since February 2007.

"Here we are in August 2008, and they have not ruled

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on his motion for rehearing," said De la Peña. He added that the Safie group has also refused to allow the court-appointed receiver to enter the company and protect the eventual payment to Valat International.

De la Peña said Safie's lawyers on the eve of a one-week judicial recess in the summer of 2007 tried to collect a \$1.5 million bond posted by Valat International, claiming damages to their companies.

But at the last minute they were rebuffed by a court official.

The South Florida attorney for the Safie family and companies, Carolann Swanson, who is with Santos Stokes, said she was not up to date on the legal proceedings in El Salvador.

De la Peña admits his frustration with the Salvadorean courts. "There is no legal reason why they have not domesticated our judgment," he said. And CAFTA's new rules haven't helped, he believes. CAFTA "really doesn't do anything," he said.