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FROM THE COURTS

Judge affirms \$363M ruling against man who failed to respond to fraud complaint

by Matthew Haggman

If David Godwin learned anything from his recent thrashing in federal court, it should be this: When served with a lawsuit, hire a lawyer and show up.

But after a complaint arrived at his Miami home on April 9, alleging that he and his Miami-based company, Dependable Telecom Services, committed fraud, negligent misrepresentation, fraudulent inducement and conversion, he didn't seek representation or respond.

As a result, on May 29, Godwin received another document in the mail.

This one informed him that U.S. District Judge **Federico A. Moreno** had issued a default judgment against him and Dependable Telecom for the amount of \$363 million.

That got Godwin's attention. He promptly hired the law firm **Holtzman Equels & Furia** in Miami in a last-ditch effort to have the default judgment set aside. But last week, Moreno denied the telecom entrepreneur's motion, which claimed he attempted to respond. In doing so, the judge affirmed that Godwin and his company, located at 9350 S. Dixie

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Highway, will remain on the hook for the huge verdict.

"Defendants' assertions are just too tough to swallow," Moreno said in his order dated July 24.

Efforts to reach Dependable Telecom and Godwin, who according to court documents still lives in Miami, were not successful. Holtzman Equels & Furia did not return a call for comment. In an affidavit filed with the motion to set aside the verdict, Godwin denied all of the allegations made in the lawsuit by Vitcom.

Vitcom president Steve Campos did not return a phone call to his office.

On March 28, Vitcom sued Godwin and Dependable Telecom in U.S. District Court in Miami. Vitcom Corp. is a New York-based telecommunications company that maintains an office in Miami. According to court papers, Vitcom is a long-distance "re-seller," a company that sells long-distance minutes wholesale to other long-distance carriers.

In August 2001 Vitcom and Dependable became 50/50 owners of a joint venture that was to operate for 10 years, according to the lawsuit. The venture was to provide long-distance telephone services to Pakistan. The reason Vitcom entered into the joint venture, the company contended in its lawsuit, was because Godwin made big promises about his influence in Pakistan.

Vitcom, which is represented by **Leoncio E. De La Peña of De La Peña & Associates** in Miami, sued Godwin and Dependable Telecom after the deal fell apart. Vitcom alleged that Godwin engaged in fraud.

Vitcom claimed Godwin said he had close personal relationships with officials in the Pakistani government who were directly involved in the telecommunications industry. Godwin promised to use his relationships with key officials to procure all of the required permits and licenses, and to ob-

tain advantageous deals on pricing, according to the lawsuit.

Vitcom was so excited about the deal that it started creating the infrastructure for delivering long-distance minutes from the United States to Pakistan. In addition, Vitcom deposited \$175,000 into an escrow account for the joint venture.

But, according to Vitcom's lawsuit, Godwin failed to follow through on any of his promises. On top of that, he allegedly used forgery to make off with the \$175,000.

The amount of the default judgment was based on projected profits over the life of the 10-year deal. De La Peña says he plans to hire an investigator to locate and begin the process of garnisheeing Godwin's assets. Because the judgment was based on a fraud theory, it can't be discharged in bankruptcy, said De La Peña.

In his motion to set aside the verdict, Godwin claimed that after receiving notice of the lawsuit, he faxed a request to the court for an extension of time to respond, but that he never heard back from the court until receiving notice of the final judgment.

In a written affidavit, Godwin said: "I sent that request via facsimile to both the court and to Counsel for the Plaintiff and I took no further action believing the fax filed response was sufficient."

But in his order last week, Moreno said the evidence weighs against a finding that Godwin made a good faith effort to respond. "Neither the Court nor Plaintiff received that motion," Moreno wrote. "And, in any event, the Clerk of Court does not, and indeed has never, accepted fax-filed motions." ♦

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