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Three Alpine developers plead guilty to grand theft charges

By Neal Putnam*The Alpine Sun*

SAN DIEGO — Three Alpine developers and a former employee pleaded guilty Friday, May 1 to grand theft and all agreed they would pay a total of \$325,000 in restitution over allegations they embezzled money from Real Estate International, Inc. (REI), a company they owned or worked for at the time.

The plea discussions took hours and almost derailed. A settlement was only reached after the lead defendant, Paul Gonya, made a passionate plea to the others in open court to resolve the case, along with comments from San Diego Superior Court Judge Frank Brown. The judge repeatedly urged them all to settle the case.

Gonya, 65, David Waitley, 46, Kenneth Stroud, 53, and Marie Frever, 40, have agreed to serve one year either in county jail or in a work furlough center where they could live to go to work, but be confined at nights and on weekends. The men must pay \$100,000 each in restitution, but Brown set restitution for Frever at \$25,000, saying "she's a minor participant."

Deputy District Attorney James Waters said "if they don't pay (restitution), they'll go to prison." Brown said the maximum sentence for the men is five years and four months in prison, but that would only be served if they violate terms of probation.

As a result of their criminal convictions, Brown ordered them not to serve as a principal or partner in any new real estate firm and he barred them from handling money. The men may be able to keep their current jobs, but the felony offense may cause them to lose various licenses.

"I think it's a horrible epithet," said Gonya to an Alpine Sun reporter afterwards, apparently about his career and the ban on new employment in the real estate market.

"It's a hell of a way to end a career. It goes to show you — Don't ever sell your business to a partner," said Gonya.

Sentencing is set for July 8. Brown told the four he is very concerned about them paying restitution, and borrowed a line from a movie when he said, "show me the money."

"I don't want to put you folks in prison... I'm dealing with productive citizens," said Brown.

Gonya, Waitley, and Stroud remain free on \$100,000 bond, while Frever is free on \$25,000 bond.

The three men were accused of working together to defraud companies that were formed to build 52 semi-custom homes in Alpine. The project was called the Stagecoach development.

The four were to have attended a preliminary hearing Friday that was expected to last four days. Witnesses were told to be on standby while lawyers talked with their clients about the prosecutor's offer. At one point, it looked like no deal could be reached and that's when Gonya urged the others to settle.

"I've already paid a million dollars," said Gonya in court referring to a civil suit filed in El Cajon Superior Court that has been settled.

The prosecutor also then told everyone at 11:10 a.m. the offer on the table would expire in 15 minutes. More discussions followed even through the lunch hour, and a deal was finally reached with all four around 1:40 p.m. with the same offer.

During the discussions, Brown told the group that the prosecutor has "some flexibility" now, but it might not last. "You've got to trust your lawyer. You all have good lawyers," said Brown.

"The exposure (on all counts) is 86 years, but it's not going to happen," said the judge. "If you go to trial, there will be media attention. The D.A. has to give a little. If it goes past me... it will drag on, and some judge will make a call," said Brown.

Gonya and Waitley have both served as members of the Alpine Planning Group in the past. Gonya served for four years and was a vice chairman and head of a subcommittee, which rules

on local zoning and permitting issues. Gonya lost a bid for re-election in 2004.

Waitley also served for four years and chaired a circulation subcommittee before losing his seat in the November 2006 planning group election.

Gonya was accused of using an expense account to pay for campaign posters as well as supplies on his horse ranch in Alpine. Waitley was accused of charging for reimbursement to REI for personal expenses, such as landscaping and septic system work at his Alpine home. Stroud was the construction contractor, who reviewed the invoices.

The men were originally charged with 113 counts of grand theft, and conspiracy to commit theft. Each grand theft count stood for a specific check that was written that allegedly involved theft. Frever was only charged with three counts of grand theft.

Gonya, Waitley, and Stroud each pleaded guilty to three counts of grand theft. Stroud also pleaded guilty to being an accessory after the fact in one instance. Frever pleaded guilty to one count of grand theft. Brown then dismissed the remaining charges.

Gonya told the judge he would pay the \$25,000 in restitution for Frever, saying "I don't think she's guilty." Frever shed a tear after she pleaded guilty and Gonya appeared tearful at times.

Brown told the group that he would give them up to a year to pay the restitution back. They also face fines of \$10,000 each. Brown told Frever and her attorney that he would consider reducing her conviction to a misdemeanor.

"This is gonna save a whole lot of taxpayer's money," said Brown about the settlement. Brown noted that a trial with four defendants would take at least a month or more.

Gonya complained that the criminal case was patterned after the civil case, saying the D.A.'s office was acting like "a collection agency."

Gonya said there were no kickbacks in the case.

The counts the four pleaded guilty to involved thefts that mostly occurred in 2002, according to court records.

"I'm sorry about your domestic situation," said Brown to Gonya towards the end of the hearing. Gonya's wife, Christina Gonya, filed for divorce in 2007, after 14 years of marriage.

The criminal charges were filed in October 2007, and the case was repeatedly delayed in part due to the schedule of the four defense attorneys who had other cases and were in high demand.

Kerry Steigerwalt represents Stroud. Kerry Armstrong represents Frever. Terry Plummer is Gonya's attorney, and Greg Maizlish represents Waitley.

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