

Speedway stiffed us out of sales commission, real-estate agents say

Three brokers have waged five-year legal battle over \$275,000

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DAYTONA BEACH — A group of real-estate brokers have waged a five-year legal battle against International Speedway Corp., trying to win a sales commission they say is owed them, only to come up empty-handed.

The group is now asking an appellate court for what they say they haven't gotten — a chance at a fair trial against the motorsports giant.

The real-estate agents say they were stiffed out of a \$275,000 commission owed them for a land purchase, court records show. The dispute involves two multimillion-dollar real-estate deals for vacant land south of the track, home of NASCAR's premier event, the Daytona 500, and other auto-racing events.

"All we want is our day in court, which is the American way," said real-estate broker Greg Antonich. "But we've been waging this David-and-Goliath battle, and we're being denied that."

Antonich and real-estate brokers Carl Miller Jr. and W.L. Brookfield Jr. recently filed a legal brief with the 5th District Court of Appeal, arguing that a jury should hear the case but never had the chance because it was thrown out by a circuit judge with close ties to the one of the Speedway's main law firms.

The circuit judge who presided over the case, William Parsons, would not comment.

A statement released by the Speedway's general counsel, Gary Crotty, said: "This is a ridiculous lawsuit, and we have already won on summary judgment against these individuals. ... We are confident the appellate court will agree as well, and we will continue to defend ourselves vigorously."

The real-estate brokers worked out the first land purchase in 1999 between the Speedway and Norpak Corp., a Newark, N.J., manufacturing company that owned more than 700 acres of vacant land near the track. Though there were some discussions about the Speedway buying all the land, the completed deal involved 100 acres for \$3.5 million, for which the brokers received \$175,000 in commissions, records show.

Five years later, Norpak sold an adjacent 109 acres to the Speedway for \$5.5 million, but the real-estate brokers were kept out of that deal, records show. The agents say they were owed an additional \$275,000 commission because their work on the first land purchase led to the second, according to court records.

However, Speedway executives say the agents' work and any contractual obligations owed them ended with the first deal, according to court records.

The agents point to a 1998 agreement, signed by them and then-Speedway executive John Graham, that established the agents as the sole brokers for a purchase of land in that area, according to records.

Crotty said that agreement was only meant to cover one purchase.

"These parties are taking the position that they would be entitled to compensation for subsequent pieces of land acquired by the Speedway regardless of whether they actually were involved in the acquisition and have argued that this entitlement would go on in perpetuity."

When the real-estate brokers complained of being cut out of the 2004 deal, the brokers were summoned to a meeting in the Speedway infield, instead of the company offices, where Graham and other Speedway officials tried to intimidate them, Antonich said.

In a Speedway internal e-mail included in court documents, Graham set up the meeting, writing: "This will be a frustrating, rambling, time-consuming meeting. But I feel it's the only way to make this go away for good."

The brokers did not go away but have since lost all key rulings in the legal battle.

During the litigation, they asked for the presiding judge, Parsons, to step down from the case, arguing that his close ties to the law firm of Cobb and Cole should preclude him from deciding the case.

One of the most prominent law firms in Daytona Beach, Cobb and Cole was the firm that helped Parsons with some of his personal business ventures, and Parsons' daughter is an attorney with the firm. Cobb and Cole is also the main law firm handling the Speedway's zoning and land-use cases and is general counsel for the Daytona Beach Racing and Recreational District, an appointed board that oversees the lease on the land where the track was built.

Though none of the firm's attorneys was involved in either of the land deals or the brokers' lawsuit, the brokers argue that the connections among the judge, the firm and the Speedway create an appearance of impropriety, according to court records.

Parsons decided on Oct. 21, 2009, not to recuse himself from the case. A dozen days later, he ruled that the Speedway wasn't responsible for the brokerage fee because the brokers' agreement stated the seller, Norpak, would be responsible for paying. In a previous ruling, the judge decided the brokers had no agreement with Norpak and no claim against Norpak.

Sarah Peart, a Tampa-area attorney who handles real-estate law and is not involved with either party, said the contract would have to be reviewed and judged based on the terms clearly stated. In this case, the contract states that the seller would be responsible.

"If you have a written agreement that is clear on its face, the court will not consider any other terms or verbal agreements," she said.

Still, the brokers point out that some of the points brought up in the lawsuit are factual issues that only a jury, not a judge, should decide. With their claims thrown out of Circuit Court, the brokers now hope that the appellate court will reopen the case and send it back for a trial.

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