

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM A.D., 2005

ROBERT J. OROVITZ, and ROBERT J. **
OROVITZ P.A. d/b/a HAYT, HAYT, **
and LANDAU P.A.,

Appellants, **

vs. **

DAVID E. BORACK, **

Appellee. **

CASE NO. 3D04-1574

LOWER
TRIBUNAL NOS. 01-7209
01-5737

Opinion filed May 25, 2005.

An Appeal from the Circuit Court for Miami-Dade County,
Jennifer D. Bailey, Judge.

Silver, Garvett & Henkel; Hersch & Talisman and Patrice
A. Talisman, for appellants.

Elder, Vaccarella & Lewis and Jordan M. Keusch and Vincent
Vaccarella, for appellee.

Before COPE and CORTIÑAS, JJ., and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

In this case involving the amounts recoverable by a
departing partner under a law firm partnership agreement, the

jury verdict for the plaintiff-appellee of \$128,402.54¹ clearly and unequivocally demonstrates that it did not give "credit" to appellant Orovitz for a note payable to him, as just as clearly provided by the agreement² and established without contradiction at trial. Accordingly, as we are authorized by the cases, see

¹ The verdict stated:

1. What is the sale price of Mr. Borack's shares of Robert J. Orovitz, P.A.?
\$128,402.54

2. Did Mr. Orovitz offer to pay an amount equal to or greater than the appropriate sale price of the shares to Mr. Borack?
Yes _____ No X

3. Are there any additional amounts over and above the sales price due to Mr. Borack under the shareholder agreement?
Yes _____ No X

4. If yes, please state amount.
\$ 0

So say we all this 10th day of March, 2004.

² The Shareholder Agreement provided that

6. Either party may terminate this agreement with six months notice. In the event, this agreement is terminated, [Borack] agrees to sell his stock to [Orovitz] for thirty five percent (35%) of the cash and receivable, less payables, as of the date of notice.

The First Addendum to Shareholder Agreement provided, in pertinent part, that

3. [Borack] acknowledges that the books and records reflect that the firm owes [Orovitz] [\$282,000.00]. The parties and the firm agree that this loan will be repaid as a firm debt

Cory v. Greyhound Lines, Inc., 257 So. 2d 36 (Fla. 1971); Brod v. Adler, 570 So. 2d 1312 (Fla. 3d DCA 1990), review denied, 577 So. 2d 1325 (Fla. 1991); Balsera v. A.B.D.M. & P. Corp., 511 So. 2d 679 (Fla. 3d DCA 1987), review denied, 519 So. 2d 986 (Fla. 1987); Burgess v. Mid-Florida Serv., 609 So. 2d 637 (Fla. 4th DCA 1992); Phillips v. Ostrer, 481 So. 2d 1241 (Fla. 3d DCA 1985), review denied, 492 So. 2d 1334 (Fla. 1986); U.S. Home Corp. v. Suncoast Utils., Inc., 454 So. 2d 601 (Fla. 2d DCA 1984), we therefore order that the verdict and judgment be reduced by Borack's thirty-five percent share of the established amount of the partnership debt, \$282,000.00. Upon remand, judgment shall be entered for the plaintiff-appellee in the reduced amount of \$29,702.54.

Reversed and remanded with directions.