

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

NATIONAL JOCKEY CLUB, an Illinois	)	
corporation,	)	
Plaintiff,	)	
	)	
v.	)	Case No. 04 C 3743
	)	
FLOYD “CHIP” GANASSI and CHIP	)	Hon. Judge Manning
GANASSI GROUP, LLC, a limited	)	
liability company,	)	
	)	
Defendants.	)	

**DEFENDANT FLOYD “CHIP” GANASSI’S MOTION  
FOR JUDGMENT AS A MATTER OF LAW PURSUANT TO RULE 50(b)**

NOW COMES Defendant, FLOYD “CHIP” GANASSI, by and through his attorneys, and for his Motion for Judgment as a Matter of Law pursuant to Rule 50(b) of the Federal Rules of Civil Procedure, states as follows:

1. Plaintiff, National Jockey Club (NJC), filed its complaint against Defendants, Mr. Ganassi and Ganassi Group, LLC (Ganassi Group) on June 1, 2004 related to the Chicago Motor Speedway (CMS) venture. Defendants filed several counterclaims.
2. The case proceeded to trial on November 30, 2009 on Count I of Plaintiff’s complaint, Breach of Guaranty against Mr. Ganassi<sup>1</sup> and on Defendants’ counterclaims.
3. At the close of evidence, Defendants withdrew several counterclaims and proceeded to jury verdict only on Count II, Breach of Contract asserted by Ganassi Group against NJC. Defendants’ equitable claims remain pending before this Court.
4. On December 18, 2009, the jury returned a verdict on Count I of NJC’s complaint in favor of NJC and against Mr. Ganassi, awarding damages of \$8,850,000.00.

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<sup>1</sup> Prior to trial, NJC withdrew Count II and Count III of the complaint.

5. Mr. Ganassi paid in excess of \$28.6 million into the CMS venture with NJC. During the venture, NJC engaged in accounting mismanagement of at least \$4 million, and, ultimately, wrongfully terminated the Lease with CMS.

6. Guaranty contracts are to be strictly construed in favor of the guarantor. *Roth v. Dillavou*, 359 Ill. App. 3d 1023, 1028, 835 N.E.2d 425, 430 (2<sup>nd</sup> Dist. 2008). The guarantor's undertaking pursuant to the guaranty must be strictly construed, and his or her liability cannot be varied or extended beyond the precise terms of the guaranty. *McLean County Bank v. Brokaw*, 119 Ill.2d 405, 412, 519 N.E.2d 453, 456 (1988). Further, the guarantor must be accorded the benefit of any doubt that may arise from contractual language. *A.D.E. Inc. v. Louis Joliet Bank and Trust Co.*, 742 F.2d 395, 396 (7<sup>th</sup> Cir. 1984).

7. The guarantor of a lease cannot be held liable, without his consent, for any of obligations a lessee incurs beyond the term of the lease. *T.C.T. Bldg. P'ship v. Tandy Corp.*, 323 Ill. App. 3d 114, 118-19, 751 N.E.2d 135, 139-40 (1<sup>st</sup> Dist. 2001). Moreover, no liability may be imposed on a guarantor unless and until the principal debtor has defaulted on its obligation. *Hensler v. Busey Bank*, 231 Ill. App. 3d 920, 927, 596 N.E.2d 1269, 1274 (4<sup>th</sup> Dist. 1992).

9. The evidence presented at trial showed Mr. Ganassi's Guaranty was part and parcel to the Lease, which did not survive NJC's termination of the Lease.

10. NJC failed to present sufficient evidence showing CMS owed any rent under the Lease for which Mr. Ganassi could be held responsible.

11. NJC can neither take advantage of the terms of a contract they breached, nor can they recover damages from Mr. Ganassi. *C3 Technologies, Inc. v. Fontana Machine & Eng'g Co.*, No. 90 C 1599, 1992 WL 97712 (N.D. Ill. May 1, 1992).

12. Further, judgment as a matter of law is appropriate because Mr. Ganassi satisfied his obligations under his Guaranty to the Lease by contributing over \$28 million to CMS.

13. A Memorandum of Law in support of this motion is filed contemporaneously to this motion and adopted as if set forth fully herein.

WHEREFORE, for the above and foregoing reasons, Defendant, FLOYD "CHIP" GANASSI, prays that this Honorable Court grant his Motion for Judgment as a Matter of Law pursuant to Federal Rule of Civil Procedure 50(b), or any other relief this Court deems just.

Respectfully submitted,

By: /s/ Alfred K. Murray II  
**An Attorney for Defendant**

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