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Perelman Seeks to Reopen Case Against Morgan Stanley (Update2)

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By Jef Feeley and Phil Milford

Jan. 5 (Bloomberg) -- Financier Ronald Perelman asked a Florida court to reopen an almost \$1.6 billion case against Morgan Stanley over the sale of Coleman Co. to one of the investment bank's clients.

Perelman, who controls cosmetics maker Revlon Inc., wants the state appeals court to let him investigate whether Morgan Stanley's mishandling of e-mails about the 1998 sale warrants a new trial. In March 2007, the same court threw out a \$1.57 billion damage award against the bank over the deal. Perelman sold camping-equipment maker Coleman to Sunbeam Corp., which had hired Morgan Stanley as its financial adviser.

The New York-based bank's efforts to hide e-mail evidence amounted to "a classic example of fraud on the court," Perelman's lawyers said in court filings on Nov. 24. That wrongdoing provides the basis to challenge Morgan Stanley's appellate victory, the lawyers said.

Morgan Stanley posted a \$2.2 billion fourth-quarter loss last month as it wrote down the value of its fixed-income businesses. Chief Executive Officer John Mack agreed to forgo his 2008 bonus as part of the firm's moves to deal with the U.S.'s economic downturn and the global credit crisis.

Revlon also has struggled with the faltering economy. The New York-based company's stock plunged 26 percent on Nov. 5 after it reported a third-quarter operating loss. Perelman held more than 58 percent of Revlon's Class A shares as of August, according to data compiled by Bloomberg.

The billionaire turned to Florida's 4th District Court of Appeal after the trial judge rejected his request to retry the case in September.

Morgan Stanley 'Confident'

"The motion to reopen this case was already denied by the trial court," Mark Lake, a Morgan Stanley spokesman, said in an interview today. "We are confident that ruling will be upheld by the appellate courts."

Morgan Stanley officials declared Perelman's suit dead after the Florida Supreme Court rejected the financier's bid to resurrect the case over the Coleman sale in December 2007.

Perelman claimed Morgan Stanley duped him into selling Coleman for cash and what turned out to be millions of worthless Sunbeam shares.

The value of Perelman's Sunbeam stock plummeted after the consumer-goods maker admitted it inflated sales figures and misstated revenue. Sunbeam sought Chapter 11 protection in 2001. Perelman filed a fraud suit in state court in West Palm Beach, Florida, in 2003.

Jury Award

After a monthlong trial, jurors awarded Perelman \$1.45 billion in actual and punitive damages in May 2005. A judge increased the award to \$1.57 billion after adding interest.

Perelman began the case with an advantage: the trial judge ordered jurors to assume Morgan Stanley helped Sunbeam inflate its earnings, seeking to punish the bank for its repeated failures to turn over e-mail evidence.

That sanction came after Morgan Stanley's lawyers made misstatements in a 2004 court filing certifying that they had thoroughly searched the company's computer system and turned over all relevant e-mails to Perelman's lawyers.

The Florida appellate courts didn't take issue with the sanction. They instead threw out the award because jurors heard improper expert testimony about Perelman's damages.

After the trial, Morgan Stanley officials admitted in court filings that their in-house attorneys knew that e-mails about the Coleman deal hadn't been turned over and launched a cover-up, Perelman's lawyers said.

'Ultimately Irrelevant'

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The Florida Appellate Courts concurred that Morgan Stanley in fact obstructed justice, but threw the case out because the damages were based on "improper expert testimony", which in and of itself appears suspicious, however . . .

. . . there was an admission of guilt by Morgan Stanley of having launched a deliberate cover-up

Perelman Seeks to Reopen Case Again...

That new evidence of wrongdoing could have helped Perelman justify the award, his lawyers said. They asked Circuit Judge Robin Rosenberg to order a new trial on damages. She rejected the request in September, saying the evidence wouldn't have changed the appeals courts' view of the award.

"Whatever information MS's in-house legal counsel told CPH and the court, deceitful or not, was ultimately irrelevant," Rosenberg said in a 28-page decision.

The case is Coleman Holdings Inc. v. Morgan Stanley Inc., 4D08-4022, District Court of Appeal, Fourth District of Florida (West Palm Beach).

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This is an absurd and highly suspicious ruling because: (1) the appellate court agreed Morgan Stanley was guilty of obstructing justice, and only questioned the dollar amount of damages; and (2) new evidence would be introduced at a new trial on damages from a mutually acceptable, and therefore "proper", expert witness, so how can she make such a statement? Does she have a crystal ball?

Again, look to see if her lifestyle has changed since then.

NOTE: This is NOT the preferred method in how Morgan Stanley exercises their influence -- their first choice is finding a "skeleton in the closet" and then using blackmail threats of exposure to ensure things go their way, thereby effectively removing any prosecution risk.

This is not only absurd, it reveals an apostasy of justice. Judge Rosenberg is in effect saying: Even though Morgan Stanley admits to having obstructed justice (which is a second degree felony) and withheld information that would have proven their guilt of fraud in the Coleman case (for why else would they have done so) that such conclusions of fact are irrelevant? What? Is this America? She is also saying to Morgan Stanley (and Kirkland & Ellis) you can do whatever unlawful activities you want to engage in, because we will let you stonewall case progress and hide the evidence. In other words, "keep up the good work". Why wasn't this plastered all over the news in the context of HOW WIDESPREAD THIS LEVEL OF CORRUPTION IS? Here's the punch line: MORGAN STANLEY AND KIRKLAND & ELLIS DO THIS ALL THE TIME.

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