

## *James E. Arnold & Associates Wins Judgment for Prominent Columbus Businessman*

### **Breach of Consulting Agreement Makes for Huge Win**

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James E. Arnold & Associates, LPA recently won a complex commercial litigation case against Eric Schottenstein and Joshua Homes (Schottenstein's building company), on behalf of local businessman Jason Goldberg and his business, America's Floor Source. At the conclusion of a four-day jury trial, \$72,759.37 was awarded in favor of America's Floor Source against Joshua Homes, and an additional \$120,000 was awarded against Eric Schottenstein, personally. More importantly, the jury decided that Schottenstein violated the terms of a Consulting Agreement between Schottenstein and America's Floor Source, relieving the company of millions of dollars of payments that it might have otherwise had to pay Schottenstein under that Agreement.

"Although we received monetary awards against Schottenstein and Joshua Homes, we never lost focus of our primary goal -- to invalidate the Consulting Agreement," said trial attorney R. Gregory Smith. "The business relationship had been damaged beyond repair and the purpose of the Agreement was frustrated. Because the Consulting Agreement was open ended, the successful termination of the contract probably saved America's Floor Source as much as Four Million Dollars over the next 40 to 50 years."

By way of background, Goldberg began America's Floor Source in September, 2000, and Schottenstein co-signed a \$200,000 line of credit to help the company get started. As America's Floor Source grew, Schottenstein was to co-sign for an additional \$300,000 line of credit -- which Schottenstein falsely stated he had done but, in fact, had not. Unaware that Schottenstein had not signed the \$300,000 guaranty, America's Floor Source entered into a Consulting Agreement with Schottenstein, under which he was to be paid a minimum of \$3,000 per month for life.

Almost as soon as the Consulting Agreement was effective, Schottenstein's company, Joshua Homes, became delinquent on its account to America's Floor Source. By May 2006, Joshua Homes owed America's Floor Source approximately \$300,000. To deal with the delinquency, Schottenstein proposed a plan to extinguish Joshua Homes' account by asking America's Floor Source to write off 40% (approximately \$120,000) of the debt, in exchange for which Schottenstein agreed to personally compensate America's Floor Source in the amount of \$96,000. He also promised his company would keep Joshua Homes' account with America's Floor Source current from that date forward. Goldberg agreed -- but both Schottenstein and Joshua Homes failed to keep their promises, resulting in an irreconcilable deterioration of business relations.

"Because Joshua Homes is already on the wrong end of numerous judgments that it cannot pay, it was imperative that any monetary judgment be obtained against Schottenstein personally, which we were able to accomplish," said Smith. "When people see judgments, they tend to look at the numbers. However, the biggest factor in *this* case was being able to invalidate the Consulting Agreement, ensuring Mr. Goldberg would not be forced to work with and pay Schottenstein for the rest of his or his wife's life (whichever was longer) as the Agreement provided. The monetary awards were not as important to Mr. Goldberg as being able to be free of a business relationship that wasn't effective."

"This is a case where thoroughness prevailed," said trial counsel James E. Arnold. "We found every document to support the facts, including subpoenaing bank records and scouring email communications. At the end of the day, we presented a clear and factual picture to the jury, which resulted in a successful trial result for Mr. Goldberg and his business."

#### **About James E. Arnold & Associates, LPA**

James E. Arnold & Associates, LPA specializes in trial practice for a diverse client base including individual, corporate and non-profit clients. In the past several years, the firm's lawyers have obtained numerous multimillion-dollar verdicts. James E. Arnold & Associates, LPA attorneys are regularly recognized for excellence by clients and peers in national publications, including *Best Lawyers in America* and *Super Lawyers*. For more information about James E. Arnold & Associates, LPA, visit [www.armlaw.com](http://www.armlaw.com).

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