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LEGAL Case Study

Law & Orders

The Villanos v. Matco Tools, TD Bank

Jurisdiction: Filed in U.S. District Court—Newark, New Jersey.

Background: In what a franchisee attorney is deeming a conspiracy, Matco Tools franchisees David Villano and his son, David, have filed suit against the franchisor—and its lender, TD Bank—alleging the parties schemed against

Law & Orders continued on 62

Law & Orders continued from 52

Matco franchisees, despite their knowledge of fraudulent earnings representations, and a high failure rate for newer Matco franchisees using SBA loans.

Marks & Klein Partner Jerry Marks claims his clients, the Villanos', were induced into landing an SBA loan—which are guaranteed up to 90 percent by the Federal Deposit Insurance Corporation (FDIC)—without the opportunity to review documents supplied by Matco to TD Bank. These documents, the claim states, were provided to the bank containing income projections over a three-year span, thus violating the franchise's policy not to disclose sales projections in Item 19 of its Franchise Disclosure Document (FDD)—or Uniform Franchise Offering Disclosure, which was in effect when the loan was approved in 2004.

Marks alleges Matco fraudulently provided such information to TD Bank with a note asking lenders not to let the prospective franchisees know it had provided sales figures. The elder Villanos, a Matco Tools distributor and long-time franchisee, was the guarantor of his son's \$103,000 loan, and paid it off when his son began missing payments in 2006, the claim states. He remains a franchisee, while his son has since left the system.

Status: Marks filed the suit in mid-November seeking immediate discovery. He estimates a class action suit involving "between 150-to-200 plaintiffs."

Calls to Matco were not returned by press time.