

NEWSLETTERS

Michigan Court Of Appeals Extends Personal Liability To Principal Of Architectural Firm

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Michigan law respects the corporate entity and honors the presumption that the entity is separate and distinct from its owners. This general rule of law applies even when a single individual is the sole proprietor of a distinct entity. But Michigan courts will pierce the corporate veil and hold an individual personally liable for the debts of his or her corporation in certain cases, and in the recent case of *Green v. Ziegelman*, 310 Mich. App. 436 (2015), the Michigan Court of Appeals extended liability against an individual owner of an architectural firm.

In *Ziegelman*, the Michigan court of appeals affirmed a trial court's decision to hold architect Norman Ziegelman personally liable for a judgment against his architecture firm, Norman H. Ziegelman Architects, Inc. (NZA). Ziegelman, the sole owner and operator of NZA, was approached in 2003 by the members of a development company who were seeking an architect to join their company. During the negotiations, Ziegelman represented that NZA was a successful firm with experience in major projects. After joining the company, Ziegelman stopped participating in company affairs and breached NZA's architectural services agreement with the company. The company eventually filed a lawsuit and obtained an arbitration award against NZA for more than \$150,000. At a creditor's hearing, the members of the company learned for the first time that NZA had no assets and had not completed an architectural project since 1989. At a subsequent bench trial, the trial judge pierced the veil and held Ziegelman personally liable.

In affirming the judgment against Ziegelman, the court of appeals took the opportunity to examine and restate the standards under Michigan law for veil-piercing. The court noted that an apparent split had emerged in Michigan cases, and that various courts had expressed the test for whether fraud or a wrong was committed in different ways. The court of appeals determined that the correct rule was whether "the *manner* of use [of a corporation as an alter ego of the individual] effected a fraud or wrong," and that "it is not necessary to prove that the owner *caused the entity* [itself] to directly harm the complainant; it is sufficient that the owner exercised his or her control over the entity in such a manner as to wrong the complainant." But the court hastened to clarify that incorporation for the sole purpose of avoiding personal responsibility cannot itself be a wrong.

Turning to the facts of the case, the court concluded Ziegelman had used NZA to affect a fraud or wrong. Specifically, when negotiating to join the

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development company, he misrepresented the financial stability and work history of NZA, caused NZA to breach its architectural services agreement and subsequently attempted to use NZA's corporate status to avoid liability. In other words, under the reformulated test, Ziegelman "exercised his control over NZA in a manner that wronged the plaintiffs" by misleading them and causing NZA to breach. Accordingly, the court pierced the veil. This case provides additional, detailed guidance on the circumstances under which a Michigan court may now pierce the corporate veil. While Ziegelman's conduct may have been extreme, the decision reinforces the need for all members of Michigan corporate entities to respect corporate formalities, or risk being held personally liable for their company debts.

For more information about this topic and the issues raised in this article, please contact Scott R. Murphy in our Grand Rapids office at smurphy@btlaw.com or (616) 742-3930.

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