

Marc J. Gross Successfully Defends Nightingale & Associates LLC and Its Individual Members from \$3.0 Million Lawsuit

April 21, 2009

Marc J. Gross, Esq., a partner at the Roseland, New Jersey office of Greenbaum, Rowe, Smith & Davis LLP successfully defended Nightingale & Associates, LLC, and its individual members, against claims of breach of contract, fraud, age discrimination, retaliation and minority shareholder oppression. Plaintiffs, Stephen Hopkins and Stephen Hopkins and Associates, Inc., had sought more than \$3.0 million in damages against Nightingale, a leader in crisis management and the corporate turnaround services industry. On April 16, 2009, after a three-week jury trial before the Hon. Robert C. Wilson, J.S.C., New Jersey Superior Court, Law Division, Bergen County, the jury reached a verdict finding no cause as to all claims asserted by Hopkins and awarded \$0 in damages. Mr. Gross was assisted by litigation associate, **David T. Shivas**.

Hopkins had argued that he was oppressed as a shareholder, wrongfully terminated as a member of Nightingale and deprived of compensation. Gross argued on behalf of the defendants that Nightingale did not terminate Hopkins, but rather Hopkins retired, and that Nightingale and the individual defendants fully performed their contractual obligations to Hopkins under a retirement agreement and Nightingale's operating agreement. Following the conclusion of the trial, the jury found that Hopkins failed to prove that Nightingale breached any agreement, any obligation or that Hopkins had sustained any damages as a result of the defendants' actions. Prior to the trial, Gross and Shivas, on behalf of the defendants, successfully moved to dismiss Hopkins' statutory claims for minority shareholder oppression, age discrimination, and retaliation.

Mr. Gross, a member of Greenbaum's Litigation Department, concentrates his practice in all facets of business litigation. Mr. Gross has significant experience successfully resolving a broad range of commercial disputes and has litigated countless cases, including suits alleging the theft of trade secrets, violation of non-competition clauses, environmental contamination, franchise disputes and breach of real estate and other business contracts. Mr. Gross has successfully litigated cases in the Chancery and Law Divisions of the state courts in nearly every county, as well as in the federal courts in New Jersey and the Southern and Eastern Districts of New York. His diversified clientele, for which he provides ongoing business counseling, include licensed professionals, closely held and publicly traded corporations and automotive, real estate and technology ventures. Mr. Gross is a past president of the Essex County Bar Association and has been selected as a N.J. Super Lawyer since 2006.

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Mr. Shivas, also a member of the Litigation Department, concentrates his practice in business litigation, real estate litigation, and construction litigation in the federal and state courts. He practices in the state courts of New Jersey and New York as well as the United States District Court for the District of New Jersey. Mr. Shivas has handled a broad range of litigated matters on behalf of corporations, partnerships and individual clients, and has successfully litigated cases involving breach of contract, corporate and partnership disputes, business torts, and employment disputes.

In 2009 Greenbaum, Rowe, Smith & Davis LLP celebrates its 95th year of building business in New Jersey. The firm has over 100 attorneys in four main practice departments: Litigation; Real Estate; Corporate; and Tax, Trusts and Estates. The firm has offices located in Woodbridge and Roseland, New Jersey. For more information, call Erin P. Faltin at 732-549-5600 or visit the firm's web site at www.greenbaumlaw.com.

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