BUSINESS

Lennar Wins $1 Billion Award in Defamation Case

Home Builder Alleged It Was the Target of a Smear Campaign

By KRIS HUDSON

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A Florida jury has awarded home builder Lennar Corp. $1 billion in damages in its civil lawsuit against a California developer who Lennar alleges orchestrated a smear campaign against it in 2008 and 2009.

The Circuit Court jury in Miami late Monday awarded $802 million in compensatory damages and $200 million in punitive damages against Nicolas Marsch III and his company, Briarwood Capital LLC. The award is the latest twist in a seven-year saga that included the 2011 guilty plea and jailing of self-styled fraud investigator Barry Minkow.

Mr. Marsch, who didn't attend the one-day trial on Monday, has the option to appeal the jury's decision. He said Tuesday that he stood by his allegations against Lennar. "We will review our options," he said in a phone interview.

Stuart Miller, Lennar's chief executive, said in a statement that it is "doubtful" that Lennar can collect $1 billion from Mr. Marsch. "The jury award represents a complete vindication of Lennar's reputation and good name," Mr. Miller said in the statement.

Miami-based Lennar, one the largest U.S. home builders, sold 14,545 homes in the nine months ended Aug. 31. It was represented in the case by Daniel Petrocelli of O'Melveny & Myers LLP.

Mr. Marsch and Lennar first clashed in 2006 over a real-estate partnership they had formed to build a community near San Diego, the Bridges at Rancho Santa Fe. Mr. Marsch sued Lennar in California state court, alleging that Lennar had misappropriated $200 million from their joint venture to benefit its other projects.

Lennar won the California case regarding the Bridges at Rancho Santa Fe. The builder sued Mr. Marsch in Florida state court in 2008, alleging conspiracy to extort money from it and defamation. The Florida case is the one in which the jury decision came Monday.

Mr. Marsch in 2008 hired Mr. Minkow, who previously served jail time for financial fraud, to investigate Lennar. Mr. Minkow then published reports in 2009 alleging numerous instances of fraud at Lennar, including the misappropriation of money from its joint-venture partners and the masking of its true financial condition. The reports caused Lennar's stock to fall.

Lennar refuted the claims and sued Mr. Minkow. In 2011, Mr. Minkow pleaded guilty to conspiracy to commit stock fraud, testifying that his report about Lennar was false. He was sentenced to five years in prison and ordered to pay Lennar $584 million in restitution.

Lennar, meanwhile, continued to pursue its civil case against Mr. Marsch. In 2010, Mr. Marsch sought bankruptcy protection for himself and Briarwood to block Lennar's lawsuits, but a judge later allowed the Florida lawsuit to continue.

In November, Florida Judge John Thornton barred Mr. Marsch from contesting any damages awarded at this week's trial on the grounds that he allegedly had destroyed evidence in the case and hadn't cooperated with evidence-submission requirements. Mr. Marsch in an interview cited that restriction for his decision not to attend Monday's trial.

In addition, Mr. Marsch's attorney, Keith Grumer, recently withdrew from the case, explaining that a ruling against his motion in a related case in appellate court would make him ineffective in appealing the Florida case for Mr. Marsch, the attorney said in an interview.

Mr. Marsch denies that he defamed Lennar. "This entire case is a fraud on the court," he said.

Lennar outlined in the Florida case $800 million in damages that resulted from Mr. Minkow's reports commissioned by Mr. Marsch, according to Daniel Petrocelli, Lennar's attorney. Those include the costs of buying out a partner in a separate deal, higher borrowing costs due to Lennar's damaged reputation and the costs of raising capital by selling stock at prices depressed by the reports.

—Robbie Whelan contributed to this article.

Write to Kris Hudson at kris.hudson@wsj.com