

# DAILY BUSINESS REVIEW

## VERDICTS & SETTLEMENTS

# Jury awards \$195 million against bank ex-president

**Case:** Vision Inc. vs. Nicolas Landes, Banco Popular del Ecuador and Banco Popular International

**Case No:** 02-0008659-03

**Description:** Civil theft

**Filing date:** May 6, 2002

**Trial date:** Nov. 15, 2010

**Jury award:** \$195 million

**Judge:** Broward Circuit Judge Mily Rodriguez Powell

**Plaintiff attorney:** Ricardo M. Martinez-Cid, Podhurst Orseck, Miami

**Defense attorney:** None

**Details:** Nicolas Landes was one of the most prolific bankers in Latin America, heading a \$2.1 billion financial group that included banks and mutual funds in Miami, the Caribbean and Ecuador. He lived in the seaside enclave of Golden Beach in Miami-Dade County and had a vast Ecuadorean estate.

The two banks Landes controlled got mired in the financial crisis that gripped the South American country in the late 1990s. Authorities said he used some Enron-like accounting and fleeced investors in the mutual funds he managed. He fled to South Florida for four years but headed to his native Panama when Colombia asked for his extradition. Ecuador caught up with Landes in 2005 and had him extradited from Costa Rica in 2007. He was sentenced to eight years in prison and was released this year.

**Plaintiff case:** Vision was a mutual fund created in 1995 for customers of Banco Popular del Ecuador. A 2004 amended complaint alleged Landes and other bank executives lent money to companies controlled by Landes and lied to investors about losses. The complaint alleged civil theft, conversion, breach of fiduciary duty and negligence.

The case was filed in Broward Circuit Court in 2002 because the fund ended up being managed by the Canadian Imperial Bank of Commerce, whose registered agent was located in Plantation. The investors' first action



A.M. HOOLT

**Ricardo Martinez-Cid convinced a jury that Nicolas Landes used Enron-like accounting to fleece investors.**

was to distribute what remained in the fund. Martinez-Cid said a judge had to be convinced there was a case to be made — that investor losses weren't due to market fluctuations but fraud. Once that occurred, an amended complaint filed named Landes and the banks as defendants.

Landes' schemes were sophisticated, but his clients weren't wealthy, Martinez-Cid said. Instead, they were primarily working class people and charities that trusted a mutual fund. Landes put the money into his personal investments and foreign debt instruments.

"There was a nunnery who took care of

orphans who were relying on the fund for a steady flow of income to keep the orphanage running," Martinez-Cid said of his clients. One investor who had lost his money in the fund contracted cancer and committed suicide rather than be a burden to his family, he said.

A default judgment in favor of Vision was entered in July 2007, and a six-member jury was to decide the issue of damages against Landes only. The banks were defendants, but they were taken over by the government and went bankrupt, so there was no way to pursue them, Martinez-Cid said.

To determine damages, he collected accounting statements, reports from the fund's accountants, an internal study by outside auditors and reports by government investigators. **Defense case:** Landes was served with the lawsuit while in prison in Ecuador in 2007 and never responded. There was no defense offered in his absence. Before he was sentenced in Ecuador, he said in an interview that he had lost all his assets while on the run. He claimed he was a scapegoat for the financial crisis gripping Ecuador.

**Outcome:** The jury deliberated 2½ hours before giving plaintiffs what they requested to end the one-day trial.

**Quote:** "What concerned me was the jurors would not see how important this case was," Martinez-Cid said. "Having no defendant there makes it harder to get such a big verdict from juries. They think it's not such a big deal, but this was a very complex financial case and a very complex fraud."

**Post-verdict:** The award was finalized by the judge Nov. 22. Martinez-Cid doesn't believe Landes is broke and said collection efforts are under way.

"We have a number of leads where his assets were ferried," the attorney said. "We don't think his self-dealing was limited to this fund."

— John Pacenti