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How Miami Attorney Adam Schachter Fended Off a Suit Against Beverly Hills Hotel from Miami Contractors

Samantha Joseph, Daily Business Review

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A dispute over light fixtures at a glitzy Beverly Hills hotel took a dark turn when Miami contractors say their wealthy employer sought to bilk them on a five-year deal.

Energy Smart Industry LLC filed suit in state court in Miami last October against Morning View Hotels Beverly Hills LLC, which owns the landmark Mr. C Beverly Hills hotel, where nightly rates run from \$467 to \$2,484 for an 800-square-foot suite. The company claimed the hotel hired it to install top-of-the-line, energy-efficient light fixtures but was slow to pay the bill.

The California hotel responded with a countersuit in November and removed the case to federal court. It came out on the winning side Monday when a jury found the contractor—and not the hotel—breached the contract.

"The other side dragged our client across the country into court in Miami asserting a whole bunch of claims," Morning View attorney Adam Schachter of Gelber Schachter & Greenberg in Miami, told the Daily Business Review on Tuesday. "The judge—and now a jury—found our client did nothing wrong and that the other side actually breached the parties' agreement."

Morning View hired Energy Smart in 2012 to retrofit nine areas at the Mr. C hotel with LED lights.

The contractor said it started work, but payments trickled in late, triggering the contract's acceleration clause allowing Energy Smart to collect full payment. The company claimed it was paid \$6,854 from November 2013 to March 2014 but nothing else on a contract that promised payments tied to energy rebates.

Under the agreement, the hotel agreed to pay Energy Smart 60 percent of money saved by collecting federal tax, energy, maintenance and utilities rebates generated from the project. The contract outlined annual payments of \$44,233 to Energy Smart for five years. If Morning View canceled before the project started or the retrofit was complete, it would owe Energy Smart \$74,240.

The parties estimated the hotel would save 12 cents per kilowatt hour and Energy Smart would complete the work within six months of executing the contract.

Energy Smart sued for breach of contract, unjust enrichment and quantum meruit to collect for work done.

Morning View denied breaching the contract, claimed the contractor completed work on only one of nine areas, and payments weren't due until the end of the project. The hotel operator responded with six affirmative defenses, including a claim the contractor "never finished the installation of lights, never provided all of the necessary lights and in fact it abandoned the project altogether," ignoring repeated request for project updates.

U.S. District Judge Ursula Ungaro in Miami sided with the hotel and disposed of Energy Smart's three claims, leaving the counterclaim pending. Because "it is undisputed that ESI never completed the project, Morning View's five-year payment period never commenced," she wrote in a June 3 order.

A jury found in the hotel's favor Monday. Jurors found Energy Smart breached the contract but stopped short of awarding damages because the breach caused no harm to the hotel.

Schachter said Morning View will now push to recover attorney fees and costs under the contract.

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