



[Print this article](#) | [Close this window](#)

Mistrial declared in Florida fraud case targeting BDO

Mon Mar 5, 2007 1:57PM EST

MIAMI, March 5 (Reuters) - A mistrial was declared on Monday in the \$170 million fraud case brought against accounting firm BDO Seidman LLP by Portuguese bank Banco Espirito Santo, court officials and attorneys said.

Miami-Dade Circuit Judge Jose Rodriguez declared the mistrial -- which had been requested by lawyers for Chicago-based BDO Seidman -- after ruling that an attorney for the bank violated a court order by referring to a BDO executive's suicide while questioning a witness last week.

BDO lawyers had argued that mentioning the suicide could prejudice the jury because the executive was a key potential witness in the case, and he killed himself soon after BDO was indicted for fraud.

Karen Bitar, a Greenberg Traurig attorney representing BDO, said there had been no suggestion that the executive was connected to any sort of criminal wrongdoing.

But she said mention of his suicide in court "made it sound sinister" and invited "speculation on the part of the jury that denies them (BDO) the right to a fair trial."

Steve Thomas, a lawyer with Sullivan & Cromwell LLP and Banco Espirito Santo's lead attorney, said he was disappointed with Rodriguez's ruling and hoped he would set an early date for a retrial during a meeting in his chambers set for Wednesday morning.

"We believe that BDO Seidman should be held responsible for its actions and were going to try the case," Thomas told Reuters. "The jury is going to determine whether they were liable or not."

BDO is being sued for \$170 million, plus unspecified punitive damages, because of its involvement with Miami-based E. S. Bankest and the conduct of its audits for the years ending 1998 through 2002.

Bankest was a so-called factoring company created by Espirito Santo and Bankest Capital Corp. in 1998. Factoring companies buy other firms' outstanding bills -- known as accounts receivable -- at a discount. They later collect the bills and keep the difference.

BDO has denied any wrongdoing in its audits of the now-defunct Bankest, whose collapse began in late 2003 when its officers were indicted by a grand jury.

But Espirito Santo and two of its subsidiaries contend that BDO negligently failed to uncover the fraud that the Portuguese bank blamed for a \$170 million loss.

The bank also contends that as Bankest's auditor, BDO overlooked or knowingly turned a blind eye to problems at a Bankest business partner, StrataSys Group LLC, because BDO was itself a partner in the other company.

© Reuters 2006. All rights reserved. Reproduction or redistribution of Reuters content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of Reuters. Reuters and the Reuters sphere logo are registered trademarks and trademarks of the Reuters group of companies around the world.

Reuters journalists are subject to the Reuters Editorial Handbook which requires fair presentation and disclosure of relevant interests.