EPISODE 1533

[INTRODUCTION]

Whitney Sewell (WS): This is your Daily Real Estate Syndication Show and I'm your host, Whitney Sewell. Today we packed a number of shows together to give you some highlights. I know you're gonna enjoy this show. Thank you for being with us today!

[INTERVIEW]

WS: Our guest is Roni Elias. Thanks for being on the show Roni.

Roni Elias (RE): Thank you for having us.

WS: Yeah, I'm honored to have you on the show. Roni is the Lead Asset Manager of TownCenter Partners LLC. He's worked in litigation cases reaching over 9.5 billion Dollars in recovery. He has managed a portfolio of over 520 million Dollars in assets, and has been published in multiple law review journals, including, but not limited to the N.Y.U and many more. He is a current officer of the Federal Bar Association 80R division and more.

Roni, thank you so much for your time today, I appreciate you being on the show. Give listeners a little more about what your focus is and what your business actually is.

RE: Sure thing. We live in the very exciting world of litigation finance. So we help plaintiffs nationwide and overseas. You know, the worst thing is to get sued and to deal with a lawsuit. So, we step in, assist in funding that lawsuit and if everything goes well, we recoup our initial investment plus our return. If things don't go well, no harm, no foul. We funded that lawsuit, and nothing is owed or is due back. So, we can try to assist the plaintiff by taking that financial burden and some of that stress off from a lawsuit.

WS: Wow, so who's your typical client?

RE: Our typical client, predominately right now we're doing a ton of real estate litigation. It could be anything from some kind of breach of contract but right now we're seeing a major uptick in real estate litigation, which can be, you know, from partner disputes, insurance disputes, and sometimes even dealing with cities or county's not either giving some type of permits so you can build what you need to or zoning issues. So, we kind of step in and give that financial firepower to get you across the hurdle.

WS: Okay, so if somebody sued me for something, or whatever, my partner sued me, or anything to do in the business, I might contact you. Or maybe because I can't fund or protect myself or fight back. Is that right? You know, am I gonna hire you all to help fund that?

RE: Yes, but one caveat to that, we always just fund the plaintiff. So, if someone is suing someone else –

WS: Okay.

RE: – the plaintiff is the one who was the party that supposedly got hurt and is now taking action against someone else. That is who we fund. The other side is called kind of like Defense Fund. We don't do any of that. We just kind of focus on assisting the plaintiff.

WS: Okay. So, is there an example, recently, to help us understand a little better about when we would use somebody like yourself, and when we would use your services? Maybe an example that's happened recently.

RE: Sure thing. Let's just say you know, Jane Doe Apartments. This small syndicator or apartment owner owns an apartment complex. Let's just call it, 200 units. And a tenant is barbecuing and, God forbid goes in and tries to grab a drink and next thing you know that complex has now caught on fire. God forbid, you know, by the time the fire department or the sprinkler system or whatever caught, there's substantial damage done to that one building.

So, let's say 20 or 30 units now are taken out. That's of course, not only monthly income that has been taken out. Now you've got to go take care of your tenants. You know? How are you gonna replace them? Or are you going to try moving them somewhere else? There becomes a lot of logistical and financial issues that arise.

So, you reach out to your insurance carrier. Let's just them The Big Insurance Company and Big Insurance Company might tell you, "Well, um, you know, you don't think Jane Apartments you guys did a good job of abiding by the rules of the policy," or something, it now starts to become, "We don't think this is an insured event." Or "It costs maybe one million Dollars to fix this building but we're only going to give you 300,000 or 500,000." Then you're like, "Oh, my gosh, what do I do!" And then the next thing, the first of the month is rolling around and, you know, the bank says, "Hey, we want our monthly nut." And now issues arise.

So we step in and assist Jane Doe Apartments to continue Operation. Jane Doe apartments start their lawsuit against the insurance company to recoup the money that they need. And we've now created that buffer where they can continue to operate, stay in business, not have to do a capital call. And keep that apartment complex up and running. So, God forbid, they don't have to fall into for possible foreclosure and stuff like that. And then by us adding that time and the assistance, usually we've seen it nine times out of 10, some type of agreement is able to come out between the apartment owner/syndicator and insurance carrier.

WS: Nice. Okay, that's a great example. I was thinking about it, so you all are gonna help fund that financial loss on a monthly basis as well, so we can keep operating right? And then you're gonna help fund, I guess – maybe hire a lawyer so I can do something. You know, at least show the insurance company I'm serious here. You know, we did follow the rules or at least try to fight that a little bit.

RE: Exactly. Because of the stress. So, forget about the mental stress of now, you know, “Hey, what am I gonna do to kind of take care of everybody now, including my investors, but my tenants,” and so forth. “Where am I gonna do to come up with this revenue that I've lost now?” A burnt-down building – there's not really much you can do with that.

So, we can understand the issues, try to sympathize with our clients, and we come in there and we want to help him out. And it's been our experience, you know, some large litigates or insurance companies, try to use time as a weapon against real estate owners or just plaintiffs because, you know, time is becoming your enemy because every month that's going by your losing more and more money.

Then you come to this realization, “Well, you know, I'm in a really tight spot. Do I take what they're putting on the table now? Which is a substantial difference than what I really need to get me back, or what do I do?” So, we kind of just assist and at the end of the day, the plaintiff and their lawyer, are the captains of the ship. I mean, they decide, “Hey is this a fair number to settle at or not? Or do we want to go to trial?” You know, once we cut the chat, we become kind of your biggest cheerleader on the sideline, cheering you on to success. But we don't take any hands-on approach. It's your case and you and your counselor need to make whatever you think is the appropriate decision.

WS: Sure, sure. So, how do homeowners find somebody like yourself? If we're in that situation? How do I know about your top of business?

RE: I mean, litigation finance is such a small you know – there's not, I would say hundreds of us. We're a small group. Of course, a shameless plug, but hey, TownCenter Partners they can always find us here in Northern Virginia, and we fund nationwide. Hey, you could do a Google search. You could talk to your attorney, say “Hey, I'm in this tough situation, you know? Do you know of any litigation funders?” And you know, just do your due diligence.

We take things as you know, we're not gonna force you into anything. We try to be as an open-door policy with our clients and say, “Look, this is an expensive type of funding. If you have other options, take them. Can you borrow from friends or family or you can get a bank loan.”

WS: It keeps you from going bankrupt or having to call investors and say, “There's been a fire and also I need a check,” right?

RE: Right. Yes. And if you really think about it, someone is coming in and saying, “Listen, you're in a very – let's just call it a bad situation.” And we don't point fingers at anyone or anything and we want to get you across this finish line. And if things go as we hope it will go, there is a cost for doing that and then you will repay us for that.

But you know what? If things don't go as we planned, no harm, no foul. We took on that financial loss while you the client would have had to take that financial loss on top of the loss of something being burnt down or whatever. But we try to help our clients as much as possible. If you look at our tagline, “Our mission is justice.” So, we're really trying to help. Folks just don't have that adequate financial firepower to get across that finish line.

[INTERVIEW 2]

WS: Steve, welcome to the show. You have some skills that anyone that’s listening right now, I know needs to know about, and it’s gonna be an interesting discussion today, I know just from your expertise and background, but give the listeners a little about your background and what your focus is today as your day-in-day-out job and people you’re helping…

SM: I’m a tax attorney, and the head of our law from… Before I was a tax attorney, I was a CPA. So in addition to understanding the tax law, I actually understand how they operate, the number-crunching, and even the forms they go on.

WS: If you have an attorney that’s also have been in CPA, there’s so much combined skills there that no doubt you can help with, and especially that now you’re a tax attorney. Well, I’d love to just jump right in now, ’cause I know you and I had a great conversation or you’re just sharing so much with me before we even got started, just about the new administration and some tax changes, things that potentially could be happening sooner than later, and things that the listeners I know need to know about… And maybe some things they could be putting in place now, so maybe we’re paying less taxes right here trying to have that positive cash flow and less taxes, so let’s dive in there a little bit, could you just get us started on some of the tax changes that the new administration is looking to make… And some things we should be thinking about as real estate professionals.

SM: Absolutely, first President Biden and wants to make massive changes to our laws, and a lot of them are gonna affect real estate taxes… One of the things he wanted to do in the estate tax area, he wants to drop the current exemption down from $11.5 million to $1 million. What that means is an awful lot of people would then have a taxable estate is an awful lot of people that have less than $11.5 million, but more than one mil. President Biden also wants the estate tax rate to be about half, so think about it, instead of giving your hard-earned property, real estate property to your loved ones, you’re gonna give it to the IRS. And you say, Well, wait a minute. Real Property. Is it liquid? Do I chop off the top floor of the house and give it to you is now, a lot of times people would be stuck selling the house… Because they didn’t have the cash to pay the taxes. You don’t want that. There’s a lot of things you can do. Right now, what we can do is set up an estate plan where you give the property away to your kids, so think about this.

Suppose you say, Well, you know what, I have a property and it’s fully depreciated, and what I’d like to do is pass it on to my kids, but… You don’t wanna get hit with the tax. So let’s assume you gave it to them now, while you have the $11.5 Million exemption, there’s no gift tax, there’s no estate tax. And then you say, oh is wonderful. I’m not have to give that half to the IRS, but then when somebody gives you something nice, some people instead of saying, Thank you, they say, I want more. And there's more here. So for example, if you are using this property in business, you say, Well, you know what, now I'm gonna turn around and I'm gonna lease it back from my kids, then you get a tax deduction for using that property for business. The bottom line is essentially you get to rate that property off twice, and your kids, grandkids, they're probably in a lower tax bracket, so with going ahead and using this property, everybody is benefiting because that same money is getting taxed less in the family. A lot of other things that we want to happen. There's something called the step up in basis, President Biden wants to do away with that too.

And here's what that is, suppose grandpa bought a property when he was a young man for 10000, and today their property is worth a mill. What happens is, if grandpa would give you that property today while he's alive, and then what happens is you say, Well, alright, I'm gonna sell the next day and I have the capital gain of 990 and pay tax on that, but if grandpa gave that to you through as a State, he died in, I gave it to you. You have a step up in basis. So instead of your basis being grandpa's basis, it's the fair market value at date a bath or turn evaluation data. Just say, God of death. So in my example, you sell the property the next day, the fair market value is a million, you say, Okay, my step-up in basis is a million, a million minus a million equals zero. I have no taxes to pay… That's wonderful. President Biden wants to do away with that. So if he gets his way, it would be as if you give it to him during a lifetime. In here, what you have is a 990 capital gain.

Oops, wait a minute. President Biden wants to do away with the preferential capital gains tax rate. So what happens here is you say, Well, oh my God, I have to pay it on their income rates, that's tremendous taxes, that we wanna avoid a lot of other things to stops. We have this situation, so we have a couple and says, You know, they don't have any kids or they don't have anything in a… Leave the property to, or some people, and even some very wealthy people believe, but if you give anything to your loved ones, it'll ruin up, so you say, We don't wanna ruin him. So I'm gonna give it to charity. That's nice, but it doesn't get you an income tax benefits, so instead you can do something called a Charitable remainder trust, CRT. And what happens with the CRT? You say, Okay, husband, wife will live in that house for the rest of their lives, however long that is, 30 years, 50 years, 100 years, but when the second one passes the chart, I'll get the property. So physically, everything is the same in both examples, the couple lives there until the second one passes in, the charity gets the property, but the second way, when you set up the CRT Charitable trust, an actuary comes in and does evaluation cost is a theoretical separation of the property into what your cap called the life estate, and what you gave away called the remainder interest.

Suppose the actuary determines that the amount you gave away the remainder interest is worth 700,000, you get a $700,000 income tax deduction today, today. And you say, That's wonderful, Steve, but I don't have $700,000 worth of income. What's gonna happen to me? You can carry it forward for five years, tremendous benefits here, but suppose your kid comes up and says, You know dad, I don't feel like getting the property would ruin me, and dad says, Well, you know, son, but I really like to get the income tax deduction is there some way we could satisfy both of them, yes, we could set up something called a ILIT, irrevocable life insurance trust, and what happens with that is you give the property away and there's important reasons for that, and what happens is, remember, under President Biden's proposals, our exemption would drop down from 11.5 million to 1 million. A lot of people don't know that face valuable life insurance policy is an asset of your state, most people wouldn't want half of their insurance policy going to the IRS instead of their loved ones, so instead, to give it away now while there is as an exemption, so no gift taxes, no state taxes, and then what happens is your kid gets the value of the property, so he's happy, dad's happy because you got the big tax deduction, the kid is happy because he got the value of the house.

The only one here that's unhappy is the IRS, and that's okay with everybody, but it's legal, and we can do that, there are other benefits too. Another benefit is when you give insurance, the beneficiary, do whatever they want with the money. With an ILIT, the insurance company isn't paying your beneficiary, they're paying the trust and your trustee is building the money out based on the trust instrument, you get to control things even if you blend to your reward and… This works out well, 'cause a lot of people will come to me and say, Steve, they love their kids. They trust their kids who live, their kids are wonderful, but God knows what their kids might marry, and dad says, Look, if my kid marries some no good Nick, I don't want any good nick getting their claws into my money. So you said something up like this to keep it for your kids and out of the hands of the in-laws that might misuse it or a minus use your kid if you have a divorce and things go bad. There's so much that can be done here. Another thing I'd like to talk about is, to me, the most beautiful words in the English language, or a positive cash flow with the tax laws.

Now, I mean, what could be better than that? So you say, Well, that's wonderful, because physically, at the end of the year, I've made a cash profit from my real property, but through different things like cost segregation, which I know you've talked about in other shows, and what cost segregation does for those lists that I haven't heard them yet, it can greatly accelerate your depreciation, time value of money, you'd much rather have the benefit now than many years from now. And another thing that happens is we say, Well, okay, now I have a loss and Oh, my account… And said, I can't use that loss. That's a passive loss. And with the passive losses, I can't write them off against the ordinary income, but there's an exception to that, and the exception to that, if you're a real estate professional… So what happens here is if you're married, only one of the spouses have to qualify, so suppose we have this situation, we have a brain surgeon that's married to a house husband, and she says to her husband, honey, you're gonna start managing our properties. Now, if one of them qualifies, then what's gonna happen is they can go ahead, it's an exception to the passive activity loss rules in article section 469.

And what happens is that you now get to take what would have been that passive law, so you couldn't write it off, and you can write it off against your ordinary income. What's ordinary income? Profits from a business, dividends, interest, wages, it's tremendous. So what happens is, when you have these benefits, what you wanna do is partly them, tie them together, and there's a way to do that. So much of US real estate is an area that's very favored by Congress, except President Biden wants to make an awful lot of changes that would really, really hurt the real estate investors. So the bottom line is, if you own real estate right now, you wanna talk with your tax person and say, Hey, wait a minute, if President Biden gets his way, that's gonna really hurt me as a real estate investor, what can I still do now to protect myself but also there's a lot of benefits and most people don't know about one of the most common things that people will say to me when I take a new client, is Steve, wow, this is tremendous as it's all brand new. 'cause I never heard of this, and a lot of times, it's not…

A lot of times what happens is when we'll get their taxes done, they go to somebody just fills out the boxes, and here you go and heads up. And actually, personally, that's why I became a tax attorney, because the day I set foot in law school as a student on day one, I already had a bachelor's and master's degree in accounting. I was already a CPA and I was doing taxes, but I went to law school because I knew I could do a lot more for a client as a tax attorney than I got as a CPA, and also I wanted to be the guy… Would be creative and say, Look, you can do this, this and this. Not the guys… All of all, you can't do that, you can't do that. There's so much you can do. Another thing I'd like to talk about is a Delaware statutory trust. Sometimes a client will come to me and say this, You know, Steve, I'm tired of being a landlord, I don't wanna go over there and fix this, sing can get a call through o clock in the morning, I can't find my keys and somebody have the rent, I'm tired of that.

So I wanna get out of that property, I just don't wanna pay taxes. And I say, Well, this is your lucky day. You can get into a Delaware statutory trust, and when the other words, in statutory Trust is essentially, you go to a financial institution of your choice, and essentially it's like a mutual fund for real estate, but it qualifies for 1031. So what happens is, you can get out of that property, not pay the taxes, 'cause you've done a 1031 exchange, and then you still have another benefit. A lot of times people will say, Well, you know, I'm gonna retire and I don't wanna be by with me, I just want it to be on that step, I can't really do that as a landlord, 'cause you gotta watch the property or bad things happen to it, so instead you say, Well, wait a minute, if I do the 10-31 when I need some money, I'm gonna have to cash out and I'm paying a big tax, I can put the money in the bank… Or invest it in the stock market if I wanna take the risk. But you know, the real wealth and major wealth in this country in the world is a real property, not stock, it's real property.

SM: And you say, But I don't wanna pay the taxes and have all that other money sitting in the bank from the property, Delaware statutory trust is perfect because you have shared, so you only sell what you need, you only pay tax on that a little bit, and the rest sits there and earns money, and you have these benefits, so there's just so much you can do in the real estate area. That's why we even in our law firm, we even have a real estate department that handles all this, so we handle the real estate, we handle the taxes, and then all this stuff comes together, same with the estate plan and go to State Planning Department in the firm. And you say, Well, wait a minute, here's a way that we go ahead and put all this together and benefit… So what we wanna do is, first of all, we wanna make you happy, I'm really serious about that. Where I'm different from most financial guys, most financial guys figure up some financial plan, they say this will save you the most taxes or whatever else, but they don't consider the person's lifestyle about what they want, and I can't begin to…

To tell, so many people will come to me, they went to somebody else. Somebody else did something. I hate this. Can you get me out of it? And the answer sometimes is yes, and sometimes is now, but what happens is you say, Well, okay, how do I put all this stuff to benefit me, and I could be representing twins and what they want could be very, very different. So the first thing I ask people is, what do you want? What do your wishes, your desires, your hopes, your dreams, and then once I know that and I say, Okay, if you wanna do that, and here's the way we do it, and here's the way we take the maximum tax advantage, and what people miss in the tax system? Is that everybody thinks the tax system is extracting money from you, and that's one of the two purposes of the tax system extracting money, but the other purpose is in a democracy, the government may want you to do things like viability, but they can't order you to buy a building. So how does the government get you to do something they want you to do, but they don't have any power to order you to do, they give you a tax instead, Well, we'd like you to buy the building, can't make you…

We like it is, You buy the building and here's all the taxes, you'll say No, you say, Wow, that's gotten very attractive for me. So what happens is, that is why you look at Fortune 500 companies that make profits with billions in B, not paying any taxes. If you think about it, think about your little corner grocery store, mom and Paul, you know what, mom and pop… Or paying more taxes than Apple. Can you imagine that mom and pop are right in a check to the IRS and Apple is not, so you have so much you can take advantage of in the tax law, and the real estate area is especially rich in this area. They're so very, very much. And that's why I like to talk about real estate professional, writing off those losses cost the time value of money, Delaware statutory Trust, and then it's so very important to tie it with the person's lifestyle, not to mention your wishes, you tie the income taxes. And you tie the estate planning altogether and you get a big, wonderful package. So again, to me, the most important thing is just letting people know this exists because we don't know exist, you walk along and say, It's so unfair, I have to pay for so many monitors, I wanna make the check payable pillage.

And these are things that I've dedicated my professional career too, and saying, Hey, you know what, the big boys take advantage of this, the non-billionaires, the non-corporations can take advantage of them too.

[END OF INTERVIEW]

[OUTRO]

Whitney Sewell: Thank you for being with us again today. I hope that you have learned a lot from the show. Don't forget to like and subscribe. I hope you're telling your friends about Real Estate Syndication Show and how they can also build wealth in real estate. You can also go to LifeBridgeCapital.com and start investing today.

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