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Obituaries

Lawsuit tied to 18-year-old Mandel case comes to trial

By Dennis O'Brien

The jurors might have suspected political overtones yesterday when the judge asked if they had ever been campaign workers for former Gov. Marvin Mandel.

No one had.

Next question: Had anyone ever worked at a racetrack or had relatives who had?

One hand shot up.

Did anyone own stock in a racetrack?

This met with muffled laughter.

So the proceedings began yesterday in a case that centers on a business transaction that took place 18 years ago — and led to one of the biggest political scandals in Maryland's history.

The sale of the Marlboro Race Track — and the activities that followed — led to a federal investigation that ended in 1977 with the conviction of Mr. Mandel and five of his associates on mail fraud and racketeering charges.

A federal jury ruled Aug. 23, 1977, that the group schemed to buy secretly the half-mile track in Prince George's County, then had the former governor press for legislation beneficial to the track in exchange for gifts worth between $300,000 and $400,000.

The U.S. Supreme Court has since overturned all convictions, but at its peak, the case attracted national attention.

By contrast, the courtroom was nearly empty yesterday as James F. and Michael P. O'Hara appeared before Baltimore Circuit Judge Elsbeth Levy Bothe.

The O'Haras claim they were the victims of fraud when they agreed on Dec. 31, 1971, to sell their interest in the Marlboro Race Track.

The brothers hope to convince a jury that they were the victims of fraud when they agreed on Dec. 31, 1971, to sell their 30 percent interest in the Marlboro track for $12 a share to the partnership convicted with Mr. Mandel.

The O'Hara brothers' lawsuit names as defendants Mr. Mandel, Irvin Kovens, the Maryland political kingmaker who was Mr. Mandel's most important ally, and three other key Mandel political backers, Harry W. Rodgers III, William A. Rodgers and W. Dale Hess.

Also named in the suit are Irving T. "Tubby" Schwartz, Ernest N. Corey Jr. and the late Eugene Casey, all of whom were allegedly involved in some aspect of the racetrack sale.

Mr. Mandel, Mr. Kovens, Mr. Hess, Mr. Corey and the Rodgers brothers were convicted in August 1977 in federal court in connection with the scheme. Mr. Mandel, Mr. Kovens, Harry Rodgers and Mr. Hess were all sentenced to federal prison, and all served their sentences before the Supreme Court overturned the convictions of all the co-defendants.

William Rodgers was ordered into a work-release program, and Mr. Corey was placed on 18 months probation.

Like the Mandel case, the O'Hara suit has a complicated history.

The suit alleges that by purchasing its

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Case alleging fraud in sale of Marlboro track opens

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interest in the track after Mr. Mandel had vetoed a bill that would have allocated 18 additional racing dates to Marlboro, the partnership obtained the property at a bargain-basement price — fully aware that its value was about to increase because the racing dates would be approved later.

The suit was originally filed Nov. 22, 1978. But in December 1983, Judge Bothe dismissed it, agreeing with defense attorneys that the three-year statute of limitations for filing a fraud lawsuit had expired.

The Maryland Court of Special Appeals affirmed Judge Bothe's ruling, but on Feb. 3, 1986, the Court of Appeals found that the statute of limitations question should be put to a jury — a ruling that effectively set up yesterday's trial.

Attorneys for both sides say that the case before the jury will now focus on the narrow issue of "when the clock started ticking" on the three-year limit within which fraud suits must be filed.

Roy L. Mason, attorney for the O'Haras, said that the three-year time limit should not have started until Mr. Mandel was indicted by the federal grand jury on Nov. 24, 1975.

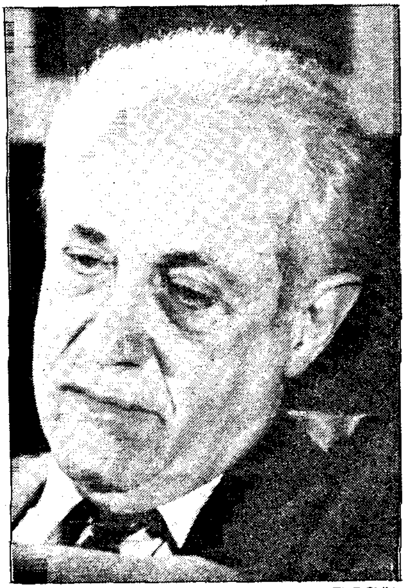
But attorneys for the Mandel group said that because of all the publicity that surrounded the case, the plaintiffs were aware of the alleged fraud months before the indictment.

Armed with poster-sized news articles that were published months before the indictment, Mandel defense lawyer M. Albert Figinski said that the O'Haras had repeatedly been given information about the possibility that the sale of the racetrack involved fraud.

"It's a veritable road map," he said, referring to a September 1975 article in *The Sun*.

Using an egg timer as a prop, Mr. Figinski emphasized that the issue is about "when the clock starts ticking." He said that none of the principals in the Mandel circle is expected to testify but that Mr. Corey may have to make a brief appearance to verify a signature.

Mr. Mason said that if the jury finds in favor of the O'Haras, the case will proceed to trial in the months ahead.



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MARVIN MANDEL

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IRVIN KOVENS

If the jury finds that the suit was not filed within the statute of limitations, Mr. Mason said, his clients will proceed with a $45 million legal malpractice suit that has been filed against their previous counsel, the Baltimore firm of Ober, Kaler, Grimes & Shriver.