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**HEADLINE:** Jury: Firm must pay \$521 million in damages over bad audits

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**BODY:**

A jury Tuesday ordered BDO Seidman, the nation's No. 5 accounting firm, to pay more than \$351 million in punitive damages in a negligence case, bringing BDO's potential liability in the case to roughly \$521 million, an amount the CEO said threatens its operations.

The jury had found BDO negligent for failing to find massive fraud in its audits of a financial services company backed by a Portuguese bank. The amount will be added to the same jury's award of \$170 million in compensation to the bank, Banco Espirito Santo.

In court filings, BDO Seidman had warned a loss of \$170 million could trigger massive layoffs and cause the company to lose its standing as the fifth-largest accounting firm. The jury was barred from issuing damages that could destroy a company.

In testimony Tuesday, BDO Seidman

attorney Adam Cole asked the company's CEO, Jack Weisbaum, if the firm's financial operations would stay the same if it had to pay punitive damages.

"Probably not," Weisbaum said. "It would be very difficult. We certainly wouldn't look the way we do now."

After the verdict, Weisbaum said he was confident the decision will be overturned on appeal.

The jury decided Monday that BDO Seidman must compensate the bank and provide punitive damages for failing to reveal massive fraud at the bank's former partner, E.S. Bankest LLC. The same jury found the accounting firm grossly negligent in June.

BDO Seidman will post a \$50 million bond as it appeals. This was the second trial in the dispute, with the first ending in a mistrial in March. The fraud also led to prison time for former E.S. Bankest executives.

For the fiscal year ended June 30, BDO Seidman reported revenue of \$589 million according to a news release on its Web site. Weisbaum said the company has 2,800 employees in 34 offices nationwide.

Cole showed the jury financial statements for the fiscal year 2006, which showed the firm's total equity of \$171 million. BDO Seidman argued that the punitive damages should be based on that number, but the bank contended it should be based on revenues.

BDO Seidman attorney Arturo Alvarez laid the blame on "thieves" at E.S. Bankest who defrauded the bank and said the accounting firm did not intentionally bungle the audits. He asked the jury for no punitive damages.

"We were victims too," Alvarez said. "We never knew (the fraud) was happening."

But Banco Espirito Santo attorney Steven Thomas suggested that the firm may be able to handle the punitive damages if it makes some salary cuts among its 250 highly-paid partners, whom Weisbaum said receive an average of about \$500,000 a year.

"This is not about a mailroom worker in Los Angeles losing his job," Thomas said.

E.S. Bankest was engaged in a business called "factoring," in which firms buy companies' accounts receivable for less than they are worth, then keep the difference when they collect.

During trial, Banco Espirito Santo said it partnered with Bankest Capital to form E.S. Bankest in the late 1990s in part because of faulty audits showing that Bankest Capital's income had nearly tripled from 1995 to 1996.

The bank also relied on later audits from BDO Seidman, which certified audits for E.S. Bankest accounts totaling some \$225 million, of which only \$5 million represented legitimate income, Thomas said.

"We are gratified that the jury recognized the importance of the public trust and that they violated that trust," Thomas said after the verdict.

At least seven people, including E.S. Bankest directors Eduardo and Hector Orlansky, have already been convicted or pleaded guilty to federal criminal charges related to the fraud and sentenced to prison. In criminal trials, E.S. Bankest was accused of inflating the value of the accounts it bought and presenting fake audited financial statements.

BDO Seidman is allied with BDO International, which coordinates companies with about 30,000 partners and staff and reported total fee income of \$3.91 billion in 2006, according to the firm's Web site.

Banco Espirito Santo, which was founded in Portugal in 1920, expanded to Portuguese-speaking Brazil and bought a Miami-based bank in the early 1980s.