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**HEADLINE:** Auditing firm must pay \$521M

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### **BODY:**

MIAMI -- 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 about \$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 that 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, whether 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. It 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 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 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.