

“Judgements & Asset Recovery”

with **Rodney Gagnon & Stephanie Archer** of **Recovery Analytics**

Welcome to another episode in the Distressedpro.com Professional Podcast series where we bring you actionable information from successful professionals on the frontlines of today's real estate market. [Check out our free webinar for a lesson on the distressed property business.](#) And now, here's our show...

Brecht: Welcome back everybody, this is another episode of the DistressedPro.com professional interview series, and today I'm very pleased to have two folks on here, I've got Rod Gagnon and I've got Stephanie Archer from Recovery Analytics LLC. And Recovery Analytics LLC purchases and managed the recovery of court awarded judgements. And the reason I asked them to be on here today and to talk a little bit was because I've recently has a couple of tapes come my way where there was just sort of a lot of unsecured debt on there. And then there were judgements which I didn't know what to do with, I knew that some of my clients, bank clients in the past, have been awarded judgements, but as far as what happened after that, I really had no idea.

Fortunately Rod had reached out to me through the site at DistressPro.com recently, and so I knew what they were up to over there, so when this tape came through ... now I want to do long story short, there weren't any deals in the tape, and that's too bad, but one of the reasons I want to have him on here is because while you're out there doing your prospecting, and you're finding people and you're talking to people, it's really important in my view to be able to maximize the relationship. And so if you have a relationship with the workout officer, and they have something on their desk, you should know how to make money with it. Right? And so that's why I've asked Rod and Stephanie to come on here today, because if you're out there bumping around we're gonna give you a few questions that you can ask to kind of uncover whether or not there are any judgements there, and then we're gonna help you understanding a little bit up front what that would ... what that means, and then how you can make a little bit of money off it. Right?

So with that, Rod and Stephanie, thanks for coming on.

Rodney: Thank you.

Stephanie: Thank you.

Brecht: So I mostly have one person on here at a time, so if it's alright I'll just sort of ... I'll ask you one at a time, and if you could kind of give me a breakdown on what you do. Rod, do you want to ... talk a little bit about like, how you came to Recovery Analytics, and how you got into the business, and then Stephanie if you could do the same, and then just kind of give us the 10,000 foot view of where your company is at and what you're doing, that would be great.

Rodney: Sure. My background has always been in asset recovery, but on the hands-on. When I got out of high school I started with a repossession company in New England, specifically New Hampshire, and we ended up being very successful with that, we had all the major banks in New Hampshire and we crossed the border into Vermont and Maine and northern Massachusetts, and learned a lot of hands-on of asset recovery, dealing specifically with collateral.

From there, after having kids it's tough to be out nights and weekends with kids, I moved into financial investigations, and I've basically been in that field for more than 30 years, and judgment enforcement specifically for more than 20 years. We are ... just so you know, the difference, I'm a financial investigator, not to be confused with a forensic accountant. We do a lot of work with forensic accountants, but we do the more ... transfers in real estate and all the rest of that stuff.

So I moved out to Colorado about five and a half years ago with my wife and family to work with a firm that specializes in very large cases, up to 20 million. Between 100 thousand, 200 thousand and 20 million. And we've been very, very successful, we've found millions in assets in the US and offshore, and that's ... our new firm is, we're bringing a lot of analysts that have been very successful in the past, and we're specifically focusing on the buying of these debt pools and basically working on them or ourselves.

Brecht: Okay.

Stephanie: My background, Brecht, is I actually was a banker, I was a bank officer for a privately held bank, probably the type of banks that most of the people listening to this program are out making relationships with. And I specifically was very interested in how to mitigate the bank loss.

I then went into financial investigation, 'cause it links right into mitigating loss. And I've been doing that for approximately 20 years. And I've recently joined Rod in Recovery Analytics to start purchasing our own debt to collect.

Brecht: Cool. And so you guys focus on some specific kinds of debt, right?

Stephanie: Yes, we do. We prefer to enforce commercial judgements, and it's ... it's a bonus to have personal guarantees attached to those commercial judgements, we don't typically want to get into any kind of medical debt or credit card debt. We aren't really very interested in going after people that have had, you know, medical problems and things like that. We don't want to make a bad situation worse for them.

Brecht: Yeah.

Stephanie: Normally our debtors are usually a sophisticated debtor. And they are strategic non-payers. A lot of times they'll have very large bank loans that they're maneuvering money from one company to another and strategically it just doesn't make sense to pay their loan. Oftentimes those loans will go to judgements very quickly.

Brecht: I can't tell you how many times ... 99.9% of the foreclosures I've done, all commercial stuff. And so I can't tell you how many times I'd show up at, for example, like, a construction site, or a hotel, or we're selling a portfolio at gas stations or something, and the guy, you know, typically, who's there, he's got a Range Rover, and you know ... it was a completely different scene. The debtor and where they were at and why they were, why we were in this position and all, oftentimes it was strategic default. And so it's interesting that you would say that in this case.

Now in case somebody's listening to this for the first time, they're not sure what a judgment is or how they come about or anything like that, can you give us a little bit of background on what that looks like and how these things come to be and what it means to the grantee, or the grantor, or to the recipient of the judgment?

Rodney: Right, well where we come in typically is after the loan has gone into default and the bank's tried to work it out, and the buyer's tried to work it out, then they get liquidated at REO. You know, they've stripped off that collateral, and there's a deficiency that's left over. A lot of times the banks will either walk away from that or they will actually have the law firms that they contract out, will turn it into a judgment, and they'll box those up and sell those off.

The banks don't really have the resources to go after those, and the law firms that specialize in working with the banks ... I mean, generally they'll do some real estate loans, and maybe they'll even do some garnishments, but when it comes to sophisticated fraudulent transfers and the rest of that, that's not

really their wheelhouse at all. And that's where we step in. So we're just to the right of REO, that's where we fall in on that.

So the deficiency is taken to the court, the court awards a judgment for the deficiency, and then they're ... so basically it's a deficiency with no collateral anymore. And a lot of investors are very good at working with the underlying collateral and don't really know what to do with it when that collateral's gone.

Brecht: I would be in that group. So the ... it begins with whatever kind of commercial debt, could be CNI, could just be like a business loan, could be asset based, could be real estate, but they've got a personal guarantee or some other guarantee where there's ... where the deficiency, they're gonna owe, and then the ... the lender's attorney goes and seeks the judgment, gets the judgment, now they've got these judgements. That's sort of where we're at, right? So ...

Rodney: Exactly.

Brecht: So you say they package them up and sell them? What does that look like, and what would you expect to pay on a judgment, and how is the transfer handled, and give us a little bit of background on that so we kind of understand what the mechanics of it are when we're talking to people.

Stephanie: Normally since these deficiencies have been pretty much stripped of most of the value and it's ... it's at a place where it's going to be very, very difficult to collect.

Brecht: Okay.

Stephanie: They're normally selling those judgements for one to 10 percent-

Rodney: At best.

Stephanie: At best. A lot of 'em are one to three cents on the dollar that we're seeing being sold by the banks. And they bundle those up in portfolios, and they will sell the whole portfolio at one time, a lot of 'em may be worthless. I mean when we go through a portfolio we might be throwing out half of them.

Rodney: Hm. But the bank is basically making another one to three or four sense on that pool, so it's a math game for them.

Brecht: Right.

Rodney: To pick up that extra two or three cents but pass it out and get rid of it.

Brecht: I see. So ... so when you have a judgment, it comes from a court. Does it go through an assignment process, or how does that work? In order for you to have the rights to collect on it?

Rodney: It's pretty much the same as buying a regular tape of loans or anything else. We're given the list or if we're being sold one at a time we're given an assignment.

Brecht: Yep.

Rodney: But mostly we're just given a chain of title and we have to go in and work with that. So almost identical to dealing with the regular loans. Except in most cases we're working very heavily with the courts, and the courts want to see our proof versus the recorder's office or something.

Brecht: I see.

Rodney: It's very very ... it's almost identical.

Brecht: So the money for you is really in that, you're able to use your expertise to identify assets that have been hidden and therefore not collected on for this deficiency. Am I getting that right?

Rodney: That's exactly right. We're ... we don't focus on the original collateral like the investors do in the regular pools at all. What happens is, we're free to go after anything. We can go after boats, planes, art, bank accounts, off-shore assets, so we're actually far more open. I mean, it's messy, it's like the sausage factory, you don't really want to see how messy it is to do it, and it's very much along the ... 'cause every event can take a month or two of hearings and issues. But if you play it right and you corner these assets, what we're looking for is, we're not always talking about taking things. For us it's more about setting up an environment to encourage settlement. 'cause a lot of them used to nobody really coming after them.

Brecht: Yeah.

Rodney: And we're trying to lock up enough assets to be able to say, okay, let's sit down, let's deal with a settlement like adults and just get this taken care of.

Brecht: Right. So, what's a ... I don't know if you can give us certainly don't provide any personal or identifying details, but can you give us sort of an example of what that, something you've done in the past that's, you know, what's that looked like? A particular deal?

Rodney: Well, we've done everything from ... besides regular garnishments and stuff, we've had some where ... we're had one where we were going after a court officer who was actually owed a lot of money, and every time we turned in our garnishments and stuff he would either make the paperwork disappear, or he would go down to the bank and empty out his account and then come back and sign the paperwork, so it was very frustrating. We ended up having to basically set up a house raid and empty his house out and box it all up and put it into storage. We took all his cars, he had ... this is not a person to be pitied, this person made a lot of money fraudulently, but we were talking Rolls Royce that we took, Mercedes Benz, some Jags ... we locked up three properties in one state, and three properties in another state. We took ownership, we didn't record them, and really all it was was about setting it up so we could sit down and settle with him. And he did, we settled for a little over a million dollars with that one. And he said we were the only people that have ever been able to get a settlement out of him.

Brecht: That's pretty good compliment, I guess.

Rodney: Yeah.

Brecht: Coming from the debtor. So, I guess maybe what we should talk about, because it sounds like there could be really an infinite number of possibilities in terms of how the deficiency came to be, right, and how the judgment came to be.

Rodney: Right.

Brecht: But, let's maybe then transition to, if I'm calling on banks that I ... have relationships with banks, which ... who ... and now let's presume that I'm talking with the right sized banks, community and regional lenders and the like, who would I ask for, you know, if I'm talking to my ... I've got somebody in the REO department and I say, "Hey, by the way, can I talk to ... who in your what department should I talk to about judgements? 'cause I've got a guy who's been buying these and doing ..." I like to say things like, "Pays top dollar," even if it's not true, but was he paying top dollar for things like this, who would I talk to? What department would I expect to find someone who's in charge of the judgements or collecting on judgements, or ... what happens inside a bank with these?

Stephanie: Most likely you'll find, depending on the size of the bank, it'll be the commercial vending side, or the special assets.

Brecht: So my workout officers, most of my work was done with, we called them commercial workout officers. And so it would be them, they would do this.

Stephanie: They would have knowledge of this.

Brecht: And what are some of the things you would say to them to sort of dig into that conversation a little bit and ... and get things kind of warmed up?

Stephanie: I think as a very basic question, you could simply ask if you have any commercial judgements.

Brecht: Mm-hmm (affirmative) okay.

Rodney: They all have the same problem, where they don't know what to do with them, their law firms will beat them up a little bit, and get a shot of that, but generally beyond that it's the problem of the area is their greatest weakness.

Brecht: And so if they say, yeah, but you know, we're not ... it's worthless at this point, what are some of the things that they might throw up as ... where they might not have the full picture, or they might just sort of ... you know, the brush-off type of things that you might get, where we could dig a little bit deeper to find out what's going on in there. Is there anything like that that you can help us with?

Rodney: Well, one of the other questions i could ask is, sometimes we'll have pools that are performing. Some of the judgements, they actually have payment plans. Those are actually worth more money.

Brecht: Okay.

Rodney: So the question is, is it performing, is it non-performing, is it a mix, because then we'll have to go in there and come up and say, "Look, if we could take a look at that tape, we could come back with more accurate number of what we can do with that." I mean, we do have situations where we will work with the bank as kind of a JV, where they don't have to sell it, they can make more money by holding onto it and letting us work with them as kind of a research arm. But I think in the end, most banks would just rather divest themselves of it to bring their numbers down. Or up, depending on which way you're looking at it.

Brecht: Right. And so, so my next question is, we're making these calls, we don't know much about judgements but now we know enough to ask about them, right, and we find out that they have some ... what's the process look like after that? Do you offer referral fees, or how can I make a buck on this?

Stephanie: Sure, absolutely. If there's folks out there that have relationship set up, and they can ask for these commercial judgements, we normally would pay at least a point on the balance.

Rodney: Minimum. Right?

Brecht: Okay. On the balance of the judgment.

Stephanie: Sure.

Rodney: And we do look at these differently than when somebody else is looking and we know there's been some excellent advice on how to analyze tape. And they should know that we actually, we do have to look at the tape, we have to be able to tell ... we look at it totally different, we have a different lens we look at it, we're looking at it ... we're not looking at the property itself, leans on the property, trying to build out some

sort of equity, we're looking at who the bearers of personal guarantors are, if they're high balance- we prefer high balance commercial, because their odds are much better. The smaller the get- there's a lot of work in them whether they're small or large.

Brecht: Right.

Rodney: We want to know ... we're looking at the statute of limitations, we have to look at that very carefully, because that tape you showed me before, those investors had waited too long and let the majority of it go out of statute. Which is fine I guess for collections, they can still make the calls and stuff, but doesn't help me at all, I have no power to go in and take anything.

Brecht: I see.

Rodney: And we're looking at the state. Different states have different advantages. Texas, even though Texas is 100% homestead, Florida has 100% homestead, we can still do a lot of work there anyways. We're not really afraid of all of that. It makes it harder to get the real estate, obviously. But there's other tactics and strategies we can use to get that. So we have to look at that tape through our own lens of recovery, which is completely different than looking at one of default and loan tape. To come up with our evolution on it. And then we also have to look at what firms we have to work with, and how long it's gonna take. Like I said, this is a long game for us, we are not looking at a year. If anything is under a year, that's incredibly short for us. It generally takes anywhere between 12, 24, 36 months to get them in a position for that settlement. For what we do.

Brecht: It really doesn't sound like the kind of game that somebody can sort of wade into and ... and figure out without having, you know, some significant background and resources. Would you say that's right?

Stephanie: Yes, that's correct. You know, Rod and I both have been doing this over 20 years, and you know, we feel like we're kind of in the knowledge base now that we can kind of strike out and do these things.

Brecht: Right. And so, but the point that you pay is pretty exciting, I think I'd like to go back to that for just a minute, because one of the things that I really try to encourage folks to do, when they're talking with their lenders, is to really go deep on the relationship. Because if you can do that, you can be a problem solver, for the workout officer, the special assets officer, the you know, whatever the title's gonna be, depending on the bank.

If you can really be there, and be of service to them all the time, then they're gonna call you when they have all kinds of things. And I would like to be called when there's a judgment that I know that I can be paid a point on. Give me some idea if you could of what that would look like, like, what's a typical judgment size that you guys would be interested in, just so we can do the math and put some dollars around the idea there.

Rodney: Sure. Well the average tape we like to look at ideally, if it's somewhere between 50 and 100 million, we would prefer that. 100 million would be perfect. But larger balances and smaller number of cases, we actually do the opposite of what a lot of other buyers do when they're looking for a large number, lower average balance, so they can work the odds.

For us we have to work larger balance, fewer cases, because there's so much work that has to go into each one of them, for us if we have 50, 100 cases, that will take care of us for a while. For us to work through. This is not a high speed process, it's very labor intensive. So it's commercial- now, that doesn't necessarily mean that we won't look at non-commercial, if we have somebody that has over a million dollars on a judgment we can work with those. And we have other judgment forces we can refer them to if it depends on the state and the amount, we're just trying to be very careful with commercial, we don't have to deal with collection agency laws in the 50 different states, so it's much easier for us to do commercial.

So we're looking, you know, 200 thousand to a million for the case size, 50 to 100 million for the pool would be ideal. But each situation is unique. Like Stephanie said before, we're not looking at a pool of judgements against people for deficiencies, or people who have had financial hardship. We're not looking at beating up those people. That's why we like commercial guarantors. They generally have the assets, they're just so used to being lightly handled that they play the settlement game.

Brecht: Yeah.

Rodney: Those are, those are the perfect people for us to go back and say, "Let's make a more realistic settlement here that's fair for everybody."

Brecht: So, am I doing the math right here, that if somebody brings you 50 million dollar tape, and you take that tape, that they can make a half a million dollars?

Rodney: Oh, maybe we got the definition of point wrong. We're talking like 50,000.

Brecht: Okay. So not what ... you're talking about a basis point, or you're talking about ...

Rodney: Yes.

Brecht: Okay, basis point. Okay. So alright. I'm glad we cleared that up, because there's a difference, right? So still, 50,000's pretty good.

Rodney: For us, because in our case we're investing 100 million dollar pull, we're investing anywhere between one, two, three million dollars in that pool. And it's okay for us to pay a little bit better if we can because there's not a lot of great pools out there, they're not like the consumer side has huge buy. Commercial side judgements of the stuff that's good, there are a lot fewer. So we want to make it worth their while.

Brecht: Now it would have to be, I mean, the bank would have to have some amount of size to have these kind of tapes. Or is it a cumulative type of a thing, that happens over a number of years?

Stephanie: It's absolutely cumulative. You know, there's many banks that have ... they might even have just 10 or 12 judgements, that don't meet that ... you know, benchmark that 200 million or a million. But yeah, cumulative, absolutely.

Brecht: Okay. So, I'm glad I asked that.

Rodney: I am too.

Brecht: You know, it's funny, because when you're talking with strictly like, mortgage people, we're talking basis points, right. And then everybody else is like points off in a percent.

Stephanie: Sure.

Brecht: So I'm glad that we cleared that up, because that would be a huge bounty.

Okay. So ...

Stephanie: We'd get lots of calls though.

Brecht: Yeah, you would get a lot of calls. So, you would still be able to find pools like this at some of the smaller banks, right, 'cause when start talking about 50 and 100 million dollars, that has me thinking that we're

really having to move upstream in the banks. But if you're saying it's cumulative, than we could still see some of the stuff, the types of banks that we're talking about contacting.

Stephanie: Sure. And a lot of the small independent banks will, you know, to do a commercial loan of incredible size, they're gonna have participant banks, and those are acceptable to us too.

Rodney: We can buy one judgment- in fact we do a lot of that now. It just saves us a lot of time to be able to pick up a pool versus having to do the research on one at a time.

Brecht: We, in New England we call those "club deals" a lot of times, when they had participants like that. And then ... it really made getting through the foreclosure and deciding on release prices and stuff like that really very difficult. Because you know, you'd have squeaky junior players in there, you know, smaller banks and what not, but it sounds like in this situation, they've already been through all of that, they're at the end of the line, and they'd just like to get whatever they can at this point. Is that right?

Stephanie: That pretty much sums it up. They really ... especially the participant loans, they really need to get those off their books.

Brecht: Yeah, right. So, well that's ... this is great information, I really appreciate you guys coming on here, and I know who I'm gonna call when I have some of these things come up again. Maybe we could talk about ... is there anything else that you feel like folks oughta know?

Actually, stream of consciousness I'm going here, but it just occurred to me, would it make sense for ... and I haven't done this before, but would it make sense to look at banks with significant charge-offs in their commercial construction and CNI loan pools? Would that make sense for potential deficiencies and judgements?

Stephanie: I think that would make a lot of sense, Brecht.

Brecht: Yeah. In the past, you know, I've really used these as indicators for you know, how they're preparing their portfolios, right, so you charge ... you take some charge-offs in order to get your portfolio to a place where you can sell some of the things in there. But in this case, especially in CNI, that really makes a lot of sense. So I think what I would do, if I were gonna go out there and look for some judgements, I'd go into bank prospector and I'd pull up some banks and I'd do a sort by, or go into advanced search, and I'd look for CNI charge-offs over a certain amount. And probably look back through their you know, year or two history, and see, is this a thing where the bank is charged off millions of dollars of the last couple of years, well, that's probably sitting in a file somewhere, right? 'cause they're not gonna just let it go, right?

Stephanie: Absolutely, that's exactly it.

Rodney: There are some things that have the philosophy- the banks tend to have one of two philosophies. One is, once they've taken the collateral, if there's a deficiency and it's not worth it, they just walk away from it. It's a regular part of how they do their business, and there are some banks that will have the contract with their law firms, convert that into a judgment. So I guess reminding the banks that look, you can still pick up a little bit more here, there's some loose change that's left there that you shouldn't walk away from.

Brecht: Yeah. One of the things I always encourage people to do is to, if they're serious about this business, is to get out there and you know, network and be in the mix, and that includes going to things like, I don't know if you guys belong to this but things like ABI, the American Bankruptcy Institute, or TMA, the Turnaround Management Association, and oftentimes you'll find there are regional banking associations, New England has one, Massachusetts has one, Connecticut has one, and so now this is one more thing, when you go to these things and you're talking to the workout officers, the special asset officers, or you're talking to the attorneys for the banks, to mention. To say, you know, "I know somebody who can be very effective with

commercial judgements. Do any of the lenders you're working with," if you're talking to an attorney, "have those?" Or you know, "What are you guys doing about those?" And just kind of open up the conversation to see where it goes.

And what you don't want to do is you don't want to get into a spot where you're having to kind of back-pedal or make things up, right, so you just confess that you don't know, but you know the guy who does. So you just say, "Yeah, I don't know a lot about it, but I know some folks who do, and they're Stephanie and Rod." And then you make the referral, right. So you don't ... it doesn't have to be a very complicated process.

Stephanie: Oh, exactly. The simpler the better.

Brecht: Yeah. Well this has been really informative for me, is there anything we want to leave them with, or anything else that you feel like the audience should know? And in a minute here we're gonna give them all your contact info, we'll make sure that this is ... I will make sure that we've got you in the registry of investors, we'll make sure that we've got your contact info on a downloadable transcript of this available for folks so they can contact you, but outside of that stuff, is there anything else that we want to make sure that they know?

Rodney: Part of ... the main thing I think I'd like to leave with everybody is that a lot of these situations are very creative, especially the high number amount ones, so we are available to just consult and talk with, on the cases, they don't have to feel there's any obligation to be able to brainstorm. The situation has to fit with what the client has, and not all are bread and butter, ABC, one two three, some of them are going to take a creative solution. So we're open for any discussion.

Brecht: Awesome. Well, Rod, Stephanie, thank you so much for coming on here and talking with us today, I'm gonna drop a few bits of info here just in case you're listening in your car or whatever, but, it's, their site will be up by the time you hear this, it's recoveryanalytics.net, and you can call them at 720-598-5812. And you can email them at rod@recoveryanalytics.net or stephanie@recoveryanalytics.net. And I would love to hear about when you put together a deal from one of our listeners, it would be awesome to know about that.

Stephanie: Thank you Brecht!

Rodney: Yeah, thank you.

Brecht: Well thank you very much for coming on, this was informative for me even with all of the commercial and construction and all the other ... foreclosure and recovery work that I've done, I'm pretty clueless on judgements up until the last 30 minutes. So I really really appreciate it and I hope that we see some business come your way.

Rodney: We do too.

Brecht: Alright.

Stephanie: Thank you.

Brecht: Thank again.

Rodney: Alright, thank you.