IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT BETHEL

FILED IN THE TRIAL COURTS
STATE OF ALASKA
BETHEL SERVICE AREA
SEP 2 2 2020
By_____
DEPUTY CLERK

PAKLOOK AIR INC., DBA YUTE COMMUTER SERVICE and RIVERSIDE APARTMENTS, LLC

Plaintiffs,

V.

NATHAN J. MCCABE, CHRISTINA SMITH, and JOSE LOZANO MEJIA

Defendants.

CASE NO.: 4BE-20-294 CI

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COMPLAINT

Plaintiffs, Paklook Air Inc., dba Yute Commuter Service and Riverside Apartments, LLC, by and through undersigned counsel, complains as follows:

1. Plaintiff, Paklook Air, Inc., dba Yute Commuter Service (Yute), is an Alaska corporation and is in all ways qualified to bring this action.

2. Plaintiff, Riverside Apartments, LLC (Riverside), is an Alaska limited liability company owned by Michael Wade Renfro and Jacqueline Renfro, and is in all ways qualified to bring this action.

3. Defendant, Nathan J. McCabe (McCabe), is an Alaska resident.

4. Defendant, Christina Smith (Smith) is married to McCabe as of July 25, 2020, and is a resident of Alaska.

5. Defendant, Jose Lozano Mejia (Mejia) is an Alaska resident and the maternal cousin of McCabe.

FACTUAL ALLEGATIONS

1. On February 7, 2019, McCabe was hired as an Assistant Business Manager for Yute. As of November, 2019, McCabe became the Business Manager for Yute.

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2. As part of McCabe's responsibilities, McCabe controlled access and use of Yute's corporate credit card, bank accounts, cash management, bank deposits, ATM management and payroll.

3. McCabe had check writing authority and bank access (including wire and bank transfers) for all Yute bank accounts.

4. McCabe had check writing authority and bank access (including wire and bank transfers) for all Riverside bank accounts.

5. Throughout his employment, McCabe, without approval or permission, appropriated for his own use company funds, embezzled, converted, stole and utilized his position to defraud Plaintiffs.

6. By utilizing Yute's credit card, McCabe made unauthorized business purchases for personal travel, personal expenses, airfare, and gifts for himself, family and friends.

7. McCabe utilized Yute's bank accounts to make unauthorized salary increases, bonus and reimbursement pay, and payment of personal expenses and non-business purchases. Such unauthorized payments included:

(a) salary increases and bonuses to McCabe;

(b) payroll reimbursements to McCabe without any supporting documentation or authorization;

(c) payments and reimbursements to contractors and employees; and

(d) wire transfer of company funds to purchase two motorbikes from Ride Motorsports for McCabe's personal use.

8. McCabe utilized Riverside's bank accounts to make unauthorized business purchases, reimbursements, payments to contractors and payment of personal expenses including payment of McCabe's personal rent.

9. McCabe, in his role was responsible for managing the cash received and depositing it in the company bank accounts. McCabe utilized cash deposits for unauthorized purposes for his own use and benefit.

10. McCabe wrongfully and improperly converted funds of Plaintiffs for his own use.

11. Because of that wrongful conversion, Plaintiffs are entitled to damages against McCabe in an amount to be proven at trial.

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12. As Yute's business manager, McCabe had the responsibility to fulfill his duties in an honest and ethical manner and carry out his duties by conforming to all applicable laws and company policies.

13. McCabe's actions in using Yute's funds to pay his personal expenses was in direct violation of Yute's policies, dishonest, unethical, and a breach of his fiduciary duty as business manager and employee of Yute, all to Yute's damages to be proven at trial.

14. As a result of McCabe's conduct, Plaintiffs have been injured and suffered damages in an amount in excess of $100,000, the exact amount to be determined at trial. This amount is subject to ongoing investigation and may be increased based upon future investigation.

15. Smith has received money transferred from McCabe and has received for her personal use: airfare, airfare for family members, food, household items, gifts, and personal trips. These benefits were part of the wrongdoing by McCabe, were known by Smith to be a part of McCabe's scheme to embezzle and defraud Plaintiffs, and part of a conspiracy to defraud Plaintiffs and place assets beyond the reach of Plaintiffs, all to Plaintiffs' damages to be proven at trial.

16. Mejia has been hired at inflated compensation rates and received for his personal use: airfare and gifts. These benefits and excess compensation were part of the wrongdoing by McCabe, were known by Mejia to be a part of McCabe's scheme to embezzle and defraud Plaintiffs, and part of a conspiracy to defraud Plaintiffs, and place assets beyond the reach of Plaintiffs, all to Plaintiffs' damages to be proven at trial.

17. The Defendants are part of a civil conspiracy to defraud the Plaintiffs, part of fraudulent conveyances to put assets beyond the reach of the Court and Plaintiffs. A constructive trust should be placed on the assets of the Defendants to prevent further transfers of assets. The Defendants should be enjoined by an injunction from the transfer of assets pending the trial of these issues.

18. The actions of McCabe were deliberate, outrageous, intentional, and a reckless indifference to the interests of Plaintiffs, with the intention to harm Plaintiffs for which punitive damages should be awarded against McCabe.

WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

1. For judgment against McCabe in excess of $100,000, the exact amount to be determined at trial, in addition to an award of punitive damages in an amount to be proven at trial, pursuant to AS 09.17.020;
2. For judgment against Smith in an amount to be proven at trial;
3. For judgment against Mejia in an amount to be proven at trial;
4. For a constructive trust to be placed of the assets of McCabe and Smith;
5. For an injunction to prevent McCabe and Smith from transferring any property or assets pending the trial of this case;
6. Prejudgment interest on the total amount of Plaintiffs' damages;
7. Interest on the Plaintiffs' judgment from the date of its entry until its full satisfaction, pursuant to AS 09.30.070;
8. An award of the costs of this suit, including reasonable attorneys' fees, pursuant to Alaska Rule of Civil Procedure 82 or any other applicable rule or statute; and
9. For such other and further relief as this court deems just and proper.

DATED at Bethel, Alaska this 22nd day of September, 2020.

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