

STATE OF SOUTH CAROLINA)
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 COUNTY OF PICKENS)
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 Palmetto State Enterprises, LLC,)
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)
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 Plaintiff,)
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 vs.)
)
)
 Clegg Lamar Greene a/k/a Lamar)
 Greene, Juleene Greene a/k/a Julie)
 Greene, J & P Enterprises of the)
 Carolinas, Inc., and Gaston)
 Engineering, Inc.,)
)
)
 Defendants.)
)
 _____)

IN THE COURT OF COMMON PLEAS

Case No. 2008-CP-39-56

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 CLERK OF COURT
 PICKENS COUNTY
 SOUTH CAROLINA

**ORDER OF JUDGMENT AGAINST
 CLEGG LAMAR GREENE, JULEENE
 GREENE, AND J & P ENTERPRISES
 OF THE CAROLINAS, INC.**

Pursuant to Rule 53, SCRCPP, the above-entitled matter was referred to the undersigned to make appropriate findings of facts and conclusions of law with authority to enter a final judgment. Any appeal from this Order is to the Court of Appeals.

Pursuant to the said Order of Reference, a hearing was held on May 9 and May 10, 2013, attended by Michael L. Brown (“Mike Brown”), an authorized representative of Plaintiff Palmetto State Enterprises, LLC (“Palmetto State”); Plaintiff’s attorneys David R. Price, Jr. and Raymond T. Wooten; defendant Juleene Greene (“Julie Greene”); Jeffrey Greene (“Jeff Greene”), an authorized representative of defendant J & P Enterprises of the Carolinas, Inc. (“J & P Enterprises”); Scott F. Talley, attorney for defendants Juleene Greene and J & P Enterprises; and Daniel E. Hunt, as Personal Representative of the Estate of Clegg Lamar Greene a/k/a Lamar Greene.

At the hearing, testimony was taken from Mike Brown, Jeff Greene and Julie Greene. The Court also reviewed deposition testimony from Ronald West; Brenda Pressley, CPA; Dwight Morgan; and Lamar Greene. At the conclusion of the hearing, the Court issued its ruling from the bench based on the testimony and evidence, including multiple specific findings of fact that are part of the record of the hearing. Based on those findings of fact, this Court finds, conclude, and order as follows:

1. This Court finds that, as member-manager of Palmetto State, Lamar Greene had a duty to keep good records of financial dealings.
2. This Court finds that Lamar Greene did not keep sufficient records, including no corporate minutes, invoices, receipts, or other documentation that would allow determination whether expenditures were company business or personal in nature, whether expenditures were necessary or gratuitous, or whether expenditures were authorized by the other members of the LLC.
3. Lamar Greene is deceased, however, this Court reviewed and carefully considered his deposition testimony given in this matter prior to his death. This Court finds that Lamar Greene has significant credibility issues because of his poor to non-existent record keeping and the appearance of significant self-dealing. It is obvious to the Court, and Lamar Greene admitted in his deposition, that multiple expenditures of Palmetto State funds were personal in nature, including expenditures for plastic surgery and furniture for his personal residences. In addition, I find that Mr. Greene had a clear intention to misrepresent the use of certain expenditures in the records that were kept, including, but not limited to, his purchases from Tom James clothier and the construction loan proceeds paid pursuant to invoices from "Gaston Engineering."



4. This Court further finds that Lamar Greene failed to report any income from Palmetto States on his personal income tax returns during the years in question, despite admissions that multiple expenditures were personal in nature. I also find Lamar Greene failed to report any income from Palmetto States on tax returns for J & P Enterprises during the years in question, despite evidence that the funds paid to J & P Enterprises were never repaid to Palmetto States.

5. This Court also finds that Mike Brown is the living person in the best position to identify financial dealings or expenditures of Palmetto State funds by Lamar Greene that were not legitimate company business or otherwise authorized by the other members of the LLC. Mr. Brown has clearly spent significant time investigating the matter, and this Court finds that he has sufficient knowledge of company business to identify unauthorized expenditures, both by virtue of his service as manager of the LLC after discovery of the financial irregularities in or about September 2007, as well as by virtue of his work with Palmetto State prior to becoming manager.

6. This Court finds that to recover in an action for conversion, the plaintiff must prove the following elements:

- (1) an interest by the plaintiff in the thing converted;
- (2) the defendant converted the property to his own use; and
- (3) the use was without the plaintiff's permission.

7. Despite this Court's findings regarding the relative credibility of the testimony of Mr. Brown to that of Lamar Greene, this Court is required to recognize that Plaintiff carries the burden of proof in this matter.

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8. In support of its allegations of conversion by Lamar Greene and/or J&P Enterprises, Plaintiff presented the following exhibits, consisting of spreadsheet summaries and supporting documentation for each charge:

- a. Plaintiff's Exhibit 1: Summary of First Citizens Unallowable Charges;
- b. Plaintiff's Exhibit 2: Summary of Regions Account Unallowable Charges;
- c. Plaintiff's Exhibit 3: Summary of NBSC Unallowable Charges;
- d. Plaintiff's Exhibit 4: Summary of Greenville First Bank Payments ;
- e. Plaintiff's Exhibit 5: Summary of Lamar Greene's Salary History;
- f. Plaintiff's Exhibit 6: Summary of Undocumented/ No Receipt Cash Withdrawals from First Citizens; and
- g. Plaintiff's Exhibit 7: Summary of Gaston Engineering Change Orders, with Invoices, Orders and Checks attached.

9. Although this Court finds that Plaintiff has proven by preponderance of the evidence that funds were converted by Lamar Greene, J & P Enterprises, and Julie Greene, this Court does not find that Plaintiff has carried its burden to prove by preponderance of the evidence that all of the charges presented by Plaintiff constituted conversion.

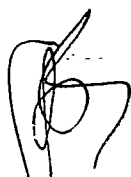
10. In making its ruling, this Court considered each of the above-referenced spreadsheet summaries and supporting documentation, together with the testimony regarding same. At the conclusion of the hearing, this Court addressed each exhibit item-by-item, and made a ruling as to which expenditures this Court found constituted wrongful conversion, and which expenditures to which Plaintiff failed to meet its burden of proof.

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11. The Court has attached hereto revised spreadsheets marked Exhibits A-G, which are incorporated herein by reference. Those charges for which Plaintiff has failed to meet its burden of proof as to conversion are struck through on the attached exhibits and are not included on the total calculation of damages shown on each exhibit. Those charges for which this Court finds that only Lamar Green is liable for converting are highlighted in yellow. Those charges for which the Court finds that both Lamar Greene and J & P Enterprises are liable for converting are highlighted in green. And those charges for which the Court finds that Julie Greene shares liability for converting are highlighted in blue.

12. This Court finds that Plaintiff has proven by preponderance of the evidence that Lamar Greene converted \$804,821.10 of Palmetto State funds from 2005 to 2007. Of that total, I find that \$648,762.48 was converted for the personal benefit of Lamar Greene; that Julie Green participated with Lamar Greene and is liable for converting \$1,285.97 for her own benefit; and that \$154,772.65 was converted by Lamar Greene through his capacity as officer of J & P Enterprises of the Carolinas, Inc., for the benefit of J & P Enterprises. These calculations are shown on Exhibit H attached hereto and incorporated herein by reference.

13. This Court also finds that Plaintiff has met its burden of proof in proving each element of conversion as to Lamar Greene for the entire \$804,821.10 of Palmetto State funds that were converted. I find that Palmetto State had an interest in the funds that were converted; that Lamar Greene used the funds for non-business related reasons without the permission of the other members of the LLC; and that he converted the property to his own use, either for personal use or for use by the corporation for which he



was president and majority shareholder. I therefore find that Lamar Greene is jointly and severally liable for the entire amount converted.

14. This Court recognizes that one of the required elements of conversion is that the defendant has converted the property to its own use. This Court finds that Plaintiff has not met its burden of proof that J & P Enterprises benefitted from the \$684,040.16 converted by Lamar Greene solely for his personal benefit. Accordingly, I decline to hold J & P Enterprises jointly and severally liable for that amount.

15. This Court therefore awards judgment in favor of Plaintiff against J & P Enterprises and Lamar Greene, jointly and severally, in the amount of \$154,772.65 in actual damages.

16. Although Plaintiff presented evidence that Julie Greene participated in Lamar Greene's conversion of funds, and that she benefitted from same as the wife of Lamar Greene and employee of J & P Enterprises, this Court finds that the vast majority of acts undertaken by Julie Greene which Plaintiff argues furthered the conversion were actually performed by Ms. Greene in her capacity as an employee/bookkeeper of J & P Enterprises and at the direction of Lamar Greene, and/or that Julie Greene did not directly benefit from most of the funds converted.

17. This Court does find that Julie Greene knowingly converted \$2,571.93 of Palmetto States funds paid to Clyde Turney Builders for work performed on her personal home, because she was aware of the source of the funds, participated in drafting the check, and directly benefitted from the conversion, and I therefore find that she should be liable for one-half (1/2) this amount totaling \$1,285.97. However, I find that Plaintiff has



failed to meet its burden of proof as to the balance of funds allegedly converted by Ms. Greene.

18. This Court therefore awards judgment in favor of Plaintiff against Julie Greene and Lamar Greene, jointly and severally, in the amount of \$1,285.97 actual damages, which is one-half (1/2) of the \$2,571.93 that she participated in converting.

19. This Court awards additional judgment in favor of Plaintiff against Lamar Greene, solely, in the amount of \$648,762.48 actual damages.

20. Plaintiff seeks pre-judgment interest on the funds converted. I find that the damages awarded Plaintiff do not meet the statutory requirement and the criteria under the case law to qualify as a sum certain entitling Plaintiff to pre-judgment interest.¹

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Palmetto State Enterprises, Inc., is entitled to judgment against defendant J & P Enterprises of the Carolinas, Inc., and/or Clegg Lamar Greene a/k/a Lamar Greene, jointly and severally, in the amount of \$154,772.65 in damages, together with post-judgment interest at the rate of 7.25% compounded annually from the date of entry of Plaintiff's judgment until paid in full.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Palmetto State Enterprises, Inc., is entitled to judgment against defendant Juleene Greene, a/k/a Julie Greene, and/or Clegg Lamar Greene a/k/a Lamar Greene, jointly and severally, in the amount of \$1,285.97 in damages, together with post-judgment interest at

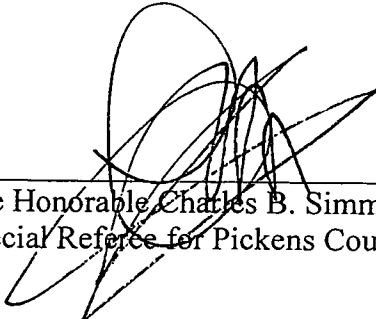
¹ Defendants further argue that Plaintiff's demand was not specifically pled. Because the this Court finds that Plaintiff is not entitled to pre-judgment interest on other grounds, this Court declines to issue a ruling on that issue.



the rate of 7.25% compounded annually from the date of entry of Plaintiff's judgment until paid in full.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Palmetto State Enterprises, Inc., is entitled to judgment against defendant Clegg Lamar Greene a/k/a Lamar Greene, solely, in the amount of \$684,040.16 in damages, together with post-judgment interest at the rate of 7.25% compounded annually from the date of entry of Plaintiff's judgment until paid in full. J & P Enterprises and Julie Greene are not jointly and severally liable for this portion of the judgment.

IT IS SO ORDERED this _____ day of _____, 2013.



The Honorable Charles B. Simmons, Jr.
Special Referee for Pickens County

Pickens, South Carolina
Date: 8/28/13

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

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