THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE BERKELEY COUNTY
COURT OF COMMON PLEAS

The Honorable Jennifer McCoy, Circuit Court Judge

Appellate Case No.: 2024-002032
Case No.: 2021-CP-08-00087

AKPA Chemicals US, Inc.……Appellant,

v.

Tunc Eren ……...……..…… Respondent.

FINAL BRIEF OF APPELLANT

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STATEMENT OF THE CASE

Appellant AKPA Chemicals U.S., Inc. ("AKPA") appeals the October 29, 2024, order of the Berkeley County Court of Common Pleas (the "Circuit Court") granting judgment for Respondent Tunc Eren on all of AKPA's claims.

This matter was tried without a jury before the Honorable Jennifer B. McCoy on October 17, 2024 (R. pp. 7-28). AKPA's complaint asserted ten causes of action—including breach of contract, breach of contract accompanied by fraud, conversion, unjust enrichment/quantum meruit, negligent misrepresentation, constructive fraud, and related claims for punitive damages—arising from Eren's alleged misuse of company funds and retention of AKPA property (R. pp. 772-814). Eren filed an answer denying liability and asserted a counterclaim for unpaid wages (R. p. 751).

After hearing testimony from multiple witnesses and receiving numerous exhibits (see, e.g., Trial Tr. R. pp. 29-354; admitted exhibits listed at R. pp. 8-10, 158-279, 280-354, 355-429, 430-538), the Circuit Court entered a written verdict on October 29, 2024, finding that AKPA "failed to meet the burden of proof on any claims by a preponderance of the evidence," and entering judgment for Eren on all ten causes of action (R. pp. 5-6). The court likewise found in AKPA's favor on Eren's wage-claim counterclaim, concluding that Eren "failed to meet his burden of proof as to the requisite elements" (R. pp. 5-6).

AKPA served and filed a timely notice of appeal to this Court on November 20, 2024 (R. p. 1).

STANDARD OF REVIEW

This case was heard by the Circuit Court Judge at a bench trial without a jury. However, Appellant alleged various causes of action, which have different standards of review.

"When legal and equitable actions are maintained in one suit, each retains its own identity as legal or equitable for purposes of the applicable standard of review on appeal." Corley v. Ott, 326 S.C. 89, 92 n.1, 485 S.E.2d 97, 99 n.1 (1997); See also Consignment Sales, LLC v. Tucker Oil Co., 391 S.C. 266, 270, 705 S.E.2d 73, 75 (Ct. App. 2010).

Appellant's Complaint contained a cause of action for "Quantum Meruit/Unjust Enrichment". See p. 7-8 of the Complaint. "A proceeding in quantum meruit is equitable." See Columbia Wholesale Co., 312 S.C. at n.1, 262; QHG of Lake City, Inc., 360 S.C. at 202 (applying an equitable standard of review to an action in quantum meruit).

"In an action at equity, tried by a judge alone, an appellate court may find facts in accordance with its own view of the preponderance of the evidence." Inlet Harbour, 377 S.C. at 91. "We review factual findings and legal conclusions in an equitable action de novo." Lewis v. Lewis, 392 S.C. 381, 388–89, 709 S.E.2d 650, 653–54 (2011). "However, we are not required to disregard the findings of the trial judge who saw and heard the witnesses and was in a better position to judge their credibility." Straight v. Goss, 383 S.C. 180, 192, 678 S.E.2d 443, 449 (Ct. App. 2009). "Moreover, the appellant is not relieved of his burden of convincing the appellate court the trial judge committed error in his findings." Pinckney, 344 S.C. at 387–88. "[W]hen an appellate court chooses to find facts in accordance with its own view of the evidence, the court must state distinctly its findings of fact and the reason for its decision." Dearybury v. Dearybury, 351 S.C. 278, 283, 569 S.E.2d 367, 369 (2002).

"An action for breach of contract seeking money damages is an action at law." Eldeco, Inc., 372 S.C. at 476; See also Electro-Lab of Aiken, Inc., 357 S.C. at 367. "An action for conversion is an action at law." Blackwell, 289 S.C. at 471. "On appeal of an action at law tried without a jury, the findings of fact of the trial court will not be disturbed unless found to be without evidence which reasonably supports the trial court's findings." Townes Associates, Ltd., 266 S.C. at 86. "Stated another way, the trial court's findings of fact will not be disturbed on appeal unless wholly unsupported by the evidence or unless it clearly appears the findings were influenced or controlled by an error of law." Butler Contracting, Inc., 369 S.C. at 127. "In such a case, the trial court's findings are equivalent to a jury's findings in a law action." Id. "Of course, we review de novo the trial court's legal conclusions in an action at law." Temple, 381 S.C. at 599–600. However, "[Q]uestions concerning credibility and the weight to be accorded evidence are exclusively for the trial court." Ward, 379 S.C. at 238.

STATEMENT OF FACTS

Appellant AKPA Chemicals U.S., Inc. ("AKPA") manufactures and supplies chemical products (R. p. 355, Darcan Dep. 6:7-15).

Respondent's Employment

On or about February 26, 2018, Respondent Tunc Eren began working for an AKPA-affiliated company in Turkey (R. p. 355, Darcan Dep. 7:4-9). In March–April 2019, AKPA offered Eren a position in South Carolina and paid his relocation expenses from Turkey to Berkeley County (R. pp. 355-356, Darcan Dep. 8:3-9:18).

On or about May 1, 2019, AKPA and Eren executed a written employment contract employing him as General Manager of AKPA's South Carolina facility (R. p. 519, Ex. 1). Eren was AKPA's highest-ranking South Carolina employee and had authority over day-to-day operations (R. p. 355, Darcan Dep. 11:6-14).

To facilitate his duties, AKPA provided Eren with:

1. Laptop computer containing proprietary and confidential business data (R. p. 204, Ex. P-9; R. p. 208, Ex. P-10).
2. Cellular telephone for company use (R. p. 208, Ex. P-10).
3. Apartment: AKPA paid the security deposit of $2,239.08 and all monthly rent (R. pp. 158-164, Ex. P-1; R. p. 165, Ex. P-2).
4. Motor vehicle: AKPA made a $5,000 down payment and all monthly payments of $465.65, and paid the insurance (R. pp. 167, 266-268, Exs. P-4 & D-13). Without AKPA's knowledge, Eren titled the vehicle solely in his name (R. p. 266, Ex. D-13).

End of Employment and Unauthorized Transactions

On February 12, 2020, AKPA notified Eren it would not renew his contract beyond May 1, 2020 (R. p. 536, Ex. 4). On March 9, 2020, Eren withdrew $21,042.57 from AKPA's bank account without authorization (R. pp. 165-166, Ex. P-2 & P-3). The next day, March 10, 2020, he resigned (R. p. 536, Ex. 4).

After resigning, Eren made an additional unauthorized payment of $10,730.61 from AKPA's account to pay off the vehicle and retained the vehicle (R. pp. 165-167, Exs. P-2 to P-4). He also kept the apartment security deposit (R. p. 158, Ex. P-1) and failed to return the laptop and cell phone (R. p. 204, Ex. P-9; R. p. 208, Ex. P-10). In total, Eren withdrew or caused to be paid $31,773.18 consisting of the $21,042.57 withdrawal and $10,730.61 vehicle payoff (R. pp. 165-167).

Eren set up the company's telephone service in his personal name rather than AKPA's, preventing AKPA from accessing call data and forcing the company to purchase new service and marketing materials (R. p. 355, Darcan Dep. 25:2-26:21).

Post-Resignation Efforts to Recover Property

Eren filed a wage complaint with the South Carolina Department of Labor ("SCDOL"), which was investigated and found to be without merit (R. p. 538, Ex. 6).

AKPA rdemanded return of its property, including a written demand on November 2, 2020, for the laptop, phone, vehicle, security deposit, and $31,773.18 (R. p. 278, Ex. D-18). Eren has not returned these items (R. p. 355, Darcan Dep. 28:9-29:12).

ARGUMENTS

1. RESPONDENT BREACHED HIS CONTRACT WHEN HE USED APPELLANT'S FUNDS FOR UNAUTHORIZED PURPOSES

The employment agreement obligated Eren to "protect and preserve company property and funds" and to use those funds only for "authorized company purposes" (R. p. 519, lines 6-20; R. p. 520, lines 1-12). Nothing in the contract provides for housing benefits after termination or for reimbursement of a security deposit.

To house Eren while he served as General Manager, AKPA leased an apartment on Daniel Island and paid the \$2,239.08 security deposit for that unit (R. p. 774, lines 31-33; R. pp. 158-164). Nothing in the Employment Agreement provided Eren with any right to keep that deposit once his employment ended.

The record shows that AKPA paid the \$2,239.08 security deposit on Eren's apartment (R. pp. 158-164; R. p. 368, lines 9-17). When Eren resigned on March 10, 2020, he neither returned that deposit nor reimbursed AKPA. Instead, on March 9, one day before his resignation, he withdrew $21,042.57 from AKPA's bank account, a sum that included $2,016 for April's rent, even though he knew he would provide no further services to the company (R. pp. 165-166; R. p. 362, lines 2-16; R. p. 364, lines 4-20).

Kemal Darcan testified that AKPA never approved these payments and that Eren sought no authorization for them (R. p. 363, lines 13-25). AKPA promptly issued a written demand for return of all misappropriated funds and property once the withdrawals were discovered (R. p. 278; R. p. 355, lines 28-29).

These facts establish breach of contract. South Carolina courts hold that an employee breaches his agreement by diverting company funds to personal use without authorization. Williams Carpet Contractors, Inc. v. Skelly, 400 S.C. 320, 734 S.E.2d 177 (Ct. App. 2012).

Even when a contract does not enumerate every forbidden act, a party "acts contrary to the agreement's purpose" by appropriating employer assets for private benefit. Townes Associates, Ltd., 266 S.C. at 86. And a "good-faith belief of entitlement is no defense to conversion of identifiable funds." SSI Medical Services, Inc., 301 S.C. at 496.

Eren may argue that he believed the April rent or deposit were part of his compensation, but subjective belief cannot override a written duty to safeguard company funds. SSI Medical Services, Inc., 301 S.C. at 496. Nor can he claim consent or ratification: AKPA acted promptly upon discovering the withdrawal, defeating any implication of approval. Blackwell v. Blackwell, 289 S.C. 470, 472, 346 S.E.2d 731, 732 (Ct. App. 1986) (conversion established where property is retained after demand). Likewise, Crane, 313 S.C. at 73 confirms that unauthorized exercise of ownership over another's funds is conversion even if the owner does not object immediately.

Accordingly, the retention of the $2,239.08 security deposit and the unauthorized withdrawal of April rent violated the contract's explicit mandate to preserve and properly use company funds and support Appellant's argument that the circuit court's findings should be reversed as it relates to this claim.

In May 2019, AKPA purchased a 2018 Nissan Rogue for Respondent Tunc Eren's business use. The evidence establishes that AKPA alone financed and insured the vehicle provided for Eren's business use. AKPA paid the $5,000 down payment, every monthly installment of $465.65, and all insurance premiums (R. pp. 167, 170–183, lines 5–22; R. p. 774, lines 101–109). AKPA's Charleston manager testified that company cars are provided "to use, not to own," and that AKPA "paid for the vehicle in its entirety." Despite these facts, Eren, without AKPA's knowledge or consent, titled the vehicle solely in his own name (R. p. 266, lines 3–18; R. pp. 774–775, lines 101–109; R. p. 167, lines 3–18; R. pp. 170–183, lines 5–22; R. p. 49, lines 1–23, 39–43).

On March 9, 2020, the day before announcing his resignation, Eren made an unauthorized $21,042.57 cash withdrawal from AKPA's Wells Fargo account. (R. p. 44, lines 223–233; R. pp. 49–50, lines 135–229). Three days later, on March 12, 2020, he caused an unauthorized $10,730.61 payment to Ally Financial—the exact amount necessary to pay off the Nissan Rogue loan—again using AKPA's bank account. (R. p. 366, lines 5–25; R. p. 367, lines 1–10). Company witnesses confirmed there was no management approval or written consent for this payoff (R. p. 44, lines 223–233; R. pp. 49–50, lines 135–229; R. p. 774, lines 125–129; R. p. 50, lines 215–229).

Eren then kept the vehicle and never reimbursed AKPA any money whatsoever. These facts show an intentional exercise of ownership over property purchased and insured entirely by AKPA.

AKPA promptly demanded the vehicle's return once it discovered the payoff and sole titling (R. p. 278, lines 1–10; R. p. 355, lines 28–29). Eren ignored that demand. South Carolina law is clear that retaining property after a rightful demand constitutes conversion and breach of duty, regardless of how possession was initially obtained. Blackwell v. Blackwell, 289 S.C. 470, 472, 346 S.E.2d 731, 732 (Ct. App. 1986); Moore, 373 S.C. at 218.

The employment contract itself required Eren to "protect and preserve company property and funds" and to use them only for "authorized company purposes" (R. p. 519, lines 6–20; R. p. 520, lines 1–12). His unilateral payoff and retention of the vehicle violated that express obligation.

Eren's Employment Contract expressly required him, upon termination, to "return all property, equipment, and materials of the Company." This obligation squarely encompassed the Nissan Rogue and made clear that company assets remained AKPA property (R. p. 185, lines 4–15). These facts establish the Respondent's breach of his contractual duty to return company property and constitute a wrongful exercise of control over AKPA's asset.

South Carolina law squarely supports this conclusion. An employee who retains employer property in violation of an express return-of-property clause breaches the employment contract. SSI Medical Services, Inc., 301 S.C. 493. An employee's failure to return employer property is an actionable breach of duty. Corley v. Ott, 326 S.C. 89, 485 S.E.2d 97 (1997).

Eren may contend that he believed the vehicle was part of his compensation or that AKPA acquiesced because the title issued in his name. However, South Carolina case law does not support this type of defense. "Money capable of identification may be converted when taken without authorization," and a good-faith belief of entitlement is no defense. SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 496, 392 S.E.2d 789, 792 (1990). Likewise, Crane, 313 S.C. at 73 holds that the unauthorized exercise of ownership over another's property—such as titling an employer-financed vehicle in one's own name—constitutes conversion even if initial possession was lawful. And Townes Associates, Ltd., 266 S.C. at 86 confirms that a party breaches a contract by acting "contrary to the agreement's purpose," even where the contract does not spell out every prohibited act.

The South Carolina Department of Labor investigator recorded Eren's own statement that he had "already sold the vehicle" (R. p. 538, lines 12–15). This admission confirms that Eren not only retained but disposed of AKPA's asset for personal gain.

A party's judicial admissions dispense with proof and bar the admitting party from later contesting the fact. Postal v. Mann, 308 S.C. 385, 418 S.E.2d 322 (Ct. App. 1992). Eren admitted to selling the Rogue, and the undisputed financial records show that AKPA alone funded its purchase and payoff (R. pp. 170–183, lines 5–22; R. pp. 774–775, lines 101–109). Those admissions establish Respondent's breach (R. pp. 170–183, lines 5–22; R. pp. 774–775, lines 101–109).

Additionally, conversion occurs when one exercises unauthorized control over the property of another inconsistent with the owner's rights. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). Misappropriation of company funds supports damages for both conversion and breach. Williams Carpet Contractors, Inc. v. Skelly, 400 S.C. 320, 734 S.E.2d 177 (Ct. App. 2012).

When taken together, these facts and the case law lead to the conclusion that Eren's unilateral payoff and continued retention of the AKPA-financed vehicle was both a material breach of his employment contract and conversion of company property. The circuit court's failure to grant relief on this claim was error.

The employment agreement carefully defined AKPA's obligations—salary, rent, security deposit, company vehicle, and communication devices—and imposed on Eren a continuing duty to "protect and preserve company property and funds" and to use those funds only for "authorized company purposes" (R. p. 519, lines 6-20; R. p. 520, lines 1-12). Nothing in the agreement authorizes reimbursement for household furnishings.

The evidence shows that on March 9, 2020—one day before he resigned—Eren withdrew $21,042.57 from AKPA's operating account without approval (R. pp. 165-166, Ex. P-3; R. p. 362, lines 2-16; R. p. 364, lines 4-20). Bank statements itemize multiple charges to furniture retailers within that single withdrawal (R. pp. 165-166, Ex. P-3). AKPA's managing representative, Kemal Darcan, testified without contradiction that the company never authorized reimbursement for furniture and that Eren never submitted an expense report or request for such payment (R. p. 363, lines 13-25). Eren himself admitted that the March 9 withdrawal was not pre-approved (R. p. 362, lines 2-16). AKPA did not agree to reimburse him for personal household goods.

South Carolina law treats such conduct as a material breach. In Williams Carpet Contractors, Inc., 400 S.C. 320, the Court of Appeals held that an employee breached his contract by diverting company funds for personal use without authorization. 317 S.C. 460, 465-67, 454 S.E.2d 694, 697 (Ct. App. 1995). Likewise, Townes Associates, Ltd., 266 S.C. 81 explains that a party breaches a contract when acting "contrary to the agreement's purpose," even if the precise forbidden act is not spelled out. Townes Associates, Ltd., 266 S.C. at 86. And in SSI Medical Services, Inc., 301 S.C. 493, the Supreme Court made clear that a good-faith belief of entitlement is no defense to the unauthorized taking of identifiable funds. SSI Medical Services, Inc., 301 S.C. at 496. These authorities fit the facts here exactly: Eren took a specific, identifiable sum from AKPA's account for a purpose the contract plainly forbids.

Eren may claim that he believed furniture purchases were part of a relocation benefit. But a "good-faith belief of entitlement is no defense to conversion of identifiable property." SSI Medical Services, Inc., 301 S.C. at 496. He may argue that AKPA's delay in objecting constitutes consent, yet the record shows that AKPA discovered the withdrawal only after his resignation and promptly issued a written demand for return of all misappropriated funds (R. p. 278, Ex. D-18; Trial Tr. R. p. 355, lines 28-29). Prompt demand defeats any claim of ratification. Blackwell v. Blackwell, 289 S.C. 470, 472, 346 S.E.2d 731, 732 (Ct. App. 1986).

By withdrawing $21,042.57 of clearly identifiable company funds to furnish his private residence—without approval, without any expense documentation, and in the face of a contractual duty to safeguard AKPA's property—Eren acted "contrary to the agreement's purpose" and breached the contract as a matter of law. Townes Associates, Ltd., 266 S.C. at 86. His subjective belief of entitlement cannot excuse the misappropriation. SSI Medical Services, Inc., 301 S.C. at

496. The circuit court therefore erred in failing to hold Eren liable for this unauthorized expenditure.

AKPA proved direct, identifiable losses proximately caused by Eren's breaches:

1. $21,042.57 (March 9 withdrawal) and $10,730.61 (vehicle payoff) (R. pp. 165–167, Ex. P-3);
2. The value of the vehicle Eren retained, plus the laptop, cell phone, and the $2,239.08 security deposit (R. pp. 158–164, 266–268; R. p. 370, lines 3–14; R. p. 368, lines 9–17); and

2. RESPONDENT WAS UNJUSTLY ENRICHED WHEN HE USED APPELLANT'S FUNDS FOR UNAUTHORIZED PURPOSES, RETAINED APPELLANT'S FUNDS HE WAS NOT ENTITLED TO, AND WHEN HE RETAINED AND SOLD APPELLANT'S COMPANY VEHICLE THAT WAS PAID FOR ENIRELY BY APPELLANT

To prevail on a claim for unjust enrichment, a plaintiff must show that it conferred a benefit on the defendant, that the defendant realized that benefit, and that retention of the benefit under the circumstances would be inequitable. Ellis v. Smith Grading & Paving, Inc., 294 S.C. 470, 473, 366 S.E.2d 12, 14 (Ct. App. 1988).

AKPA easily satisfies each element. The undisputed evidence establishes that AKPA provided substantial financial and property benefits to Tunc Eren solely to enable him to perform his duties as General Manager and that, immediately before resigning, he diverted company funds and retained company property for his personal use, never reimbursing AKPA.

AKPA Conferred Valuable Benefits

The written employment agreement, executed May 1, 2019, appointed Eren as General Manager and obligated him to "protect and preserve company property and funds" and to use those funds only for "authorized company purposes" (R. p. 519, lines 6-20; R. p. 520, lines 1-12). Under that agreement AKPA agreed to pay Eren's salary, monthly rent, and apartment security deposit

and to furnish a company vehicle, cell phone, and laptop—but it did not authorize reimbursement for personal furnishings or the retention of property after employment ended (id.). Consistent with these terms, AKPA paid the $5,000 down payment, every $465.65 monthly installment, and all insurance premiums for the vehicle (R. pp. 167, 266-268; Trial Tr. R. p. 366, lines 5-25; R. p. 367, lines 1-10); paid the monthly rent and the $2,239.08 apartment security deposit (R. pp. 158-164; R. p. 368, lines 9-17); and supplied a company laptop and cell phone for business use (R. p. 204; R. p. 208; R. p. 370, lines 3-14).

Eren Retained Those Benefits Without Reimbursement

The record shows that on March 9, 2020—one day before tendering his resignation—Eren withdrew $21,042.57 from AKPA's bank account without authorization, even though he knew he would perform no further work for the company (R. pp. 165-166, Ex. P-3; R. p. 362, lines 2-16; R. p. 364, lines 4-20). Bank statements reveal that the withdrawal included $2,016 for April rent and purchases from furniture retailers (R. pp. 165-166, Ex. P-3). AKPA's managing representative Kemal Darcan testified that AKPA never approved reimbursement for household furnishings and that Eren submitted no expense report seeking such approval (Trial Tr. R. p. 363, lines 13-25). Eren also failed to return the $2,239.08 security deposit AKPA had paid for the apartment (R. pp. 158-164; Trial Tr. R. p. 368, lines 9-17).

Eren's conduct regarding the company vehicle was even more egregious. Although AKPA paid every dollar toward the purchase price and insurance, Eren titled the vehicle solely in his own name without AKPA's knowledge or consent (R. p. 266, Ex. D-13; R. p. 366, lines 5-18), used AKPA funds to pay off the remaining loan balance on March 10, 2020 (R. pp. 165-167, Ex. P-3), and has never reimbursed AKPA a cent (R. p. 366, lines 5-25; R. p. 367, lines 1-10). He likewise retained the company-issued laptop and cell phone containing proprietary data (R. p. 204; R. p.

208; R. p. 370, lines 3-14). In addition, he opened the company's business telephone account in his own name, forcing AKPA to obtain a new telephone number and replace marketing materials (R. p. 355, 25:2-26:21). The record confirms the need to replace the phone service but does not provide a precise dollar amount for that cost.

AKPA demanded return of its property and repayment of misappropriated funds on November 2, 2020, and Eren refused (R. p. 278, Ex. D-18; R. p. 355, 28:9-29:12). The South Carolina Department of Labor, Licensing and Regulation independently investigated Eren's wage complaint and closed the matter with no finding of statutory violation.

South Carolina law requires restitution where a person has been enriched at another's expense in circumstances that make retention unjust. Sauner v. Pub. Serv. Auth. of S.C., 354 S.C. 397, 406, 581 S.E.2d 161, 165 (2003). Unauthorized personal use of employer funds is classic unjust enrichment. See Williams Carpet, 400 S.C. 320 (employee unjustly enriched by diverting company funds for personal expenses); SSI Medical Services, Inc., 392 S.E.2d at 792 (good-faith belief of entitlement no defense to conversion of identifiable money). Retaining property after demand likewise supports restitution. Blackwell, 346 S.E.2d at 732; Moore, 644 S.E.2d at 745.

AKPA conferred substantial monetary and property benefits on Eren to facilitate his management duties. On the eve of his resignation, he diverted company funds for personal rent and furniture, retained the company-financed vehicle, kept the laptop and phone, and ignored AKPA's formal demand for return and reimbursement. Under South Carolina law, those undisputed facts satisfy every element of unjust enrichment, and the circuit court's findings were in error.

3. RESPONDENCT CONVERTED APPELLANT'S PROPERTY WHEN, WITHOUT AUTHORIZATION, HE USED APPELLANT'S FUNDS TO PAY FOR HIS RENT, RETAINED SECURITY DEPOSIT PAID WITH APPELLANT'S FUNDS, AND WHEN HE RETAINED APPELLANT'S COMPANY VEHICLE THAT WAS PAID FOR ENTIRELY BY APPELLANT.

Conversion occurs when a party, without authorization, exercises ownership over another's property in a manner inconsistent with the owner's rights. Crane, 313 S.C. at 73. Money that is "capable of identification" is subject to conversion, and a good-faith belief of entitlement is no defense. SSI Medical Services, Inc., 301 S.C. at 496. Where initial possession is lawful, conversion occurs upon refusal to return the property after a proper demand. Regions Bank, 354 S.C. at 667.

AKPA entrusted Eren with access to its bank account so that he could pay legitimate corporate expenses, but the employment contract required him to "protect and preserve company property and funds" and to use them only for "authorized company purposes" (R. p. 519, lines 6-20; R. p. 520, lines 1-12). On March 9, 2020—one day before submitting his resignation—Eren withdrew $21,042.57 from AKPA's account without approval, fully aware that he would perform no further work (R. pp. 165-166, Ex. P-3; R. p. 362, lines 2-16; R. p. 364, lines 4-20). The bank records itemize that this withdrawal included $2,016 for April rent and purchases from furniture retailers (R. pp. 165-166, Ex. P-3). AKPA's managing representative, Kemal Darcan, confirmed that the company never authorized reimbursement for personal furniture (R. p. 363, lines 13-25).

AKPA also paid a $2,239.08 apartment security deposit (R. pp. 158-164, Ex. P-1; R. p. 368, lines 9-17). Eren never returned those funds despite AKPA's November 2, 2020, written demand for repayment of all misappropriated monies and property (R. p. 278, Ex. D-18; R. p. 355, 28:9–29:12). Although Eren testified that he believed his housing benefit extended through the lease term (R. p. 364, lines 4-20; R. p. 368, lines 18-25), South Carolina law squarely holds that a subjective belief of entitlement does not excuse the unauthorized taking of identifiable company funds. SSI Medical Services, Inc., 301 S.C. at 496.

The evidence regarding the company vehicle is equally compelling. AKPA paid the $5,000 down payment, every $465.65 monthly installment, and all insurance premiums (R. pp. 167, 266-

268; R. p. 366, lines 5-25; R. p. 367, lines 1-10). Yet Eren titled the vehicle solely in his own name without AKPA's knowledge or consent (R. p. 266, Ex. D-13; R. p. 366, lines 5-18) and on March 10, 2020 used 2020, funds to pay off the remaining $10,730.61 balance (R. pp. 165-167, Ex. P-3). He retained the vehicle after AKPA demanded its return (R. p. 278, Ex. D-18). Retention of employer property after demand constitutes conversion. Blackwell, 289 S.C. at 472; Moore, 373 S.C. at 218.

Eren also kept the company-issued laptop and cell phone—both containing AKPA data—after his resignation and after AKPA's written demand for their return (R. p. 204, Ex. P-9; R. p. 208, Ex. P-10; R. p. 370, lines 3-14; R. p. 278, Ex. D-18). Conversion occurs when one refuses to surrender property after a rightful demand. Young v. McKelvey, 286 S.C. 119, 122, 333 S.E.2d 566, 887 (1985). The record does not show whether these items were eventually returned or their present value, so the damages award should be limited to the value at the time of the wrongful retention.

Eren further registered AKPA's business telephone service in his personal name, forcing the company to obtain a new number and to replace marketing materials (Darcan Dep. R. p. 355, 25:2–26:21). The Record confirms the need for replacement service but provides no dollar amount for that cost; damages should be limited accordingly.

By diverting identifiable company funds, retaining a company-financed vehicle titled solely in his own name, keeping the laptop and cell phone, and refusing to return these assets after AKPA's formal written demand, Eren exercised ownership rights wholly inconsistent with AKPA's. Such conduct constitutes conversion even when the property was initially entrusted to the defendant. Crane, 313 S.C. at 73; SSI Medical Services, Inc., 301 S.C. at 496. Eren's testimony that he believed certain benefits extended beyond his employment (R. p. 364, lines 4-20) cannot

absolve him, because "good-faith belief of entitlement is no defense to conversion of identifiable property." SSI Medical Services, Inc., 301 S.C. at 496.

4. RESPONDENT CANNOT TAKE A POSITION INCONSISTENT WITH OR CONTRADICTORY TO HIS PLEADINGS.

South Carolina law is clear that "[f]acts admitted in a party's pleadings are judicial admissions and therefore bind the party throughout the course of the litigation." Postal v. Mann, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992); Elrod v. All, 243 S.C. 425, 429, 134 S.E.2d 410, 412 (1964). Once made, such an admission "dispenses with proof and bars the admitting party from later contesting the fact." Postal, 308 S.C. at 387.

AKPA alleged in its Complaint that, under the parties' employment agreement, "AKPA paid the monthly rent for the Charleston apartment leased for Respondent's use." (R. p. 774). Respondent's Answer expressly admitted Paragraph 12(c). (R. p. 751). That admission is conclusive and relieves AKPA of any further proof that AKPA—not Respondent—was financially responsible for the rent. Postal, 308 S.C. at 387.

The Complaint attached the apartment lease as Exhibit 3 (R. pp. 158–164, Ex. P-1). At trial, the lease identifying "AKPA Chemicals US, Inc." as the tenant was admitted into evidence as Plaintiff's Exhibit 1 (R. p. 42, lines 29–43; R. p. 43, lines 1–15). The same evidence shows AKPA paid the $2,239.08 security deposit (R. pp. 158–164, Ex. P-1; R. p. 368, lines 9–17). In addition, AKPA's managing representative, Kemal Darcan, testified that AKPA funded the initial rent/deposit and thereafter paid every monthly rent check directly to the landlord (R. p. 42, lines 1–25). This unrefuted testimony and the admitted lease independently corroborate Respondent's pleading admission. See Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (uncontradicted proof controls where no contrary evidence exists).

Respondent's Initial Brief suggests the apartment arrangement was "personal" and that AKPA submitted a "purported lease lacking signatures and legal effect." To the extent those assertions imply AKPA did not pay the monthly rent, they directly contradict Respondent's Answer and are barred by the doctrine of judicial admissions. Postal, 308 S.C. at 387; Elrod, 243 S.C. at 429. The admitted lease (Pl.'s Ex. 1) and trial testimony remove any doubt that AKPA was the paying tenant (R. p. 42, lines 29–43; R. p. 43, lines 1–15; R. p. 42, lines 1–25; R. pp. 158–164).

Respondent did not admit the security deposit allegation. AKPA alleged in Paragraph 12(d) that it paid the $2,239.08 deposit (R. p. 774), and Respondent denied that paragraph (R. p. 752). Even so, the trial record proves AKPA funded the deposit: the lease reflects AKPA as tenant, and Darcan testified to AKPA's payment (R. pp. 158–164, Ex. P-1; R. p. 368, lines 9–17). Thus, even absent a pleading admission on the deposit, the Record establishes the fact.

Respondent may argue that a "housing benefit" justified his retention of funds or that a different "second lease" undermines AKPA's proof. The employment agreement required Respondent to "protect and preserve company property and funds" and to use them only for authorized company purposes (R. p. 519, lines 6–20; R. p. 520, lines 1–12). AKPA also issued a November 2, 2020 demand for return of all misappropriated funds and property (R. p. 278, Ex. D-18; Trial Tr. R. p. 355, lines 28–29). A good-faith belief of entitlement does not excuse taking identifiable company funds, and refusal to return after demand is wrongful. SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 496, 392 S.E.2d 789, 792 (1990); Regions Bank v. Schmauch, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003). Any "second lease" cannot overcome a binding judicial admission and unrefuted trial proof. Postal, 308 S.C. at 387; Wilder Corp., 330 S.C. at 76.

Respondent's own pleadings bind him to the fact that AKPA paid the apartment rent (R. p. 752). The admitted lease and unrefuted testimony independently confirm AKPA's status as paying

tenant (R. pp. 158–164; R. p. 42, lines 29–43; R. p. 43, lines 1–15; R. p. 42, lines 1–25). The circuit court erred by failing to find that Plaintiff's admission was binding.

CONCLUSION

For all of the foregoing reasons, the Circuit Court's decision should be reversed as stated herein.

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