

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Coastal Pi, LLC d/b/a Primarily )  
 Pi and James Bigby )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 Danville Business Advisors, LLC and )  
 Marion D. Turbeville, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 Civil Action No.: 2011-CP-40-04111

**ORDER**

RICHLAND COUNTY  
 2014 MAY 14 PM 3:48  
 JEANETTE WILSON  
 C.C.P. & G.S.

THIS MATTER came before me for a hearing on April 23, 2014 for argument on Defendant Marion D. Turbeville's ("Turbeville") Motion to Dismiss all claims asserted against him individually by Plaintiffs pursuant to Rule 12(b)(6), SCRCF. Robert M. Peele, III, Esquire appeared on behalf of Turbeville. Matthew H. Stabler, Esquire appeared on behalf of Plaintiffs. Based upon the allegations of the Second Amended Complaint<sup>1</sup>, applicable law, and arguments of counsel, Turbeville's Motion to Dismiss is DENIED.

**FACTUAL AND PROCEDURAL BACKGROUND**

This action arises out of Plaintiffs' efforts to open a pizza restaurant in Lexington, South Carolina. Plaintiffs entered into an agreement with Danville Business Advisors, LLC ("Danville"), whereby Danville, for a monthly fee, would manage and oversee the design and construction of Plaintiffs' restaurant. Turbeville is principal or member of Danville. Plaintiffs allege that Danville and Turbeville, in addition to the monthly fee paid by Plaintiffs, negotiated and received leasing commissions and certain "finder's fees" from Plaintiffs' landlord and contractor without Plaintiffs' knowledge. Plaintiffs' also allege that during their administration of the construction process, Turbeville and Danville agreed to substitute the HVAC units

<sup>1</sup> All references hereinafter to the "Complaint" shall refer to the Second Amended Complaint.

specified in the contract documents for cheaper HVAC units without Plaintiffs' knowledge or any approval from the architect or engineer. Plaintiffs allege that this undisclosed substitution along with a plumbing issue eventually rendered the restaurant unusable and ultimately forced its closure.

Plaintiffs allege seven causes of action against Turbeville individually: equitable indemnity, negligence, breach of fiduciary duty, violation of the South Carolina Unfair Trade Practices Act, constructive fraud, fraud, and negligent misrepresentation. Plaintiffs have also alleged these same seven causes of action, as well as causes of action for breach of contract and breach of contract accompanied by a fraudulent act, against Danville.

#### **STANDARD OF REVIEW**

"Under Rule 12(b)(6), SCRCP, a party may move to dismiss a complaint against him based on a failure to state facts sufficient to constitute a cause of action." *Cole Vision Corp. v. Hobbs*, 394 S.C. 144, 148, 714 S.E.2d 537, 539 (S.C. 2011) (internal citations omitted). "A ruling on a motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the factual allegations set forth in the complaint, and the court must consider all well-pled allegations as true." *Disabato v. South Carolina Ass'n of School Adm'rs* 404 S.C. 433, 441, 746 S.E.2d 329, 333 (2013) (internal citations omitted).

#### **DISCUSSION**

Turbeville moves for dismissal based on S.C. Code Ann. § 33-44-303(a), entitled "Liability of members and managers," which reads,

Except as otherwise provided in subsection (c), the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort, or otherwise, are solely the debts, obligations, and liabilities of the company. A member or manager is not personally liable for a debt, obligation, or liability of the company solely by reason of being or acting as a member or manager.

Turbeville contends that all actions and inactions that are the basis of Plaintiffs' Complaint against him were performed in his capacity as a member of Danville, and, as such, he is shielded

from personal liability by S.C. Code Ann. § 33-44-303(a). I do not find this argument persuasive.

Recently, the Supreme Court of South Carolina addressed the issue of whether the Uniform Limited Liability Company Act (the "Act") shielded an LLC member from personal liability for his own torts in *16 Jade St., LLC v. R. Design Constr. Co., LLC*, 398 S.C. 338, 728 S.E.2d 448 (2012) (hereinafter "*Jade Street I*"). The Court held that "the General Assembly did not intend the LLC act to shield a member from liability for his own torts." *Id.* at 340, 728 S.E.2d at 449. However, the Court subsequently withdrew its opinion in *Jade Street I* on rehearing, because it found that the individual whose liability was in question did not commit any actionable tort. *16 Jade St., LLC v. R. Design Constr. Co., LLC*, 405 S.C. 384, 386, 747 S.E.2d 770, 771 (2013) (hereinafter "*Jade Street II*"). Although *Jade Street I* is no longer binding on this Court, I find its reasoning persuasive. I also note that nothing in *Jade Street II* indicates that the Supreme Court found fault in its prior reasoning regarding the protection afforded to members of LLCs for liability as a result of their own torts.

As noted by the Court in *Jade Street I*, the language of the Act relied upon by Turbeville appears to insulate a member of an LLC from liability for his own torts. *Jade Street I*, 398 S.C. at 343, 728 S.E.2d at 450. However, "the right to sue one's tortfeasor is a long-standing right in our legal system, and [a court] will only find it abrogated by statute through 'clear legislative intent.'" *Id.* at 347, 728 S.E.2d at 453 (citation omitted). I therefore find that such a sweeping liability shield could not have been intended by the legislature. *See id.* at 343, 728 S.E.2d at 450. This conclusion is supported by the Comment to S.C. Code Ann. § 33-44-303, which reads in part,

A member or manager, as an agent of the company, is not liable for the debts, obligations, and liabilities of the company simply because of the agency. A member or manager is responsible for acts or omissions to the extent those

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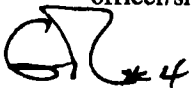
**acts or omissions would be actionable in contract or tort against the member or manager if that person were acting in an individual capacity.**

(Emphasis added). In this action, it is clear that without the existence of Danville, Turbeville would be personally liable for the damages alleged by Plaintiffs if proven. The mere existence of Danville as an LLC and Turbeville's status as a member does not alter that result. The Complaint does not allege that Turbeville is liable *because* he is a member of Danville; rather, it alleges that Turbeville is liable for torts he committed. This conclusion is supported by the majority of states that have addressed the issue of an LLC member's liability for his own torts under similar statutory language, *Jade Street I*, 398 S.C. at 344, 728 S.E.2d at 451 (collecting cases), as well as by many scholarly publications on the issue, *id.* at 344-45, 728 S.E.2d at 451 (collecting works). As the Supreme Court reasoned in *Jade Street I*,

we find this interpretation reasonable and no clear intent by the General Assembly to restrict the common law. While the language of the statute may be subject to other interpretations, we believe it is highly questionable whether the General Assembly intended to limit a member's personal liability for his torts. Therefore, given the principle that we strictly construe statutes in derogation of common law rights and they only do so through clear legislative intent, we hold section 33-44-303(a) does not limit the right of a plaintiff to sue his tortfeasor.

*Id.* at 349, 728 S.E.2d at 453-54.

The ruling of the Supreme Court in *Jade Street I* and the ruling of this Court regarding an LLC member's liability for his own torts "also has long been the rule with respect to shareholders and officers of corporations, an organizational structure from which LLCs borrow heavily." *Id.* at 348, 728 S.E.2d at 453 (referencing S.C. Code Ann. § 33-6-220(b) ("[A] shareholder of a corporation is not personally liable for the acts or debts of the corporation except that he may become personally liable by reason of his own acts or conduct.")); *see also* *Plantation A.D., LLC v. Gerald Builders of Conway, Inc.*, 386 S.C. 198, 208-09, 687 S.E.2d 714, 720 (Ct. App. 2009) (reversing summary judgment and finding factual issue existed as to officer/shareholder's individual liability). The Court of Appeals has held that in respect to


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claims for violation of the South Carolina Unfair Trade Practices Act, a cause of action alleged by Plaintiffs in the present case, "directors and officers are not liable for the corporation's unfair trade practices *unless* they personally commit, participate in, direct, or authorize the commission of a violation of the UTPA." *BPS, Inc. v. Worthy*, 362 S.C. 319, 328, 608 S.E.2d 155, 160 (2005) (quoting *Plowman v. Bagnal*, 316 S.C. 283, 286, 450 S.E.2d 36, 38 (1994) (emphasis in original). This Court finds no reason to treat members of an LLC any differently than officers and directors of a corporation in this context.

**Conclusion**

For the above stated reasons, Marion D. Turbeville's Motion to Dismiss all claims asserted against him individually by Plaintiffs is **DENIED**.

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
G. Thomas Cooper, Jr.  
Presiding Judge, Fifth Judicial Circuit

May 14, 2014

COLUMBIA, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2011CP4004111

Coastal PI LLC

Danville Business Advisors, LLC

Primarily Pi

Marion D. Turbeville

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order: \_\_\_\_\_

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 19 May 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Henry Pickett Wall

Benjamin C. Bruner

Robert McNair Peele III

Drew Hamilton Butler

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court

*Jeanette W. McBride*

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2011CP4004111

Coastal PI LLC

Danville Business Advisors, LLC

Primarily PI

Marion D Turbeville

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

FILED  
AUG 19 PM 2:04  
JEANETTE W. MCBRIDE  
CLERK OF COURT  
RICHLAND COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

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Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

For Clerk of Court Office Use Only

This judgment was entered on 25 July 2014 and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Henry Pickett Wall

Benjamin C. Bruner

Robert McNair Peele III

Drew Hamilton Butler

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court, Jeanette McBride

*Jeanette W McBride*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

Coastal Pi, LLC d/b/a Primarily Pi and )  
James Bigby, )  
 )  
Plaintiff, )

Civil Action No. 2011-CP-40-4111

vs. )

ORDER OF JUDGMENT

Danville Business Advisors, LLC and )  
Marion D. Turbeville, )  
 )  
Defendants. )

RICHLAND COUNTY  
FILED  
2014 JUL 25 AM 11:43  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

THIS MATTER is before the Court by way of a Motion for Election of Remedies by the Defendants, Danville Business Advisors, LLC and Marion D. Turbeville ("Defendants"), made on May 29, 2014 upon discharge of the jury, which returned verdicts against both Defendants.

IT APPEARING that the jury returned verdicts against the Defendants on all of the Plaintiffs' causes of action;

IT FURTHER APPEARING that the Defendants moved for the Plaintiffs to elect their remedies;

IT FURTHER APPEARING that the parties have negotiated and resolved the issues raised by the Defendants' Motion; and


IT FURTHER APPEARING that the parties consent to entry of judgment as set forth below;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered against Danville Business Advisors, LLC on the Plaintiffs' breach of fiduciary duty claim in the amount of \$521,000, plus taxable costs under Rule 54, SCRPC, in the amount of \$581.12, for a

total judgment in favor of the Plaintiffs against Danville Business Advisors, LLC in the amount of \$521,581.12.


IT IS FURTHER ORDERED that judgment be entered against Marion Turbeville on the Plaintiffs' claim for violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 to 550, in the amount of \$39,200 actual damages, plus any and all treble damages, attorneys' fees and costs as this Court may ~~deem proper~~ <sup>award</sup> under S.C. Code Ann. § 39-5-140 after considering Plaintiffs' Motion for Attorneys' Fees and Treble Damages.<sup>1</sup> *and by separate order.*


AND IT IS SO ORDERED.

  
Alison Renee Lee  
Presiding Judge, Fifth Judicial Circuit

*July 25, 2014*

WE CONSENT:

  
Henry P. Wall  
Benjamin C. Bruner  
Matthew H. Stabler  
Bruner, Powell, Wall & Mullins, LLC  
P.O. Box 61110  
Columbia, SC 29260  
803-252-7693  
*Attorneys for Plaintiffs*

  
Thomas F. Dougall, Esquire  
William A. Collins, Esquire  
Robert M. Peele, III, Esquire  
Dougall & Collins  
1700 Woodcreek Farms Road  
Elgin, South Carolina 29045  
803-865-8858  
*Attorneys for the Defendants*

<sup>1</sup> Upon Defendants' Motion for Election of Remedies, Plaintiffs requested ten (10) days to file their response and, in addition, asked this Court to indicate whether it would award treble damages and attorney's fees under the South Carolina Unfair Trade Practices Act. I therefore find it proper to consider Plaintiffs' Motion for Attorneys' Fees and Treble Damages upon entry of this Order.

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2011CP4004111

Coastal PI LLC  
\_\_\_\_\_  
Primarily PI  
PLAINTIFF(S)

Danville Business Advisors, LLC  
\_\_\_\_\_  
Marion D Turbeville  
DEFENDANT(S)

Submitted by: \_\_\_\_\_ Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

FILED  
AUG 18 2:00 PM '14  
CLERK OF COURT  
RICHLAND COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

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Additional Information for the Clerk : \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

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		\$

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Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

For Clerk of Court Office Use Only

This judgment was entered on 5 August 2014 and a copy mailed first class or placed in the appropriate attorney's box on this day of \_\_\_\_\_, 20 \_\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Henry Pickett Wall      Benjamin C. Bruner      Robert McNair Peele III      Drew Hamilton Butler

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

*Jeanette W McBride*

\_\_\_\_\_  
Court Reporter

\_\_\_\_\_  
Clerk of Court, Jeanette McBride

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

Coastal Pi, LLC d/b/a Primarily Pi and )  
James Bigby, )

Civil Action No. 2011-CP-40-4111

Plaintiff, )

**ORDER**

vs. )

Danville Business Advisors, LLC and )  
Marion D. Turbeville, )

Defendants. )

2014 AUG -5 PM 12: 23  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.  
RICHLAND COUNTY  
FILED

This matter is before the Court upon motion by the Plaintiffs, Coastal Pi, LLC d/b/a Primarily Pi and James Bigby (hereinafter, "Plaintiffs"), for attorneys' fees and for treble damages against Defendant Marion Turbeville pursuant to the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10 to 550 ("UTPA"). Having carefully considered the submissions of the parties, Plaintiffs' motion is **GRANTED**.

"The purpose of the UTPA is to discourage unfair methods of competition and unfair or deceptive acts in the conduct of any trade or commerce." Taylor v. Medenica, 331 S.C. 575, 579, 503 S.E.2d 458, 460 (1998) (citing S.C. Code Ann. § 39-5-20). In furtherance of its purpose, the UTPA allows a private party to bring a cause action, collect his attorneys' fees if he is successful and, under certain circumstances, collect three times his actual damages. S.C. Code Ann. § 39-5-140(a). Plaintiffs are entitled to recover reasonable attorneys' fee and costs because they prevailed on their claim against Mr. Turbeville for violation of the UTPA. See S.C. Code Ann. § 39-5-140(a). This lawsuit involved both construction defects and unfair trade practices. Plaintiffs prosecuted their claims for months before they discovered and began to unravel the Defendants' practice of taking undisclosed "finder's fees" from contractors. In addition, the Plaintiffs' investigation into the ultimate cause of the construction defects and Plaintiffs' losses—the Defendants' conduct—required a substantial amount of work. All of the attorneys who have appeared on behalf of the Plaintiffs are in good standing and devote their practice to civil litigation. Plaintiffs' counsel has obtained a beneficial result because the jury found in the Plaintiffs' favor on all causes of action. Finally, the hourly rates for the services rendered are in conformity with hourly

rates for this work. Furthermore, Plaintiffs identified Dr. Perry Woodside and Jeffrey Hass as experts when Danville Business Advisors, LLC and Mr. Turbeville were the only remaining parties in the case and it was apparent the case would not be settled. The amount of attorneys' fees and costs submitted by Plaintiffs included costs and fees attributable to other defendants not relating to the issues asserted against Marion Turbeville. Therefore, those costs and fees are not included in the amount awarded to Plaintiffs arising out of the unfair trade practices claims against Turbeville. Having carefully considered the submissions of the parties in light of the six factors enumerated in Jackson v. Speed, 326 S.C. 289, 308, 486 S.E.2d 750, 760 (1997), Plaintiffs entitled to recover reasonable attorneys' fees in the amount of \$64,418 and costs in the amount of \$20,489.85 for a total of \$84,907.85.

The facts and circumstances of this case warrant an award of treble damages under the UTPA. Such an award is appropriate when a defendant engages in conduct that he knew or should have known violated the UTPA. S.C. Code Ann. § 39-5-140(a), (d). "The statutory definition of willful has been construed by our Court of Appeals to mean: 'if, in the exercise of due diligence, a person of ordinary prudence engaged in trade or commerce could have ascertained that his conduct violates the Act, then such conduct is willful.'" Haley Nursery Co., Inc. v. Forrest, 298 S.C. 520, 525, 381 S.E.2d 906, 909 (1989) (quoting State v. Nest Egg Soc. Today, Inc., 290 S.C. 124, 348 S.E.2d 381 (Ct. App. 1986)).

In this case, this Court finds no evidence in the record that the Defendants' practice of negotiating for commissions at their clients' expense without disclosing those payments to the clients is a common, accepted practice. Although Mr. Turbeville continued to claim that the secret commissions were part of Danville's business model, he could not name one other business that engages in the same practice or employs the same business model. At no time did the Defendant present any evidence that it is common practice to negotiate and collect these payments without telling their clients. Nor did the Defendant present any testimony that the Plaintiffs or any of their other clients knew about the secret finder's fees and commissions.

Mr. Turbeville testified unapologetically that he would negotiate for commissions and finder's fees - in addition to what his clients paid him - and these payments increased the cost to his clients and that Mr. Turbeville would disclose those payments to clients only if they asked. Mr. Turbeville's testimony at trial simply proved Danville had a practice of negotiating for and concealing commissions that had a direct and adverse impact on their clients. Any person of

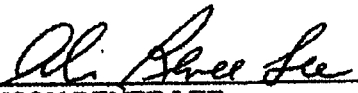
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ordinary prudence engaged in trade or commerce could have ascertained that such a deceptive and unfair business model violated the UTPA. See Haley Nursery, 298 S.C. at 525, 381 S.E.2d at 909. Mr. Turbeville's testimony also proved without question that he personally participated in, directed or authorized that Danville's unfair and deceptive practice. See BPS, Inc. v. Worthy, 362 S.C. 319, 328-29, 608 S.E.2d 155, 160-61 (Cl. App. 2005). I therefore find Mr. Turbeville knew or should have known his wrongful conduct violated the UTPA. As a result, this Court finds it proper to grant the Plaintiffs' motion and award Plaintiffs damages in the amount of \$117,600, or three times the actual damages the jury awarded.

**IT IS THEREFORE ORDERED:**

1. that Plaintiff's Motion for Attorney's Fees and for Treble Damages is **GRANTED;**
2. that Plaintiffs' is awarded Attorney's Fees and Costs in the amount of \$84,907.85;
3. that Plaintiff is awarded three times the actual damages awarded by the jury (\$39,200) for a total award of actual damages in the amount of \$117,600;
4. that judgment entered against Defendant Marion Turbeville for a total in the amount of \$202,507.85.

**AND IT IS SO ORDERED.**

  
ALISON RENEE LEE  
Presiding Judge, Fifth Judicial Circuit

August 4, 2014  
Columbia, South Carolina

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