

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF YORK)

Therese Emry and Dakine Elite,)
Automobiles, LLC.,)

Case No.: 2015-CP-46-03011

Plaintiff)

v.)

Andrew Michael Carpenter,)
Bendell Moore, Manage My Success,))
and Larry D. Wylie,)
Defendants.)

ORDER

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SC Court of Appeals

This matter came before the Court for a bench trial on March 19, 2018 in a damages hearing on default by Defendants, Andrew Michael Carpenter, Bendell Moore and Larry D. Wylie. The bench trial also included an action of conversion and damages against Defendant, Vashti Encarnation doing business as Manage My Success. The Plaintiff withdrew request for a jury trial and asked that these matters be resolved in a bench trial. Defendant, Vashti Encarnation was present and agreed to the bench trial. Defendant's Carpenter, Moore and Wylie did not appear and were not represented by counsel. Plaintiff stipulated that Defendant Larry Wylie was not in default and is not seeking damages from Wylie. The Court heard testimony from witnesses and reviewed exhibits submitted by the parties at trial and now makes the following findings.

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FINDINGS OF FACT

The parties are residents of York County, South Carolina, with the subject businesses being situated in York County, South Carolina. This Court has jurisdiction over the parties and subject matter. Venue is proper in York County, South Carolina.

The Plaintiff Dakine Elite Automobiles, LLC ("Dakine") is a corporation organized and existing under the laws of State of South Carolina. Dakine is a limited liability corporation which was organized for the purpose of purchasing and selling automobiles. The Plaintiff Emry is an owner of Dakine and provided all the funds for the purchase of the inventory. The Defendant, Carpenter was a member of Dakine and was responsible for purchasing and selling automobiles in the ordinary course of business for the limited liability corporation. The Defendant, Manage My Success/Encarnation provided business services to Dakine at the direction of Carpenter. Defendant, Moore, was employed by Dakine and worked cleaning vehicles at the direction of Carpenter. The Plaintiff Emry leased property located at 3827 Celanese Road, Rock Hill, South Carolina for the purpose of conducting business of the purchase and sale of automobiles. Subsequent to the purchase of automobiles by Dakine, the Defendant Carpenter took control of the automobiles and blocked Plaintiff's access to the business and subsequently absconded with various automobiles and proceeds from the sale of vehicles. The Defendant Carpenter transferred title to several vehicles to Defendants Moore and Encarnation for little or no consideration. The Defendant Encarnation transferred title of one vehicle to Harrelson Nissan and received \$15,000 from Harrelson in exchange for the vehicle and title. No evidence was presented what happened to that money. Defendant Moore and Defendant Encarnation were noted as recipients of several titles transferred to their names for little or no consideration. Defendant Encarnation notarized several titles and business documents. There was no evidence that Defendant Moore received any money as a result of the title transfers. The uncontested evidence of Plaintiff Emry's monetary damages presented at the bench trial amounted to \$187,245.00 in damages suffered by Plaintiff Emry.

Applicable Law

Conversion is the "unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of their condition or the exclusion of the owner's rights." Powell v. A.K. Brown Motor Co., 200 S.C. 75, 78, 20 S.E. 2nd 636, 637 (1942).

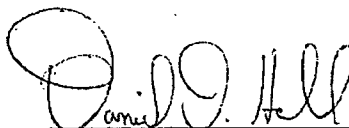
Conclusions of Law

Both the complaint and evidence in this case support a finding of wilful and intentional conversion by Defendant Carpenter as against Plaintiff Emry. Plaintiff Emry lacked sufficient evidence presented at the bench trial to prove by a preponderance of the evidence that Defendants Encarnation and Moore are liable to Plaintiff Emry for the conversion of funds she provided to Defendant Carpenter and Dakine for the operation of Dakine's business dealings.

IT IS THEREFORE DECLARED AND ORDERED that Plaintiff Emry is entitled to a Default Judgement in the amount of \$187,245.00 against Defendant Carpenter in this action.

FURTHER IT IS ORDERED that all other claims between Plaintiff Emry and Defendants Encarnation, Wylie and Moore be dismissed.

AND IT IS SO ORDERED.



Daniel D. Hall
Presiding Judge

York, South Carolina
May 1, 2018