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Mar 18 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas, 13th Circuit

Perry H. Gravely, Circuit Court Judge

COMMON PLEAS CASE NO.: 2020-CP-23-01886

Appellate Case No. 2021-000851

Tiger Enterprises & Trading Company Inc., Bonnie Walker and Dwight Walker,

Appellants,

v.

ARO-D Enterprises, LLC, Rudy Dixon, T3 Aviation Inc., and Frank T. Gangi,

Respondents.

INITIAL REPLY BRIEF OF APPELLANTS

s/Wesley D. Few/
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REPLY

Respondents' Brief attempts to mislead the Court on page 2 of 30 in stating, "Later in 2019, Respondent [Dixon] met the acquaintance of a third-party-Respondent T3 Aviation, Inc." *Id.* As shown in the limited discovery that has been provided thus far,ⁱ in an email from Mr. Gangi to Mr. Dixon, dated June 4, 2019 (at 2:12 P.M.), over a month before Dixon / ARO-D agreed to ship the subject parts to Appellant, Dixon was "negotiating" with Gangi, who stated to Dixon, "i cannot tell if you are selling one engine, 2 engines or the whole pile of shit including airframe and spares!!" In response, Dixon stated to Gangi via email on June 5, 2019 (at 3:25 A.M.), "I don't do business with any one with your attitude no thanks." (Dixon_00114).

Appellants have never disputed whether or not one of Dixon or ARO-D owned the subject parts. In fact, on June 11, 2020, in denying ARO-D's Motion for Preliminary Injunction and Appointment of a Receiver, the Court further placed the following on the record:

In conjunction with the hearing, counsel for their respective parties did enter an agreement as follows:

- 1) No portion of the Hawker inventory as defined in Plaintiff's Motion shall be sold, rented or disposed of in any manner without the written consent of both parties-ARO D Enterprises, LLC and Tiger Enterprises & Trading Inc.
- 2) All proceeds from any sale, lease or disposal of the Hawker inventory shall be deposited in a trust account of one of the attorneys in this action as designated by the parties;
- 3) The parties shall actively market the Hawker inventory; and
- 4) In the event that any inspection is requested by any party, then such inspection shall be performed by Forensic Research Group, Inc. and its Director, Michael F. O'Shea and reports provided to all parties.

This agreement was placed on the record and is the Order of the Court.
It is so Ordered.

Id.

The subject parts, on information and belief (based on representations from counsel to Dixon), are now exclusively in the possession of respondents T3 / Mr. Gangi in Massachusetts,

not Mr. Dixon or ARO-D. As a result, the parties are in violation of the above-identified order dated June 11, 2020, for at least the reason that parts have been ‘sold, rented [and / or] disposed of,’ and not accounted for to Appellant, nor have any resultant funds been placed in trust, as required.

Even the limited record developed thus far in discovery (Initial Brief at p. 5-6, setting forth timeline and statement from Respondent Dixon to respondent Gangi, “if you want to buy any parts from the Hawker 4000 you have to go to [Appellant] Tiger not me.” (Walker Aff. at ¶ 24)) shows that Dixon represents to Gangi he had an agreement with Appellant Tiger, which Dixon / ARO-D referred to as his “client.”

For the reasons set forth in Appellant’s brief, specifically the premature declaration of dispositive facts without the benefit of (or requirement that Plaintiff be deposed in the forum he selected), this Court must reverse the grant of partial summary judgments, and remand all related matters back to Circuit Court for further proceedings.

[signature on next page]

Respectfully submitted,

s/ Wesley D. Few/

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WALKER

Greenville, South Carolina
March 18, 2022

ⁱ On Jan. 25, 2022, counsel to Respondents Dixon and ARO-D, responded to an email from the undersigned, stating, “My client gave his deposition on 9/9/21 pursuant to your notice of deposition. Buck and I both asked him questions. Accordingly, my client will not sit for a second deposition.” *Id.* The undersigned’s Paralegal contacted Bishop Court Reporting to obtain a transcript of this Sept. 9, 2021 deposition, and discovered that counsel to Dixon arranged for a court reporter for this “sham” deposition, after being advised in response to do the deposition starting at 1:30 PM via Zoom due to alleged medical reasons, “No thank you, we will do his deposition in person in Greenville [where he filed the action]. ... As you know, Zoom depositions have significant limitations on deposing counsel.” *Id.*

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PROOF OF SERVICE

The undersigned hereby certifies that on March 18, 2022, the **Appellant Tiger Enterprises & Trading, Inc.'s Initial Reply Brief** were served on all counsel of record and the Court of Appeals Clerk of Court via U.S. Mail/Email/ECF, as follows:

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Cassy Young

March 18, 2022
Greenville, South Carolina