

IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY OF ILLINOIS

| | | |
|---------------------------|---|------------------|
| JUNG TRUCK SERVICE, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| TIMOTHY P. MAYER, |) | Case No. 20L0844 |
| |) | |
| Serve At: |) | |
| 7420 Covered Bridge Drive |) | |
| Waterloo, Illinois 62298 |) | |
| |) | |
| Defendant. |) | |

COMPLAINT FOR DAMAGES

Plaintiff Jung Truck Service, Inc. (“JUNG” or “Plaintiff”) for its complaint against Timothy P. MAYER (“MAYER” or “Defendant”), alleges as follows:

The Parties

1. Jung Truck Service, Inc. is a family-owned Illinois corporation registered and transacting business in St. Clair County with its principal place of business located in the City of Mascoutah, St. Clair County, Illinois.
2. Timothy P. MAYER was at all relevant times an employee with managerial authority and a corresponding duty of loyalty to JUNG. MAYER resides at 7420 Covered Bridge Drive, Waterloo, IL 62298.

Jurisdiction & Venue

3. This Court has jurisdiction over the controversy, and venue is proper before this Court, because MAYER committed intentional torts and defrauded Jung within St. Clair County in the State of Illinois.

Facts

4. JUNG is a family-owned transportation company that offers warehousing operations, truck brokerage services, and domestic and international intermodal drayage services throughout the Midwest. JUNG promotes a culture of honesty, integrity, and commitment to its employees and customers. On or about May 18, 2020, JUNG discovered that its longtime and previously trusted employee with management authority, MAYER, had in fact perpetrated a scheme and artifice to defraud the company of hundreds of thousands of dollars, a betrayal to the loyalty the company had shown him over many years.

5. MAYER began his employment with JUNG on around August 15, 2016, and over the course of his time with the company, JUNG treated MAYER as family. In or around July of 2019, MAYER was asked to assume management responsibility for operations at JUNG's East St. Louis, Illinois facility, and beginning on at least this date but also prior owed JUNG a duty of loyalty.

6. At its East St. Louis facility, JUNG repairs steamship line-owned shipping containers and container chassis. After the containers are offloaded from railroad flatcars, the containers are mounted on the chassis and hauled by local trucking companies. JUNG operates the container depot (storage) facility and has a significant trucking operation utilizing these shipping containers.

7. When repairs are needed to the containers and chassis, JUNG employees perform the repair work at the company's East St. Louis facility. A significant part of the repair operations in East St. Louis involves the replacement of tires on the container chassis. Specifically, JUNG purchases new tires, as needed, and installs them on the container chassis, then manages, records, and invoices what it installs.

8. Two intermodal chassis providers represent most of JUNG's customer base as to the repair of these container chassis, which chassis providers are identified here as "Chassis Provider A" and "Chassis Provider B" to preserve the potential disclosure of confidential business information.

The Chassis Provider A Fraud

9. During the course of examining its books and records, JUNG learned that MAYER had been purchasing tremendous volumes of tires from JUNG's preferred tire supplier, Pomp's Tire Service, Inc. (POMP's) on one of JUNG's two accounts with POMP's, ending in -1475, under the false pretense that the purchases were authorized by JUNG, and that the tires would be used to service JUNG's customer, Chassis Provider A.

10. Specifically, MAYER interacted with personnel at POMP'S and represented to them that he had authority to purchase these tires on behalf of JUNG.

11. MAYER maliciously and with the intent to defraud, used his inside knowledge of JUNG's business operations to use this particular account (ending in -1475) that JUNG had with POMP's. MAYER used this account to purchase these tires to intentionally evade detection by JUNG management and ownership. Stated differently, MAYER was able to evade detection by purchasing the tires on the account ending in -1475 because JUNG was led to believe that MAYER made a new arrangement with Chassis Provider A, wherein JUNG would purchase tires for Chassis Prover A, similar to the arrangement JUNG has with Chassis Provider B.

12. In total, from when MAYER's fraud began in approximately July of 2019 to when JUNG discovered the scheme, MAYER falsely and fraudulently used JUNG's account with POMP's ending in -1475 to purchase a staggering **\$576,206.09** worth of tires.

13. As indicated, none of these tires were used to service JUNG's customers. Rather, MAYER then subsequently sold the tires fraudulently purchased from POMP's to third-parties to facilitate his drug addiction. When confronted by JUNG after it had learned of his actions, MAYER admitted to both his actions and the drug addiction that motivated his decisions.

The Chassis Provider B Fraud

14. JUNG enjoys an extensive business relationship with Chassis Provider B, which such relationship involves the purchase of tires from POMP's under an account ending in -7079, then installing these tires on the container chassis, and managing, recording, and invoicing what it installs.

15. Here, too, MAYER committed fraud, purchasing tires also on this account, ostensibly to further provide funds for his drug addiction.

16. Specifically, MAYER fraudulently purchased tires under the account ending in -7079 in the amount of \$41,553.00, which amount represents the Chassis Provider B fraud.

17. Just as with the Chassis Provider A Fraud, MAYER was able to accomplish this fraud only through exploiting his status as an employee entrusted with managerial authority and who owed JUNG a duty of loyalty.

18. In total then, from when MAYER's fraud began in approximately July of 2019 to when JUNG discovered the scheme, MAYER falsely and fraudulently used JUNG's accounts with POMP'S ending in -1475 and -7079—in other words both the Chassis Provider A Fraud and the Chassis Provider B Fraud—to purchase \$617,759.09 worth of tires.

The Jung Inventory Fraud or Theft

19. MAYER committed other unlawful acts, namely outright stealing tires in the amount of \$4,236.00 and brakes in the total amount of \$885.22 directly from JUNG's inventory.

20. MAYER committed this theft and fraud upon JUNG also to feed his drug addiction.

21. If considered as part of the total fraud perpetrated upon JUNG, MAYER's theft from JUNG's inventory results in a total amount that MAYER defrauded JUNG of \$622,880.31.

22. MAYER's conduct with respect to each fraudulent and unlawful acts was not only a clear violation of criminal law, it also violated the express, written requirements of JUNG's Employee Handbook. Specifically, Section 6.1, item (h) of JUNG's Employee Handbook provides:

The following list, which is not exhaustive, includes examples of basic work rules that will be enforced to ensure a safe, pleasant and productive work environment. Failure to abide by these basic rules can lead to disciplinary action, up to and including termination of employment ...

(h) Theft, or attempted theft, of Jung property or property owned by a vendor, contractor or coworker will be grounds for immediate termination.

23. JUNG terminated MAYER's employment for cause upon learning of his deceitful actions.

24. MAYER's actions were taken with willful, wanton, and malicious intent.

Count I – Common Law Fraud

25. Plaintiff incorporates the allegations of paragraphs one through twenty-four as if fully restated herein.

26. Defendant made materially false representations and/or omissions to Plaintiff regarding his work conduct and interaction with POMP's, namely by abusing his cloak of authority as a JUNG employee with managerial authority to purchase tires on accounts held by JUNG, with the intent to then resell the tires for cash.

27. Defendant likewise made materially false representations and/or omissions to Plaintiff regarding his outright theft of Jung's inventory.

28. Defendant knew his representations and omissions to be false, and he acted recklessly and maliciously in making the representations.

29. Defendant intended that Plaintiff would act upon his representations and omissions in continuing to allow him to serve as an employee in a position of trust and authority, while unbeknownst to Plaintiff he was defrauding the company of hundreds of thousands of dollars.

30. Plaintiff reasonably relied on Defendant's false representations and omissions in allowing him to serve as a trusted employee of the company, and was ignorant of the false, fraudulent representations, actions, and omissions of Defendant.

31. As a result of Plaintiff's reasonable reliance on Defendant's false representations and/or omissions, Plaintiff sustained damages in the amount not only of \$622,880.31, but in interest, attorneys' fees, and costs incurred as a direct and proximate result of Defendant's fraud.

32. Defendant acted with such willful, wanton, and malicious intent that Plaintiff is entitled to punitive damages to deter future like conduct by Defendant.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor and against Defendant as follows:

- a. Compensatory damages in the amount of \$622,880.31;
- b. Punitive damages and attorneys' fees and costs;
- c. Prejudgment and post-judgment interest, as applicable; and
- d. Such other and further relief as this Court may deem just and proper.

Count II – Breach of Fiduciary Duty

33. Plaintiff incorporates the allegations of paragraphs one through thirty-two as if fully restated herein.

34. A fiduciary relationship existed between Plaintiff and Defendant, and Defendant was under a duty to act for the benefit of Plaintiff.

35. Defendant breached his duty of loyalty to Plaintiff by abusing his cloak of authority as a JUNG employee to purchase tires on an account held by JUNG with POMP's, with the intent to then resell the tires for cash, as well as by his outright theft from JUNG's inventory.

36. As a result of Plaintiff's breach of his fiduciary duty, Plaintiff sustained damages in the amount not only of \$622,880.31, but in interest, attorneys' fees, and costs incurred as a direct and proximate result of Defendant's fraud. Defendant acted with such willful, wanton, and malicious intent that Plaintiff is entitled to punitive damages to deter future like conduct by Defendant.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor and against Defendant as follows:

- a. Compensatory damages in the amount of \$622,880.31;
- b. Punitive damages and attorneys' fees and costs;
- c. Prejudgment and post-judgment interest, as applicable; and
- d. Such other and further relief as this Court may deem just and proper.

Dated: October 28, 2020

Respectfully submitted,

HUSCH BLACKWELL LLP

By: /s/ Matthew P. Diehr

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