

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

ARLENE PECORA,

Plaintiff,

CASE NO.: 08-001200 (19)
Complex Litigation Unit

v.

DEUX MICHEL, INC., a Florida corporation;
SIGNATURE GRAND, LTD., a Florida limited
partnership; and GRAND PARTNERS, INC.,
a Florida corporation,

Defendants.

**FINAL JUDGMENT ON COUNTS I-III OF
SECOND AMENDED COMPLAINT FOR CONVERSION**

THIS CAUSE having come before the Court for hearing on January 22, 2010 on Defendants' Renewed Motion for Final Summary Judgment, and the Court having heard argument of counsel and being fully advised in the premises, it is

ORDERED AND ADJUDGED that the Motion as to Counts I-III for conversion is GRANTED on the following four grounds:

First, the Defendants in this action paid the shareholder distributions and key-man life insurance proceeds to the Estate of Michael A. Pecora pursuant to the Order Granting Petition for Turnover of Distribution Fees (the "Distribution Order"), dated October 23, 2003, issued by the Honorable Mel Grossman of the Probate Court of the Circuit Court in and for the Seventeenth Judicial Circuit in and for Broward County, Florida, in *In re: Estate*

of *Michael A. Pecora*, Case No. 03-4509 (43). This Court finds, as a matter of law, that a claim for conversion cannot lie where payments are made pursuant to a Court Order.

Second, the Distribution Order was entered with the consent of Plaintiff, Arlene Pecora (“Arlene”). Accordingly, Arlene may not bring a claim for conversion against the Defendants herein when she consented to the payments being made to a recipient other than herself.

Third, this Court finds that Arlene’s reliance on the “reservation of rights” in the Distribution Order did not preserve any claim against the Defendants in this action. Paragraph 3 of the Distribution Order states, “Arlene Pecora filed a Complaint for Declaratory Relief on August 7, 2003, Case No. 03-13556 (05) seeking a declaration that Arlene Pecora individually owns the stock in Deux Michel, Inc. and Grand Partners, Inc. and that Arlene Pecora individually owns the limited partnership interests in Signature Grand, Ltd. and Signature Gardens, Ltd.” Paragraph 5 of the Distribution Order states, “Arlene Pecora and Jesse Diner have consented to the distribution fees being paid to the Estate of Jerome C. Berlin and the Estate of Michael Pecora. Arlene Pecora has agreed to these distributions without prejudice to her position that the monthly distribution fees are properly owed to her individually and not to the Estate of Michael Pecora.”

This Court finds, by the clear and unambiguous language of the Distribution Order

quoted above, that Arlene only reserved her rights to seek payment from the Estate of Michael A. Pecora, and not the Defendants in this action, if she prevailed in the declaratory judgment action, Case No. 03-13556 (05).

Fourth, to the extent the claims for conversion are based on the failure to deliver the physical stock certificates, those claims are barred by the statute of limitations. This Court also notes that to the extent the claims for conversion are based on the payment of the shareholder distributions and key-man life insurance proceeds to the Estate of Michael A. Pecora, those claims are not barred by the statute of limitations.

Accordingly, IT IS ADJUDGED that Plaintiff, Arlene Pecora, 3260 Paddock Road, Weston, FL 33331, takes nothing as to Counts I-III of this action, and that Defendants, Deux Michel, Inc., Signature Grand, Ltd., and Grand Partners, Inc., shall go hence without day.

This Court reserves jurisdiction to entertain a timely-filed Motion by Defendants for taxation of costs.

DONE AND ORDERED in Chambers at Ft. Lauderdale, Broward County, Florida,
Jeffrey E. Streitfeld
this _____ day of February, 2010.

FEB 09 2010

A TRUE COPY

JEFFREY E. STREITFELD, Circuit Court Judge

Pecora v. Deux Michel, Inc.
Case No. 08-001200 (19)
Complex Litigation Unit
Final Judg. Cts. I-III

Copies furnished to:

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