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IN THE CIRCUIT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND OF PALM BEACH COUNTY, FLORIDA

CASE NO.

_____)
JOSEPH WYERS)
Plaintiff,)
)
v.)
)
GRIECO FORD DELRAY, LLC)
D/B/A GRIECO FORD OF DELRAY BEACH)
Defendant.)
_____)

COMPLAINT

Plaintiff, Joseph Wyers ("Plaintiff") by and through the undersigned counsel, hereby file this action against Defendant, Grieco Ford Delray, LLC d/b/a Grieco Ford of Delray Beach ("Defendant"), and as grounds therefore, state as follows:

INTRODUCTION

Plaintiff, Joseph Wyers was employed by Defendant as its General Manager. Plaintiff and Defendant entered into a written contract on September 24, 2019 to serve in that capacity for a term commencing September 1, 2019 through December 31, 2020. Plaintiff was e-mailed by Darleen Roberts, Controller for Defendant who directly reports to upper management employees Scott Olenski, Chief Financial Officer, George Smith Jr., Chief Operating Officer and Michael Grieco, Jr., Chief Executive Officer of Defendant to assist in the manipulation of inventory sale dates which were to be sent to Defendant's lender for Floor Plan financing purposes. When Plaintiff refused to be a part of this scheme, Defendant looked to replace him the very next week, and Defendant terminated Plaintiff without cause on February 4, 2020.

JURISDICTION AND VENUE

1. This is an action in excess of \$30,000.00, exclusive of interest, court costs and attorneys' fees, within the subject matter jurisdiction of this Court.
2. Plaintiff, Joseph Wyers resides in Palm Beach County, Florida.
3. Defendant, Grieco Ford Delray, LLC is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.
4. Grieco Ford of Delray Beach is a registered fictitious name owned by Defendant, Grieco Ford of Delray LLC.
5. Venue is appropriate insofar as the acts and omissions that form the basis of this action occurred substantially in Palm Beach County, Florida, and the causes of action sued upon herein accrued in Palm Beach County, Florida.
6. This Court has jurisdiction pursuant to Fla. Stat. §26.012(2).

FACTS

7. On September 24, 2019 Plaintiff and Defendant entered into a written contract the terms of which were the following:

September 2019 – August 2020

- A. Salary \$20,000 per month
- B. Commission of 60% of the net profit
- C. Monthly minimum guarantee of \$40,000
- D. SERP (Retirement Plan Employer Contributions)
 - i. Current value 7/19/2019: \$41,177.42
 - ii. Deposit of \$160,000 within 7 days
 - iii. 2020 minimum contribution: \$75,000

September 2020 – December 2020

- A. Salary \$15,000 per month
- B. Commission: 20% of net profit
- C. SERP: 5% of the net profit of the year.

8. The inventory value in an automobile dealership is known as the floor plan, and Defendant's lender, Bank of America (the "Bank") was provided information by Defendant regarding the floorplan periodically as the Bank would be secured by the number of vehicles in Defendant's floorplan and their value as either a new vehicle or a used vehicle.

9. On a Bank audit dated July 10, 2019, the dates were manipulated by Defendant's employee, Darleen Roberts in order to prolong paying off the floor plan amounts on sold vehicles to the Bank.

10. On a Bank audit dated September 26, 2019, Defendant's employee, Darleen Roberts, requested that Plaintiff for the next audit either call or e-mail her to manipulate the dates on the next Bank audit.

11. On November 12, 2019, due to the bank financing for new vehicles having been exhausted, the Defendant manipulated the floor plan so that 9 new vehicles were floor planned as used vehicles.

12. On December 17, 2019, a subsequent bank audit performed by the Bank, and Plaintiff refused to acknowledge with a phone call or e-mail as previously requested by Defendant that he would be involved as a participant in this scheme.

13. The very next week, apparently due to the unwillingness of Plaintiff to participate in the shady scheme created by Defendant, the Defendant started looking for a replacement for the Plaintiff. Plaintiff was terminated on February 3, 2020 without cause.

14. Defendant has failed to pay Plaintiff his salary, commission, or guaranteed minimum since the date of termination.

15. Defendant has failed to deposit the retirement contribution of \$160,000 in Plaintiff's retirement plan in the fall of 2019, and \$75,000 in 2020.

COUNT I
(Breach of Contract)

16. Plaintiff restates and realleges paragraphs 1-15 of this complaint and incorporates herein.

17. Plaintiff and Defendant entered into a written contract on September 24, 2019 for employment as General Manager of the Defendant through December 31, 2020 (“Agreement”).

18. Both Plaintiff and Defendant agreed to the written contract in writing.

19. Plaintiff was terminated without cause on February 4, 2020.

20. Defendant has failed to pay Plaintiff his salary since that time.

21. Defendant failed to deposit a contribution to Plaintiff’s retirement plan in the amount of \$235,000.

22. Defendant has breached the contract with Plaintiff.

WHEREFORE, as a result of Defendant’s breach of contract, Plaintiff has suffered damages of no less than \$616,000.

COUNT II
(Demand for an Accounting)

23. Plaintiff restates and realleges paragraphs 1-15 of this complaint and incorporates herein.

24. Defendant pursuant to the Agreement with Plaintiff was to deposit \$235,000 into Plaintiff’s retirement account.

25. At the time of entering into the Agreement, Plaintiff already had at least \$41,177.42 in his retirement account.

26. Defendant has failed to provide Plaintiff with an accounting of Plaintiff’s retirement account since Plaintiff was terminated.

WHEREFORE, Plaintiff demands that this Honorable Court order Defendant to provide an accounting of Plaintiff’s employer sponsored retirement account.

COUNT III
(Wrongful Dismissal)

27. Plaintiff restates and realleges paragraphs 1-15 of this complaint and incorporates herein.

28. Plaintiff had a written employment contract with a definite term with Defendant.

29. Defendant demanded that Plaintiff conspire with Defendant in a scheme to manipulate the collateral of Defendant's automobile inventory in order to obtain additional funds from Defendant's lender.

30. Plaintiff refused to consent to be involved in Defendant's scheme.

31. As a result thereof, and for no other reason, Plaintiff was terminated and dismissed without cause.

WHEREFORE, Defendant wrongfully dismissed Plaintiff for refusing to join in a potentially illegal scheme and has suffered damages of at least \$616,000.

Respectfully submitted,
JOSEPH WYERS,
Plaintiff,
By his attorney,

Dated: March 17, 2020

/s/ Moss M. Sidell
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