

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
JAMES SCHIANO,

Plaintiff

Index No.: 603964/2022
Date of Filing: 03/29/2022

-against-

THIRD-PARTY SUMMONS

PETER HARSANYI, individually as fiduciary of
SYSTEMS VEND MANAGEMENT CORP., VENDING
SERVICE.COM, INC. and CWS VENDING, INC.

Defendants.

-----X
SYSTEMS VEND MANAGEMENT CORP.

Third-Party Plaintiff

-against-

JAMES SCHIANO and JOSEPHINE J. CASTRO

Third-Party Defendants

-----X

To the above named Third-Party Defendants:

You are hereby summoned and required to serve upon the third-party plaintiff's attorney an answer to the annexed third-party complaint, which is herewith served upon you together with all prior pleadings in the action, within twenty days (20) after the service thereof, exclusive of the day of service, or within thirty (30) days after service is complete if service is made by any method other than personal delivery to you within the State of New York.

In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the third-party complaint.

Dated: Nassau, NY
May 16, 2022



MICHAEL A. MARKOWITZ, PC
By: Michael A. Markowitz, Esq.
1553 Broadway
Hewlett, NY 11557
(516) 295-9061

To:

- JAMES SCHIANO, 1160 Jackson Place, Baldwin, NY 11510
- JOSEPHINE J. CASTRO, 533 Chelsea Road, Oceanside, NY 11572

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
JAMES SCHIANO,

Index No.: 603964/2022
Date of Filing: 03/29/2022

Plaintiffs

-against-

THIRD-PARTY COMPLAINT

PETER HARSANYI, individually as fiduciary of
SYSTEMS VEND MANAGEMENT CORP., VENDING
SERVICE.COM, INC. and CWS VENDING, INC.

Defendants.

-----X
SYSTEMS VEND MANAGEMENT CORP.

Third-Party Plaintiff

-against-

JAMES SCHIANO and JOSEPHINE J. CASTRO

Third-Party Defendants

-----X
Defendant and Third-Party Plaintiff SYSTEMS VEND MANAGEMENT CORP.

(“Systems Vend”), by and through its attorney Michael A. Markowitz, P.C., as and for its Third-Party Complaint against the Third-Party Defendants JAMES SCHIANO (“Schiano”) and JOSEPHINE J. CASTRO (“Castro”) alleges the following:

1. At all times hereinafter mentioned, Systems Vend was and is a corporation duly formed and operating pursuant to the laws of the State of New York, with an office located in the County of Nassau, State of New York.
2. At all times hereinafter mentioned, Schiano was and is an individual residing in the County of Nassau, State of New York.
3. At all times hereinafter mentioned, Castro was and is an individual residing in the County of Nassau, State of New York.

SYSTEMS VEND OPERATING PROCEDURES

4. On or about September 14, 2009, the defendant PETER HARSANYI (“Harsanyi”) caused to be formed Systems Vend.
5. Harsanyi was, and continues to be, the sole owner of Systems Vend.
6. Since formation, Systems Vend, among other things, operated a vending machine business.
7. Generally, Systems Vend operated its vending machine business by delivering vending machines to individuals, entities, or locations, to sell snacks and drinks to the public or third-party individuals.
8. From its sales, the vending machines generated cash payments and internally calculated the number of snacks and drinks sold to the public or third-party individuals.
9. On a regular basis, a Systems Vend’s employee (the “Route Employee”) would go to the location of each vending machine, inspect the machine, write on a meter card the generated number of snacks and drinks sold, collect the cash, and restock merchandise for future sales to the public or third-party individuals.
10. The Route Employee would place the cash and meter card in a box for each machine and deliver the box the employee who tallies the money (the “Counter”).
11. The Counter would receive the box, tally, and secure the money received from each vending machine.
12. The Counter would then deliver the meter card to the employee who entered the numbers received from the meter card into a computer software system generally known as “Navigator” (the “Data Entry Employee”).

13. Systems Vend used Navigator for, among other things, tracking merchandise sold for the purpose of restocking each vending machine.
14. The Counter would also deliver final numbers to System Vend's bookkeeper (the "Bookkeeper") - who would account and record the income.
15. The Bookkeeper would then answer to Systems Vend's owner, office manager and/or accountant.
16. Systems Vend relied on this operating procedure for the smooth and proper operation of its business. In other words, by having employees working independently of each other, there is a series of checks and balances to discourage theft of money or merchandise from Systems Vend.

EMPLOYMENT OF SCHIANO

17. In or about 2010, Systems Vend hired Schiano as an employee.
18. Initially, Schiano worked part time for Systems Vend providing basic labor for the company. However, upon earning Harsanyi's trust, and after a series of promotions, Schiano ultimately became the full-time office manager for Systems Vend.
19. As the office manager, Schiano managed and operated Systems Vend. His responsibilities included, among other things, overseeing Systems Vend employees and general accounting duties.
20. Harsanyi heavily trusted and relied on Schiano operating Systems Vend as its office manager. Among other reasons, Harsanyi had chronic health issues - eventually receiving a liver transplant in or about 2012.

EMPLOYMENT OF CASTRO

21. In or about 2012, Systems Vend hired Castro as the Bookkeeper upon recommendation and advice from Schiano.
22. Castro held herself out to Systems Vend as being a knowledgeable, skilled, and qualified to act as the Bookkeeper.
23. Castro's duties as the Bookkeeper included, but was not limited to, accounting for receivables and payables, paying bills, helping with bids, maintaining accounting computer programs, and reporting information to the accountant.
24. Harsanyi depended on Castro's performance as the Bookkeeper. He allowed her to schedule her own hours and to maintain records using a system neither controlled nor held by Systems Vend.

THEFT OF MONEY FROM SYSTEMS VEND

25. Upon information and belief, sometime after becoming office manager, and after hiring Castro, Schiano devised a fraudulent plan and scheme to allow him to steal money and claim equity ownership of Systems Vend.
26. Schiano's fraudulent plan and scheme greatly relied on Castro, who had a close working relationship with Schiano, both inside and outside Systems Vend's office.
27. Specifically, when the Route Employee would deliver money to the Counter from the vending machines, the cash would generally be in the form of singles.
28. Schiano demanded that no individual, other than himself, act as Counter for Systems Vend.
29. Insisting that no other individual be present, Schiano received and tallied all cash in a

private room.

30. Claiming that he must have dollars converted into larger currency (ex. \$20s, \$50s, \$100s), Schiano then removed cash from the office without first submitting his tally to Castro - who was the Bookkeeper.
31. Castro never questioned Schiano and allowed him to remove the cash from Systems Vend's office without first receiving a report for the money tallied by Schiano.
32. Schiano would then commingle or keep money removed from Systems Vend while delivering false reports to Castro claiming that cash delivered were loans or capital contributions made by Schiano to Systems Vend.
33. Castro knowingly used Schiano's false reports and deceptively accounted on her books and records that Schiano's cash were loans or capital contributions made to Systems Vend.
34. Castro then purposefully withheld her internal records from Harsanyi, and in due course, Systems Vend's accountant, allowing Schiano's fraudulent scheme to continue for years.

SCHIANO'S THEFT OF SERVICES

35. Together with his theft of money, and despite being promoted as office manager, Schiano began to concentrate on personal business endeavors while he was supposed to be devoting his time and energy as an employee of Systems Vend.
36. By way of example and not limitation, while working for Systems Vend, Schiano also operated and managed J R E Holding Corp., met clients for other business ventures, both at Systems Vend and third-party offices, used the warehouse for personal storage, and acquired and held stolen goods at Systems Vend's warehouse for his personal use.

TERMINATION OF EMPLOYMENT

37. Schiano and Castro operated their fraudulent plan and scheme for years - ending in March 2021 upon termination of Schiano's employment.
38. Upon termination of employment, Schiano deleted or removed emails and business records stored on Systems Vend's computer files and removed Systems Vend's computer tower.
39. After Schiano's termination of employment, Castro refused to deliver Systems Vend's business records to the company despite due demand for same.
40. When questioned about Schiano and alleged cash loans or capital contributions, Castro removed computer files concerning Systems Vend's business, deleted emails, and quit as Systems Vend's Bookkeeper.

AS AND FOR A FIRST CAUSE OF ACTION

41. Systems Vend repeats the allegations set forth above with the same force and effect as if set forth herein.
42. While employed by Systems Vend, Schiano embezzled, stole, fraudulently and dishonestly retained and converted the company's money for his own use, and then, using Castro, claimed cash as being loans or capital contributions to Systems Vend.
43. Systems Vend did not discover the full extent of Schiano's embezzlement scheme until after Castro quit as the company's Bookkeeper.
44. As a result of Schiano's fraudulent embezzlement scheme, Systems Vend has been damaged in a sum to be determined at trial.

AS AND FOR A SECOND CAUSE OF ACTION

45. Systems Vend repeats the allegations set forth above with the same force and effect as if set forth herein.
46. While employed as Systems Vend's Bookkeeper, Castro knew that Schiano was converting company money, knew that cash received was not a loan to the business, and intentionally withheld all information from Systems Vend despite due demand for same.
47. Schiano would not have successfully embezzled money and then fraudulently claim that cash delivered to Systems Vend were loans or a capital contribution without the help and reliance on Castro.
48. As a result of Castro's aiding and abetting Schiano's fraudulent embezzlement scheme as set forth above, Systems Vend has been damaged in a sum to be determined at trial.

AS AND FOR A THIRD CAUSE OF ACTION

49. Systems Vend repeats the allegations set forth above with the same force and effect as if set forth herein.
50. Schiano, as Systems Vend's office manager, had a fiduciary duty of loyalty, to not act in any manner inconsistent with his agency or trust, and is bound to act at all times in good faith and loyalty in the performance of his duties.
51. That Schiano violated his fiduciary duty to Systems Vend by, among other things, embezzling cash from Systems Vend, deleting business emails and records, operating and managing J R E Holding Corp. during business hours, meeting clients from other businesses both at Systems Vend and third-party offices during business hours, using the

company facility for personal storage, and acquiring and keeping stolen goods at Systems Vend's warehouse, and converting Systems Vend's computer tower.

52. That by reason of Schiano's breach of fiduciary duty, Systems Vend has been damaged in a sum to be determined at trial.

AND AS FOR A FOURTH CAUSE OF ACTION

53. Systems Vend repeats the allegations set forth above with the same force and effect as if set forth herein.
54. Castro, as Systems Vend's Bookkeeper, had a fiduciary duty of loyalty, to not act in any manner inconsistent with her agency or trust, is bound to act at all times in good faith and loyalty in the performance of her duties, and is required to make truthful and complete disclosures to Systems Vend.
55. That Castro violated her fiduciary duty to Systems Vend by, among other things, intentionally failing and allowing Schiano to embezzle money, falsely reporting cash received as loans made by Schiano to Systems Vend, deceptively accounting embezzled cash as loans and capital contributions made by Schiano, removing and failing to deliver Systems Vend's business records, and withholding information from Systems Vend, both before and after being questioned by Harsanyi.
56. That by reason of Castro's breach of fiduciary duty, Systems Vend has been damaged in a sum to be determined at trial.

AS AND FOR A FIFTH CAUSE OF ACTION

57. Systems Vend repeats the allegations set forth above with the same force and effect as if

set forth herein.

58. During working hours Schiano, among other things, used business time for personal issues, operated and managed J R E Holding Corp., met clients from other businesses, used the company facility for personal storage, and acquired and kept stolen goods at Systems Vend's warehouse when he should have been working and devoting his full attention to Systems Vend.
59. That by reason of Schiano being an unfaithful servant, Systems Vend is entitled to recover the value of any benefit it gave to Schiano, whether as compensation, salary, commissions, fringe benefits, by whatever name used or described for the period of 2016 through March 2021, when Schiano should have been working for Systems Vend.

WHEREFORE, Systems Vend demands judgment as follows:

- (a) For the first cause of action against Schiano in an amount to be determined at trial;
- (b) For the second cause of action against Castro in an amount to be determined at trial;
- (c) For the third cause of action against Schiano in an amount to be determined at trial;
- (d) For the fourth cause of action against Castro in an amount to be determined at trial;
- (e) For the fifth cause of action against Schiano in an amount to be determined at trial;
- (f) together with legal interest, costs, disbursements, and such other and further relief this Court deems just and proper.

Dated: Nassau, NY
May 16, 2022



Michael A. Markowitz, P.C.
Attorney for Third-Party Plaintiff
By: Michael A. Markowitz, Esq.
1553 Broadway
Hewlett, NY 11557
(516) 295-9061

VERIFICATION

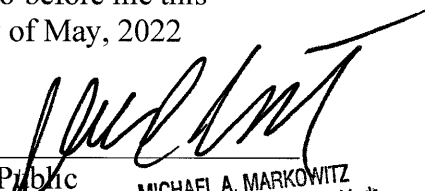
State of New York)
) ss.:
County of Nassau)

PETER HARSANYI, being duly sworn, deposes and says:

I am the president of SYSTEMS VEND MANAGEMENT CORP., a corporation and a party in the within action. I have read the annexed Verified Third-Party Complaint, and I know the contents thereof; and the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. This verification is made by me because the above party is a corporation and I am an officer thereof.


PETER HARSANYI

Sworn to before me this
16 day of May, 2022


Notary Public
MICHAEL A. MARKOWITZ
Notary Public, State of New York
No. 02MA4962019
Qualified in Nassau County
Commission Expires 02/12/2026