

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

CAPITAL WEALTH ADVISORS, INC.,

Plaintiff,

v.

CIVIL ACTION NO. 20-C-209-3

THOMAS BEYNON,
BENJAMIN STEINER,
MARTIN METODIEV, and
CAPITAL WEALTH ADVISORS, LLC.,

Defendants.

COMPLAINT

FILED
2020 APR 13 PM 12:45
HARRISON COUNTY COURT

Plaintiff Capital Wealth Advisors, Inc. ("Plaintiff") brings the following causes of action against the Defendants, Thomas Beynon, Benjamin Steiner, Martin Metodiev, and Capital Wealth Advisors, LLC (collectively "Defendants").

PARTIES

1. Plaintiff is Florida corporation headquartered in Naples, Florida.
2. Upon information and belief, Defendant Thomas Beynon is a resident of Sewickley, Pennsylvania.
3. Upon information and belief, Defendant Benjamin Steiner is a resident of Greenwich, Connecticut.
4. Upon information and belief, Defendant Martin Metodiev, is a resident of Naples, Florida.
5. Upon information and belief, Defendant Capital Wealth Advisors, LLC is a Florida limited liability company headquartered in Naples, Florida.

JURISDICTION AND VENUE

6. Damages in this matter are more than \$10,000.

7. Based on the facts stated above and herein, and the statutory and case law of West Virginia, the Circuit Court of Harrison County, West Virginia, has subject matter jurisdiction over the causes and claims asserted in this Complaint.

8. Based on the facts stated above and herein, venue is proper in the Circuit Court of Harrison County, West Virginia.

9. As shown below, this matter involves torts committed in and around Harrison County, West Virginia.

10. W. Va. Code § 56-3-33 provides that any nonresident "[c]ausing tortious injury by an act or omission in this state" shall be deemed to have appointed the West Virginia Secretary of State to be his true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him...including an action or proceeding brought by a nonresident plaintiff...for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:"

11. Such acts or omissions provide West Virginia Courts with jurisdiction over the attendant action or proceeding. W. Va. Code § 56-3-33(b).

FACTS

12. Plaintiff provides estate, financial, and wealth advising and planning to clients throughout the country.

13. Defendants Thomas Beynon and Martin Metodiev worked for and with Plaintiff until 2013.

14. On April 7, 2020, Defendant Thomas Beynon contacted CityNet LLC, a Harrison County, West Virginia-based IT services company.

15. Due to his past employment with Plaintiff, Defendant Beynon was aware that CityNet LLC provided IT services to Plaintiff and that CityNet LLC assisted Plaintiff with e-mail and data storage.

16. During an April 7, 2020 call to CityNet and at multiple times thereafter, Defendant Thomas Beynon impersonated an employee of the Plaintiff.

17. Using his knowledge of Plaintiff's practices and procedures, as well as the practices and procedures of CityNet LLC, Defendants Thomas Beynon and Martin Metodiev impersonated employees of Plaintiff and used that subterfuge to obtain valuable and confidential information belonging Plaintiff.

18. Pretending to be an employee of Plaintiff, Defendant Thomas Beynon obtained Plaintiff's email archives and other sensitive information and documents from CityNet LLC.

19. Defendant Martin Metodiev assisted Defendant Thomas Beynon in obtaining said email archives and other the sensitive information and documents from CityNet.

20. Defendants Thomas Beynon and Martin Metodiev coordinated with Defendant Benjamin Steiner to obtain Plaintiff's email archives and other sensitive information and documents from CityNet LLC.

21. Upon information and belief, Defendant Beynon's subterfuge and theft of sensitive information was planned, coordinated, and facilitated by and with Defendants Steiner and Metodiev for the benefit of Defendant Capital Wealth Advisors LLC.

**COUNT I
TORTIOUS INTERFERENCE WITH A
BUSINESS OR CONTRACTUAL RELATIONSHIP**

22. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

23. Plaintiff has a contractual and business relationship with its clients.

24. Defendants are not part of such relationships.

25. Defendants Thomas Beynon and Martin Metodiev interfered with the contractual and business relationships between Plaintiff and its clients, by, *inter alia*, surreptitiously obtaining sensitive data related to Plaintiff and its clients.

26. Plaintiff was harmed by Defendant Thomas Beynon and Defendant Metodiev's interference.

**COUNT II
CONVERSION**

27. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

28. Defendants willfully, wantonly, recklessly, and substantially converted the assets of Plaintiff by improperly obtaining Plaintiff's sensitive and confidential information.

29. Plaintiff did not and does not consent to the Defendants' possession of its sensitive and confidential information.

30. Plaintiff was harmed by Defendants' conversion of said assets.

COUNT III INTENTIONAL MISREPRESENTATION

31. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

32. Defendants Thomas Beynon and Martin Metodiev intentionally misrepresented themselves when communicating with Third Party CityNet LLC by providing false and/or concealing information to Third Party CityNet LLC.

33. Third Party CityNet LLC relied upon that false and/or concealing information.

34. That false and/or concealing information caused the Plaintiff to suffer pecuniary and other losses.

COUNT IV FRAUD

35. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

36. In the due course of communicating with Third Party CityNet LLC, Defendants Thomas Beynon and Martin Metodiev provided false statements intended to portray themselves as current employees of Plaintiff.

37. Those false statements were made via telephone calls and e-mails to CityNet LLC, beginning on April 7, 2020 and continuing until at least April 9, 2020.

38. Those false statements were made, *inter alia*, to Third Party CityNet LLC employee Brandi Patton.

39. On or around April 7, 2020, Defendant Beynon also coerced Ms. Patton to communicate with them via her personal cell phone.

40. On those calls on her personal cell phone, Defendant Beynon also made false statements to Ms. Patton to the detriment of Plaintiff.

41. Defendants Thomas Beynon and Martin Metodiev created or caused the creation of those statements.

42. Those statements were material to Third Party CityNet LLC and thus, to Plaintiff.

43. Defendants knew, or should have known, that the statements were material to Third Party CityNet LLC and to Plaintiff.

44. Based upon information and belief, Defendants knew that their statements were false and concealing because they falsely described or omitted information regarding Defendant Thomas Beynon and Defendant Martin Metodiev's employment status with Plaintiff.

45. Defendants intended for the statements to deceive Third Party CityNet LLC to the detriment of Plaintiff.

46. Defendants created or caused the creation of those statements for the purpose of deceiving Third Party CityNet LLC and inducing CityNet LLC to rely upon the statements to the detriment of Plaintiff.

47. Third Party CityNet LLC did rely upon the statements to the detriment of Plaintiff.

48. The Plaintiff was damaged by Defendants' false statements.

**COUNT V
CIVIL CONSPIRACY**

49. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

50. Defendants were in concerted action to accomplish some purpose by unlawful means.

51. That action was to improperly and surreptitiously obtain Plaintiff's emails and other confidential and sensitive information.

52. As such, the Defendants were in a civil conspiracy.

53. As such, all of the Defendants are liable for the harm and damages caused by Defendant Thomas Beynon and Defendant Martin Metodiev's actions.

**COUNT VI
NEGLIGENT MISREPRESENTATION**

54. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

55. Defendants Thomas Beynon and Martin Metodiev communicated with Third Party CityNet LLC regarding Plaintiff's confidential and sensitive information.

56. In the due course of communicating with Third Party CityNet LLC, Defendants Thomas Beynon and Martin Metodiev provided false statements which portrayed themselves as current employees of Plaintiff.

57. Defendants Thomas Beynon and Martin Metodiev failed to exercise reasonable care and/or competence in communicating that information to Third Party CityNet LLC to the detriment of Plaintiff.

58. Defendants Thomas Beynon and Martin Metodiev created or caused the creation of those statements.

59. Those statements were material to Third Party CityNet LLC and thus, to Plaintiff.

60. Defendants knew, or should have known, that the statements were material to Third Party CityNet LLC and to Plaintiff.

61. Third Party CityNet LLC did rely upon the statements to the detriment of Plaintiff.

62. The Defendants' failure to exercise reasonable care and/or competence and their breaches of their duties directly and proximately caused the Plaintiff to suffer monetary and other damages.

COUNT VII UNJUST ENRICHMENT

63. The Plaintiff incorporates by reference every allegation contained in this Complaint into this Count.

64. Plaintiff's confidential and sensitive information is valuable.

65. Defendants have enriched themselves by converting, diverting, and/or taking possession of the confidential and sensitive information of Plaintiff.

66. Defendants knowingly and voluntarily acquired, accepted, and enjoyed the value and the benefits of the assets of Plaintiff without providing services, goods, labor, materials, equipment, or services of value to Plaintiff.

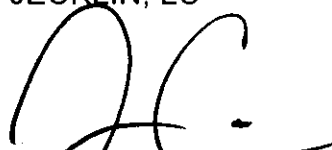
67. The converting, diverting, and/or taking possession of assets of Plaintiff by Defendants constitutes an unjust enrichment to Defendants.

68. To avoid Defendants' unjust enrichment, Plaintiff is entitled to recover the value of the assets Defendants converted, diverted, and/or took possession of.

WHEREFORE, Plaintiff demands the following:

- a. Judgment against Defendants for damages plus interest as allowed by law;
- b. An Order requiring Defendants to certify to the Court that they have destroyed any and all sensitive, confidential, and/or proprietary information obtained from Third Party CityNet LLC.
- c. Its attorneys' fees;
- d. All costs of this action; and
- e. Any further relief which appears just and proper.

GIANOLA, BARNUM, BECHTEL,
AND JECKLIN, LC



August 18, 2020

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CIRCUIT COURT