

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL ACTION NO. 08-CI-978
4th DIVISION

ROBERT H. LAIL

NOV 13 2008

PLAINTIFF

v.

JUDGEMENT

ROBERT A. LUNDY and
MICHAEL LOUIS

DEFENDANTS

** ** * * * * *

This matter came on for trial before the Court on November 5, 2008. The Court has previously entered a Partial Summary Judgment in favor of Plaintiff, Robert. H. Lail ("Lail"), and against Defendant, Robert A. Lundy ("Lundy") which by this reference is incorporated herein. The Court having heard the evidence and being duly and sufficiently advised now therefore it is hereby found, ordered and adjudged as follows:

1. Lundy made and entered into, and then breached contracts and agreements for the sale by Lundy to Lail of four stallion seasons (Chapel Royal 2007 Season, Grand Slam 2007 season, Johannesburg 2007 Season, and Johannesburg 2008 Season). Lundy secured these contracts and agreements and obtained the amount of \$64,860.00 from Lail as the price for said four stallion seasons, with repeated, intentional and knowing acts of deceit, oppression, fraud, trickery, and deceit.

2. Lundy has been unjustly enriched at the expense of Lail, by reason of taking and receiving the amount of \$64,860.00 from Lail as the purchase price of the four stallion seasons (Chapel Royal 2007 Season, Grand Slam 2007 season, Johannesburg 2007 Season, and Johannesburg 2008 Season), by repeated and intentional and knowing acts of deceit, oppression, fraud, trickery, and deceit.

3. Lundy made and entered into a Mare Purchase Agreement for the sale of three mares of Lail (Dancal, Pure Energy and Embracing Krissy) respectively bred on the Chapel Royal 2007 Season, Grand Slam 2007 season, and Johannesburg 2007 Season; and did so with the intent to defraud Lail. Lundy has breached and defaulted on the Mare Purchase Agreement. Lundy is obligated and liable to Lail for all direct and consequential damages thereby incurred by Lail. Lundy secured the Mare Purchase Agreement from Lail as referred to therein with repeated, intentional and knowing acts of deceit, oppression, fraud, trickery, and deceit.

4. Lail has sustained actual direct and consequential damages by reason of Lundy's breach of contracts with Lail, the unjust enrichment of Lundy at the expense of Lail, and the repeated, intentional and knowing acts of deceit, oppression, fraud, trickery, and deceit of Lundy, in the amount of \$360,164.48.

5. Lundy undertook intentional and/or grossly negligent acts, intentionally and/or grossly negligent oppressive acts, intentional and/or grossly negligent malicious acts, concealed material facts, and otherwise committed acts of deceit, fraud, trickery and oppression, all amounting to willful, malicious, oppressive, fraudulent and/or grossly negligent conduct towards Lail, within the meaning of KRS 411.184, KRS 411.186, and applicable common law. In engaging in the acts described herein Lundy expected and intended, or should have expected, for injury and damages to result to Lail, and such injury and damages did occur. As a result of these acts of deceit, oppression, malice, trickery, deceit, fraud and/or gross negligence by Lundy, which resulted in injury to Lail, Lail is entitled to recover punitive damages as that term is defined in KRS 411.184(1)(f) and applicable common law, from Lundy, to punish Lundy, and discourage Lundy from engaging in similar conduct in the future, in the amount of \$1,080,493.44. This amount is three times the actual damages sustained by Lail and within the parameters established by State Farm Mutual Automobile Insurance Co. v. Campbell, 538 U.S. 408 at 418 (2003) and BMW of North America v. Gore, 517 US 559 (1996, and other applicable law.

6. For Plaintiff, Robert H. Lail's actual direct and consequential damages sustained by reason of Defendant, Robert A. Lundy's breach of contract, the unjust enrichment of

Defendant, Robert A. Lundy at the expense of Plaintiff, Robert H. Lail, and the fraudulent actions and conduct of Defendant, Robert A. Lundy, Plaintiff, Robert H. Lail is awarded judgment against Defendant, Robert A. Lundy for the amount of \$ \$360,164.48, together with post-judgment interest thereon accruing from the date of entry of Judgment, at the annual rate of twelve percent (12%), compounded annually.

7. To punish Lundy, and discourage Lundy from engaging in similar conduct in the future, and for and as punitive damages, Plaintiff Robert H. Lail is awarded judgment against Defendant, Robert A. Lundy in the amount of \$1,080,493.44, together with post-judgment interest thereon accruing from the date of entry of Judgment, at the annual rate of twelve percent (12%), compounded annually.

8. For Plaintiff, Robert H. Lail's reasonable attorney's fees and costs incurred in the prosecution of this action, Plaintiff Robert H. Lail is awarded judgment against Defendant, Robert A. Lundy in the amount of \$18,807.00, together with post-judgment interest thereon accruing from the date of entry of Judgment, at the annual rate of twelve percent (12%), compounded annually.

This is a final and appealable judgment and there is no just reason for delay.

So found, ordered and adjudged this 13 day of November, 2008.

/s/ PAMELA R. GOODWINE
A True copy
Attest: WILLIAM D. LYONS, CLERK
Judge, Fayette Circuit Court
BY: *[Signature]* DEPUTY

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served, this 13 day of November, 2008, by first class US mail, postage prepaid to the following:

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FAYETTE CIRCUIT COURT
Clerk,
Fayette Circuit Court