

PLACE BELOW FOR FILING STAMP ONLY)

BURTON H. WARD, INC.
LAWYERS
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FILED

AUG 15 1984

LEE A. BRANCH, County Clerk
By Deputy

Attorney for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

UNION OIL BREA FEDERAL CREDIT UNION,

Plaintiff,

vs.

REGINA J. HSIEH, N.S. HSIEH,
LAILAI CAPITAL CORPORATION, INC.,
GERALD H.J. DUAN, TRANG-CHONG
HUNG, YU-SUN, MAY-MUNG DUAN, C.Y.
 TSAI, P.L. SHEN, and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 436425

COMPLAINT FOR MONEY,
FRAUD, CONSTRUCTIVE
TRUST AND FOR
CONSPIRACY

#. 436425
0101 AUG.15 '84 02:22PM
0188 CIV FLNG 96.00

Plaintiff complains and alleges as follows:

FIRST CAUSE OF ACTION

1. Defendants REGINA J. HSIEH and N.S. HSIEH reside in Orange County, California. Plaintiff is informed and believes and on that basis alleges that defendants GERALD H.J. DUAN, TRANG-CHONG HUNG, YU-SUN, MAY-MUNG DUAN and C.Y. TSAI reside in Los Angeles County, California.

2. Defendant LAILAI CAPITAL CORPORATION is, and at all times mentioned herein was, a corporation existing under

1 and by virtue of the laws of the State of California with its
2 principal place of business in Los Angeles County, California.

3 3. The true names or capacities, whether
4 individual, corporate, associate or otherwise, of Defendants
5 named herein as DOES 1 through 50, inclusive, are unknown to
6 Plaintiff, who therefore sues said Defendants by such fictitious
7 names, and Plaintiff will amend this complaint to show their
8 true names and capacities when same have been ascertained.

9 4. Plaintiff is informed and believes, and thereon
10 alleges, that each of the Defendants designated herein as a
11 DOE is responsible in some manner for the events and happenings
12 herein alleged and caused injury and damages proximately thereby
13 to the Plaintiff, as herein alleged.

14 5. Plaintiff is informed and believes and on
15 that basis alleges that at all times herein mentioned, each
16 of the Defendants was the agent and employee of each of the
17 remaining Defendants, and was at all times acting within the
18 course and scope of said agency and employment.

19 6. Plaintiff is informed and believes and on
20 that basis alleges that at all times herein mentioned, defendant
21 GERALD H.J. DUAN was the chief executive officer of defendant
22 LAILAI CAPITAL CORPORATION, defendant TRANG-CHONG HUNG was
23 secretary of defendant corporation, and defendant P. L. SHEN
24 was chief financial officer of said corporation. Plaintiff
25 is informed and believes and on that basis alleges that at
26 all times herein mentioned, defendants YU-SUN, MAY-MUNG DUAN
27 and C.Y. TSAI were the directors of said corporation.

1 7. Plaintiff is informed and believes and on
2 such basis alleges that defendant LAILAI CAPITAL CORPORATION,
3 REGINA J. HSIEH, N.S. HSIEH, GERALD H.J. DUAN, TRANG-CHONG

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1 HUNG, YU-SUN, MAY-MUNG DUAN, C.Y. TSAI and P.L. SHEN wholly
2 own and control each other; that said individual defendants
3 are the sole stockholders, officers and directors of said
4 corporation; that defendant corporation is so controlled and
5 managed by said individual defendants that the monies of
6 defendant corporation and the individuals are co-mingled and
7 intermingled; that there is a unity of ownership and interest
8 between them; that the credit of one is used for the credit
9 of the other; that the obligations of the corporation are paid
10 by the individuals and those individuals are paid by the
11 corporation; that the corporation was incorporated and
12 capitalized for a sum of money insufficient to meet reasonable
13 requirements of defendant corporation; that as a result of
14 the foregoing, defendant corporation was the instrumentality,
15 conduit, adjunct and alter ego of the other defendants so as
16 to make said corporation and individuals the instrumentality,
17 conduit, adjunct and alter ego of defendant corporation and
18 the individual defendants; that said individual defendants
19 have managed and controlled said corporation to avoid personal
20 liability and to defraud creditors of the individuals and the
21 corporation; that unless the fiction of the separateness of
22 the individuals from said corporation and from each other are
23 ignored, great injustice will result and fraud will be sanctioned,
24 all to the irreparable damage and injury of plaintiff, as
25 defendants have deliberately rendered themselves financially
26 unable to respond to a money judgment through gifts, salaries
27 and loans to one another and by other devices and schemes known
28 to themselves and unknown to plaintiff; and that unless judgment

1 in this action includes said corporate defendant and the
2 individual named in this paragraph, plaintiff will not be able
3 to recover and enforce the claims and rights herein referred
4 to.

5 8. Plaintiff is informed and believes and on
6 that basis alleges that on or about June 1983 defendants, and
7 each of them, knowingly and willfully conspired and agreed
8 among themselves to have defendant REGINA HSIEH deposit certain
9 checks in an account held by said defendant with plaintiff
10 drawn on an Ohio bank, which checks were not covered by
11 sufficient funds. Plaintiff is further informed and believes
12 and on that basis alleges that defendants, and each of them,
13 knowingly and willfully conspired and agreed among themselves
14 that upon deposit of said checks, defendant REGINA HSIEH would
15 immediately withdraw said monies from plaintiff and turn said
16 monies in the form of cash or cashier's checks over to her
17 other defendants.

18 9. On or about June 29, 1984, July 2, 1984, July
19 3, 1984 and July 5, 1984 defendant REGINA J. HSIEH falsely
20 and fraudulently represented to plaintiff that the checks she
21 was depositing in her account with plaintiff totalling in excess
22 of \$862,000.00 were covered by sufficient funds.

23 10. The representations made by said defendant
24 were, in fact, false. The true facts were that said checks
25 were not covered by sufficient funds although plaintiff did
26 have on deposit a sum in excess of \$32,000.00.

27 11. When defendant made these representations,
28 she knew them to be false and these representations were made
by defendant with the intent to defraud and deceive plaintiff

1 and with the intent to induce plaintiff to act in the manner
2 herein alleged.

3 12. Plaintiff, at the time these representations
4 were made by defendant, and at the time plaintiff took the
5 actions herein alleged, was ignorant of the falsity of
6 defendant's representations and believed them to be true. In
7 reliance on these representations, plaintiff was induced to
8 and did allow defendant to make withdrawals totalling in excess
9 of \$600,000.00 based on the credits given to her account as
10 a result of the aforementioned checks. Had plaintiff known
11 the actual facts, it would not have taken such action.
12 Plaintiff's reliance on defendant's representations was justified
13 because defendant had an active account with plaintiff for
14 an excess of 10 years and had never written an insufficient
15 fund check or otherwise done anything to lead plaintiff to
16 any conclusion other than that defendant was a woman of means
17 and reliable and honest.

18 13. As a proximate result of defendant's fraud
19 and deceit and the facts herein alleged, plaintiff allowed
20 defendant to withdraw from funds held by plaintiff a sum in
21 excess of \$600,000.00.

22 14. Defendant REGINA J. HSIEH did the acts and
23 things herein alleged pursuant to and in furtherance of the
24 conspiracy and above alleged agreement.

25 15. Plaintiff is informed and believes and on
26 that basis alleges that defendants LAILAI CAPITAL CORPORATION,
27 INC. and N.S. HSIEH, GERALD H.J. DUAN, TRANG-CHONG HUNG, YU-SUN,
28 MAY-MUNG DUAN, C.Y. TSAI and P.L. SHEN furthered the conspiracy

1 by cooperation or lent aid or encouragement or ratified and
2 adopted the acts of defendant REGINA J. HSIEH in that, among
3 other things, the vast majority of the funds withdrawn by
4 defendant from plaintiff were deposited in bank accounts or
5 otherwise delivered into the custody of defendant LAILAI CAPITAL
6 CORPORATION, INC. and the other defendants.

7 16. As a proximate result of the wrongful acts
8 herein alleged, plaintiff has been generally damaged in a sum
9 in excess of \$572,000.00. Plaintiff prays leave to amend its
10 complaint when said sum has been more fully ascertained.

11 17. Defendants did the things herein alleged
12 maliciously and to oppress plaintiff. Plaintiff is therefore
13 entitled to exemplary and punitive damages in the sum of \$10
14 million.

15 Wherefore, plaintiff prays for relief as hereinafter
16 set forth.

17
18 SECOND CAUSE OF ACTION

19 18. Plaintiff incorporates herein by reference
20 as though fully set forth herein, each and every allegation
21 contained in paragraphs 1 through 5, inclusive, of its First
22 Cause of Action.

23 19. On or about June 29, 1984, July 1, 1984,
24 July 3, 1984 and July 5, 1984, defendant REGINA J. HSIEH gave
25 to plaintiff her checks in writing dated June 29, 1984, July
26 1, 1984, July 3, 1984 and July 5, 1984 and directed to her
27 account at Bank One of Columbus, Ohio, and payable to the order
28 of plaintiff in sums totalling \$862,000.00. A copy of said

1 checks are attached hereto as EXHIBIT "A".

2 20. On June 29, 1984, July 2, 1984, July 3, 1984
3 and July 5, 1984 defendant REGINA J. HSIEH withdrew monies
4 from her account with plaintiff totalling in excess of
5 \$600,000.00.

6 21. The checks deposited by plaintiff on June
7 29, 1984, July 2, 1984, July 3, 1984 and July 5, 1984 were
8 presented twice to the drawing bank for payment but were not
9 paid.

10 22. Due notice of dishonor was given to defendant
11 REGINA J. HSIEH.

12 23. Defendant REGINA J. HSIEH has not paid the
13 checks deposited by her between June 29, 1984 and July 5, 1984
14 and there is due, owing and unpaid from said defendant to
15 plaintiff the sum of \$604,782.00.

16 Wherefore, plaintiff prays for relief as hereinafter
17 set forth.

18
19 THIRD CAUSE OF ACTION

20 24. Plaintiff incorporates herein by reference
21 as though fully set forth herein, each and every allegation
22 contained in paragraphs 1 through 17, inclusive, of the First
23 Cause Of Action.

24 25. Plaintiff is informed and believes and on
25 that basis alleges that defendants and each of them and in
26 particular defendants REGINA J. HSIEH, N.S. HSIEH, LAILAI CAPITAL
27 CORPORATION, INC. and GERALD H.J. DUAN took all or a substantial
28 portion of the monies fraudulently obtained from plaintiff

1 and used said monies to acquire, improve, maintain and own
2 certain real and personal property, including, but not limited
3 to, stocks, bonds and stock futures and the real property
4 described in EXHIBIT "B" to this complaint.

5 26. As a direct and proximate result of the
6 defendants' actions of taking monies fraudulently obtained
7 from plaintiff and using said monies as aforesaid in regards
8 to the above said property, plaintiff is entitled to a
9 declaration of an economical interest in said property and
10 a declaration that defendants hold said property as constructive
11 trustees for plaintiff.

12
13 FOURTH CAUSE OF ACTION

14 27. Plaintiff incorporates herein by reference
15 as though fully set forth paragraphs 1 through 8, inclusive,
16 of the first cause of action of its complaint.

17 28. At all times herein mentioned and, in
18 particular, on or about July 1984, plaintiff was and still
19 is the owner and was and still is entitled to the possession
20 of the following personal property, namely: The sum of
21 \$604,782.00 in cash.

22 29. On or about July 1984 and at Orange County,
23 California, the property had a value of \$604,782.00.

24 30. On or about July 1984, defendants took the
25 above mentioned property from plaintiff's possession and
26 converted the same to their own use.

27 31. On several occasions since July 1984, plaintiff
28 has demanded the immediate return of the above-mentioned

1 and used said monies to acquire, improve, maintain and own
2 certain real and personal property, including, but not limited
3 to, stocks, bonds and stock futures and the real property
4 described in EXHIBIT "B" to this complaint.

5 26. As a direct and proximate result of the
6 defendants' actions of taking monies fraudulently obtained
7 from plaintiff and using said monies as aforesaid in regards
8 to the above said property, plaintiff is entitled to a
9 declaration of an economical interest in said property and
10 a declaration that defendants hold said property as constructive
11 trustees for plaintiff.

12
13 FOURTH CAUSE OF ACTION

14 27. Plaintiff incorporates herein by reference
15 as though fully set forth paragraphs 1 through 8, inclusive,
16 of the first cause of action of its complaint.

17 28. At all times herein mentioned and, in
18 particular, on or about July 1984, plaintiff was and still
19 is the owner and was and still is entitled to the possession
20 of the following personal property, namely: The sum of
21 \$604,782.00 in cash.

22 29. On or about July 1984 and at Orange County,
23 California, the property had a value of \$604,782.00.

24 30. On or about July 1984, defendants took the
25 above mentioned property from plaintiff's possession and
26 converted the same to their own use.

27 31. On several occasions since July 1984, plaintiff
28 has demanded the immediate return of the above-mentioned

1 property, but defendants failed and refused and continue to
2 fail and refuse to return the property to plaintiff.

3 32. As a proximate result of defendants'
4 conversions, plaintiff has incurred investigation expense and
5 attorneys fees expense, all to plaintiff's damages according
6 to proof.

7 33. The aforementioned acts of defendants were
8 willful, wanton, malicious and oppressive and justify the
9 awarding of exemplary and punitive damages in the amount of
10 \$10,000,000.00.

11
12 WHEREFORE, plaintiff prays for relief as follows:

13 FIRST CAUSE OF ACTION

14 1. General damages in excess of \$600,000.00 or
15 according to proof.

16 2. For punitive damages in the sum of
17 \$10,000,000.00.

18 3. For costs of suit.

19 4. For such other and further relief as the court
20 may deem reasonable and proper.

21 5. Interest according to the legal rate from
22 July 5, 1984.

23
24 SECOND CAUSE OF ACTION

25 1. For damages in excess of \$600,000.00 or
26 according to proof.

27 2. For costs of suit.

28 3. For such other and further relief as the court

1 may deem reasonable and proper.

2 4. Interest according to the legal rate from
3 July 5, 1984.

4
5 THIRD CAUSE OF ACTION

6 1. For a judgment that defendants are holding
7 the title to said real property and personal property in trust
8 for plaintiff.

9 2. For an order that defendants convey said real
10 property and personal property to plaintiff on such terms and
11 conditions as the court may determine and fix and in the event
12 of failure of defendants to convey the real property an order
13 appointing a commissioner, clerk or other judicial officer
14 to so convey said real property.

15 3. For actual damages in excess of \$600,000.00
16 or according to proof.

17 4. For punitive or exemplary damages in the sum
18 of \$10,000,000.00.

19 5. For costs of suit incurred herein.

20 6. For such other and further relief as the court
21 may deem reasonable and proper.

22 7. Interest according to the legal rate from
23 July 5, 1984.

24
25 FOURTH CAUSE OF ACTION

26 1. For damages of \$604,782.00 or according to
27 proof.

28 2. For costs of suit.

1 3. For such other and further relief as the court
2 may deem reasonable and proper.

3 4. Per interest according to the legal rate from
4 July 5, 1984.

5
6 BURTON H. WARD, INC.

7
8 *Neil M. Schwartz*
9 NEIL M. SCHWARTZ
10 Attorneys for Plaintiff