

MINNER (State Bar No. 252676)
CHWARTZ (State Bar No. 87699)
EY (State Bar No. 328805)
Y & WEINBERGER LLP

California 94102
(5) 552-7272
(5) 552-5816
v.com
aw.com
com

intiff
CUPERTINO

CV380291

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CUPERTINO,

intiff,

NG; and DOES 1 through

endants.

Case No.

**COMPLAINT FOR FRAUD, BREACH
OF CONTRACT, AND CONVERSION**

SUPERIOR
COURT
OF THE
STATE OF

INTRODUCTION

In this action, Plaintiff City of Cupertino ("City") seeks to remedy the substantial
caused by Defendant Jennifer Chang ("Defendant"), a former senior accountant
Finance Department. Over the course of Defendant's seventeen years of City
Defendant converted nearly \$800,000 of City funds for her personal use. To
conversion, she created fictitious shell entities, issued payments to those entities
and deposited those checks into bank accounts that she owned and controlled.
of City funds for her personal use was fraudulent, and in breach of Defendant's
ations with the City, which required her to use the City funds in her care for the
self.

COUNTY OF SANTA CLARA

CITY OF CUPERTINO, Case No.

21CV380291

Plaintiff, COMPLAINT FOR FRAUD, BREACH OF CONTRACT, AND
CONVERSION

v.

JENNIFER CHANG; and DOES through
20, inclusive,

Defendants.

INTRODUCTION

¹. By this action, Plaintiff City of Cupertino ("City") seeks to remedy the substantial economic harm caused by Defendant Jennifer Chang ("Defendant"), former senior accountant in the City's Finance Department. Over the course of Defendant's seventeen years of City employment, Defendant converted nearly \$800,000 of City funds for her personal use. To accomplish this conversion, she created fictitious shell entities, issued payments to those entities With City checks, and deposited those checks into bank accounts that she owned and controlled. This conversion of City funds for her personal use was fraudulent, and in breach of

City, Which required her to use the City funds in

F AND CONVERSION

PARTIES

2. The City is an incorporated municipality in the County of Santa Clara. 3. Defendant is an individual and former City employee.

4. Plaintiff does not know the true names and capacities, Whether individual, corporate, associate, or otherwise, of Defendant

PARTIES

municipality in the County of Santa Clara.

and former City employee.

true names and capacities, whether individual,

Defendant Does 1 through 20, inclusive, and therefore sues

Plaintiff alleges, upon information and belief, that each

in some manner for committing the acts upon which

this Complaint to show the true names and capacities

when said names are ascertained.

each Defendant was the agent and/or employee of

Does through 20, inclusive, and therefore sues

said defendants under fictitious names. Plaintiff alleges, upon information and belief, that each fictitiously named defendant is responsible in some manner for committing the acts upon which this action is based. Plaintiff will amend this Complaint to show the true names and capacities of said fictitiously named defendants if and when said names are ascertained.

5. At all times mentioned herein, each Defendant was the agent and/or employee of each other Defendant, and each performed acts on which this action is based within the course and scope of such Defendant's agency and/or employment.

VENUE

6. Venue is proper in this court under California Code of Civil Procedure section 395(3) because Defendant resides in the County of Santa Clara.

7. Plaintiff has performed any conditions precedent to the filing of the instant action.

STATEMENT OF FACTS

8. Defendant was senior accountant in the City's Finance Department between August 25, 1997 and July 7, 2015. Defendant's responsibilities included reviewing and issuing checks to City vendors and tax auditing. Defendant was also responsible for maintaining spreadsheet that tracked customer deposits for various building permits and bonds. In conjunction with these responsibilities, Defendant had access to the computer system used by Finance Department employees to create City checks.

9. During the course of Defendant's employment, other employees in the Finance Department noted discrepancies between the customer deposit spreadsheet maintained by Defendant and records maintained in other City departments, as well as the general ledger liability account for

provided
accounts

did not balance.

10. On or around June 1, 2015, Defendant advised the City that she planned to retire effective July 7, 2015. However, rather than remaining at work, she informed the City that she would use a combination of vacation and sick leave to remain out the office until July 7, 2015. Defendant took her leave and retired as planned on July 7, 2015.

did not
balance.

11. In April 2018, City accountant Richard Wong ("Wong") conducted a detailed review of the City's liability account in preparation for the City's 2017-2018 financial audit. As

10. On
or

around June 1, 2015, Defendant advised the City that she planned to retire effective July 7, 2015. However, rather than remaining at work, she informed the City that she would use combination of vacation and sick leave to remain out the office until July 7, 2015. Defendant took her leave and retired as planned on July 7, 2015.

11. In April 2018, City accountant Richard Wong ("Wong") conducted detailed review of the City's liability account in preparation for the City's 2017-2018 financial audit. As part of this review, Wong attempted to reconcile the City's outgoing payments With supporting documentation, e.g., contracts, work orders, receipts, or invoices from vendors for services provided to the City.

12. During his review, Wong identified number of outgoing payments that he deemed suspicious because of their size, and because the payees were not immediately recognizable to Wong as City vendors. Upon further investigation, Wong could not find supporting documentation to validate these payments. In total, Wong identified twenty-three suspicious payments, totaling \$791,494 (the "Fraudulent Payments").

13. Wong further discovered that the Fraudulent Payments were issued to only four entities: Pacific Bay Investment ("Pacific Bay"), MFS Network Technology ("MFS"), Pacific West Development ("Pacific West"), and Greater Bay Properties ("Greater Bay") (collectively, the "Fraudulent Entities").

14. Wong ran the names of the Fraudulent Entities against the Santa Clara County Clerk-Recorder's Office's Fictitious Business Name database and learned that all four were registered to the same individual, Yuen-Cheng Chang.

15. On April 17, 2018, Wong searched the City's employee database and found Defendant, listed as "Jennifer Chang." Wong spoke to several Finance Department employees Who had worked With Defendant, some of Whom thought Defendant's middle name was Yuen.

16. The next day, April 18, 2018, former City Manager David Brandt contacted the Santa Clara County Sheriff's Office ("Sheriff") to report Wong's discovery of the suspicious payments, and Defendant's potential involvement. The Sheriff opened an investigation and

COMPLAINT FOR FRAUD, BREACH OF CONTRACT AND CONVERSION

began interviewing City employees on April 19, 2018.

17. The State Attorney General filed a criminal case against Defendant on September 4, 2018, charging her with 68 counts, including theft, grand theft, and forgery. *The People of the State of California v. Jennifer Yuencheng Chang*, Santa Clara County Superior Court, Case No. C1899743. This case is currently pending, and trial is set for September 2021.

18. Based on the City's and Sheriff's investigations of the Fraudulent Payments and Fraudulent Entities, it is clear that Defendant (1) created the Fraudulent Entities, (2) drafted and issued City checks for the Fraudulent Payments, (3) deposited the Fraudulent Payments into bank accounts that were owned and controlled by Defendant, and (4) used the Fraudulent Payments for her personal use (collectively, the "Fraudulent Activities"). Each of these actions are further described below.

19. Santa Clara County requires the owners of businesses using a fictitious name to file a Fictitious Business Name Statement ("FBN") with the County Clerk Recorder. The purpose of this requirement is to ensure that customers have access to the true name and address of the owners of the business.

20. The FBNs for the Fraudulent Entities, located by searching the Santa Clara County Clerk-Recorder's Office's Fictitious Business Name database, show that all four were registered to an individual named Yuen-Cheng Chang. Defendant's given Chinese name is Yuen-Cheng, which she also uses as an English middle name. Additionally, Defendant's California Department of Motor Vehicles record provides that Defendant uses the alias "Chang J Yuencheng."

21. The FBN for Pacific Bay was recorded on August 3, 2000. The FBN for MFS was recorded on August 8, 2001. The FBN for Pacific West was recorded on June 10, 2011. The FBN for Greater Bay was recorded on December 27, 2013.

22. Between September 28, 2000 and September 5, 2014, using City checks that she created, and without the knowledge and/or consent of any City employee or official, Defendant issued the 23 Fraudulent Payments, totaling \$791,494. A summary of each payment is below:

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began
interviewing
City
employees
on April 19,
2018.

17. The
State
Attorney
General
filed
criminal
case
against
Defendant
on
September

4, 2018,
charging
her With
68 counts,
including
theft,
grand
theft, and
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The
People
of the
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22. Between September 28, 2000 and September 5, 2014, using City checks that she created, and Without the knowledge and/or consent of any City employee or official,

of each payment is

<u>Check Date</u>	<u>Check #</u>	<u>Amount</u>	<u>Fraudulent Entity</u>
9/28/2000	580115	\$24,500	Pacific Bay
9/28/2001	588337	\$28,708	MFS
10/3/2003	604126	\$24,952	Pacific Bay
5/20/2005	618042	\$26,050	MFS
8/26/2005	620010	\$21,998	MFS
4/20/2007	631061	\$28,850	MFS
8/10/2007	633114	\$24,150	MFS
7/22/2011	659393	\$23,425	Pacific West
9/10/2011	659874	\$23,425	Pacific West

Check
Date

9/28/2000 5801 15 \$24,500 Pacific Bay

9/28/2001 588337 \$28,708 MFS

10/3/2003 604126 \$24,952 Pacific Bay

5/20/2005 618042 \$26,050 MFS

8/26/2005 620010 \$21,998 MFS

4/20/2007 63 1061 \$28,850 MFS

8/10/2007 633 14 \$24,150 MFS

7/22/2011 659393 \$23,425 Pacific West

8/19/2011 659874 \$23,425 Pacific West

10/21/2011 660936 \$24,450 Pacific West

10/28/2011 661 153 \$23,850 Pacific West

3/16/2012 663263 \$18,635 Pacific West

8/16/2013 671962 \$39,627 Pacific West

8/16/2013 671963 \$46,332 Pacific West

8/16/2013 672043 \$46,829 Pacific West

8/16/2013 672044 \$39,248 Pacific West

3/14/2014 675184 \$68,800 Greater Bay

3/14/2014 675185 \$48,925 Pacific West

3/14/2014 675236 \$62,780 Greater Bay

3/14/2014 675268 \$49,415 Pacific West

9/5/2014 678209 \$29,715 Pacific West

9/5/2014 678251 \$37,480 Greater Bay

9/5/2014 678283 \$29,350 Pacific West

NO services were provided to the City by the Fraudulent Entities, either in 23.

connection With the Fraudulent Payments Or otherwise.

Each of the Fraudulent Payments was transacted through, and debited from, the 24.

COMPLAINT FOR FRAUD, BREACH OF CONTRACT AND CONVERSION

City's Wells Fargo checking account.

25. The City has obtained copies from Wells Fargo of eight of the checks listed above:
Check Nos. 659874, 661153, 672043, 672044, 675236, 675268, 678251, and 678283.

Endorsement stamps on the back of these checks show that the Fraudulent Payments were deposited into at least three financial institutions into accounts associated with the Fraudulent Entities.

26. At least three of the Fraudulent Payments were deposited into an account at Fremont Bank. All three were payable to Greater Bay, in the total amount of \$169,060. Defendant was the owner of the Fremont Bank account.

27. At least eight of the Fraudulent Payments were deposited into an account at Comerica Bank. All eight were payable to Pacific West, in the total amount of \$259,005. Two additional deposits into this account were from Defendant's personal bank account. The Comerica Bank account also had a total of fourteen outgoing checks, four of which were payable to "Jennifer Chang." Defendant was the owner of the Comerica Bank account.

28. At least five of the Fraudulent Payments were deposited into an account at First Republic Bank. All five were payable to Pacific West, in the total amount of \$184,221. Defendant was the owner of the First Republic Bank account.

FIRST CAUSE OF ACTION

(Fraud)

29. Plaintiff realleges and incorporates by reference herein all of the allegations set forth in all previous paragraphs of this Complaint.

30. Throughout the course of her employment with the City, Defendant represented that the Fraudulent Entities were legitimate City vendors that had performed services for the City, and that the Fraudulent Payments were for services actually rendered. Defendant also represented that discrepancies between her customer deposit spreadsheet and the City's general ledger liability account had legitimate explanations, and that those discrepancies were not the result of Defendant's Fraudulent Activities.

31. As described above, Defendant's representations were false. Defendant herself

City's Wells
Fargo
checking
account.

25. The
City has
obtained
copies
from
Wells
Fargo of
eight of
the checks
listed
above:
Check
Nos.
659874,
661 153,
672043,
672044,
675236,
675268,
678251,
and
678283.

Endorsement stamps on the back of these checks show that the Fraudulent Payments were deposited into at least three financial institutions into accounts associated With the Fraudulent Entities.

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FIRST CAUSE OF ACTION

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29. Plaintiff realleges and incorporates by reference herein all Of the allegations set forth in all previous paragraphs of this Complaint.

30. Throughout the course of her employment With the city, Defendant represented that the Fraudulent Entities were legitimate City vendors that had performed services for the City, and that the Fraudulent Payments were for services actually rendered. Defendant also represented that discrepancies between her customer deposit spreadsheet and the City's general ledger liability account had legitimate explanations, and that those discrepancies were not the result of Defendant's Fraudulent Activities.

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created the Fraudulent Entities, the Fraudulent Entities never performed services for the City, and the Fraudulent Payments were likewise not for any services actually provided to the City. Instead, Defendant engaged in the Fraudulent Activities for the purpose of converting the City's money for her personal use. Likewise, the discrepancies between Defendant's customer deposit spreadsheet and the City's general ledger liability account were the result of Defendant's Fraudulent Activities.

created
the

32. Defendant knowingly and intentionally created the Fraudulent Entities, issued the

Fraudulent Entities, the Fraudulent Entities never performed services for the City, and the Fraudulent Payments were likewise not for any services actually provided to the City. Instead, Defendant engaged in the Fraudulent Activities for the purpose of converting the City's money for her personal use. Likewise, the discrepancies between Defendant's customer deposit spreadsheet and the City's general ledger liability account were the result of Defendant's Fraudulent Activities.

32. Defendant knowingly and intentionally created the Fraudulent Entities, issued the Fraudulent Payments, and deposited the Fraudulent Payments into bank accounts that she owned and controlled, and therefore knew that her representations to the City were false.

33. In order to keep her job at the City and to hide the Fraudulent Activities, Defendant intended that the City rely on her representations.

34. Because the City relied on Defendant's representations, it suffered substantial harm, including but not limited to its loss of the \$791,494 Defendant paid from City funds to the Fraudulent Entities. But for the City's reliance on Defendant's representations, the Fraudulent Payments never would have been issued to the Fraudulent Entities. Therefore, the City's reliance on Defendant's representations was substantial factor in causing its harm. SECOND

CAUSE OF ACTION

(Breach Of Contract)

35. Plaintiff realleges and incorporates by reference herein all of the allegations set forth in all previous paragraphs of this Complaint.

36. Defendant had written employment contract With the City from August 25, 1997 through July 7, 2015. The contract required Defendant to, among other things, use the City funds in her care for the City and not for herself, comply With all City accounting procedures, and comply With all applicable laws and regulations.

37. The City performed all, or substantially all, of its obligations under this contract, including paying salary and benefits to Defendant for her services.

38. The City suffered substantial harm, including but not limited to its loss of the \$791,494 Defendant paid to the Fraudulent Entities from City funds under her care.

COMPLAINT FOR FRAUD, BREACH OF CONTRACT AND CONVERSION

39. By engaging in the Fraudulent Activities and thereby converting the City's money for her personal use, Defendant breached her contractual obligations to the City. This breach was the cause of the City's harm.

THIRD CAUSE OF ACTION
(Conversion)

40. Plaintiff realleges and incorporates by reference herein all of the allegations set forth in all previous paragraphs of this Complaint.

41. The money in the City's bank accounts, including the City's Wells Fargo account, belonged to the City.

42. By creating the Fraudulent Entities, issuing the Fraudulent Payments, and depositing the Fraudulent Payments into bank accounts that she owned and controlled, Defendant knowingly and intentionally took possession of the City's money. In so doing, Defendant substantially interfered with the City's money, and the City's ability to use its money for valid government purposes.

43. The City never consented to Defendant creating the Fraudulent Entities, issuing the Fraudulent Payments, depositing the Fraudulent Payments into bank accounts that Defendant owned and controlled, or otherwise misappropriating the City's money.

44. The City was harmed by the Fraudulent Activities, including but not limited to its loss of the \$791,494 Defendant paid from City funds to the Fraudulent Entities.

45. Defendant's conduct was a substantial factor in causing the City's harm.

PRAYER FOR RELIEF

Plaintiff therefore prays for judgment as follows:

1. For damages in an amount to be proved at trial, including but not limited to \$791,494 for the Fraudulent Payments, loss of interest on the Fraudulent Payments, \$55,000 for the cost to the City of hiring a private forensic service to investigate the Fraudulent Activities, and \$26,818.84 for costs to the City of staff time required to investigate and respond to the Fraudulent Activities;

2. For costs of suit including attorneys' fees; and

39. By
engaging
in the
Fraudulent
Activities
and
thereby
converting
the City's
money for
her
personal
use,
Defendant
breached
her
contractual
obligations
to the City.
This
breach was
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of the
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3. For such other relief as the Court deems just and proper.

D: April 13, 2021

SHUTE, MIHALY & WEINBERGER LLP

By:



SARAH M. LUCEY

Attorney for Plaintiff
CITY OF CUPERTINO

3. For such other relief as the Court deems just and proper.

DATED: April 13, 2021 SHUTE, MIHALY WEINBERGER LLP

SARAH M. LUCEY

Attorney for Plaintiff
CITY OF CUPERTINO

COMPLAINT FOR FRAUD, BREACH OF CONTRACT AND CONVERSION