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IN THE
COURT OF APPEALS OF INDIANA

TBS DEVELOPMENT, LLC, a Kentucky Limited Liability Company, THOMAS P. REUSCH, and DWAYNE MEANS, Appellants,	)	
vs.	)	No. 15A01-0911-CV-540
THE CENTRAL BANK AND TRUST CO., Appellee.	)	

APPEAL FROM THE DEARBORN CIRCUIT COURT
The Honorable James D. Humphrey, Judge
Cause No. 15C01-0806-MF-146

August 19, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Central Bank and Trust Co. ("Central Bank") sued TBS Development, LLC, Thomas Reusch, and Dwayne Means (collectively "the Defendants") in Dearborn Circuit Court for fraud, fraud on a financial institution, conversion, and breach of contract. The trial court found the Defendants liable on all counts, and further concluded that the conduct of both Means and Reusch was such that Central Bank could pierce the corporate veil of TBS Development to establish personal liability on the part of each for the damages awarded. The Defendants appeal and raise the following restated issues:

> I. Whether the trial court's findings that the Defendants committed fraud, fraud on a financial institution, and conversion are supported by the evidence;
>
> II. Whether the trial court erred when it awarded treble damages; and
>
> III. Whether the reasonableness of Central Bank's attorney fees is ripe for appeal.

Concluding that the trial court's findings are supported by the evidence, treble damages are appropriate, and the question of whether Central Bank's attorney fees are reasonable is not properly before our court, we affirm.

Facts and Procedural History

After discovering conduct on the part of the Defendants that caused it concern, Central Bank filed a complaint in Dearborn Circuit Court alleging that the Defendants had committed fraud, fraud on a financial institution, conversion, and breach of contract. On May 29, 2009, the trial court entered partial summary judgment on Central Bank's

breach of contract claim. See Appellee's Br. at 3. The remaining claims were tried in a bench trial on August 11 and 12, 2009.

On October 6, 2009, trial court issued meticulous findings of fact describing the pertinent events that occurred between Central Bank and the Defendants that include the following (and we adopt the trial courts abbreviated names in this opinion):

> 1. In late 2006, Defendants, Thomas Reusch ("Reusch") and Dwayne Means ("Means") had discussions with Jason Guard ("Guard") about purchasing a seven acre tract of land called Lot 156 at the Villages of Sugar Ridge subdivision ("Lot 156"). Lot 156 was owned by Eagle Golf, Inc., a company controlled by Michael Macke ("Macke").
>
> 2. By this time, Defendants, Means and Reusch, were experienced and sophisticated developers of commercial and residential real estate projects. Means had formed at least 10 limited liability companies, had developed over 65 real estate projects and had borrowed millions of dollars from banks for those projects. Reusch was a member of several limited liability companies, had built between 23 and 30 homes and had obtained numerous bank loans for real estate projects.
>
> 3. Guard showed Lot 156 to Means and Reusch, then they met with Macke to discuss how to "set up" the purchase.
>
> 4. Guard negotiated with Macke to purchase Lot 156 from Eagle Golf, Inc. for a price of $1,200,000, which was never disclosed to Central Bank. Mike Macke testified:
>
> Q: And what was the price?
>
> A: The price for the ground was a million-two, I believe.
>
> (record citation omitted).
>
> 5. Guard offered to sell Lot 156 to Means and Reusch at a price slightly higher than the $1,200,000 than Macke had agreed to sell it for, which was never disclosed to Central Bank.
>
> 6. Means and Reush told Guard that they wanted him to increase the purchase price for Lot 156, specifically, they requested the price to be $2,170,000, which Guard agreed to do and, which was never disclosed to Central Bank. Jason Guard testified:

> Q: Okay. And you offered to sell Lot 156 to Mr. Means and Mr. Reusch or their company, TBS, for a price that was somewhere higher than the 1,375,000, but lower that [sic] the $2,170,000, correct?
> A: Yes.
> Q: But after you quoted that price to them, they came back to you and they told you that the price they wanted to pay is $2,170,000?
> A: Yes.
> Q: The price they said they wanted to pay was higher than what you had previously quoted them?
> A: Yes.

(record citation omitted).

7. On December 4, 2006, Means and Reusch entered into a Contract to Purchase Lot 156 from Guard for $2,170,000, despite the fact that Means and Reusch knew that Guard did not own Lot 156, which was actually owned by Macke's company, Eagle Golf, Inc.

8. Means and Reusch approached Central Bank, which is a federally insured bank, about seeking a loan to purchase and develop Lot 156.

9. Means and Reusch presented Central Bank with the Contract to Purchase Land (Pl. Exh. 4), which represented the price to acquire the "Real Estate" alone was $2.17 million.

10. To secure approval for their loan, Defendants submitted a pro-forma budget (Pl. Exh. 6) and site plans for the development.

11. The pro-forma budget included all major tasks that would be required in the development. It included a land cost of $2.17 million, identical to the represented price in the Contract to Purchase Land. Defendants admitted that the pro-forma budget was a representation to Central Bank of how they would spend loan funds.

12. Neither the pro-forma budget nor the plans revealed anything about the lease or operation of a restaurant. At no time in the application process did Defendants ever inform Central Bank they were interested in spending its loan funds on a restaurant.

13. In deciding whether to lend to TBS, Central Bank performed a Financial Analysis (Pl. Exh. 61). That analysis shows Central Bank relied upon the $2.17 million purchase price provided by Defendants, as well as the pro-forma budget, in determining whether to make a loan.

14. Means and Reusch formed Defendant, TBS Development, LLC ("TBS"), to serve as the borrower under the loan. Means and Reusch were the only two authorized members of TBS.

15. TBS entered into a Loan Agreement (Pl. Exh. 8), Note (Pl. Exh. 9) and Mortgage (Pl. Exh. 10) with Central Bank dated March 1, 2007, whereby it obtained a loan from Central Bank in the amount of $2,167,000 (the "Loan").

16. Defendants, Reusch and Means individually guaranteed the obligations of TBS under the Central Bank loan documents regarding the Loan. (Pl. Exhs. 11-12.)

17. The Loan Agreement between TBS and Central Bank (Pl. Exh. 8) states that the purpose of the Loan is:

> Lender agrees to extend credit to borrower for the purpose of financing the purchase and preconstruction site improvement of the real estate being generally known as Lot 156 of the Villages of Sugar Ridge, Section 3, Dearborn County, Indiana . . .

18. In a section on page 2, the Loan Agreement, in a section explicitly titled "USE OF PROCEEDS," it states:

> The proceeds of the loan shall be used to pay for the acquisition of the premises, preconstruction site development of the premises, as well as for customary and incidental expenses incurred in completing the project, and such other expenses as lender may from time to time approve, all in accordance with the plans, specifications, budget and timeline provided by borrower to lender and as may be subsequently modified with the reasonable approval of the lender.

19. The Loan Agreement further addressed "incidental" expenses in Section 5.14, stating any incidental expenses over $10,000 individually, or all incidentals in the aggregate over $15,000 must be approved by the bank.

20. The Loan Agreement finally put the risk of delay on Defendants in Section 9, which explicitly stated "Borrower hereby assumes all risks of delay…"

21. Means and Reusch understood the purpose of the loan was for the purchase and preconstruction of Lot 156. They understood the purpose of the loan was not to operate a restaurant.

22. Before the March 1, 2007 closing of the Loan, Defendants reached an agreement with Macke to lease a restaurant and bar called Gimmies for 3 years. This was done without Central Bank's knowledge.

23. On February 26, 2007, two days before the Central Bank closing, Defendant, Means, signed Articles of Organization to form Gimmies Group, LLC (Pl. Exh. 13) for the purpose of operating Gimmies Bar and Grill.

24. On the date of the Central Bank closing, Defendants held a signing of the lease (Pl. Exh. 16) for Gimmies, but at a separate location (their office), in a different state (Ohio), and without Central Bank's knowledge.

25. It is undisputed, and was admitted by Defendants, that they never told Central Bank about Gimmies.

26. Macke required the lease payments for Gimmies to be paid in advance for all three years. In order to fund this payment, the Defendants arranged for the sum of $174,465.07 to be disbursed to Eagle Golf, Inc. at the March 1, 2007 closing of the Loan. Mike Macke testified:

> Q: And then in addition to that, you included three years worth of prepayment of rent for the Gimmies Restaurant, correct?
> Q: That was actually included, though, in the contract, wasn't it?
> A: They-yeah, they included it in their … in the money they borrowed, yes.
> Q: And at the closing of that purchase, did you receive the payment of the three years?
> A: We got prepaid for three years, yes.
> Q: Oaky. And that also included the equipment in the restaurant, didn't it?
> A: Yes.

(record citation omitted).

27. The Defendants did not disclose to and concealed from Central Bank that $174,456.07 disbursed to Eagle Golf, Inc. from the closing's loan proceeds was for prepayment of three years rent to lease Gimmies. Central Bank had no reason to question that payment because Eagle Golf was the seller of Lot 156.

28. Gimmies Restaurant is not located on Lot 156, which is the property that was supposed to have been purchased and developed by TBS with the proceeds from the Loan.

29. The Defendants also represented to Central Bank that Guard was to receive at the loan closing a disbursement of $361,000 of the Loan proceeds for an assignment fee. Jim Willman testified it was explained to him as a "land swap." Defendants claim it was [a] consulting fee.

30. However, it is undisputed, and was admitted by the Defendants, that they did not disclose to Central Bank that immediately after the Loan closing on March 1, 2007, Guard wrote checks in the amount of $84,750 each to Defendants Means and Reusch personally, and to their business partner Bijan Nargessi, which they deposited into their personal accounts. (Pl. Exh. 21).

31. Defendants admitted they spend this money on personal debts or debts of other, non-related companies.

32. Central Bank was unaware that $174,465.07 disbursed to Eagle Golf, Inc., and $361,000 disbursed to Jason Guard at the Loan closing were not legitimate components of the purchase of Lot 156. Defendants had repeatedly, orally and in writing, misrepresented to Central Bank the purchase price for Lot 156 was $2,170,000 <u>for the lot alone</u>.

33. After the March 1, 2007 loan closing, Defendants submitted written requests to Central Bank on a monthly basis to obtain draws on the Loan under the Loan Agreement. The Agreement required that the funds must be used for the purposes outlined in the Loan agreement: the preconstruction site development of Lot 156.

34. Defendants signed and submitted written draw requests to Central Bank, often with attached invoices, to obtain monthly draws on the loan. Under the Loan Agreement, Central Bank could also rely on oral representations by Defendants.

35. Several draw requests attached specific invoices that accounted for the exact amount of money Defendants were requesting. Every invoice provided to Central Bank related to preconstruction development work for Lot 156.

36. Defendants admitted that, each time they requested a loan, they were representing the loan funds would be spent on the preconstruction site development of Lot 156.

37. Defendants requested loan advances on March 6, April 20, June 11, and July 16. On each occasion, they represented orally, or through invoices,

that the loan funds would be spent on preconstruction site development or to pay interest on the loan. (record citation omitted).

38. Central Bank granted each of these requests, depositing hundreds of thousands of dollars in TBS'[s] bank account.

39. Once the funds were deposited, Defendants did not spend them as they had represented. Instead, they spent more than $127,731.74 on Gimmies.

40. It is clear Defendants planned to use the loan advances on Gimmies before the requests were made. In fact, *the first three checks* from the Central Bank account were all written for the benefit of Gimmies. Within one month from the closing $95,000 of Central Bank loan funds were spent on Gimmies.

41. The Defendant never disclosed to Central Bank that they were using any of the proceeds from the Loan to pay for rent, improvements and operating expenses of Gimmies or work related to Gimmies. No invoice for Gimmies was ever submitted with any advance request.

42. Although they now claim that the expenditure of loan proceeds to operate Gimmies Bar and Grill was to market condominiums they had planned to build on Lot 156, Means and Reusch have never before used a restaurant and bar to market a real estate development. They are also not aware of anyone else who has done so. In contradiction to their claims they were only using Gimmies for marketing, Defendant Dwayne Means paid himself a $4,333 monthly salary from Gimmies.

43. Defendants repeatedly admitted at trial they never told Central Bank about Gimmies. They further admitted that, when they were eventually confronted by Central Bank in December, 2007 about the numerous checks written from the loan proceeds for the benefit of Gimmies, they told the bank they did not know what the checks were for and would need to ask their bookkeeper.

44. Central Bank would not have approved the Loan or funded the draws if it had known that the Defendants were misrepresenting their intended use of the proceeds from the Loan.

See Br. of Appellants.[1]

Based on these findings of fact, the trial court found the Defendants liable for fraud, fraud on a financial institution, and conversion and awarded $558,446.81 in damages for the breach of contract claim adjudicated during the summary judgment proceedings, $558,446.81 for the fraud claim, trebled damages of $1,675,340.40 for the fraud on a financial institution claim, and trebled damages of $ 1,675,340.40 for the conversion claim. The trial court also found the Defendants jointly and severally liable for attorney fees, costs of litigation, and the cost of collection of the judgment "in an amount to be determined after" Central Bank "submits an affidavit summarizing those fees and costs." Finally, the trial court concluded that Means's and Reusch's conduct was such that Central Bank could pierce the corporate veil of TBS Development to establish personal liability on the part of each for the damages awarded.[2] The Defendants now appeal. Additional facts will be provided as necessary.

Standard of Review

The trial court entered findings of fact and conclusions of law pursuant to Indiana Trial Rule 52(A), and therefore, we apply the following two-tiered standard of review: :

[1] The Appellants included a copy of the trial court's findings of fact and conclusions of law in their brief, but failed to include a copy in the appendix as required by Indiana Appellate Rule 50(A)(2)(b). Further, the Appellants failed to include a copy of the chronological case summary, copies of pleadings, and excerpts from the record on appeal "that are important to a consideration of the issues raised on appeal," all of which is required by Rule 50(A)(2). Our recitation of the procedural history of this case is hindered by the fact that the parties failed to include these required documents in their appendices.

[2] Defendant Means filed for bankruptcy on March 9, 2010, in the United States Bankruptcy Court for the Southern District of Ohio. On April 20, 2010, the Bankruptcy Court issued an agreed order modifying the automatic stay provisions of 11 U.S.C. § 362 to permit Central Bank and Means "to continue to prosecute and otherwise litigate the appeal before the Indiana Court of Appeals, No. 15A01-0911-CV-540, and also to take any and all steps necessary to perfect, prosecute and otherwise litigate an appeal to the Indiana Supreme Court of the decision rendered by the Indiana Court of Appeals."

whether the evidence supports the findings and whether the findings support the judgment. Bowyer v. Ind. Dep't of Natural Res., 882 N.E.2d 754, 761 (Ind. Ct. App. 2008). The trial court's findings and conclusions will be set aside only if they are clearly erroneous, that is, if the record contains no facts or inferences supporting them. Id. A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made. Id. We neither reweigh the evidence nor assess the credibility of witnesses but consider only the evidence most favorable to the judgment. Id. We review conclusions of law de novo. Id.

I. Sufficient Evidence

The Defendants first argue that the trial court's findings that they committed fraud, fraud on a financial institution, and conversion are not supported by the evidence. We will examine each tort in turn.

A. *Fraud*

The elements of actual fraud are: (1) a material representation of a past or existing fact by the party to be charged that; (2) was false; (3) was made with knowledge or reckless ignorance of its falsity; (4) was relied upon by the complaining party; and (5) proximately caused the complaining party's injury. Ruse v. Bleeke, 914 N.E.2d 1, 10 (Ind. Ct. App. 2009) (citations omitted). "Actual fraud may not be based upon representations of future conduct, broken promises, or representations of existing intent that are not executed. Proximate cause exists when there is some direct relation between the injury asserted and the injurious conduct alleged." Id.

The trial court found that the Defendants committed fraud by misrepresenting both the purchase price of Lot 156 and that the loan proceeds were going to be used solely to purchase the lot. Further, the Defendants committed fraud by failing to inform Central Bank of their intended use of the loan proceeds for the lease and operation of Gimmies.

The Defendants argue that the purchase price was the "amount the seller wanted to sell the property for" and "they simpl[y] communicated to Central Bank what they had agreed to pay for Lot 156." Appellant's Br. at 12. Further, the Defendants assert that Central Bank did not solely rely on the quoted sales price but also on its own independent analysis in approving the loan.[3] Defendants also argue that because they were current in their loan payments when the loan was called due in full, "[i]t will never be known if the actions of Means and Reusch were the proximate cause of the injury to Central Bank." Id. at 14.

However, the Defendants do not dispute the trial court's findings that the Defendants asked Guard to increase the sales price of the Lot 156 to $2.17 million. In doing so, the Defendants concealed a kick-back in the purchase price of $254,250 that was split between the Defendants and their associate, Nargessi. The Defendants also concealed a three-year prepayment to lease Gimmies in the loan amount.

This evidence supports the trial court's finding that the Defendants knowingly made material misrepresentations of fact that were false, and Central Bank relied on those

[3] In Ruse, our court rejected a similar argument concerning claims of theft by deception and conversion. 914 N.E.2d at 9 ("Ruse argues that Bleeke was estopped from any claim for damages against Ruse because Bleeke failed to perform any due diligence or inquire into the true status of the business into which he was buying. This argument fails because 'it is no defense [under the Indiana Crime Victims' Act] that the victim should have known better.'") (Citation omitted).

misrepresentations in deciding to loan approximately $2.17 million dollars to the Defendants for the purpose of purchasing Lot 156. Further, Central Bank only agreed to loan money to the Defendants for the purpose of "financing the purchase and preconstruction site improvement of" Lot 156, and the Defendants agreed to those terms. See Ex. Vol., Plaintiff's Ex. 8.

Yet, the Defendants argue that Central Bank was not injured because they were current on their loan payments on the date the loan was called due in full. They also claim that had the loan not been called due in full, they could have completed construction and sale of the condominiums and repaid the note from the bank in its entirety.

In this regard, Central Bank presented evidence that it could not have made the loan at issue if the Defendants had provided the bank with the actual purchase price of Lot 156. Further, Central Bank established that it was injured by the Defendant's knowing misrepresentations because it never would have approved the loan if the bank had known the loan proceeds were being used to pay rent for Gimmies and to provide "kick-backs" for the Defendants and their associate. Also, the bank had no security interest in Gimmies. Further, Central Bank argues that the Defendants' assertion that they "probably" would have repaid the loan is speculative and unsupported by the evidence because the Defendants never performed any site work to develop Lot 156 and did not sell any condominiums. Under these facts and circumstances, we conclude that the trial court's findings that the Defendants committed fraud are supported by the evidence.

B. *Fraud on a Financial Institution*

Indiana Code section 35-43-5-8 (2004 & Supp. 2009) defines the offense of fraud on a financial institution as knowingly executing (or attempting to execute) a scheme or artifice:

> (1) to defraud a state or federally chartered or federally insured financial institution; or
> (2) to obtain any of the money, funds, credits, assets, securities, or other property owned by or under the custody or control of a state or federally chartered or federally insured financial institution by means of false or fraudulent pretenses, representations, or promises[.]

The Defendants do not dispute the fact that Central Bank is a financial institution as that term is defined in section 35-42-5-8(b).

Again, the Defendants argue that they "could not have known that the quote of the purchase price was false because it was the amount the seller demanded for the property." Appellant's Br. at 18. Yet, the Defendants do not dispute the trial court's findings that they asked for an inflated purchase price to conceal both kick-backs to themselves and an associate, and a three-year prepayment of rent to lease Gimmies restaurant. Further, the evidence shows that Defendants used $127,731 of the loan proceeds to operate Gimmies.

This evidence also supports the trial court's finding that the Defendants obtained money from Central Bank by means of false or fraudulent pretenses. The Defendants knowingly and falsely represented the actual purchase price of Lot 156, and intentionally failed to disclose their intention to use the loan proceeds to prepay three years of rent for Gimmies, in which the bank had no security interest, and concealed a "kick back" to themselves and an associate in the inflated purchase price.

Further, Central Bank only agreed to loan money to the Defendants for the purpose of "financing the purchase and preconstruction site improvement of" Lot 156. Ex. Vol., Plaintiff's Ex. 8. Although Defendants agreed to those terms, the evidence established that prior to entering into the loan agreement, the Defendants intended to spend the loan proceeds on Gimmies and to provide "kick-backs" to themselves and their associate.

After the loan closing, the Defendants continued to defraud Central Bank by submitting written requests to the bank to obtain draws under the loan agreement. Invoices submitted with the draw requests claimed to be related to preconstruction development work for Lot 156. Central Bank granted the draw requests based on the Defendants' representations that the funds would be spent on the development of Lot 156. Instead, the Defendants then spent the funds on Gimmies. As a part of the unauthorized expenditures on Gimmies, Defendant Means was paying himself a $4333 monthly salary from Gimmies. For all of these reasons, we conclude that the evidence supports the trial court's finding that the Defendants' conduct constitutes fraud on a state or federally chartered financial institution in violation of Indiana Code section 35-43-5-8.

C. *Conversion*

Indiana Code section 35-42-4-3 (2004 & Supp. 2009) provides that "[a] person who knowingly or intentionally exerts unauthorized control over property of another person commits criminal conversion[.]" A person's control over property of another person is "unauthorized" if it is exerted

(1) without the other person's consent;

> (2) in a manner or to an extent other than that to which the other person has consented;
>
> ***
>
> (4) by creating or confirming a false impression in the other person;
> (5) by failing to correct a false impression that the person knows is influencing the other person, if the person stands in a relationship of special trust to the other person; . . .

Ind. Code § 35-43-4-1(b); see also Jamrosz v. Resource Benefits, Inc, 839 N.E.2d 746, 758 (Ind. Ct. App. 2005), trans. denied. Money may be the subject of an action for conversion, but it "must be a determinate sum with which the defendant was entrusted to apply to a certain purpose." Newland Resources, LLC v. Branham Corp., 918 N.E.2d 763, 776 (Ind. Ct. App. 2009) (citation omitted).

Under the Loan Agreement, Central Bank agreed to loan $2.17 million dollars to the Defendants to purchase Lot 156 and for preconstruction development of the lot. Central Bank entrusted its money to the Defendants for that purpose. However, the Defendants used $558,446 of that $2.17 million loan to lease and operate Gimmies and to provide "kick backs" to themselves and their associate. The Defendants did not disclose and Central Bank did not consent to the Defendants' use of the loan proceeds for those purposes. As discussed above, the Defendants intended to use the loan proceeds for purposes other than purchasing and developing Lot 156 when they entered into the loan agreement with Central Bank. This evidence supports the trial court's findings that the Defendants committed conversion.

II. Treble Damages

Pursuant to Indiana Code section 34-24-3-1 (1999) (i.e. the Indiana Crime Victims' Act), a person who suffers a pecuniary loss as a result of a violation of Indiana

Code article 35-43, may bring a civil action against the person who caused the loss for "[a]n amount not to exceed three (3) times the actual damages of the person suffering the loss." Fraud on a financial institution and conversion are offenses defined in Indiana Code article 35-43. See I.C. § 35-43-5-8; I.C. § 35-43-4-3.

Moreover, a criminal conviction is not a condition precedent to recovery in a civil action brought under section 34-24-3-1. Am. Heritage Banco, Inc. v. McNaughton, 879 N.E.2d 1110, 1116 (citing Gilliana v. Paniaguas, 708 N.E.2d 895, 899 (Ind. Ct. App. 1999), trans. denied). All elements of the alleged criminal act must be proven by the claimant. Id. However, unlike in a criminal trial, a claimant need prove only by a preponderance of the evidence that the criminal act was committed by the defendant. Id.

The Defendants argue that the trial court erred when it awarded treble damages because Central Bank failed to prove fraud on a financial institution and conversion. However, as discussed above, Central Bank proved that the Defendants committed these offenses by a preponderance of the evidence. Accordingly, the trial court properly awarded treble damages under Indiana Code section 34-24-3-1.

III. Attorney Fees

Finally, the Defendants argue that the "amount of attorney fees submitted by [Central Bank] is unreasonable and excessive." Appellants' Br. at 25. In its findings of fact and conclusions of law, the trial court ordered the Defendants to pay attorney fees and costs "in an amount to be determined after [Central Bank] submits an affidavit summarizing those fees and costs."

Central Bank submitted an affidavit six days after the trial court issued its findings, and in that affidavit stated that it continued to incur attorney fees, which presumably include the costs of defending this appeal. On the record before us, the trial court has not made a final determination of the amount of attorney fees owed to Central Bank. As such, the question of the reasonableness of those fees is not ripe for appellate review. See Reeder Associates II v. Chicago Belle, Ltd. et al., 778 N.E.2d 828, 835 (Ind. Ct. App. 2002), trans. denied.

Conclusion

The trial court's findings that the Defendants committed fraud, fraud on a financial institution, and conversion are supported by the evidence. The trial court did not err when it awarded treble damages, and the reasonableness of the attorney fees is not yet ripe for appellate review. Accordingly, we affirm the judgment of the trial court.

Affirmed.

RILEY, J., and BRADFORD, J., concur.