

Verdict Sheet

1. Was there clear and convincing evidence that either Joseph and/or Anne Marie Conte made a statement of fact to Merrill Lynch that the \$40,000 check drawn on the Cap Cities account was a good check?

Yes No Vote 6-1

If Yes, proceed to question 2. If No, proceed to question 7.

2. Was there clear and convincing evidence that the representation referred to in question 1 was false?

Yes No Vote 7-0

If Yes, proceed to question 3. If No, proceed to question 7.

3. Which of the defendants made a false representation to Merrill Lynch?

a) Joseph Conte Yes No Vote 7-0

b) Anne Marie Conte Yes No Vote 7-0

Proceed to question 4.

4. Was there clear and convincing evidence that either Joseph and/or Ann Marie Conte knew that the aforesaid representation was false when they made it and that they intended to deceive Merrill Lynch when they made the representation?

Yes No Vote 7-0

If Yes, proceed to question 5. If No, proceed to question 7.

5. Which of the defendants knew that the aforesaid representation was false?

a) Joseph Conte Yes No Vote

b) Anne Marie Conte Yes No Vote

Proceed to question 6.

6. Was there clear and convincing evidence that Merrill Lynch justifiably relied upon the aforesaid representation when it permitted Monmouth Consumer Industries to draw against the check?

Yes No Vote

Proceed to question 7.

7. Do you find that either Joseph and/or Ann Marie Conte committed an act of conversion as to \$36,781.08 of Merrill Lynch's funds?

Yes No Vote 6-1

Proceed to question 8.

8. Which of the defendants are responsible for the act of conversion?

a) Joseph Conte Yes No Vote 7-0

b) Anne Marie Conte Yes No Vote 6-1

Proceed to question 9.

9. Do you find that either Joseph and/or Ann Marie Conte are responsible for punitive damages?

Yes No Vote 7-0

If Yes, proceed to question 10. If No, proceed to question 11.

10. Which of the defendants are responsible for punitive damages?

a) Joseph Conte Yes No Vote

b) Anne Marie Conte Yes No Vote

Proceed to question 11.

11. Did Merrill Lynch Bank USA accept Cap City's payment of \$951,043.10 in full satisfaction of the debt guaranteed by Patricia Ann Conte?

Yes No Vote 7-0

If Yes, proceed to question 11; if No, cease deliberations and return your verdict.

12. Do you find that Merrill Lynch committed an act of conversion with respect to Patricia Conte's \$75,158.07?

Yes No Vote 7-0

Return your verdict.