

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Nicholas Masella,

Plaintiff,

v.

JPMorgan Chase Bank, N.A.,

Defendant.

Case No. 17 L 2588

ORDER

Defendant JPMorgan Chase Bank, N.A. moved for summary judgment on its two count Complaint against Plaintiff Nicholas Masella. Count I alleged intentional interference with a business relationship and Count II alleged negligent interference with a prospective business expectation. For the reasons below, summary judgment is GRANTED.

Introduction

Plaintiff is a commercial appraiser and Defendant is a national bank. After reviewing Plaintiff's work, Defendant discovered Plaintiff operated below the standard it required of appraisers with whom it chose to do business and decided Plaintiff was an appraiser in whom Defendant had no confidence. As a result, Defendant placed Plaintiff on its list of those appraisers who were ineligible to do work for Defendant. That list was circulated to Defendant's vendors and partners.

Statement of Facts

In 2016, Defendant purchased a loan from Wintrust Mortgage secured by a single-family home in Lincoln Square. Defendant's purchase of the loan relied in part on Plaintiff's appraisal of the home at two million dollars. Later, a second appraiser appraised the home dramatically

less than Plaintiff's appraisal. The second valuation was more credible and better supported than Plaintiff's.

Defendant then sent Plaintiff a deficiency letter asking Plaintiff to provide an explanation, stating "[w]e want to hear from you before taking any action[.]" Plaintiff did not respond.

After a second attempt to receive an explanation from Plaintiff, Plaintiff informed Defendant that he was unable to discuss the matter due to industry guidelines prohibiting him from discussing his discredited appraisal. Finally, after months had past with no response, Defendant, following its internal procedures and policies, and voted to place Plaintiff on Defendant's list of ineligible appraisers.

By email, Defendant circulated to its partners and vendors this list of ineligible appraisers, which contained hundreds of names, and instructed the recipients to keep the information private.

Legal Standard

Summary Judgment is proper when "the pleadings, depositions, admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material facts and that the moving party is entitled to judgment as a matter of law." 735 ILCS §5/2-1005(c). As a general rule, Summary Judgment is encouraged as an aid to the expeditious disposition of lawsuits. *Reed v. Bascon*, 124 Ill.2d 386, 393 (1988). The mere suggestion that a genuine issue of material fact exists, without supporting documentation, does not create an issue of material fact precluding Summary Judgment. *In Re Marriage of Jesse M. Palacios*, 275 Ill. App. 3d 561, 568 (1st Dist. 1995) (Emphasis added). In determining the absence or existence of a genuine issue of material fact, the Court must consider only evidentiary facts and not conclusions unsupported by

facts. *People ex. rel. First National Bank of Chicago, v. City of North Chicago*, 158 Ill. App. 3d 85, 104 (2nd Dist. 1987)

To prevail on a tortious, or intentional, interference claim, the Plaintiff must prove (1) a reasonable expectancy of entering a valid business relationship *with a third party*; (2) the defendant's knowledge of the expectancy; (3) an intentional and unjustified interference by the defendant that induced or caused a breach or termination of the expectancy, and (4) damages to the plaintiff resulting from the defendant's interference.

Argument

Plaintiff's claim fails on the third element. Plaintiff cannot prove Defendant specifically intended to interfere with Plaintiff's business expectancy with anyone other than Chase, or that the interference was unjustified.

A. Defendant did not Intend to Interfere with Plaintiff's Business Expectancy

Defendant is not required to conduct business with Plaintiff. RESTATEMENT (SECOND) OF TORTS § 766, cmt. B ("Deliberately and at his pleasure, one may ordinarily refuse to deal with another, and the conduct is not regarded as improper, subjecting the actor to liability. . . There is no general duty to do business with all who offer their services, wares or patronage.") For Plaintiff to prevail here, the law requires that he prove Defendant *intended* to interfere with Plaintiff's ability to perform appraisals *for unrelated entities or individuals*.

Defendant's vendors were told only that individuals on its ineligible list were ineligible to perform work *for Defendant*, but even if Defendant knew this would result in Plaintiff losing business with unrelated third parties, the allegation is insufficient as a matter of law. "No authority demonstrates that 'intended but purely incidental interference resulting from the pursuit of the defendant's own ends by proper means has been held to be actionable.'" *Bank Computer Network Corp. v. Cont'l Illinois Nat. Bank & Tr. Co. of Chicago*, 110 Ill. App. 3d 492, 501 (1st

Dist. 1982) (affirming summary judgment for defendants under Illinois law on tortious interference claim).

B. Defendant's Placement of Plaintiff on its Ineligible List was not done for an Improper Purpose

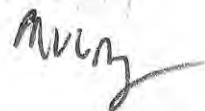
The third element also requires that "the interference must have been improper in the sense that it was accomplished by wrongful means or was motivated by malice and *not simply economic self-interest.*" *Republic Tobacco, L.P. v. N. Atl. Trading Co., Inc.*, 254 F. Supp. 2d 1007, 1012 (N.D. Ill. 2003) (emphasis added) (citing *Strosberg v. Brauvin Realty Servs., Inc.*, 295 Ill. App. 3d 17 (1st Dist. 1998)). Defendant's decision to place Plaintiff on its list of ineligible appraisers was motivated by a desire to protect its business and customers. The decision was made after a lengthy investigation in which Defendant determined that Plaintiff's work was deficient. Further, Defendant's communications to its partners and vendors was not improper. *See, e.g., Soderlund Bros., Inc. v. Carrier Corp.*, 278 Ill. App. 3d 606, 620 (1st Dist. 1995) (no tortious liability where one "merely gives truthful information to another"). Plaintiff fails to prove the third element and subsequently fails on his claim of tortious interference with a business relationship.

Count II of Plaintiff's Complaint alleges negligent interference with a prospective business expectation. Illinois does not recognize that cause of action. Summary Judgment is granted as to Court II.

IT IS HEREBY ORDERED:

1. Summary judgment is granted on Counts I and II of Plaintiff's Complaint.
2. This matter is dismissed in its entirety.

ENTERED:

A handwritten signature in black ink, appearing to read "M. V. L. G.", is written over the "ENTERED:" text.

Hon. Thomas R. Mulroy