

FILED
COURT OF APPEALS
DIVISION II

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No. 42436-3-II
COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

BY 
DEPUTY

MERIDIAN PLACE, LLC,
a Washington limited liability company
Appellant,

v.

HUMCOR, INC., a Washington corporation, d/b/a Callaway Fitness;
PAWNEE LEASING CORPORATION, a Colorado corporation;
KEY EQUIPMENT FINANCE, INC., a Michigan corporation;
CASCADE BANK, a Washington corporation; SMART LENDING,
LLC, a Washington limited liability company; and MICHAEL
PETROVIC,

Defendants,

JOHN AND JANE DOE HAUGHNEY, and their marital community;
and JAMES and KRISTI LOVEALL, and their marital community,

Respondents.

APPEAL FROM THE SUPERIOR COURT
FOR PIERCE COUNTY
THE HONORABLE JOHN HICKMAN

BRIEF OF RESPONDENTS

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INTRODUCTION

Although Washington's Uniform Fraudulent Transfer Act, RCW 19.40 et seq., provides a remedy to creditors when a debtor places its assets beyond the reach of those creditors, it is incumbent upon the creditor to establish the value of the assets transferred. It is the value of those assets transferred which provides the measure of the creditor's damages.

In the instant case the Appellant provided no evidence of the value of the assets transferred, thereby leaving that decision to the trial court. Without the aid of any evidence provided by the Appellant, the trial court found that the value of the asset transferred, which consisted of only the equipment that was encumbered by perfected security interests, had a value of \$75,000.00. The trial court then entered judgment against the transferor in that amount.

The Appellant now complains that the trial court erred in placing a value on the assets transferred even though it failed to provide evidence to assist the trial court in this regard.

STATEMENT OF THE CASE

Humcor is a corporation that operated a fitness club in Pierce County known as Callaway 1 (hereinafter "C-1"). In 2006, the principal

of Humcor, Michael Petrovic (hereinafter "Petrovic") wanted to open a second fitness club, which would be called Callaway 2 (hereinafter "C-2"). (FOF 1). In June 2006, Humcor signed a lease with the Appellant, Meridian Place LLC (hereinafter "Meridian") for the lease of approximately 22,000 square feet of rentable space from which it would operate C-2. (FOF 3). The lease required monthly rent payments in an amount exceeding \$55,000.00. The monthly payment included the base rent, common area maintenance charges and amortized tenant improvements. (FOF 3). The leased space was ready for occupancy in early 2007; C-2 opened for business in February, 2007. (FOF 3). The Defendant, John Haughney (hereinafter "Haughney") became an investor in Humcor, acquiring a 42% interest in Humcor in January 2007. (FOF 4) Petrovic retained a 42% interest in Humcor, and the remaining 16% was held by another investor, Charlie Harbeson. (FOF 4)

C-2 experienced financial difficulties right from the start. C-2 fell behind in its rent payments in just the second month of the lease, and then again eight months later. (RP 61) The principal of Meridian

characterized C-2's payment of rent from the eighth month of the lease as being "erratic, nonexistent, unpredictable". (RP 62) During this same time period, the national economy had entered one of the deepest recessions since the Great Depression. (FOF 6) By April, 2008, Humcor was delinquent in its monthly lease payments to Meridian to the tune of \$270,000. (RP 349: 16-20) In order to provide working capital to Humcor, and to refinance other debt that was accruing interest at a higher rate, Humcor borrowed \$400,000.00 from Smart Lending. Humcor borrowed an additional \$325,000.00 from Cascade Bank to continue operating. (FOF 8) Each of these obligations was personally guaranteed by Haughney. Haughney had also borrowed \$635,000.00 using his personal residence, which was previously unencumbered, as collateral. These funds were also invested in Humcor as additional working capital.

Unfortunately, C-2's operating expenses proved to be more than the business could bear. In late 2007 Humcor began to explore ways to make C-2 profitable, including a renegotiation of the lease. However, Meridian and Humcor were unable to reach any agreement on a reduction of the rent. (FOF 9)

During the time that C-2 was experiencing serious financial trouble, C-1 was also experiencing similar financial trouble. C-1

sought and obtained relief from its landlord through a significant rent reduction. (RP 413: 18-21; RP 414: 2-4) But even with this relief C-1 was barely keeping its head above water. (RP 413: 18-21; RP 414: 2-4)

The board of directors for Humcor realized that C-2 was destined for failure with this enormous expense. Since it was unable to reach any agreement with Meridian to reduce its rent obligation, the board of directors decided that the only way to survive was to save C-1 by separating it from C-2. (RP 428: 24-25; RP 429: 1-16) The board explored several options, including the sale of C-1 to other fitness club entities. (RP 451: 16-25; RP 452: 1-20) However, these entities were only interested in purchasing the C-1 memberships and had no interest in continuing to operate C-1. (RP 451-52) Under the proposals received by Humcor for C-1, C-2 would cease to exist, it would no longer operate out of the Meridian space, and all of its employees would lose their jobs.

Haughney then explored the possibility of a sale of C-1 to a long term client, James Loveall (hereinafter "Loveall"). Loveall was a 50% owner in a company that manufactures parts for the aerospace industry, and was in the middle of a sale of the company that would net him twenty-two million dollars. (RP 280:18-25; RP 281:1-10)

Loveall agreed to purchase C-1 for a total price of \$750,000.00, which amount would be paid by a cash payment of \$114,000.00, and an assumption of Humcor's obligation to Haughney in the amount of \$635,000.00. The sale to Loveall was submitted to the board of directors of Humcor, who unanimously approved the sale. As part of the transaction with Loveall the equipment owned by Humcor at the C-1 facility was transferred to Loveall. The equipment owned by Humcor at the C-2 facility was retained by Humcor and used at the Meridian property.

Shortly before the closing of Loveall's purchase of C-1, Meridian issued a "pay rent or vacate" notice to Humcor regarding the C-2 premises. At that time, the unpaid rent obligation was in excess of \$178,000.00. In an attempt to forestall closure of C-2, Humcor sought relief in bankruptcy, but the case was dismissed by the bankruptcy court. Finally, just before Thanksgiving of 2008, C-2 received another threat from Meridian that if it did not pay a weekly rent payment of \$5,000.00 on or before December 5, 2008, Meridian would take over possession of the premises. Faced with this threat, Humcor was out of options with regard to C-2, and closed its doors at the Meridian location.

Upon learning of C-2's closure, Meridian took over possession

of the premises, and prevented Humcor from having any access to the premises. (RP 94: 13-23; RP 138: 11-22) It also asserted a possessory interest in most of the equipment that was located in the premises. (Id.). Meridian later re-let the premises to another fitness club and granted it the right to use the equipment that belonged to Humcor.

Meridian commenced this action claiming that the transfer of the C-1 assets to Loveall was fraudulent. Meridian sought judgment against both Haughney and Loveall under the Uniform Fraudulent Transfer Act, RCW 19.40 et seq. After a five day trial, the trial court determined that the transfer of the C-1 assets to Loveall was fraudulent under the UFTA, and further found that the value of the assets transferred was \$75,000. The trial court then entered judgment against Haughney in this amount. The trial court refused to enter judgment against Loveall as Loveall had paid in excess of \$114,000 for those same assets, and further had invested an additional \$35,000 into the C-1 operation. The judgment entered against Haughney was fully paid and satisfied on the day judgment was entered.

ARGUMENT

The decision of the trial court ultimately satisfied the purposes of the Uniform Fraudulent Transfer Act by awarding a judgment against the transferor in an amount equal to the value of the assets that were transferred and placed out of the reach of its creditors. Not only is this result derived from the plain language of the statute, but it makes common sense. But for the transfer of the assets, those assets would have been available to creditors to satisfy their claims against the debtor. Accordingly, the creditor should be entitled to a judgment in the amount of the value of the assets transferred as if the transfer had not occurred, which assets were placed beyond the reach of its creditor, Meridian.

A. Standard of Review

This appeal concerns the trial court's finding of fact that Meridian Place did not present any competent evidence, including expert testimony adduced at trial, regarding the value of the Callaway 1 assets at the time of its sale to Loveall, and its concomitant conclusion of law that Meridian Place did not meet its burden of proof with respect to its damages. *CP 341* (Finding of Fact No. 26) and *CP 343* (Conclusion of Law No. 7).

“The standard of review for a trial court’s findings of fact and conclusions of law is a two-step process. First, we must determine if the trial court’s findings of fact were supported by substantial evidence in the record. If so, we must next decide whether those findings of fact support the trial court’s conclusions of law.”

Landmark Development, Inc. v. City of Roy, 138 Wn.2d 561, 573, 980 P.2d 1234 (1999).

An appellate court gives “great deference to the trial court’s weighing of evidence.” *Ford Motor Co. v. City of Seattle*, 160 Wn.2d 32, 56, 156 P.3d 185 (2007). The “substantial evidence” standard is defined as “a quantum of evidence sufficient to persuade a rational fair-minded person the premise is true.” *Sunnyside Valley Irr. Dist. v. Dickie*, 149 Wn.2d 873, 879, 73 P.3d 369 (2003). “If the standard is satisfied, a reviewing court will not substitute its judgment for that of the trial court even though it may have resolved a factual dispute differently.” *Id.*

“The credibility of the witnesses, the force of their testimony, and the weight that should be attached to it, are all matters

¹ RCW 19.40.081 (b)

concerning which the trial judge is the best judge.” *In re Martinson’s Estate*, 29 Wn.2d 912, 920-21, 190 P.2d 96 (1948).

An appellate court defers to the trier of fact for purposes of resolving conflicting testimony and evaluating the persuasiveness of the evidence and credibility of the witnesses. In determining the sufficiency of evidence, an appellate court need only consider evidence favorable to the prevailing party.

Thompson v. Hanson, 142 Wn. App. 53, 60, 174 P.3d 120 (2007).

Conclusions of law (including conclusions of law mislabeled as findings of fact), are reviewed *de novo*. *Grundy v. Brack Family Trust*, 151 Wn. App. 557, 568, 213 P.3d 619 (2009).

Meridian also challenges the amount of damages awarded. *Brief at 26*. A fact finder's determination of damages "should be overturned only in the most extraordinary circumstances." *Hoglund v. Raymark Industries, Inc.*, 50 Wn. App. 360, 373, 749 P.2d 164 (1987).

"To [the fact finder] is consigned under the constitution the ultimate power to weigh the evidence and determine the facts – and the amount of damages in a particular case is an ultimate fact." *Id.*

B Meridian Place Did Not Preserve Any Alleged Error Regarding the "Allocation" of the Burden of Proof on the Value of Callaway 1

Meridian first argues that the trial court erred in not shifting the burden of proof regarding the value of Callaway 1 to Haughney

and Loveall once Meridian presented evidence of Callaway 1's purchase price. *Brief at 21*. Conspicuously absent from this argument is any citation to the record wherein Meridian made this argument to the trial court. Under **RAP 2.5(a)**, "[t]he appellate court may refuse to review any claim of error which was not raised in the trial court." This rule encourages the efficient use of judicial resources by failing to sanction "a party's failure to point out at trial an error which the trial court, if given the opportunity, might have been able to correct[.]" *State v. Scott*, 110 Wn.2d 682, 685, 757 P.2d 492 (1988).

During closing arguments, the trial court asked counsel for Meridian "to tell me exactly what relief you're seeking and against who[m] and whether it would be joint, several, that kind of thing." *VRP 684:2-5*. In response, counsel stated the following:

"The value which was agreed upon, fair market value of this asset, was \$750,000. **That is our starting point, and that is our ending point** once the Court finds grounds to avoid the transfer, either actual – under actual intent to hinder, delay or defraud or under the constructive fraud theory. . . . That number again is \$750,000. We don't have a dispute over that. Nobody is fighting about that. . . . That's the worth of the asset transferred." *VRP 686:16-21; 687:14-19* (emphasis added).

At no time did Meridian argue that the burden of proof should be shifted to the defendants. Indeed, Meridian presented its arguments regarding the amount of damages as an all-or-nothing proposition; *i.e.*, that the purchase price was conclusive evidence of the value of Callaway 1, not just prima facie evidence that could be rebutted by the defendants. Consistent with its theory regarding damages, the trial court then went on to decide whether the evidence presented by Meridian was sufficient to meet its burden of proof. Meridian should not now be heard to claim that the trial court erred by not employing a different analysis than what it advanced at trial. See *Washburn v. Beatt Equip. Co.*, 120 Wn.2d 246, 290, 840 P.2d 860 (1992) (“Arguments or theories not presented to the trial court will generally not be considered on appeal.”).

C. **Even Assuming Meridian Place Properly Preserved Error, the Trial Court Did Not Err in “Allocating” the Burden of Proof as to the Amount of Damages**

Meridian next argues that the trial court erred in not accepting the purchase price for Callaway 1 as prima facie evidence of the value of Callaway 1 at the time of its transfer to Loveall. *Brief at 22-25*. Under **RCW 19.40.081(c)(2)**, “judgment must be for an amount equal to the value of the asset at the time of the transfer,

subject to adjustment as the equities require.” The statute does not provide any formula for calculating an asset’s “value . . . at the time of transfer.” In this regard, the Legislature’s choice of the term “value” is significant, and reflects the Legislature’s clear understanding that an asset’s value is not necessarily equivalent to an asset’s purchase price, particularly in transactions that are alleged to be fraudulent.²

Meridian appears to argue that it was entitled to define the term “value” as equal to “purchase price” in establishing its damages under the UFTA. But the trial court was under no obligation to accept Meridian’s contention that the purchase price of Callaway 1 was equivalent to “the value of the asset at the time of the transfer” under **RCW 19.40.081(c)(2)**. See *Eagle Point Condominium Owners Ass’n v. Coy*, 102 Wn. App. 697, 704, 9 P.3d 898 (2000) (noting that the trial court “made its own rough estimates of damage in some instances rather than accepting either party’s estimate”). Meridian Place made a tactical decision to rely solely on Haughney’s and

²

There are numerous instances throughout the UFTA where the Legislature distinguishes the value of an asset from the consideration given in the transfer of an asset. For example, under **RCW 19.40.081(d)(3)**, a good faith transferee liable to the creditor only for the net value of the asset – the total value of the asset less the consideration given. *Thompson v. Hanson*, 168 Wn.2d 738, 752, 239 P.3d 537 (2009). And courts have held that in determining what constitutes “reasonably equivalent value” under **RCW 19.40.031(b)** and **RCW 19.40.041(a)(2)**, “an answer to this question is not found by a determination of the thing sold and the price received in very precise scales[.]” *Osawa v. Onishi*, 33 Wn.2d 546, 557-58, 206 P.2d 498 (1949).

Loveall's testimony regarding the purchase price of Callaway 1 at the time of transfer, instead of presenting competent expert testimony regarding the value of Callaway 1 at the time of the transfer. The trial court was, in turn, entitled to decide what weight to give that testimony, as "that is the exclusive province of the trier of fact." *Hahn v. Dep't of Retirement Systems of State of Wash.*, 137 Wn. App. 933, 942, 155 P.3d 177 (2007). As the trial court stated in its oral ruling:

"Damages, what was the worth of Cal 1 at the time of transfer. There was no expert testimony to assist the Court on this issue. What the parties agree it was worth was the least reliable evidence. Under the facts of this case, the assumption of the Haughney mortgage debt by Mr. Loveall was illusory. Neither one of them believed that Mr. Loveall's assumption would be a personal guarantee at the time of the sale. This Court has no basis to find that this corporation – that is, Cal 1 – was worth \$750,000 when the person preparing these financial statements had an obvious conflict of interest."

VRP 759:8-19. The trial court's determination as to the persuasiveness and credibility of Haughney's and Loveall's testimony regarding Callaway 1's value is not subject to appellate review. *Hahn*, 137 Wn. App. at 942.

Meridian Place relies on a bankruptcy case, *In re Clemons*, 42 B.R. 796 (S.D. Ohio 1984), for the proposition that the trial court should have accepted Callaway 1's purchase price as prima facie

evidence of its value. *Brief at 23*. Meridian Place's reliance is misplaced. In *Clemons*, the debtor entered into an agreement with his father to transfer the assets, equipment, tools, and accounts receivable of his business in exchange for forgiveness of \$50,000 where the total indebtedness was \$65,000. 42 B.R. at 797. The bankruptcy trustee contended this transaction was an avoidable preference and that this issue turned upon the timing of the transfer. In order to establish a preferenced transfer, the court must find that the transfer was made within one year of the filing of the bankruptcy petition.³

Although the debtors claimed that the transfer actually took place prior to the date of the agreement establishing the sale, the court used the date of the agreement to establish the date of the transfer. The court in *Clemons* also used the "agreement to establish the value of the assets that were the subject of the preferential transfer." *Id.* at 799. The court held that, in doing so, the trustee made a prima facie case of value because the agreement assigned a value of \$50,000 to the assets enumerated therein. *Id.*

³ One year instead of the normal 90 days as the transferee was the father of the transferor, and hence an "insider" to which the longer preference period applies.

This case is clearly distinguishable. At trial, the court considered a significant amount of testimony regarding the financial health of C-1. Based upon the financial records introduced at trial it was clear that C-1 had a negative net worth. (RP 462: 20-25; RP 463: 1-6). For six of the eight months following the transfer of the assets in April, 2008, C-1 continued to operate at a loss. (RP 530: 13-25; RP 531: 1-25; RP 532: 1-13) Even then, C-1 was operating at a loss after a significant rent reduction by its landlord. Finally, after the sale of C-1 Loveall continued to inject capital into the business keep it operational. (RP 250: 7-16) So, unlike *Clemons*, the trial court here was presented with ample testimony regarding the value of the assets transferred. Not one scintilla of that evidence would support the valuation that Meridian now asserts. As a matter of fact, it was the principal of Meridian who offered an opinion of value that was right in line with the value established by the trial court.

In *Clemons*, there was no such issue. Instead of having a significant amount of testimony regarding the profitability (or lack thereof) of C-1, the court in *Clemons* was provided only the debtor's and the transferee's "self-serving" opinions regarding value that "after observing the witnesses at trial," the bankruptcy court was unwilling

to accept. *Clemons*, 42 B.R. at 799.

In this case, the trial court weighed the evidence and assessed the persuasiveness and credibility of the parties' testimony and deemed the alleged illusory nature of the debt assumption significant in deciding the amount of damages. Nothing in *Clemons* prohibits this or mandates a different result.

Further, Meridian Place did not shift the burden of proof to Haughney and Loveall with respect to the value of Callaway 1 because Meridian Place did not meet its burden in the first instance. Even assuming that the UFTA employs some sort of burden-shifting framework, which it does not, the burden doesn't shift to the defendant *unless and until the plaintiff satisfies its first intermediate burden* of setting forth a prima facie case, including competent evidence of damages. See, e.g., *Hill v. BCTI Income Fund-I*, 144 Wn.2d 172, 23 P.3d 440 (2001) (explaining *McDonnell Douglas* burden-shifting protocol for discrimination cases). As argued above, Meridian did not meet its burden of proof with respect to damages; *i.e.*, establishing the "value" of Callaway 1 at the time of transfer. Because Meridian did not meet its initial burden of proof, the trial court did not err by declining to shift the burden to

Haughney and Loveall.

Furthermore, the remaining cases cited by Meridian are distinguishable from the facts of this case. In *Davis*, the consideration given was one quarter of the value of the asset conveyed. In the instant case the court actually found that the consideration paid by the transferor exceeded the value of the asset.⁴ Accordingly, there is no shifting of any burden of proof to the Defendants. More importantly, *Davis* only addresses the burden of proof pertaining to the good faith of the transferee. It does not have any bearing on the burden of proof as to the value of the asset transferred.

D. The Trial Court's Determination of the Value of Callaway 1, in the Absence of Competent Expert Testimony from Meridian Place, Was Supported by Substantial Evidence

"Where the finding of the trial court as to the amount of damages is within the range of relevant testimony, it will not be disturbed on appeal." *Ferrell v. Cronath*, 67 Wn.2d 642, 645, 409 P.2d 472 (1965). Here, the trial court discounted the value of Callaway 1 first by distinguishing between the alleged illusory portion of the transfer (the assumption of Haughney's mortgage debt) and the

⁴ *Davis v. Nielson*, 9 Wn. App. 864, 871, 515 P.2d 995 (1973)

cash paid by Loveall (approximately \$114,000). The trial court then adjusted the value based on "(a) the retail value of the equipment at the time of the transfer, taking into consideration that the equipment had a lien on it as well, and (b) the Court's conclusion that at least \$75,000 of the \$114,000 paid by Loveall should have been made available for damages for breach of the lease." (RP 764: 5-11).

The trial court's finding that the assets transferred had a value of \$75,000 was not all that different than Meridian's own opinion of value. Meridian's own principal testified that the value of the equipment was between \$60,000 and \$80,000. (RP 98) Hence, it defies logic that Meridian can now claim that the value of the equipment was really ten times the amount it believed to be the value.

Given the undisputed evidence introduced during the trial, it is not all that difficult to understand why the trial court rejected the contention that Humcor had any significant value at all. According to balance sheets prepared for year-end 2007, Humcor (which consisted of both C-1 and C-2) had lost in excess of \$576,251. Thus, the argument that C-1 was a profitable enterprise was unsupported by the evidence. For that same year end, C-2 had a

loss in excess of \$179,987. The plain and simple fact is that neither C-1 or C-2 were profitable. And C-1 continued to be unprofitable after the sale of its assets. From the period commencing April 1, 2008, through December, 2008, C-1 lost a total of \$227,500. This is hardly the picture of a company that Meridian calls a “successful” enterprise. *Brief of Appellant, pages 4-5.*

Meridian takes issue with the trial court’s consideration of the lien on the equipment, arguing that the lien was released “after Haughney paid down the loan with the cash from Loveall.” *Brief at 32.* This argument should be rejected. The UFTA is concerned with “the value of the asset at the time of the transfer[.]” **RCW 19.40.081(c)**. If the lien was not released until after Humcor paid the debt in part with the cash proceeds of the sale of Callaway 1 from Loveall, then clearly the equipment was burdened by the lien at the time of the transfer.

Meridian also complains about the trial court’s failure to consider Callaway 1’s members as an “asset” in determining its value. *Brief at 30-31.* But Meridian Place failed to present any evidence to give the trial court a factual basis for valuing the membership, other than speculation. *Brief at 31.*

“Sufficiency of the evidence to prove damages must be established with enough certainty to provide a reasonable basis for estimating it. Although the precise amount of damages need not be shown, damages must be supported by competent evidence in the record. To be competent, the evidence or proof of damages must be established by a reasonable basis and it must not subject the trier of fact to mere speculation or conjecture.”

ESCA Corp. v. KPMG Peat Marwick, 86 Wn. App. 628, 639, 939 P.2d 1228 (1997).

Meridian failed to provide the trial court with any expert testimony as to the value of Callaway 1 at the time it was transferred to Loveall, which is “required when an essential element in the case is best established by an opinion which is beyond the expertise of a layperson.” *In re Petersen*, 120 Wn.2d 833, 869, 846 P.2d 1330 (1993). In light of Meridian’s complete failure to provide such evidence, the trial court made a determination as to the amount of damages based on the evidence that was presented. That Meridian Place would have calculated damages differently is not a legitimate basis for reversal of the trial court’s determination.

E The Trial Court’s Award of Damages is Consistent with the Decision in *Thompson v. Hanson*

The most recent decision interpreting the UFTA is the case of *Thompson v. Hanson*, 142 Wn. App. 53, 60, 174 P.3d 120 (2007).

There, the court was asked to not only provide the proper measure of relief, but to also measure the amount of offset available to the transferee. The *Thompson* court was presented with a transfer from a corporation to its sole shareholders of two parcels of real property. The difference between the value of the properties transferred (\$465,000) and the debt assumed (\$365,000) was approximately \$100,000. The court characterized this amount as the “equity” that was transferred to the transferor which should have been available to the creditors of the transferee.

Importantly, the court focused on precisely the purpose of the UFTA; the placement of assets beyond the reach of creditors. Because the “equity” in the transferred asset was only \$100,000, that was the damage that resulted from the transfer, and that was the amount that should have been available to the creditor.

Here, the transfer was the value of the assets of C-1 or, as the court found, \$75,000. Here, the court considered but rejected Meridian’s contention that the value was a greater amount after considering all of the evidence, which included a substantial amount of evidence regarding the financial condition of C-1 and C-2 separately, and of Humcor. The findings of the trial court in this regard

should not be disturbed on appeal.

CONCLUSION

After considering five days of trial testimony and numerous exhibits, the trial court concluded that the value of the assets transferred was \$75,000, and those assets were encumbered by existing security interests. In fact, the evidence was clear that, in order to obtain the release of these security interests, Humcor was required to pay an amount in excess of the cash paid at the time of the transfer in order to obtain a release of the security interest.

On the other hand, Meridian offered no evidence whatsoever regarding the value of the assets transferred. The decision of the trial court was precisely in line with the UFTA, and is supported by substantial evidence. Consequently, the decision of the trial court should be affirmed.

Respectfully submitted,

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2012 JUN 19 AM 11:30

DECLARATION OF SERVICE

STATE OF WASHINGTON

BY _____
DEPUTY

I, DEIDRE M. TURNBULL, hereby certify that on the date stated

below, I served a copy of foregoing Brief of Respondents in the above-entitled action upon Appellant's counsel as follows:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 19th day of June, 2012, in Tacoma, Washington.

Deidre M Turnbull

DEIDRE M. TURNBULL
Legal Assistant