

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 10-cv-00543-MSK

MDM GROUP ASSOCIATES, INC.,

Plaintiff,

v.

CUSTOMIZED SERVICES ADMINISTRATORS, INC. d/b/a CSA TRAVEL PROTECTION
AND INSURANCE SERVICES,

Defendant.

ORDER REMANDING CASE

THIS MATTER comes before the Court *sua sponte*, upon a Notice of Removal (#1) of a civil action from a District Court of the State of Colorado, for the County of Routt. This Court has reviewed the Notice of Removal and all documents referred to in it, including the State Court Complaint and Colorado Civil Cover Sheet.

In the Notice of Removal, the Defendant asserts that this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The Defendant generally contends that the requisite amount in controversy exceeds \$75,000, and suggests that the amount in dispute can be inferred from the factual allegations in the State Court Complaint and the Colorado Civil Cover Sheet.

The Plaintiff brings a number of claims including breach of contract, breach of fiduciary duties, fraudulent concealment, accounting, and unjust enrichment against the Defendant for Defendant's actions under a Marketing Agreement between the parties for the Plaintiff's software program, but nothing in the State Complaint states the amount of monetary relief sought

nor provides factual allegations from which the amount in controversy can be calculated. It simply lists the type of remedy the Plaintiff seeks - damages, costs, attorney fees, punitive damages, prejudgment interest, post-judgment interest, disgorgement of profits, and any other relief provided by law as well as an accounting and injunctive relief. The Plaintiff generally alleges that the Defendant's actions have caused the Plaintiff to lose profits and other monetary fees, will continue to cause such damages and "other damages." Such allegations do not state sufficient facts to demonstrate that the Plaintiff seeks recovery of at least \$75,000.

Neither does the state court civil cover sheet state sufficient facts to establish the requisite amount in controversy. Consistent with the reasoning in *Baker v. Sears Holding Corp.*, 557 F. Supp. 2d 1208 (D. Colo. 2007) (reference to a civil cover sheet for amount in controversy is insufficient) and *Klein v. State Farm Mut. Auto. Ins. Companies*, D. Colo. Case No. 08-cv-02257-MSK, 2008 WL 4948775 (Nov. 18, 2008) (references to a civil cover sheet and conclusory statements in underlying Complaint are insufficient), the Court finds that the Defendant has not shown specific facts, which if true, would demonstrate that the amount in controversy is at least \$75,000. Accordingly, this Court lacks subject matter jurisdiction based upon 28 U.S.C. § 1332.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1447(c) this action is **REMANDED** to the District Court from which it was removed.

Dated this 12th day of March, 2010

BY THE COURT:

Marcia S. Krieger

Marcia S. Krieger
United States District Judge