

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**PENN, LLC, et al.,**

**Plaintiffs,**

**Case No. 2:10-cv-993  
JUDGE GREGORY L. FROST**

v.

**PROSPER BUSINESS DEVELOPMENT  
CORPORATION, et al.,**

**Defendants.**

**ORDER**

This matter came on for a jury trial the 23rd day of September, 2013 through the 17<sup>th</sup> day of October, 2013.

The jury was duly empaneled and sworn. Testimony was presented and evidence admitted.

At the close of Plaintiff's case on its complaint, the Court granted Defendants' motion for judgment as a matter of law and dismissed Plaintiff's claims for conversion and unjust enrichment. The Plaintiff's claim against all three Defendants on the alleged breach of fiduciary duties survived and was presented to the jury.

At the close of Defendants' case on their respective counterclaims, the Court granted Plaintiff's motion for judgment as a matter of law on the counterclaim of Defendant, Prosper Business Development Corporation, for an alleged breach of fiduciary duty. The Court denied Plaintiff's motion for judgment as a matter of law on the counterclaims of all three Defendants alleging abuse of process, which were presented to the jury.

After due deliberations, the jury returned answers to the Interrogatories and General

Verdicts.

The Court finds that the answers to the Interrogatories and the Verdicts are consistent and the Court accepts the same.

In accordance with the answers to the Interrogatories and the General Verdicts, the Court enters the following judgments:

1. The Court enters judgment in favor of all three Defendants and against Plaintiff on Plaintiff's claim for breach of fiduciary duties.
2. The Court enters judgment in favor of Defendants and against Plaintiff on each of the Defendants' abuse of process claims and awards compensatory damages in favor of Prosper Business Development Corporation and against Plaintiff in the amount of \$1,000,000.00; awards compensatory damages in favor of Phil Rist and against Plaintiff in the amount of \$100,000.00 and awards punitive damages in favor of Phil Rist and against Plaintiff in the amount of \$25,000.00; awards compensatory damages in favor of Gary Drenik and against Plaintiff in the amount of \$100,000.00 and awards punitive damages in favor of Gary Drenik and against Plaintiff in the amount of \$25,000.00.

The jury found and this Court awards attorneys fees to Phil Rist and Gary Drenik and against Plaintiff in a sum to be determined by the Court at a hearing to be scheduled by the Court.

**IT IS SO ORDERED.**

/s/ Gregory L. Frost  
**GREGORY L. FROST**  
**UNITED STATES DISTRICT JUDGE**