

Because a judgment as a matter of law intrudes upon the rightful province of the jury, it is highly disfavored. The Court of Appeals for the Second Circuit has repeatedly emphasized that, when confronted with such a motion, the court must carefully scrutinize the proof with credibility assessment made against the moving party and all inferences drawn against the moving party. Luciano v. The Olsten Corp., 110 F.3d 210, 214-15 (2d Cir. 1997); EEOC v. Ethan Allen, Inc., 44 F.3d 116, 119 (2d Cir. 1994). A district court may not grant a motion for judgment as a matter of law unless "the evidence is such that . . . there can be one conclusion as to the verdict that reasonable [persons] could have reached." Cruz v. Local Union No.3, Int'l Bhd. of Elec. Workers, 34 F.3d 1148, 1154-55 (2d Cir. 1994). See also U.S. v. One Parcel of Property Located at 121 Allen Place, Hartford, Connecticut, 75 F.3d 118 (2d Cir. 1996); Samuels v. Air Transportation Local 504, 992 F.2d 12, 14 (2d Cir. 1993), cert. denied, 148 L.R.R.M.(BNA) 2576. Accord Rolan-Alvarado v. Municipality of San Juan, 1 F.3d 74, 77 (1st Cir. 1993)(motion should be granted when evidence so one-sided reasonable minds could not differ as to outcome). See also Kukla v. Syfus Leasing Corp., 928 F. Supp. 1328, 1334 (S.D.N.Y. 1996)(Rule 50 motion granted only where "complete absence of evidence supporting the verdict that jury's finding result of sheer surmise and conjecture"). Accordingly, this Court may grant a judgment as a

matter of law only if this case meets these stringent standards. The Court holds that it does not.

At trial, Prestige introduced unrebutted testimony from its forensic accountant, Chris Stevens, that during Wajahat Malick's employment with Prestige from 1986 through 1990, Malick embezzled more than \$1.5 million of Prestige's property. Stevens further established, through his examination of bank statements, microfiche, deposit slips, and checks deposited into and withdrawn from over forty-nine bank accounts, that the monies obtained by Malick were deposited into banks in Massachusetts, transferred to banks in Connecticut held by his wife and her sister and were finally transferred for no consideration into two passbook accounts at yet another Connecticut bank. It was further established that these very funds were then used to collateralize a loan from the bank to Malick, who in turn, used the proceeds to purchase property at 4405 Blackrock Turnpike in Fairfield, Connecticut on November 13, 1990 in the name of, and for the benefit of, the Sorrowaya Foundation. Such testimony clearly established the elements of the three claims in this litigation.

Viewing the evidence in Prestige's favor, as this Court must do in a Rule 50 motion, it is virtually impossible for this Court to conclude that the evidence supporting the jury verdict is wholly absent. Accordingly, the Motion for Judgment as a Matter

of Law [Doc. No. 216] is DENIED.

SO ORDERED

ELLEN BREE BURNS

SENIOR UNITED STATES DISTRICT JUDGE

Dated at New Haven, Connecticut this ___ day of March, 2001.