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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

FUNDAMENTAL CREDIT RECOVERY FUND LP et al., Plaintiffs and Appellants, v. CEREF GENERAL PARTNER I, LLC et al., Defendants and Appellants.	B288384 (Los Angeles County Super. Ct. No. BC626018)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael Johnson, Judge. Affirmed.

Law Offices of Todd D. Thibodo for Plaintiffs and Appellants.

Miller Barondness and James Goldman for Defendants and Appellants CEREF General Partner I, LLC and William Ronald McMahan.

Geraci Law Firm, Paul J. Sievers, Amy E. Martinez, Larissa A. Branes; Browne George Ross, Eric M. George, Ira Bibbero and Nancy C. Morgan for Defendant and Appellant Guy

Keven Johnson.

Stuart D. Shelly, in pro. per., for Defendant and Appellant.

In a previous appeal, we affirmed the judgment confirming an arbitration award in favor of plaintiffs Fundamental Credit Recovery Fund LP and Shekels Group Investments LLC, who invested as limited partners in CEREF Partners I, LP (the limited partnership). The judgment awarded the limited partners specific performance and money damages against their general partner, defendant CEREF General Partner I, LLC (the general partner). (*Fundamental Credit Recovery LP et al. v. CEREF General Partner I, LLC* (July 26, 2016, B265462) [nonpub. opn.] (*CEREF I*).)

The general partner never paid the judgment. While the first appeal was pending, the limited partnership sold its last asset. The proceeds of the sale should have been distributed to the general partner, and the general partner should have used them to satisfy the judgment in favor of the limited partners. Instead, the individual defendants William Ronald McMahan, Guy Keven Johnson, and Stuart D. Shelly, who controlled the general partner, took the money for themselves.

Once again the limited partners sued the general partner, and also the individual defendants, alleging civil theft, fraudulent transfer, breach of fiduciary duty, unjust enrichment, unfair competition, and conversion. The case was tried to the court. Defendants at the court trial relied on a new theory to try to avoid judgment against them, which the trial court found was a pretext to delay collection of the previous judgment. At the arbitration, many business records were admitted evidencing the individual defendants' general partner capital contributions and

their status as officers and directors of the general partner. At trial, defendants pressed an entirely new theory that the general partner had no capital, and the individual defendants were limited partners. The court once again entered judgment in favor of the limited partners, but only on their claims for fraudulent transfer and breach of fiduciary duty.

The general partner and the individual defendants appeal the judgment, and the limited partners cross-appeal the judgment against them on their claims for civil theft and conversion. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Formation of the General Partner and Limited Partnership

The general partner was formed for the sole purpose of acting as the general partner of the limited partnership. The limited partnership was formed to acquire and restructure nonperforming mortgage loans and real properties.

The general partner is a limited liability company. The individual defendants used two limited liability companies, a corporation, and a trust within their control to form the general partner. The members of the general partner were Transitional Investors, LLC (controlled by Shelly), RMC Imperial Investments, LLC (controlled by McMahan), the Johnson Advisory Group, Inc. (controlled by Johnson), and the Brandenburg Family Trust (controlled by Ron Brandenburg). To recap, Shelly, McMahan and Johnson are the individual defendants. The limited partners also sued Brandenburg, but the trial court granted summary judgment in his favor, and he is not a party to this appeal or cross-appeal.

The individual defendants were the officers and directors of the general partner. McMahan, Brandenburg, and Shelly were members of the board of directors of the general partner, Shelly and Johnson were cochairmen of the board, McMahan was the CEO, Brandenburg was president and COO, and Budd Terrell (whom limited partners never sued) was the CFO and secretary.

The agreement by which the general partner was formed provided that, contemporaneously with its execution, the three corporate members (controlled by Shelly, McMahan, and Johnson) had each made capital contributions to the general partner totaling $1,150,000.

In his capacity as CFO of the general partner, Terrell prepared schedules that show five general partner capital accounts, one for Brandenburg, one for McMahan, one for Shelly, and one for each of two entities controlled by Johnson. These accounts were always carried on the partnership's financial records as "general partner" capital accounts. Contributions by the limited partners were identified as "limited partner capital."

On January 5, 2010, the general partner and the limited partners entered into a Side Letter Agreement, where the general partner made certain assurances to secure the limited partners' investment in Series B of the limited partnership. The limited partners were to invest $3 million, representing approximately 15 percent of the total capital invested in the Series B partnership. In exchange for their investment, the Side Letter Agreement provided that the general partner would pay the limited partners a preferred return of 12 percent on their investment; the general partner would subordinate repayment of its own invested capital to the limited partners; and the general partner would fund its own capital account with at least

$1.3 million, among other assurances. (*CEREF I*, *supra*, B265462.)

Series B did not perform as expected, and the general partner failed to comply with the Side Letter Agreement. The general partner did not invest $1.3 million of its own capital, never paid the preferred return on the limited partners' investment, and never repaid the limited partners' initial investment. (*CEREF I*, *supra*, B265462.) Although the agreement forming the general partner stated three of its members had made capital contributions to the general partner totaling $1,150,000, in fact, only $920,000 was deposited in the general partner's capital account.

That led to the limited partners demanding arbitration, to recover damages for the general partner's failure to pay the preferred return on investment and to establish safeguards to ensure payment of the preferred return. (*CEREF I*, *supra*, B265462.) The limited partners prevailed in arbitration, and in our previous opinion, we affirmed the judgment confirming the arbitration award. We mention the arbitration briefly below to make a few points pertinent to this appeal.

2. The Arbitration and Judgment

McMahan, Brandenburg, and Johnson each testified for the general partner in the arbitration. Never once did they take the position—as they did for the first time after judgment was entered confirming the arbitration award—that there was *no general partner capital at all in the general partner*. Instead, at the arbitration, McMahan testified there was "less GP [general partner] capital than what was provided for in the Side Letter [Agreement]."

The arbitrator awarded the limited partners specific performance and damages. (*CEREF I*, *supra*, B265462.) The arbitrator concluded that the general partner was *required* to take distributions from the limited partnership in *pari passu* (side by side) with other investors, but had failed to do so. The arbitrator also found that the limited partners had received back 97 percent of their investment, ordered the general partner to return the remaining 3 percent plus interest, and awarded $900,000 as a preferred return of 12 percent on the limited partners' investment, for a total of $993,365. The arbitrator also ordered the general partner to comply with the Side Letter Agreement by funding its capital account, and creating a lockbox custodial account for limited partnership proceeds over which one of the limited partners' executives would have cosigning authority.

The arbitrator also rejected the general partner's defenses of waiver, acquiescence, laches, estoppel, and based her decision on the exculpation clause of the limited partnership agreement. (*CEREF I*, *supra*, B265462.)

3. The Limited Partners' Attempts to Enforce the Judgment Lead to Discovery of Wrongdoing.

While the previous appeal was pending, the limited partners attempted to enforce the judgment. Among other efforts, they sought a charging order to compel the general partner to make a distribution from the limited partnership that was owed to the general partner, so that there would be sufficient general partner funds to satisfy the judgment. The only remaining asset in the limited partnership was a promissory note secured by real estate in Venice. The limited partners believed the limited partnership was in the process of foreclosing on the

property, and proceeds from the foreclosure were due to be paid by the limited partnership to the general partner.

Unbeknownst to the limited partners, their request for a charging order was too late, as the property had already been foreclosed. At a board meeting, McMahan and Shelly voted to distribute the proceeds from the foreclosure (about $900,000) to "creditor limited partners" Johnson Advisory Group, Inc. and American Capital Corporation (entities controlled by Johnson), McMahan, and the Brandenburg Family Trust. Johnson was present at the meeting but did not vote, as he was not a board member. Brandenburg voted against distributing the funds. Brandenburg and Terrell resigned because they believed the funds had to be distributed to the general partner.

Ultimately, proceeds of the sale were paid to McMahan and one of Johnson's entities, American Capital Corporation. From these funds, McMahan repaid Shelly for a loan Shelly had made to him.

The trial court granted the request for a charging order, ordering the general partner's interest in the limited partnership "is hereby charged with the unpaid balance of the judgment entered in favor of [the limited partners]." The order further provided that any distributions received by the general partner shall be held in a trust account or in escrow with no disbursements to be made until further order of the court. However, by the time the court issued its order, the proceeds of the sale were already in the hands of McMahan and Johnson.

In October 2015, the limited partners sought an order to show cause regarding contempt for the general partner's failure to establish a lockbox account, and failure to pay the judgment from the proceeds of the foreclosure sale of the Venice real estate.

The limited partners had just learned the limited partnership had foreclosed on the property, but did not yet know what had happened to the proceeds of the sale.

In response to the order to show cause regarding contempt, McMahan admitted for the first time that the funds had been distributed to "Johnson and myself" based on their status as "limited partners."

4. The Bench Trial in this Action

At trial, Johnson, McMahan, and Shelly denied ever making the capital contributions attributed to their entities in the agreement forming the general partner, and testified *that there was never any general partner capital*. They testified that the money they eventually contributed was limited partner capital, and that the contributions were made directly to the limited partnership and not to the general partner.

Johnson and McMahan relied on subscription agreements executed by their entities to support this claim. (Shelly did not produce any subscription agreement.) The limited partnership agreement provides that " 'Subscription Agreements' means the subscription agreements entered into by the *Limited Partners* in connection with their purchases of Interests." (Italics added.) Johnson and McMahan said this proved they were only limited partners. However, the subscription agreements admitted into evidence were for Series A of the limited partnership, and the parties' dispute concerned Series B partnership interests.

A great deal of evidence was introduced that individual defendants' capital contributions were general partner capital. For example, a 2009 amendment to the limited partnership agreement listed the limited partners, and neither defendants nor their entities were on that list. Partnership tax returns for

Johnson Advisory Group, Inc. and Ron McMahan identified their interests in the limited partnership as general partners.

Terrell also testified that if the individual defendants had been limited partners, they would have received limited partner capital distributions, consistent with the distributions made to other limited partners, but they did not.

The trial court also considered evidence from the arbitration. During the arbitration, the general partner admitted it had a capital account in the sum of $920,956. Its briefs repeatedly affirmed the existence of general partner capital exceeding $900,000. The limited partnership's financial statements consistently reflected over $920,000 in general partner capital.

E-mails among the individual defendants showed they knew they controlled the general partner and were not limited partners. For example, a 2011 e-mail from Shelly to McMahan, Johnson, and Terrell protested about continued distributions being made to limited partners, noting that his stake in the fund was a "GP [general partner]" interest, and requesting that further payments to limited partners should not be made without first ensuring "the GP's have been trued up to the appropriate levels."

There was also evidence Johnson exercised control over the general partner. An organizational chart identified Johnson as a member of the board. He also held himself out as a general partner, and personally guaranteed loans for the limited partnership.

5. Trial Court's Statement of Decision

In its statement of decision, the trial court concluded that defendants' witnesses (McMahan, Johnson and Shelly) were not

credible, and provided shifting, contradictory testimony, whereas limited partners' witnesses provided credible and reliable testimony.

The court found there was at least $920,956 in general partner capital, and the general partner never took any distributions, even though it was required to take distributions the same as other investors. Proceeds from the foreclosure sale of the Venice property should have been paid to the only capital account yet to receive any distributions, the general partner capital account, and this money should have been distributed to limited partners in accordance with the arbitration award and resulting judgment.

The trial court found that defendants made their contributions as general partner capital, and as such, their interest in the return of their capital was subordinate to limited partners' claim to the proceeds.

Regarding the cause of action for fraudulent transfer in violation of the Uniform Voidable Transactions Act (UVTA; Civ. Code, § 3439 et seq.), the court found limited partners had a "legitimate claim against the funds" as a consequence of the judgment enforcing the arbitration award, and their interest was frustrated when the funds were transferred to the general partner insiders; the transfer was concealed, and without consideration; and the transfer cleared out the remaining assets of the limited partnership and the general partner, rendering them insolvent.

In the case of defendants McMahan and Shelly, it was undisputed that the funds were transferred to them, individually. Therefore, the court found they were transferees within the meaning of the UVTA.

The court found Johnson was also a transferee, because the funds were transferred to American Capital Corporation, one of Johnson's "pass-through entities" of which Johnson is the sole shareholder, officer, and director.

The court also found for limited partners on the breach of fiduciary duty claims, finding that as controlling officers and directors of the general partner, the individual defendants owed a fiduciary duty of loyalty to the limited partners, and they violated this duty when they took the money for themselves. The court concluded the individual defendants, and not their entities, were the directors and officers of the general partner, and were individually liable.

The court found in favor of defendants on the causes of action for civil theft and conversion, concluding limited partners had a money judgment but not a specific ownership right in the note proceeds at the time defendants distributed the money to themselves.

The court rejected defendants' affirmative defenses that Fundamental Credit Recovery Fund LP lacked standing, and the defenses of laches, waiver, and acquiescence, all of which had been resolved against the general partner in the arbitration.

The court awarded the limited partners damages of $850,000. The court found that the limited partners are not entitled to double recovery of damages against the general partner, since they already had the judgment confirming the arbitration award. However, the court ordered the general partner was "jointly and severally liable for costs."

DISCUSSION

1. Gross Inadequacy of the Appellate Briefs

The general partner and McMahan filed a combined appellate brief, and Shelly and Johnson filed joinders in that brief. Shelly made no additional substantive arguments. Johnson advanced some additional facts that he contends support a judgment in his favor. Johnson's lengthy reply brief makes new arguments, which were not asserted in his opening brief, and attempts to develop arguments which were poorly made in his opening brief.

The brief of the general partner and McMahan did not state the standard of review, and its statement of facts did not discuss the substantial evidence supporting the trial court's judgment. Instead, the brief claimed the record included "no evidence" that the general partner contributed any capital to the limited partnership, without providing a fair account of the voluminous evidence supporting the finding that defendants made general partner capital contributions.

In his opening brief, Johnson included some bulleted "undisputed" facts favorable to his position, but did not recite the facts supporting the judgment. His argument section, where he discussed these facts, includes no legal analysis.

An appellant's briefs must include all "significant facts," not just those facts favorable to appellant's position. (Cal. Rules of Court, rule 8.204(a)(2)(C).) The failure to state all the evidence fairly in the opening brief waives the alleged error. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881; *County of Solano v. Vallejo Redevelopment Agency* (1999) 75 Cal.App.4th 1262, 1274.) Also, a brief must contain reasoned argument and legal authority to support its contentions or the court may treat the

claims as forfeited. (Cal. Rules of Court, rule 8.204(a)(1)(B); *People v. Stanley* (1995) 10 Cal.4th 764, 793.) Points raised for the first time in the appellant's reply brief will not be considered, because the respondent has not been given a chance to respond. (*REO Broadcasting Consultants v. Martin* (1999) 69 Cal.App.4th 489, 500; *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 766.)

The deficiencies in defendants' briefs necessarily hinder appellate review, especially in light of the presumption of correctness of the trial court's judgment, and the appellant's heavy burden to demonstrate prejudicial error. (*Silva v. See's Candy Shops, Inc.* (2016) 7 Cal.App.5th 235, 260.)

2. The UVTA

The UVTA "permits defrauded creditors to reach property in the hands of a transferee." (*Mejia v. Reed* (2003) 31 Cal.4th 657, 663.) "A fraudulent conveyance is a transfer by the debtor of property to a third person undertaken with the intent to prevent a creditor from reaching that interest to satisfy its claim." (*Yaesu Electronics Corp. v. Tamura* (1994) 28 Cal.App.4th 8, 13.) The purpose of the voidable transactions statute is " 'to prevent debtors from placing property which legitimately should be available for the satisfaction of demands of creditors beyond their reach . . . .' " (*Chichester v. Mason* (1941) 43 Cal.App.2d 577, 584.)

The act, by its terms, only applies to transfers made by a debtor. (Civ. Code, § 3439.04, subd. (a).) Defendants contend the general partner is the only judgment debtor, and the promissory note belonged to the limited partnership, so none of them may be held liable under the UVTA.

We review issues of statutory construction de novo, but the trial court's factual findings are reviewed for substantial

evidence. (*Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109, 1127.)

The premise of defendants' claim is that the general partner was not entitled to any distribution from the proceeds of the foreclosure sale because it contributed no general partner capital; instead, the individual defendants, or their entities, were entitled to the proceeds of the sale based on their status as limited partners. Defendants waived our consideration of this contention on appeal by failing to acknowledge the overwhelming weight of reliable evidence recited by the trial court in support of its conclusion that defendants made general partner capital contributions and were not limited partners.

Defendants also contend that in the absence of fraud, a debtor (the general partner) may prefer one creditor over another (e.g., may prefer defendant "limited partners" over plaintiffs). (*United States Fidelity & Guar. Co. v. Postel* (1944) 64 Cal.App.2d 567, 571.) This argument rests on the flawed theory that defendants were limited partners, a theory that is waived, and for which the trial court found there is no credible evidence.

The general partner also argues that a judgment debtor cannot be liable under the UVTA for transferring its assets, because a monetary judgment under the UVTA would be duplicative of the prior judgment. (See *Renda v. Nevarez* (2014) 223 Cal.App.4th 1231, 1237.) However, the trial court explicitly stated that while limited partners prevailed against the general partner, no damages were awarded against the general partner because limited partners already had the judgment confirming the arbitration award and are not entitled to a double recovery.

Defendants also contend there was no proof supporting the trial court's finding that the distributions rendered the general partner and limited partnership insolvent. A claim under the UVTA requires proof that the defendant intended to hinder, delay, or defraud any creditor. (Civ. Code, § 3439.04, subds. (a)(1), (b).) Among the factors the trier of fact may consider in making this determination is whether the transfer was made to an insider, whether the transfer was concealed, whether the transfer was of substantially all the debtor's assets, whether the debtor was insolvent or became insolvent shortly after the transfer was made, among other considerations. (*Id.,* subd. (b).)

There was ample evidence that the limited partnership's one remaining asset was sold and the funds were transferred to the individual defendants, and consequently, there were no remaining assets of the general partner. And, in any event, insolvency is merely one of the factors to consider, and the court found other factors, such as the transfer was made to insiders, and the transfer was concealed, supported a finding that defendants intended to hinder, defraud, or delay the limited partners.

3. Breach of Fiduciary Duty Claims

Controlling officers and directors owe a fiduciary duty of loyalty to the limited partners, and to the partnership. (*Wallace v. Wood* (Del. 1999) 752 A.2d 1175, 1180.)[1] The duty of loyalty includes "a requirement to act in good faith." (*In re Orchard*

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[1] The limited partnership agreement provides it "shall be governed by and construed in accordance" with Delaware law.

Enterprises, Inc. Stockholder Litigation (Del. 2014) 88 A.3d 1, 32.) Individuals who exercise actual control of the partnership may be personally liable for breach of fiduciary duty. (*Feeley v. NHAOCG, LLC* (Del. 2012) 62 A.3d 649, 669-671.)

Defendants contend that limited partners do not claim an injury to the entire class of limited partners, but only to themselves, based on breach of the Side Letter Agreement. Therefore, they argue, limited partners may only state a claim for breach of contract, and not for breach of fiduciary duty. Defendants also contend that any fiduciary duty to comply with the Side Letter Agreement expired when the arbitration award was issued, and that limited partners' only remedy is to enforce the judgment.

The court did not find defendants breached their fiduciary duties by failing to comply with the Side Letter Agreement. The court found defendants breached their duties by taking the note proceeds for themselves, "a self-interested transaction that furthered their own interests over the legitimate rights of [limited partners]." The breach of fiduciary duties had nothing to do with the Side Letter Agreement.

To the extent Johnson contends he was not involved in the distribution decision, and was not involved in the management of the general partner, we are not persuaded. The record is replete with facts supporting the finding that Johnson exercised control over the general partner.

4. Affirmative Defenses

The individual defendants contend they are not bound by the arbitrator's findings on the affirmative defenses of laches, waiver and acquiescence because they were not parties to the arbitration. Collateral estoppel applies to nonparty privies. "As

applied to questions of preclusion, privity requires the sharing of 'an identity or community of interest,' with 'adequate representation' of that interest in the first suit, and circumstances such that the nonparty 'should reasonably have expected to be bound' by the first suit. [Citation.] A nonparty alleged to be in privity must have an interest so similar to the party's interest that the party acted as the nonparty's ' " 'virtual representative' " ' in the first action." (*DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 826 (*DKN Holdings*).)

Defendants' claims of laches, waiver, and acquiescence are identical to those raised in the arbitration. The individual defendants, as the officers and directors of the general partner, are sufficiently aligned with the general partner to be bound by the judgment confirming the arbitration award. They were the witnesses who spoke for the general partner in the arbitration.

Defendants seek to avoid the effect of collateral estoppel by asserting another basis for laches, waiver and acquiescence: that limited partners waited too long to file this case. This argument is completely baseless. After obtaining a judgment in May 2015, limited partners immediately made efforts to enforce it, which were repeatedly thwarted by defendants. They filed this case in 2016. Limited partners were not dilatory in exercising their rights.

We will not consider Johnson's contention that the trial court should have considered the exculpation clause in the limited partnership agreement. This argument is forfeited because it was made for the first time in his reply brief, and in any event, the exculpation clause issue was decided against the general partner by the arbitrator. (*CEREF I*, *supra*, B265462.)

5. Standing

Defendants argue that plaintiff Fundamental Credit lacks standing to sue. This baseless theory rests on defendants' misrepresentations concerning the provisions of the Uniform Limited Partnership Act of 2008, codified in sections 15900 through 15912.01 of the Corporations Code (the Act). Specifically, defendants misconstrue section 15909.07, subdivision (b) and section 15911.06, subdivision (c).

Corporations Code section 15909.07, subdivision (b) provides, "A foreign limited partnership transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of registration to transact business in this state." The Act defines a limited partnership formed under the laws of a jurisdiction other than California as a " 'Foreign limited partnership.' " (§ 15901.02, subd. (k).) Before filing this case, Fundamental Credit was converted from a California limited partnership to a Delaware limited partnership, and filed a certificate of conversion with the Secretary of State.

Therefore, Fundamental Credit converted to a foreign limited partnership. The Act defines a domestic (California) limited partnership that converts to a foreign limited partnership as a " 'converting limited partnership.' " (Corp. Code, § 15911.01, subd. (c).)

Defendants contend the filing of the certificate of conversion had the effect of filing a certificate of cancellation under Corporations Code section 15902.03 and, to avoid termination, Fundamental Credit was required to file a certificate of revival. This contention ignores the plain language of section 15911.06, subdivision (c) which provides, "The filing with the Secretary of State of a certificate of conversion . . . shall

have the effect of a filing of a certificate of cancellation by the converting limited partnership, and no converting limited partnership that has made the filing is required to file a certificate of a cancellation under Section 15902.03 as a result of that conversion."

The trial court correctly found defendants deliberately omitted to recite these provisions of Corporations Code section 15911.06 in their briefs in the trial court, as they have also done on appeal. Defendants quibble with the trial court's use of the terms "disappearing limited partnership" and "resulting partnership" to describe Fundamental Credit as a "converting limited partnership." The trial court correctly cited the controlling statutes, and its analysis was correct, irrespective of its use of descriptive phrases rather than the statutory terms.

6. Costs

Defendants contend the trial court erroneously held the general partner jointly and severally liable for limited partners' costs of suit, reasoning that limited partners' only recourse against the general partner was to seek enforcement of the judgment, and not a separate action. The trial court expressly stated the limited partners prevailed in this action against the general partner for fraudulent transfer and breach of fiduciary duty, and as prevailing parties, the limited partners are entitled to recover their costs against the general partner under Civil Code section 1032.

7. Cross-appeal

Plaintiffs appeal the judgment in defendants' favor on their claims for civil theft and conversion, arguing the trial court's findings on these claims are inconsistent with its findings supporting the judgment on the other claims. We disagree.

Conversion requires an immediate right to possession at the time of the conversion. "[A] mere contractual right of payment, without more, will not suffice." (*Farmers Ins. Exchange v. Zerin* (1997) 53 Cal.App.4th 445, 452.) Likewise, civil theft under Penal Code section 496 requires that the defendants "receive[] . . . property that has been stolen or that has been obtained in any manner constituting theft or extortion . . . from the owner . . . ." (*Id.*, subd. (a).) We are not persuaded the court abused its discretion in finding limited partners were not "owners" of the funds, or that the funds were not their property, within the meaning of the larceny statute; the court correctly found limited partners were judgment creditors, with a right to enforce their judgment against the funds once they were distributed to the general partner. (See §§ 7, subd. (12), 484; see also *People v. Wade* (1957) 150 Cal.App.2d 281, 283.)

DISPOSITION

The judgment is affirmed. Plaintiffs may recover their costs on appeal.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.