

STATE OF INDIANA )  
 ) IN THE HAMILTON COUNTY SUPERIOR COURT  
 ) SS:  
 COUNTY OF HAMILTON ) 2013 CAUSE NO: 46 29003-1305-CT-4768  
 JASON ELLIS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ERSAL OZDEMIR, )  
 )  
 Defendant. )

**COMPLAINT AND JURY DEMAND**

COMES NOW Jason Ellis, by counsel, and for his Complaint against Ersal Ozdemir, states as follows:

**Allegations Applicable to All Counts**

1. Jason Ellis ("Ellis") resides in Hendricks County, Indiana.
2. Ellis is a shareholder and a former employee and officer of Keystone Construction Corporation ("Keystone").
3. Ersal Ozdemir ("Ozdemir") is an officer and majority shareholder of Keystone. Ozdemir resides in Hamilton County, Indiana. Keystone is a closely held company with only two (2) shareholders. Ozdemir and Keystone are alter egos of one another.
4. Ozdemir disregards corporate formalities when operating Keystone.
5. Huseyin Ozdemir was the former chief financial officer and a shareholder of Keystone. Huseyin Ozdemir currently resides in New York, New York. At all times relevant hereto, Huseyin Ozdemir resided in Indiana. Huseyin Ozdemir was responsible for maintaining the books and records of Keystone. Huseyin Ozdemir is the brother of Ozdemir.

6. Ozdemir formed Keystone on or about September 25, 2002. Keystone is in the construction and real property development business.

7. Ozdemir formerly owned and operated a predecessor company to Keystone named Aymir Construction Corporation ("Aymir"). Ozdemir was forced to shut down that company due to failed projects and financial problems. A seven-figure judgment was entered against Ozdemir in the United States District Court for the Southern District of Indiana under Cause No. 1:08-cv-1501-RYL-DML.

8. Ellis and Ozdemir knew one another from the commercial construction industry.

9. Following the failure of Aymir, and Ozdemir's formation of Keystone, Ozdemir needed a highly experienced construction professional to manage the construction arm of Keystone. Ozdemir contacted Ellis multiple times in an effort to persuade Ellis to depart an existing senior position with a competing company. Ozdemir and Ellis met over a period of approximately six (6) months. These meetings occurred during the fourth quarter of 2002 and the first quarter of 2003. The meetings took place at Kona Jacks, 9419 North Meridian Street Indianapolis, Indiana; Jillian's, 141 South Meridian Street, Indianapolis, Indiana; and Bleeker Street, 6311 Guilford Avenue Indianapolis, IN 46220.

10. Ozdemir repeatedly attempted to persuade Ellis to join Keystone. Initially, Ellis was reluctant because of Ozdemir's problematic history while doing business as Aymir and because Keystone was a small company with few employees and little revenue.

11. After multiple meetings, Ozdemir offered to make Ellis his "partner", and to provide Ellis a twenty percent (20%) ownership interest in Keystone by granting Ellis shares of stock if Ellis joined Keystone. Ozdemir informed Ellis that Ellis would be directing and growing the construction arm of Keystone.

12. Ellis relied upon the specific representations and inducements offered by Ozdemir and joined Keystone. Ozdemir did not advise Ellis that Ozdemir intended to only compensate Ellis as a shareholder but not actually grant Ellis shares of stock as now contended by Ozdemir.

13. Ellis would occasionally request paperwork from Ozdemir memorializing Ellis's ownership interest in the company. Ozdemir would generally respond by diminishing the importance of paperwork but would assure Ellis such paperwork was forthcoming. Ozdemir provided Ellis with a writing wherein Ozdemir drew a diagram reflecting Ellis ownership in Keystone Exhibit "A".

14. Ellis continued to press Ozdemir for additional paperwork reflecting his ownership interest. Ozdemir eventually provided a one-page document to Huseyin Ozdemir, another shareholder. The document purported to describe the existing ownership agreement between Ozdemir, Ellis and Huseyin Ozdemir. Huseyin Ozdemir provided Ellis with a copy of this document. The document was rejected by Huseyin Ozdemir and Ellis as it did not accurately reflect the business arrangement between the parties.

15. Ellis received periodic dividend payments from Keystone. Ozdemir would determine the amount of the dividends based upon his assessment of the company's profitability.

16. On various occasions, Ozdemir would encourage Ellis to not take his dividends so that the company would have additional capital to help generate future company growth.

17. At one point, Ozdemir requested a meeting with Ellis and requested Ellis to reduce his ownership in the company to five percent (5%). According to Ozdemir, the ownership interest being ceded by Ellis would be utilized to attract other key executives which would ultimately grow the company making Ellis's five percent (5%) worth even more than the original twenty percent (20%) granted to Ellis by Ozdemir.

18. Over the years, Keystone's construction business grew dramatically in significant part due to the efforts of Ellis. Ellis was the senior official at Keystone responsible for managing construction activities. Ellis was personally responsible for growing significant portions of Keystone's business including, but not limited to, the multi-family and the medical sectors.

19. Ellis has always been, and has been treated as, an officer and shareholder of Keystone.

20. Keystone's website, in fact, acknowledges that Keystone is an "employee owned" company. The employees which owned Keystone were Ozdemir, Ellis and Huseyin Ozdemir. Attached hereto and marked as Exhibit "B" is a snapshot from the Keystone website which specifically states that Keystone is "employee owned."

21. Attached hereto and marked as Exhibit "C" is an email wherein Ozdemir and Ellis are specifically discussing Ellis receiving his shareholder distributions. Rather than denying Ellis' status as a shareholder, Ozdemir clearly states he is reviewing the current financials to determine if there is a sufficient profit to make distributions to Ellis as a shareholder.

22. The website of Keystone also identified Ellis as a partner. See Exhibit "D".

23. Ozdemir routinely and repeatedly publically identified and introduced Ellis as his partner in Keystone.

24. Other Keystone employees and officers treated Ellis as a shareholder and officer of Keystone.

25. Ozdemir, Ellis and Huseyin Ozdemir have always treated one another as shareholders in Keystone.

26. Ozdemir, Ellis and Huseyin Ozdemir operated Keystone as fellow shareholders and officers.

27. To the dismay of Ellis, Ozdemir began to form new companies operating under such names such as 1200 Madison, LLC, Carmel Lofts Garage LLC, and Carmel Lofts LLC. Ozdemir traded on the name of Keystone and labeled these companies as the "Keystone Group." Known companies are listed on Exhibit "E". Ellis believes Ozdemir began utilizing these other "Keystone" Companies to develop projects (the "Related Companies"). Regretfully, Ozdemir refused to share the profits from these projects with his fellow shareholders in Keystone. Such projects would include Six Over Meridian Condos, Majestic Building, Madison Plaza, 3 Mass, University Shoppes, Sophia Square, New Community School, 1400 Madison, KSC, Old Meridian, West Lafayette Fire Station, Switzerland County Administration Building and Food Pantry, Haverstick, and Broad Ripple Parking Garage (the "Projects"). These Projects were corporate opportunities of Keystone and should have benefited the shareholders of Keystone including Ellis and Huseyin Ozdemir.

28. Ellis has good cause to believe Ozdemir has utilized the assets, credit, banking relationships, employees, offices, tangible property and goodwill of Keystone to create, fund and operate the Related Companies comprising the Keystone Group. Ozdemir took these actions without the consent of shareholders Ellis and Huseyin Ozdemir.

29. During the last twenty-four (24) months, Ellis became troubled by Ozdemir's operation of Keystone as its President. Ellis began to suspect that Ozdemir was engaging in the following actions:

- A. Improper comingling of assets;
- B. Creating inaccurate accounting records;
- C. Utilizing Keystone's assets for ultra vires purposes;
- D. Knowingly misidentifying income;

- E. Refusing to account for income and assets of Keystone;
- F. Usurping corporate opportunities of Keystone;
- G. Billing Keystone for lavish personal expenses including the construction of a multi-million dollar mansion in Carmel, Indiana;
- H. Overbilling of clients and customers; and
- I. Unlawfully taking advantage of corporate opportunities without accounting to his fellow minority shareholders.

30. In or about the fourth quarter of 2011, the chief financial officer of Keystone, Huseyin Ozdemir, abruptly resigned from the Company. Huseyin Ozdemir is the brother of Ersal Ozdemir.

31. Ellis has good cause to believe Huseyin Ozdemir resigned from Keystone because of disagreements with Ozdemir's unlawful operation of Keystone.

32. Ellis has good cause to believe Huseyin Ozdemir either took, or was paid hundreds of thousands of dollars by Ozdemir to buy his silence. Huseyin Ozdemir abruptly moved from the State of Indiana and now lives in New York, New York.

33. Ellis has good cause to believe Huseyin Ozdemir has severed all ties with Ozdemir.

34. Following Huseyin Ozdemir's departure from the company, Ozdemir provided Ellis with another document which purportedly memorialized the terms of Ellis and Ozdemir's ownership of Keystone. Again, this document did not accurately reflect the terms of the prior agreement between Ozdemir and Ellis.

35. Ellis has demanded copies of corporate financial records from Ozdemir.

36. Ellis and Ozdemir met on multiple occasions.

37. Ozdemir would bring limited corporate financial records to the meetings so that Ellis could “review” the same. Ozdemir would not, however, permit Ellis to make copies of records. Ozdemir would not provide access to any of the records of the Related Companies.

38. Ellis has good cause to believe Ozdemir has engaged in active steps to conceal financial records and data from Ellis to further conceal his wrongful actions.

39. Ozdemir, without legal authority, abruptly informed Ellis that he was no longer a shareholder. Ozdemir informed Ellis that he would be compensated as though he owned five percent (5%) of Keystone. However, according to Ozdemir, Ellis was somehow no longer a shareholder.

40. Ellis repeatedly informed Ozdemir that Ozdemir’s conduct was unacceptable and continued to assert his long standing rights as a shareholder.

41. Conditions at Keystone became untenable for Ellis. Ellis was extremely concerned over Ozdemir’s unlawful operation of Keystone and his inability to review the records of Keystone to better understand Keystone and the Related Companies’ financial condition. Ellis felt compelled to resign as an employee and officer on or about May 24, 2012. Ozdemir requested Ellis remain with the company as an employee for an additional two (2) weeks to facilitate a smooth transition. Ellis complied with this request.

COUNT I  
Breach of Fiduciary Duty

42. Ellis hereby incorporates rhetorical paragraphs 1 through 41 as if fully set forth herein.

43. Ozdemir is an officer of Keystone.

44. Ozdemir is the majority shareholder in Keystone which is a closely held Company.

45. Ellis is a minority shareholder in Keystone.
46. Ozdemir owes fiduciary duties to Ellis including but not limited to the following:
- a) The duty to be truthful;
  - b) The duty to fully disclose to Ellis the financial condition of Keystone;
  - c) The duty to not utilize corporate assets for personal expenses;
  - d) The duty to ensure Keystone complied with applicable laws and regulations;
  - e) The duty to not usurp opportunities of Keystone; and
  - f) The duties to utilize the assets of Keystone for legitimate business purposes of Keystone and not to engage in ultravires acts.
47. Ozdemir has breached his duties to Ellis by the following action:
- a) concealing financial records of Keystone;
  - b) engaging in actions to conceal income and profits of Keystone to avoid making distributions to minority shareholders;
  - c) utilizing the income of Keystone for lavish personal expenses;
  - d) utilizing Keystone subcontractors and suppliers to construct Ozdemir's personal home without reimbursing Keystone;
  - e) forming and operating not less than ten (10) competing companies to develop and operate projects at substantial profits which profits rightfully belong to Keystone;
  - f) unlawfully competing with Keystone;
  - g) refusing to provide Ellis with an accounting as to the business activities of Keystone and the Related Companies;



- h) distributing large sums of money to himself in forms such as salary, bonuses and property in an effort to avoid making dividend payments to minority shareholders;
- i) manipulating the financial records of Keystone to mask and hide profits and revenue; and
- j) unilaterally declaring Ellis to no longer be a shareholder.

48. Ellis has been damaged by the action of Ozdemir.

49. Ozdemir's conduct is presumptively fraudulent under Indiana law.

50. Ellis is entitled to an award of compensatory and punitive damages sufficient to deter Ozdemir and similarly situated parties from engaging in like conduct.

WHEREFORE, Plaintiff, Jason Ellis, by counsel, respectfully prays that the Court enter a judgment in favor of Jason Ellis and against Ersal Ozdemir in an amount of compensatory damages adequate to fully compensate Ellis, for an award and punitive damages sufficient to deter Ozdemir and similarly situated parties from engaging in like conduct, for cost, interest and all just and proper relief in the premises.

COUNT II  
Conversion

51. Ellis hereby incorporates rhetorical paragraphs 1 through 50 as if fully set forth herein.

52. Ozdemir controlled the employees, assets and income of Keystone.

53. Ozdemir has utilized the employees, assets and income of Keystone for the following unlawful purposes:

- a) forming and operating competing companies usurping corporate opportunities of Keystone;

- b) paying debts and obligations unrelated to the business of Keystone; and
- c) making large political contributions intended to individually benefit Ozdemir and the Related Companies.

54. Ozdemir's wrongful acts have resulted in Keystone having a greatly diminished ability to pay dividends to shareholders.

55. Ozdemir and the Related Companies have refused to account to Ellis and Keystone for income and profits generated through the assets and goodwill of Keystone.

56. Ozdemir has utilized his position as President and majority shareholder to convert the assets of Keystone.

57. Ozdemir formed the Related Companies to unlawfully retain profits and conceal income from the minority shareholders of Keystone.

58. The Related Companies at the direction of Ozdemir utilized the employees, assets, income and goodwill of Keystone to generate large profits which rightfully belongs to Keystone and its shareholders.

59. Ozdemir has converted the income and assets of Keystone and the Related Companies which rightfully belong to Keystone and its shareholders.

60. Ozdemir has wrongfully taken control and possession of Ellis's shares of stock in Keystone. Ozdemir has asserted that he individually owns the stock shares which rightfully belong to Ellis. The unlawful taking of these shares and the dividends related thereto also constitutes conversion.

61. Ellis has been damaged by the conversion of Ozdemir to the extent of his shareholder interest in the converted assets and income.

62. Ellis, as a shareholder of Keystone, is entitled to his share of the profits of Keystone and the Related Companies, including, but not limited to, all profits derived from the “Keystone Group.”

63. Ellis is also entitled to treble damages and attorney fees pursuant to Ind. Code §34-24-3-1.

WHEREFORE, Plaintiff, Jason Ellis, by counsel, respectfully pray that the Court enter judgment in his favor and against Ersal Ozdemir, and award Ellis damages sufficient to compensate him for the conversion of assets and income, treble damages, attorney fees, interest, cost and all other relief that is just and proper in the premises.

COUNT III  
Fraud and Constructive Fraud

64. Ellis hereby incorporates rhetorical paragraphs 1 through 63 as if fully set forth herein.

65. Ozdemir is the president or manager of the Related Companies and was authorized to act on their behalf.

66. The Related Companies are liable for the tortious acts and omissions of Ozdemir.

67. Ozdemir while acting as President of Keystone fraudulently induced Ellis to join Keystone.

68. Ozdemir made false and fraudulent representations to Ellis to induce Ellis to join Keystone.

69. Ozdemir fraudulently induced Ellis to leave his dividends in the Company so that future distributable profits and dividends would be increased.

70. Ellis relied upon these representations in agreeing to take diminished dividends or no dividends at all.

71. Ozdemir has further committed fraud by concealing income from his fellow minority shareholders by mischaracterizing the books and records of Keystone and the Related Companies.

72. Ellis reasonably relied upon the representations.

73. Ellis has suffered damages as a result of his reliance upon the representations.

74. Ellis is entitled to an award of punitive damages sufficient to deter the Defendant and similarly situated parties from engaging in like conduct.

WHEREFORE, Plaintiff, Jason Ellis, by counsel, respectfully pray that the Court enter judgment in his favor and against Ersal Ozdemir and award Ellis damages sufficient to compensate him for the fraud and constructive fraud, for an award of punitive damages sufficient to deter the Defendant and similarly situated parties from engaging in like conduct, interest, cost and all other relief that is just and proper in the premises.

#### COUNT IV

##### Breach of Contract, Promissory Estoppel, and Unjust Enrichment

75. Ellis hereby incorporates rhetorical paragraphs 1 through 74 as if fully set forth herein.

76. Ozdemir, individually and on behalf of Keystone, agreed to provide Ellis with twenty percent (20%) of the stock of Keystone.

77. Ellis relied upon the representations and agreements of Ozdemir.

78. Ellis has satisfied all conditions precedent to the enforcement of the agreement.

79. Ozdemir has refused to provide the stock and has failed to pay dividends to Ellis consistent with his ownership interest.

80. Ozdemir has now declared Ellis is no longer a shareholder in breach of the agreement.

81. Ellis has been damaged by this breach of the agreement.

82. Ozdemir should be estopped to deny the existence of the agreement between Ellis and Ozdemir.

83. Ozdemir will be unjustly enriched by retaining the profits and dividends due Ellis from Keystone and the Related Companies for prior and future years.

WHEREFORE, Plaintiff, Jason Ellis, by counsel, respectfully request the Court enter judgment in his favor and against Ersal Ozdemir and award him damages to adequately compensate him for the breach of contract, together with interest, costs and all other relief that is just and proper in the premises.

COUNT V  
Violation of Indiana Securities Act

84. Ellis hereby incorporates rhetorical paragraphs 1 through 83 as if fully set forth herein.

85. Ozdemir controlled all of the shares of stock of Keystone as its only officer and shareholder.

86. Ozdemir agreed to transfer twenty percent (20%) of the outstanding shares of stock in Keystone to Ellis in exchange for Ellis joining Keystone and directing its construction business.

87. Ellis joined Keystone and grew the company to over twenty million dollars in annual revenue.

88. Ellis agreed to reinvest stock dividends into Keystone at the demand of Ozdemir.

89. After Keystone became successful and experienced substantial growth, Ozdemir announced he was unilaterally rescinding his deal to transfer stock to Ellis.

90. Ozdemir announced what he really had meant in 2002 when he met Ellis is that he would compensate Ellis as though he owned stock in the company but not actually transfer stock to Ellis.

91. Ozdemir has refused to issue stock share certificates.

92. Ozdemir has suspended dividend payments to Ellis.

93. Ozdemir knowingly supplied false and misleading information relating to the sale and transfer of stock of Keystone to induce Ellis to join Keystone. Ozdemir concealed his true plan from Ellis.

94. Ellis provided good consideration and value for shares of stock in Keystone including working for the company approximately nine (9) years, reinvesting dividends in Keystone and taking reduced compensation from Keystone.

95. The stock of Keystone owned by Ellis meets the definition of a security under Ind. Code § 23-2-1-1 (the "Act").

96. The agreement to transfer a security as part of a compensation agreement falls under the conduct regulated by the Act.

97. Ozdemir engaged in conduct that worked a fraud or deceit upon Ellis.

98. Ozdemir made untrue statements to Ellis with the intent to deceive.

99. Ozdemir concealed information from Ellis.

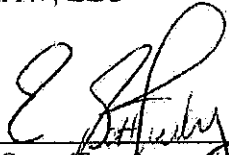
100. Ozdemir omitted information when he met with Ellis to discuss transferring the stock.

101. Ozdemir is liable for damages, the value of the stock and attorney fees pursuant to Ind. Code § 23-19-5-9.

WHEREFORE, Plaintiff, Jason Ellis, by counsel, respectfully prays that the Court enter judgment in his favor and against Ersal Ozdemir and award Ellis damages sufficient to compensate him for the violation of the Indiana Securities Act, including, but not limited to, the value of the stock, attorney fees, interest, cost and all other relief that is just and proper in the premises.

Respectfully submitted,

EST LAW, LLC

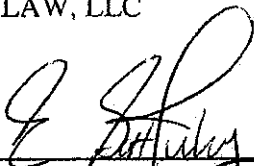
By:   
\_\_\_\_\_  
E. Scott Treadway, #14567-49  
*Attorney for Plaintiff, Jason Ellis*

**REQUEST FOR JURY TRIAL**

Comes now the Plaintiff, Jason Ellis, by counsel, and request that this matter be tried by jury.

Respectfully submitted,

EST LAW, LLC

By:   
\_\_\_\_\_  
E. Scott Treadway, #14567-49  
*Attorney for Plaintiff, Jason Ellis*

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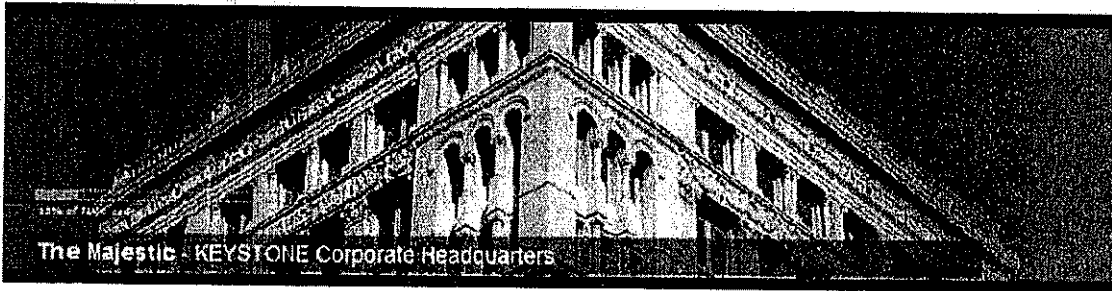
EXHIBIT "A"



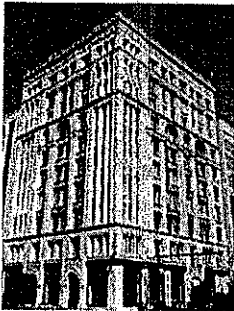


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THE COMPANY



Company Overview



Keystone Construction Corporation is an employee-owned company that is headquartered in Indianapolis, Indiana, USA. Our core business services include: Construction Management, General Contracting and Design-Build Construction.

We are extremely customer-focused, and we bring our expertise and experience forward on each project, assuring the highest level of customer satisfaction.

Our customers are assured on-time and on-budget project delivery.

Keystone Construction Corporation has diversified by developing expertise in a wide range of areas and we welcome projects of all sizes.

Keystone Construction's work ethic is recognized by both government and the private sector.

We understand the fact that each customer has unique and specific needs. Thus, we work hard to establish a relationship built on trust and then we draw on our experience to create a solution and a plan that best meets our customer's objectives.

Our growth and success over the years is largely due to the core values that our company is built upon:

Honesty, Respect, Loyalty, Hard Work, Integrity Team Work, Attention to Detail and Quality.

We have the highest ethical standards and we make sure our employees and contractors adhere to them. Trust and lasting relationships are the life blood of our business. Keystone Construction customers can be assured that they will get the best project options and most seasoned professionals dedicated to their individual needs.

With each promise, we deliver results!

EXHIBIT "B"

**Jason Ellis**

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**From:** Ersal Ozdemir  
**Sent:** Tuesday, February 21, 2012 2:09 PM  
**To:** Jason Ellis  
**Subject:** RE: 2011

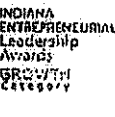
Christi is trying to put the KCC financials together by next week. I am not sure if there will be any profit sharing distribution at this time. I will let you know after I review the financials.

Sain is not involved in Keystone.


Ersal Ozdemir - President & CEO

**KEYSTONE** 

47 S Pennsylvania St · 10<sup>th</sup> Fl · Indianapolis IN 46204  
p 317.636.2000 f 317.635.1100 c 317.294.2900



[www.keystone-corp.com](http://www.keystone-corp.com)

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**From:** Jason Ellis  
**Sent:** Monday, February 20, 2012 11:39 AM  
**To:** Ersal Ozdemir  
**Subject:** 2011

I'd like to know if we'll be able to do a distribution to shareholders soon for 2011. I know roughly how 2011 was but don't know the exact final numbers. When will the books be complete?

Also, since Sain's departure I'd like to understand how that affects our partnership. Is he still partners with us?

Jason Ellis - Director of Construction

**KEYSTONE** 

47 S Pennsylvania St · 10<sup>th</sup> Fl · Indianapolis IN 46204  
p 317.636.2000 f 317.635.1100 c 317.966.4671

**EXHIBIT "C"**



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