

[2] Globalive sold Personal Identification Numbers to Selectcore on a regular basis. They had business arrangements since 2010. The accounts during the relationship appear to have been paid until 2013. Monthly purchases were made and invoices rendered. The invoices in issue from September 2013 to August 2014 totalled in the amount of the judgment. Selectcore paid \$100,000 in September 2013, reducing the amount originally claimed. That was the amount that was ordered.

Standard of Review

[3] The standard of review on a motion of summary judgment is that the appellant must establish, in this case, that the Master made an error of law or exercised discretion on the wrong principles or misapprehended the evidence so that there is a palpable and overriding error. The standard of review requires that the Master be correct in the determination. He must have had jurisdiction to hear the motion to exercise the powers and to have applied the proper principles of law.

[4] In terms of the factual context of the motion, the Master was open to find on the record that there was no genuine issue requiring a trial. The standard of review is correctness. (See: *Mehdi-Pour v. Minto Development Inc.*, 2011 ONSC 3571 (Div. Ct.) and *Minkofski v. Dost Estate*, 2014 ONSC 1904 (Div. Ct.).

Analysis

[5] The appellant Selectcore argues that the Master considered evidence, drew inferences and weighed evidence in favour of the respondent. It is argued he utilized powers that are normally

reserved to a judge under Rule 20.04(2.1), including weighing the evidence of the respondent and the appellant.

[6] I prefer and accept the position of the respondent. As I read the endorsement, the Master was not required to and did not weigh evidence or utilize powers beyond what the Rules encompass in granting the judgment. As he noted in his endorsement, the appellant provided no evidence in support of defences, that is with respect to the alleged credit structure or the audit. From its own material, the appellant admitted an amount due to the respondent at least of \$972,895 as of March 2014. As I read the record, there was no contradiction between the evidence of the respondent and the appellant on the salient points so there was no need for the Master to then embark on weighing the evidence. The Master concluded there was no issue for trial in that the appellant simply failed to meet the minimum threshold. It was also argued the Master failed to consider a reference with respect to the debt. I find he did not need to order a reference.

[7] From the review of the record, no genuine issues of credibility were raised. The appellant argues the Master embarked on weighing the evidence. The Master, in his reasons, considered the defences to the quantum claimed. He concluded that no defences were raised as to quantum or debt. As I read the record, there was no evidence of triable issue or a payable arrangement as alleged by the appellant that required a trial or a reference.

[8] After reviewing the record, the Master concluded the minimum threshold for a triable issue was not met.

[9] The appellant has failed to establish that there was a genuine issue for trial. Accordingly, the appeal is dismissed.

COSTS

[10] I have endorsed the back of the Appeal Book, “For reasons given orally appeal is dismissed. Costs shall be to the respondent payable by the appellant fixed in the amount of \$3,500, all inclusive.”

KRUZICK J.

Date of Reasons for Judgment: January 22, 2015

Date of Release: January 26, 2015

CITATION: Globalive Wireless Management Corp. v. Selectcore Ltd., 2015 ONSC 507
DIVISIONAL COURT FILE NO.: 525/14
DATE: 20150122

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:

GLOBALIVE WIRELESS MANAGEMENT
CORP.

Respondent/Plaintiff

– and –

SELECTCORE LTD.

Appellant/Defendant

ORAL REASONS FOR JUDGMENT

KRUZICK J.

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