Rel: October 27, 2023

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2023-2024

SC-2022-1013

Walter B. Price

v.

Alabama One Credit Union and William A. Lunsford

Appeal from Tuscaloosa Circuit Court
(CV-14-901523)

PER CURIAM.

Walter B. Price appeals from a summary judgment entered by the Tuscaloosa Circuit Court in favor of Alabama One Credit Union

("Alabama One") and William A. Lunsford ("Lunsford"). For the reasons explained below, we affirm the circuit court's judgment.

Background

This is the second time that these parties have been before this Court concerning this action; for a detailed summary of Price's allegations, see Ex parte Price, 244 So. 3d 949 (Ala. 2017). However, the basic background of this case is as follows.

In 2004, Price, Alan Goode, Lunsford, and Cathy Lunsford ("Lunsford's wife") formed Riverfront Development, LLC ("Riverfront"), for the purpose of developing certain real property located in Tuscaloosa ("the Riverwalk property"). In June 2004, Price, Goode, and Lunsford purchased the Riverwalk property.

In October 2008, Goode assigned his interest in Riverfront to Lunsford and conveyed his interest in the Riverwalk property to Lunsford. At some point, Price and Lunsford began to discuss selling the Riverwalk property. Lunsford told Price that Danny Butler was interested in purchasing Riverfront and the Riverwalk property. Alabama One provided financing for the purchase of the Riverwalk property by Riverfront.

The sale of the Riverwalk property closed on July 15, 2009. On that day, Price executed an assignment of his interest in Riverfront to Lunsford. That same day, Price and Lunsford conveyed their respective interests in the Riverwalk property to Riverfront. No interest in Riverfront was ever assigned to Butler, and no interest in the Riverwalk property was ever conveyed to Butler. Thus, at the conclusion of the July 15, 2009, transaction, Lunsford and his wife possessed all the interests in Riverfront, and Riverfront owned the Riverwalk property. Riverfront thereafter developed the Riverfront property into condominium and retail space.

On December 28, 2014, Price commenced this action against Alabama One, Lunsford, and fictitiously named parties. In his complaint, Price asserted the following claims against both Alabama One and Lunsford: fraudulent misrepresentation, fraudulent suppression of material facts, promissory fraud, and civil conspiracy. Price also asserted claims of breach of duty of care and breach of duty of loyalty against only Lunsford. Finally, Price asserted a claim of intentional interference with a business relationship against only Alabama One. In summary, Price alleged that Alabama One and Lunsford had conspired to divest Price of

his interests in Riverfront and the Riverwalk property through fraud. Price sought awards of compensatory and punitive damages.

Alabama One and Lunsford, respectively, moved to dismiss Price's complaint, arguing, among other things, that all of his claims were barred by the two-year limitations period imposed by § 6-2-38, Ala. Code 1975. The circuit court granted the motions to dismiss, concluding that Price's claims were barred by the applicable statute of limitations.

Price appealed to this Court. This Court transferred the appeal to the Court of Civil Appeals, which affirmed the circuit court's judgment. See Price v. Alabama One Credit Union, 244 So. 3d 936 (Ala. Civ. App. 2016). Price then petitioned this Court for a writ of certiorari. This Court granted Price's petition, reversed the judgment of the Court of Civil Appeals, and remanded the case for further proceedings. See Ex parte Price, 244 So. 3d at 959.

In so doing, this Court concluded that the Court of Civil Appeals had erroneously reviewed the circuit court's judgment under the standard applicable to summary judgments, as opposed to the standard applicable to judgments of dismissal. Id. at 954-59. The Court held that, under the standard of review applicable to judgments of dismissal, the

circuit court had erred by dismissing Price's complaint because, when viewed in a light most favorable to Price, the complaint included sufficient allegations to support a conclusion that Price's claims fell within the savings clause of § 6-2-3, Ala. Code 1975, and were, therefore, not barred by the applicable statute of limitations. Id. at 957.

On remand, Price filed an amended complaint, which added a new claim, apparently against only Lunsford, of "oppression/squeeze out," alleging that Lunsford and his wife had unfairly deprived Price of his interest in Riverfront. Alabama One and Lunsford answered the amended complaint. Lunsford then filed a motion to dismiss the amended complaint. The circuit court denied Lunsford's motion to dismiss.

Lunsford then filed a motion to strike Price's demand for a jury trial. In March 2021, Lunsford also filed a motion for a summary judgment, arguing, among other things, that all of Price's claims against him were barred by the applicable statute of limitations. Lunsford attached evidence in support of his motion.

In April 2021, Alabama One filed a motion for a summary judgment, arguing, among other things, that all of Price's claims against

it were barred by the applicable statute of limitations. Alabama One attached evidence in support of its motion.

Thereafter, Price filed a motion to strike certain evidence that Price said contained privileged communications between Price and his attorney and to strike certain evidence pertaining to settlement negotiations between Price and Lunsford regarding a separate lawsuit. Price also filed a response to the summary-judgment motions. Price attached evidence in support of his response.

Lunsford thereafter filed a motion to strike an affidavit executed by Butler that Price had submitted in support of his response to the summary-judgment motions; Lunsford asserted that the affidavit was untimely. Alabama One then filed a motion to strike Price's response to the summary-judgment motions and all supporting evidence attached thereto; Alabama One asserted that those documents were untimely. Lunsford then filed a motion to strike echoing Alabama One's motion to strike Price's response and evidence.

On July 29, 2022, the circuit court entered a final judgment.[1] In its judgment, the circuit court denied Price's motion to strike regarding communications involving his attorney and communications related to settlement negotiations with Lunsford. The circuit court also denied Alabama One's motion to strike Price's response to the summary-judgment motions. The circuit court did not specifically address

---

[1]As noted above, Price's complaint also included fictitiously named defendants. However, at the time of the entry of the circuit court's judgment, Lunsford and Alabama One were the only defendants who had been served; Price did not substitute parties for the fictitiously named defendants set out in his complaint.

> "'When there are multiple defendants and the summons or other document to be served and complaint has been served on one or more, but not all, of the defendants, the plaintiff may proceed to trial and judgment as to the defendant or defendants on whom process has been served and if the judgment as to defendants who have been served is final in all other respects, it shall be a final judgment.' Rule 4(f), [Ala. R. Civ. P.,] as amended March 1, 1982.
>
> "Under Rule 4(f), service on the other defendants must be completed, not merely attempted, before it can be said the pending action involves other active defendants."

Owens v. National Sec. of Alabama, Inc., 454 So. 2d 1387, 1388 n.2 (Ala. 1984). See also Ex parte Harrington, 289 So. 3d 1232, 1237 n.5 (Ala. 2019)("A judgment that disposes of fewer than all the defendants is final when the defendants as to whom there has been no judgment have not yet been served with notice.").

Lunsford's motions to strike pertaining to Price's response to the summary-judgment motions and his supporting evidentiary materials; therefore, we presume that the circuit court denied those motions. See Fogarty v. Southworth, 953 So. 2d 1225, 1223-24 (Ala. 2006).

The circuit court's judgment disposed of Price's claims as follows. First, the circuit court stated that Price had conceded that Alabama One was entitled to a judgment as a matter of law regarding his intentional-interference-with-a-business-relationship claim. Next, the circuit court concluded that Price's claims against Alabama One alleging fraudulent misrepresentation, fraudulent suppression, and promissory fraud were barred by the two-year limitations period imposed by § 6-2-38. The circuit court further concluded that Price's civil-conspiracy claim likewise failed as to Alabama One, reasoning that a conspiracy claim could not exist independent from an underlying wrong. The circuit court did not address each of Price's claims against Lunsford, but it concluded that each of those claims was also effectively barred by the applicable statute of limitations. The circuit court also entered a separate order determining that Lunsford's motion to strike Price's demand for a jury trial was moot.

Price thereafter filed a motion to alter, amend, or vacate the circuit court's judgment pursuant to Rule 59(e), Ala. R. Civ. P. Price's postjudgment motion was denied by operation of law. See Rule 59.1, Ala. R. Civ. P. Price appeals to this Court.

Standard of Review

> "This Court's review of a summary judgment is de novo. Williams v. State Farm Mut. Auto. Ins. Co., 886 So. 2d 72, 74 (Ala. 2003). We apply the same standard of review as the trial court applied. Specifically, we must determine whether the movant has made a prima facie showing that no genuine issue of material fact exists and that the movant is entitled to a judgment as a matter of law. Rule 56(c), Ala. R. Civ. P.; Blue Cross & Blue Shield of Alabama v. Hodurski, 899 So. 2d 949, 952-53 (Ala. 2004). In making such a determination, we must review the evidence in the light most favorable to the nonmovant. Wilson v. Brown, 496 So. 2d 756, 758 (Ala. 1986). Once the movant makes a prima facie showing that there is no genuine issue of material fact, the burden then shifts to the nonmovant to produce 'substantial evidence' as to the existence of a genuine issue of material fact. Bass v. SouthTrust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989); Ala. Code 1975, § 12-21-12. '[S]ubstantial evidence is evidence of such weight and quality that fair-minded persons in the exercise of impartial judgment can reasonably infer the existence of the fact sought to be proved.' West v. Founders Life Assur. Co. of Fla., 547 So. 2d 870, 871 (Ala. 1989)."

Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038-39 (Ala. 2004).

Analysis

In its judgment, the circuit court determined, after extensive analysis, that all of Price's claims against Alabama One and Lunsford ("the defendants") were effectively barred by the two-year limitations period imposed by § 6-2-38. On appeal, the defendants assert a multitude of arguments in support of their position that the circuit court's judgment should be affirmed. Price primarily addresses the statute-of-limitations issue on appeal and argues that the limitations period was tolled pursuant to § 6-2-3, which provides:

> "In actions seeking relief on the ground of fraud where the statute has created a bar, the claim must not be considered as having accrued until the discovery by the aggrieved party of the fact constituting the fraud, after which he must have two years within which to prosecute his action."

Price argues that his claims did not accrue until December 29, 2012, when Price's friend, Jerry Griffin, told Price that Butler had recently told Griffin that neither Butler nor any of his business entities had ever purchased the Riverwalk property or possessed any interest in Riverfront. According to Price, this is when he first discovered the defendants' alleged fraud.

We conclude that the statute-of-limitations issue is dispositive in this case; therefore, we do not consider the alternative grounds for affirmance asserted by the defendants. This Court has held:

> "[Section] 6-2-3 does not 'save' a plaintiff's fraud claim so that the statutory limitations period does not begin to run until that plaintiff has some sort of actual knowledge of fraud. Instead, under Foremost [Insurance Co. v. Parham, 693 So. 2d 409, 417-21 (Ala. 1997)], the limitations period begins to run when the plaintiff was privy to facts which would 'provoke inquiry in the mind of a [person] of reasonable prudence, and which, if followed up, would have led to the discovery of the fraud.' Willcutt v. Union Oil Co., 432 So. 2d 1217, 1219 (Ala. 1983)(quoting Johnson v. Shenandoah Life Ins. Co., 291 Ala. 389, 397, 281 So. 2d 636 (1973)); see also Jefferson County Truck Growers Ass'n v. Tanner, 341 So. 2d 485, 488 (Ala. 1977)('Fraud is deemed to have been discovered when it ought to have been discovered. It is sufficient to begin the running of the statute of limitations that facts were known which would put a reasonable mind on notice that facts to support a claim of fraud might be discovered upon inquiry.')."

Auto-Owners Ins. Co. v. Abston, 822 So. 2d 1187, 1195 (Ala. 2001). "Of course the burden is upon he who claims the benefit of § 6-2-3 to show that he comes within it." Amason v. First State Bank of Lineville, 369 So. 2d 547, 550 (Ala. 1979).

Price alleges that he was fraudulently induced to part with his interests in Riverfront and the Riverwalk property based on misrepresentations by the defendants that, after the July 15, 2009,

transaction, Butler -- not Lunsford and Lunsford's wife -- would own Riverfront and, consequently, control the Riverwalk property. Thus, the central factual question at issue is when Price had knowledge of facts that would have prompted further inquiry by a reasonable person that, if followed up, would have led to the discovery that Butler did not possess any interest in Riverfront or the Riverwalk property following the July 15, 2009, transaction. See Fox v. Hughston, [Ms. SC-2022-0564, Mar. 10, 2023] ____ So. 3d ____, _____ (Ala. 2023)("The limitations period applicable to fraud claims under § 6-2-3 begins to run when a party actually discovers the fraud or when he or she learns of facts that would have caused a reasonable person to inquire further.")

After reviewing all the evidence produced by the parties on remand from this Court's decision in Ex parte Price, we conclude that Price undisputedly possessed such information on July 15, 2009 -- the date on which he assigned his interest in Riverfront and conveyed his interest in the Riverwalk property. The evidence produced demonstrates that Price did, in fact, inquire about irregularities in the July 15, 2009, transaction that same day and that, if Price had followed up on those inquiries, he could have discovered the defendants' alleged fraud within the

limitations period. Specifically, certain email correspondence dated July 15, 2009 ("the July 15, 2009, emails"), produced by the defendants in support of their summary-judgment motions reveals that Price and his attorney did, in fact, notice and inquire about a disbursement to Lunsford reflected on documents pertaining to the July 15, 2009, transaction.[2] See Dickinson v. Land Devs. Constr. Co., 882 So. 2d 291, 298 (Ala. 2003)("[A] party will be deemed to have 'discovered' a fraud as a matter of law upon the first of either the actual discovery of the fraud or when the party

[2]As explained above, in Ex parte Price, this Court applied the standard of review for judgments of dismissal and concluded that the circuit court had erred by dismissing Price's complaint. 244 So. 3d at 957. However, the Court also indicated that, in considering the documents attached to Price's complaint and the pertinent motion to dismiss, a summary judgment would also have been inappropriate at that stage in the proceedings. Id. Insofar as this Court's reasoning in this regard can be construed as an alternative holding, it does not determine our decision in this appeal because the facts of this case have changed since the Court's decision in Ex parte Price. See Blumberg v. Touche Ross & Co., 514 So. 2d 922, 924 (Ala. 1987)("Under the doctrine of the 'law of the case,' whatever is once established between the same parties in the same case continues to be the law of that case, whether or not correct on general principles, so long as the facts on which the decision was predicated continue to be the facts of the case." (emphasis added)). In particular, the July 15, 2009, emails were not included in the record on appeal in Ex parte Price and were produced after extensive discovery had been conducted on remand from this Court's decision in Ex parte Price.

becomes privy to facts that would provoke inquiry in a reasonable person that, if followed up, would lead to the discovery of the fraud.").

Before considering the substance of the July 15, 2009, emails, we note that, in the circuit court, Price moved to strike the emails from consideration as evidence, arguing that the information contained therein constituted privileged attorney-client communications. In its judgment, the circuit court denied Price's motion to strike the July 15, 2009, emails after concluding that the attorney-client privilege was inapplicable for various reasons. Price mentions the July 15, 2009, emails in his principal appellate brief. In a footnote, he asserts that he "does not waive or concede his claim of attorney-client privilege over this document. Rather, the use of this document herein is in response to the circuit court's finding that the attorney-client privilege did not exist." Price's brief at 43 n.4. In another footnote at the end of his brief, Price asserts:

> "Price does not waive or abandon his arguments concerning evidence submitted by the [d]efendants and considered by the circuit court which involve the attorney-client privilege …, as presented in Price's [m]otion to [s]trike … and at oral argument [in the circuit court] …, and hereby reserves said arguments to be addressed in a motion in limine. Any use of said evidence herein should not be interpreted as

> a waiver, but instead, was used to counter arguments made by the [d]efendants and considered by the circuit court."

Price's brief at 66 n.9.

We express no opinion regarding whether, in the abstract, Price's reference to the July 15, 2009, emails on appeal would have any effect on his ability to challenge the admissibility of the emails in a motion in limine before trial. However, we cannot ignore the fact that Price has utterly failed to assert any substantive argument on appeal regarding the circuit court's determination that the attorney-client privilege is inapplicable to the July 15, 2009, emails. "An argument not made on appeal is abandoned or waived." Avis Rent A Car Sys., Inc. v. Heilman, 876 So. 2d 1111, 1124 n.8 (Ala. 2003). Moreover,

> "'"[i]t is not the function of this Court to do a party's legal research or to make and address legal arguments for a party based on undelineated general propositions not supported by sufficient authority or argument."' Butler v. Town of Argo, 871 So. 2d 1, 20 (Ala. 2003)(quoting Dykes v. Lane Trucking, Inc., 652 So. 2d 248, 251 (Ala. 1994))."

Ex parte Borden, 60 So. 3d 940, 943 (Ala. 2007).

Therefore, we must consider the July 15, 2009, emails on appeal because "'"[o]ur review of a summary judgment is de novo; that is, we must examine all the evidentiary submissions that were presented to the

trial court.'" Falls v. JVC America, Inc., 7 So. 3d 986, 989 (Ala. 2008)(quoting Lee v. City of Gadsden, 592 So. 2d 1036, 1038 (Ala. 1992))." Barrett v. Radjabi-Mougadam, 39 So. 3d 95, 97 (Ala. 2009).

Among many other things, the circuit court determined in its judgment that the July 15, 2009, emails put Price on notice of the fact that Lunsford, and not Butler, was the true borrower of the loan extended by Alabama One to purchase the Riverwalk property at the July 15, 2009, transaction. For the reasons explained below, we agree.

In order to understand the import of the July 15, 2009, emails, it is necessary to first explain their context by reference to other evidence produced in this case. Before the July 15, 2009, closing, Alabama One sent Price a preliminary United States Department of Housing and Urban Development settlement statement ("the preliminary HUD statement") regarding the sale of the Riverwalk property. The preliminary HUD statement listed Lunsford and Price as the sellers and listed Riverfront as the borrower. The preliminary HUD statement also itemized all monetary sums pertaining to the transaction.

The purchase price for the Riverfront property was $1,320,000. However, the amount of the loan extended by Alabama One to Riverfront

was $1,500,000. After accounting for other line items, the preliminary HUD statement reflected that approximately $165,000 of the loan proceeds would be paid to the borrower, i.e., Riverfront, as cash. This line item was accompanied by a handwritten asterisk, which will be explained in more detail below.

Regarding amounts due to the sellers, the preliminary HUD statement provided as follows. The gross amount due to the sellers was the purchase price: $1,320,000. Of this sum, Price was to receive approximately $175,000. In addition to the payoff of the existing mortgage encumbering the property and other charges, the preliminary HUD statement reflected two line items pertaining to Lunsford. One provided that approximately $167,000 would be paid to "BILL LUNSFORD CONST & DEVELOPMENT." The second line item provided that approximately $350,000 would be paid to "BILL LUNSFORD (RIVERFRONT DEV LLC)." The second line item was accompanied by another handwritten asterisk.

At the bottom of the preliminary HUD statement, a handwritten asterisk was present and accompanied by the following statement:

"combined total equals remaining balance on LOC.[3] $516,276.61." Thus, the $516,276.61 reflected in that note appears to be the sum of the two line items that are accompanied by asterisks in the preceding sections of the form: (1) the line item reflecting that approximately $165,000 in cash from the loan proceeds would be paid to the "borrower," i.e., Riverfront, and (2) the line item providing that approximately $350,000 would be paid to "BILL LUNSFORD (RIVERFRONT DEV LLC)" from the sale proceeds.

On July 15, 2009, Price's attorney, Wilbor Hust, sent an email to Lunsford's attorney, Robert Monfore, stating that Hust and Price had heard that Butler wanted to close on the sale of the Riverwalk property that day. The email further stated that Hust needed additional information from Monfore. Specifically, Hust wrote: "The closing statement I have been furnished shows a disbursement to Bill Lunsford Riverfront Dev LLC. To my knowledge that is not a member of the LLC. What is that disbursement for?" Hust then forwarded that email to Price,

[3]During his deposition, Price testified that, when he received the preliminary HUD statement, he understood "LOC" to mean "[l]ine of credit."

writing "FYI"; Price responded a few hours later: "[T]hanks. [D]id you figure out the Bill Lunsford Riverfront Dev LLC?"

Price signed a final United States Department of Housing and Urban Development settlement statement ("the final HUD statement") at the closing on July 15, 2009. The final HUD statement was similar to the preliminary HUD statement in most respects. It identified Riverfront as the borrower. It reflected a payment of $165,814.16 to Riverfront, and that line item was accompanied by two type written asterisks. In the seller's column, the final HUD statement also contained a line item reflecting a $167,063.21 payment to "BILL LUNSFORD CONST & DEVELOPMENT" and a second line item reflecting a $350,126.78 payment to "BILL LUNSFORD." That second line item was accompanied by two type written asterisks. Two type written asterisks appeared at the bottom of the final HUD statement with a sentence providing: "COMBINED TOTAL OF $515,940.94 EQUALS AVAILABLE FUNDS REMAINING ON LINE OF CREDIT AS OF THIS DATE."

In light of the foregoing evidence, the circuit court, in its judgment, reasoned, in pertinent part:

> "On July 14, 2009, Price received the preliminary [HUD] statement[,] which showed the borrower, Riverfront …,

> receiving a loan in the amount of $1,500,000 to purchase the Riverwalk [property] at a price of $1,320,000[,] with the remaining proceeds serving as a line of credit, the balance of which included the sales proceeds payable to 'Bill Lunsford (Riverfront DEV LLC).' This disclosure of Lunsford's continued involvement in Riverfront … following closing of the sale of the Riverwalk [property] to Riverfront … was identified by [Price] and his personal lawyer, as reflected in the email exchange between … Hust and … Monfore and … Hust and [Price]."

Elsewhere in its judgment, the circuit court determined that the July 15, 2009, emails revealed that both "[Price] and Hust received notice that the disclosed borrower was Bill Lunsford, Riverfront Development, LLC."

On appeal, Price asserts:

> "[E]ven if the [p]reliminary HUD [statement] may have given an inkling of notice of possible fraud, the changes made in the [f]inal HUD [statement] misinformed Price, which he reasonably relied upon, and continued to cover up the true nature of the transaction. As a result, even if the circuit court found that the [p]reliminary HUD [statement] put Price on notice of the fraud, the statute of limitations was tolled due to the changes made in the [f]inal HUD [statement]."

Price's brief at 44-45.

However, the evidence that Price cites in support of his assertions in this regard is an affidavit that he executed on August 25, 2022 -- after the circuit court had entered its judgment on July 29, 2022. Price

attached the affidavit to his postjudgment motion. In his August 25, 2022, affidavit, Price averred, in pertinent part:

> "I did not receive a response [to the email inquiries regarding the disbursement at issue] before I went … to effectuate the closing with Debbie Nichols, [an Alabama One employee]. However, when I looked over the [f]inal HUD [statement, the disbursement at issue] had been changed and only listed 'Bill Lunsford.' I asked Debbie why [the disbursement] was changed in the [f]inal HUD [statement], and she told me it was just a mistake on the [p]reliminary HUD [statement] and she had changed it after being notified by someone representing Lunsford of the mistake."

Price did not indicate in his postjudgment motion whether he considered his August 25, 2022, affidavit to be new evidence or newly discovered evidence; indeed, he did not attempt to explain its belated submission at all. Regardless, the circuit court properly declined to consider the affidavit and permitted Price's postjudgment motion to be denied by operation of law. See Moody v. State ex rel. Payne, 344 So. 2d 160, 163 (Ala. 1977)("There can be no [postjudgment] relief for evidence which has come into existence after the trial is over simply because such a procedure would allow all trials perpetual life. 'Newly discovered evidence' means evidence in existence at the time of trial of which the movant was unaware. … And for a litigant to obtain a new trial on the ground of newly discovered evidence, it must appear that his reasonable

diligence before trial would not have revealed this evidence which he failed to discover."). See also Moore v. Glover, 501 So. 2d 1187, 1189 (Ala. 1986)("A motion for reconsideration made after the entry of an order granting a summary judgment is not proper where the motion is not directed to a reconsideration of the evidence upon which summary judgment was based or does not seek a reargument of the legal considerations underlying the initial judgment, but is instead simply used by the plaintiff to submit evidence, belatedly, in opposition to the defendant's motion for summary judgment."). Therefore, this Court's review of the circuit court's summary judgment is limited to the evidence that had been produced at the time the judgment was entered. See Moore, 501 So. 2d at 1190. Consequently, we will not consider the pertinent averments set forth in Price's August 25, 2022, affidavit.

Moreover, it is unclear from Price's appellate argument how the relevant edit to the text of the preliminary HUD statement in the final HUD statement advances his contention that he was totally ignorant of Lunsford's status in the July 15, 2009, transaction. As noted, the pertinent change between the forms stated that Alabama One was extending a line of credit to "BILL LUNSFORD," as opposed to "BILL

LUNSFORD (RIVERFRONT DEV LLC)." Price suggests that the language used was ambiguous and that he could have reasonably believed that Alabama One was extending a line of credit to Butler. However, neither HUD statement referenced Butler, and both indicated that the loan from Alabama One was extending a line of credit[4] to Lunsford, who Price says he believed was also, like Price, divesting himself of any interest in the Riverfront project.

Black's Law Dictionary defines "line of credit" as "[t]he maximum amount of borrowing power extended to a borrower by a given lender, to be drawn on by the borrower as needed." Black's Law Dictionary 1116 (11th ed. 2019)(emphasis added). Merriam-Webster's Collegiate Dictionary defines "line of credit" as "the maximum credit allowed a buyer or borrower." Merriam Webster's Collegiate Dictionary 724 (11th ed. 2020)(emphasis added). Thus, if anything, it appears that the relevant edit in the final HUD statement indicated that Lunsford was receiving a line of credit personally for the Riverfront project and, consequently, was the borrower with respect to the Alabama One loan and was the buyer of the Riverwalk property. Price does not explain how

[4]See note 3, supra.

this edit could have resolved his concerns regarding that disbursement and reasonably convinced him that Lunsford was no longer involved in the Riverfront project.

Thus, the remaining question is whether, assuming Price had followed up on the inquiries from July 15, 2009, emails, he would have discovered the truth, namely, that Butler had acquired no interest in Riverfront and the Riverwalk property in the July 15, 2009, transaction. We conclude that no genuine issue of material fact exists regarding this point either.

In its judgment, the circuit court concluded that certain communications made in September 2009 during negotiations between Price and Lunsford regarding a separate lawsuit demonstrated Price's knowledge of Lunsford's control over the Riverfront project. The circuit court also noted that the deed and the mortgage pertaining to the July 15, 2009, transaction were recorded.

Price challenges the circuit court's reliance on this evidence for several reasons. Insofar as his arguments in this regard are based upon the notion that he had no reason to inquire about Lunsford's involvement in the Riverfront project after the July 15, 2009, transaction, we reject

that contention because, as explained above, the July 15, 2009, emails demonstrate that Price and his attorney did, in fact, inquire about a disbursement to Lunsford resulting from the July 15, 2009, transaction.

As for the manner in which Price could have reasonably discovered the truth about the July 15, 2009, transaction, Price's deposition testimony indicates that, in December 2012, Price asked his friend, Griffin, whose office was "right next door to [Butler]'s office," to inquire of Butler "how he [wa]s doing with the Riverwalk project, what [wa]s going on down there." Price testified that Butler then told Griffin that Butler "didn't have any interest in Riverwalk [and] never ha[d] had any interest in Riverwalk …." Griffin then relayed that information to Price on December 29, 2012. Thus, according to Price, he discovered, after further investigation, what he eventually determined to be the truth about the July 15, 2009, transaction within a matter of days of casually requesting that a friend ask Butler directly about his involvement in the transaction. Price has failed to adequately explain why he could not have reasonably made such a request within the two-year limitations period following the initial questions raised by Price and his attorney on July 15, 2009. Thus, the two-year limitations period began to run on July 15,

2009. Because Price did not commence this action until 2014, his claims are barred.

Conclusion

The circuit court concluded that all of Price's claims are effectively barred by the applicable statute of limitations. We agree and affirm the circuit court's summary judgment in favor of the defendants on that basis. Therefore, we do not consider the alternative grounds for affirmance asserted by the defendants on appeal and express no opinion concerning those arguments.

AFFIRMED.

Parker, C.J., and Shaw, Bryan, Mendheim, Stewart, Mitchell, and Cook, JJ., concur.

Sellers, J., concurs in the result.

Wise, J., recuses herself.