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MCDONALD, J. Concurring in part and dissenting in part. Although I agree as to the breach of contract count, I respectfully disagree with the conclusion in part II B of the majority opinion that the plaintiff, John Sullivan, has failed to make out a prima facie case of statutory theft by embezzlement.

I conclude, considering the plaintiff's evidence in a favorable light, that the plaintiff presented sufficient evidence to make out a prima facie case. A trier of fact could find that the plaintiff, knowing certain properties could be purchased because of the plaintiff's relationship with the owners, contacted the defendant Thomas Thorndike, a lifelong friend, to have the defendant form a limited liability company in which the plaintiff and the defendant would be members. After acquiring these properties, the plaintiff and the defendant would share equally in any profits from their resale. To purchase the properties, the plaintiff advanced the sum of \$82,000. When the defendant formed Diko Development, LLC (Diko), which took title to the properties, he did not, as promised, make the plaintiff a member of Diko. Although the defendant led the plaintiff to believe that the plaintiff was a member of Diko, the defendant and the defendant's wife were its only members. Unknown to the plaintiff, the defendant then mortgaged one of the properties, and the defendant obtained and kept the entire proceeds, the net of a \$60,000 mortgage loan. When this property was sold and the mortgage was paid off, there were no funds to repay the plaintiff's advance and to pay the plaintiff half the profits while the defendant had received \$93,000.

To establish a prima facie case of embezzlement, the plaintiff had to produce evidence that the funds he gave to the defendant belonged to the plaintiff and that, without the plaintiff's authorization, the defendant intentionally misappropriated the funds to benefit himself to the detriment of the plaintiff. See *State v. Radzvilowicz*, 47 Conn. App. 1, 19–22, 703 A.2d 767, cert. denied, 243 Conn. 955, 704 A.2d 806 (1997); see also General Statutes § 53a-119 (1); *State v. Lizzi*, 199 Conn. 462, 467, 508 A.2d 16 (1986); *State v. Moreno*, 156 Conn. 233, 238, 240 A.2d 871 (1968). I conclude that the plaintiff did so.

Accordingly, I respectfully dissent.

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