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In re Precept Business Services, Inc.
 Bkrcty.N.D.Tex.,2004.

Only the Westlaw citation is currently available.
 United States Bankruptcy Court,N.D. Texas, Dallas
 Division.

In re: PRECEPT BUSINESS SERVICES, INC., et
 al., Debtor(s).

Steven S. TUROFF, as the Chapter 7 Trustee for
 Precept Business Services, Inc., et al., Plaintiff,
 v.

JACKSON WALKER, L.L.P., et al., Defendants.
 No. 01-31351-SAF-7, 04-3216.

Aug. 23, 2004.

James D. McCarthy, **EricD. Madden**, and Sean J.
 McCaffity of Diamond, McCarthy, Taylor, Finley,
 Bryant & Lee, LLP, Dallas, TX, for Plaintiff.
 Joe Harrison and Joanne Early of Gardere Wynne
 of Dallas, TX, for Defendant.

MEMORANDUM OPINION AND ORDER

FELSENTHAL, Bankruptcy J.

*1 Jackson Walker, L.L.P., and Charles D.
 Maguire, Jr., defendants, move the court for partial
 summary judgment regarding liability for seven
 claims alleged by Steven S. Turoff, the plaintiff and
 the Chapter 7 trustee of the bankruptcy estate of
 Precept Business Services, Inc., the debtor. Jackson
 Walker and Maguire also move for partial summary
 judgment regarding the elements of causation and
 damages for the seven claims. Turoff opposes the
 motions. The court conducted a hearing on the
 motions on May 26, 2004.

Turoff alleges eight claims for relief against the
 defendants: (1) breach of fiduciary duty; (2) aiding
 and abetting the Precept officers' and directors'
 breach of fiduciary duties; (3) aiding and abetting
 bank fraud; (4) civil conspiracy; (5) negligent
 misrepresentation; (6) constructive fraud; (7) legal
 malpractice; and (8) equitable subordination.

The defendants contend that Turoff cannot establish
 liability for the first seven claims. Jackson Walker
 asserts that the negligent misrepresentation and civil
 conspiracy claims are barred by limitations. On the
 aiding and abetting bank fraud claim, Jackson
 Walker asserts that Turoff lacks summary judgment
 evidence to prove that Precept committed fraud to
 obtain a March 22, 1999, \$40 million Credit
 Facility or that Jackson Walker intended to assist or
 did assist in the alleged fraud. On the negligent
 misrepresentation claim, Jackson Walker asserts
 that Turoff lacks summary judgment evidence
 establishing that Jackson Walker supplied false
 information to the banks. On the civil conspiracy
 claim, Jackson Walker asserts that Turoff lacks
 summary judgment evidence of any underlying tort.
 Jackson Walker also argues that there is no genuine
 issue of material fact that it committed legal
 malpractice. Jackson Walker argues that the
 trustee's complaints under his cause of action for
 breach of fiduciary duty states a claim for legal
 malpractice and not a claim for breach of fiduciary
 duty. Jackson Walker states that even if the trustee
 does state a claim for breach of fiduciary duty, he
 has not offered summary judgment evidence of the
 essential elements for that claim. Regarding the
 trustee's claim for aiding and abetting breach of
 fiduciary duty, Jackson Walker states that the
 trustee has failed to prove that the Precept directors
 and officers breached a fiduciary duty to the
 company or that their alleged breaches resulted in
 injury to the plaintiff. Jackson Walker also states
 that there is no evidence that Jackson Walker
 knowingly participated in the alleged breaches of
 fiduciary duty. In response to the trustee's claim for
 constructive fraud, Jackson Walker argues that there
 is no evidence that Jackson Walker breached any
 legal duty to Precept and that the claim, therefore,
 fails as a matter of law.

The defendants also contend that Turoff cannot
 establish damages or causation for the first seven
 claims. The damages summary judgment motion
 does not apply to the equitable subordination claim.

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