

STATE OF MICHIGAN
COURT OF APPEALS

RESCO, INC.,

Plaintiff-Appellant,

v

GLAC HOLDINGS, L.L.C., and ALBERT F.
NEUMAIER REVOCABLE LIVING TRUST,

Defendants/Cross Plaintiffs-
Appellees,

and

PAUL VAN GAMPER and CAROL VAN
GAMPER,

Defendants/Cross Defendants-
Appellees,

and

FORTINBERRY LAND COMPANY,

Defendant-Appellee.

Before: Talbot, P.J., and Cavanagh and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant Fortinberry's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Paul Van Gamper, on behalf of GLAC, executed a binding letter of intent regarding a proposed transaction among himself, plaintiff, and GLAC. The terms of the letter were that GLAC would assume a debt that Van Gamper owed to plaintiff and in exchange for a loan of another \$200,000, it would execute a promissory note for the entire indebtedness. Van Gamper and his wife were to execute personal guarantees and Van Gamper was to pledge his membership in GLAC as collateral. The necessary documents were drawn up but never

executed. Several months later, Van Gamper pledged his membership in GLAC as collateral for a loan from defendant Fortinberry Land Company. After he defaulted, he transferred his membership to defendant. Plaintiff claimed that the letter of intent gave it a security interest in Van Gamper's GLAC membership that was superior to defendant's. The trial court disagreed because the effectuating documents were never executed. Accordingly, the court granted Fortinberry's motion for summary disposition.

Plaintiff conceded below that the GLAC membership constituted a general intangible and that any security interest therein is governed by Article 9 of the Uniform Commercial Code, MCL 440.9101 *et seq.* Whether plaintiff has an enforceable security interest is governed by MCL 440.9203. Plaintiff has not addressed the issue whether the letter of intent was sufficient to create a security interest enforceable against Van Gamper under § 9-203. "A party's failure to brief an issue that necessarily must be reached precludes appellate review." *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006).

In any event, even assuming that the letter of intent was sufficient to create a security interest, plaintiff failed to establish that Paul Van Gamper signed the agreement. The general rule is that a contract binds only the parties thereto; a person who is not a party to a contract cannot be held liable thereon. 17 CJS, Contracts, § 30, p 64. Further, where a contract imposes obligations on both a corporation and a stockholder or officer thereof, the officer or stockholder must sign individually to become personally liable. *Livonia Bldg Materials Co v Harrison Constr Co*, 276 Mich App 514, 523; 742 NW2d 140 (2007).

In this case, the letter of intent indicated that Paul Van Gamper was to guarantee GLAC's obligation, pledge his GLAC membership as collateral to secure the guaranty, and execute a written guaranty and a security agreement. The letter was signed by Paul Van Gamper in his capacity as manager of GLAC only; he did not sign it in his individual capacity and did not execute the formal documents identified in the letter. Because Paul Van Gamper did not sign the letter of intent in his individual capacity, the letter did not create an enforceable security interest against him in plaintiff's favor. Therefore, the trial court did not err in granting defendant's Fortinberry's motion for summary disposition.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Brian K. Zahra