

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

FILED

2019 JUN 24 PM 4:00

CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

D.C. & M.

VERGE RECORDS INTERNATIONAL,)
INC. D/B/A ONERPM)

Plaintiff,)

v.)

Case No. 19-516-IV
JURY DEMAND

CMDSHFT, LLC, a Tennessee Limited)
Liability Company; RYAN FINDLEY)
p/k/a SONNY BAMA, an Individual;)
JARROD COOPER, an Individual)

Defendants.)

**JARROD COOPER'S ANSWER, AFFIRMATIVE DEFENSES AND
COUNTERCLAIM**

INTRODUCTION

Mr. Cooper's Counterclaim is an action for fraudulent inducement and breach of contract against ONErpm. ONErpm, through its agent Emmanuel Zunz, repeatedly promised Mr. Cooper that, in exchange for Mr. Cooper's assistance in creating, developing and running ONErpm, that company would convey to Mr. Cooper a 10% equity interest in ONErpm. To date, ONErpm has never delivered that 10% equity interest, both breaching the contract between Mr. Cooper and ONErpm and, as is now apparent, fraudulently inducing Mr. Cooper to leave his employment and devote ten years of his professional life to ONErpm.

Contrary to ONErpm's allegations, Mr. Cooper and Sonny Findley left ONErpm because ONErpm entered into contracts with its artist clients that were oppressive and one-sided. ONErpm lures artists into agreeing to exclusive digital distribution deals and fails to provide any meaningful compensation for the exclusivity it demands. ONErpm's principal,

Emmanuel Zunz, encouraged Cooper and Findley to leave and pursue other businesses, including creating their own company. Now that Command Shift is competing with ONErpm for artist clients, ONErpm seeks to shut Command Shift down through this litigation. ONErpm's ulterior motivation in interfering with Command Shift's client relationships is evidenced by ONErpm's in-house counsel sending litigation hold notices to Command Shift's clients. Command Shift understands that ONErpm has pointed to the existence of the lawsuit when competing for artist clients and also used the threat of litigation to compel artists to allow ONErpm to distribute the artists' digital content. ONErpm touts itself as being artist-friendly, but ONErpm's contract and business practices are designed to line ONErpm's pockets at the expense of the artists who contract with it.

Jarrold Cooper ("Mr. Cooper") answers the Complaint filed against him as follows:

FIRST DEFENSE

The Complaint fails to state a claim for which relief can be granted against Mr. Cooper.

ANSWER TO NUMBERED PARAGRAPHS

1. Mr. Cooper denies he has engaged in any unlawful conduct and denies he is liable to Verge Records d/b/a ONErpm ("ONErpm") for any claim.
2. Mr. Cooper denies the allegations in paragraph 2.
3. Mr. Cooper denies the allegations in paragraph 3.
4. Mr. Cooper admits the allegations in paragraph 4.
5. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5.
6. Mr. Cooper denies the allegations in paragraph 6.

7. Mr. Cooper denies the allegations in paragraph 7 to the extent the allegations are directed at Mr. Cooper.

8. Mr. Cooper admits the allegations in paragraph 8 on information and belief.

9. Mr. Cooper admits the allegations in paragraph 9.

10. Mr. Cooper admits the allegations in paragraph 10 on information and belief.

11. Mr. Cooper admits the allegations in paragraph 11.

12. Mr. Cooper denies that this Court has jurisdiction pursuant to Tennessee Code Annotated §16-10-102. T.C.A. Section 16-10-102 relates to criminal jurisdiction in Circuit Court. Mr. Cooper further denies that this Court has subject-matter jurisdiction, as the claims asserted by Plaintiff are unliquidated tort claims appropriately pursued in Circuit Court. Mr. Cooper admits that this Court has personal jurisdiction over him but denies the remaining allegations of paragraph 12 of the Complaint that relate to him. The remaining allegations in paragraph 12 are directed at other Defendants.

13. Mr. Cooper admits the allegations in paragraph 13.

14. Mr. Cooper admits the allegations in paragraph 14 on information and belief except the allegation that Mr. Zunz founded ONErpm, which Mr. Cooper denies.

15. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15.

16. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 16.

17. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 17.

18. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 18.

19. Paragraph 19 is directed at another Defendant and requires no response from this Defendant.

20. Mr. Cooper denies the allegations in paragraph 20.

21. Paragraph 21 is directed at another Defendant and requires no response from this Defendant.

22. Paragraph 22 is directed at another Defendant and requires no response from this Defendant.

23. Mr. Cooper denies the allegations in paragraph 23.

24. Mr. Cooper denies the allegations in paragraph 24.

25. Mr. Cooper is without knowledge or information sufficient to form a belief as to when Plaintiff learned of the facts referenced in paragraph 25.

26. Mr. Cooper is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff's "understanding."

27. Mr. Cooper denies the allegations in paragraph 27.

28. Mr. Cooper lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28.

29. Mr. Cooper denies the allegations in paragraph 29.

30. Mr. Cooper denies the allegations in paragraph 30.

31. Mr. Cooper denies the allegations in paragraph 31.

32. Paragraph 32 is directed at another Defendant and requires no response from this Defendant.

33. Paragraph 33 is directed at another Defendant and requires no response from this Defendant.

34. Paragraph 34 is directed at another Defendant and requires no response from this Defendant.

35. Paragraph 35 requires no response.

36. Mr. Cooper denies the allegation in paragraph 36.

37. Mr. Cooper admits he is aware of the existence of the Agreement through his employment with ONErpm but denies the remaining allegations in paragraph 37.

38. Mr. Cooper denies the allegations in paragraph 38.

39. Mr. Cooper denies the allegations in paragraph 39.

40. Mr. Cooper denies the allegations in paragraph 40.

41. Mr. Cooper denies the allegations in paragraph 41.

42. Mr. Cooper denies the allegations in paragraph 42.

43. Mr. Cooper denies the allegations in paragraph 43.

44. Paragraph 44 requires no response.

45. Mr. Cooper denies the allegations in paragraph 45.

46. Mr. Cooper admits he is aware of the existence of the Agreement through his employment with ONErpm but denies the remaining allegations in paragraph 46.

47. Mr. Cooper denies the allegations in paragraph 47.

48. Mr. Cooper denies the allegations in paragraph 48.

49. Mr. Cooper denies the allegations in paragraph 49.

50. Mr. Cooper denies the allegations in paragraph 50.

51. Mr. Cooper denies the allegations in paragraph 51.

52. Mr. Cooper denies the allegations in paragraph 52.

53. Paragraph 53 requires no response.

54. Paragraph 54 is directed at another Defendant and requires no response from this Defendant.

55. Paragraph 55 is directed at another Defendant and requires no response from this Defendant.

56. Paragraph 56 is directed at another Defendant and requires no response from this Defendant.

57. Paragraph 57 requires no response.

58. Mr. Cooper admits he owed a fiduciary duty to ONErpm while he was employed.

59. Mr. Cooper denies the allegations in paragraph 59.

60. Mr. Cooper denies the allegations in paragraph 60.

Mr. Cooper denies all allegations in the Complaint not admitted, denied or explained.

AFFIRMATIVE DEFENSES

1. Plaintiff's claims are barred by the equitable doctrine of waiver, estoppel and acquiescence.

2. Plaintiff committed the first material breach of the contract by failing to convey a 10% equity interest in ONErpm. Mr. Cooper was therefore relieved of the obligation to perform any further obligation under the contract.

3. Plaintiff's claims are barred by the doctrine of unclean hands.

DEMAND FOR RELIEF

Having Answered the Complaint, Jarrod Cooper requests the following relief:

1. Demands a jury of twelve (12) for all matters triable to a jury.
2. For the Complaint to be dismissed with all costs taxed to the Plaintiff.
3. For such and other further relief as the Court deems just and proper.

COUNTERCLAIM

Jarrod Cooper asserts the following counterclaim against ONErpm:

INTRODUCTION

1. This is an action for fraudulent inducement and breach of contract against ONErpm. ONErpm, through its agent Emmanuel Zunz, repeatedly promised Mr. Cooper that, in exchange for Mr. Cooper's assistance in creating, developing and running ONErpm, that company would convey to Mr. Cooper a 10% equity interest in ONErpm. To date, ONErpm has never delivered that 10% equity interest, both breaching the contract between Mr. Cooper and ONErpm and, as is now apparent, fraudulently inducing Mr. Cooper to leave his employment and devote ten years of his professional life to ONErpm.

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction and personal jurisdiction, and venue is appropriate in this judicial district, for the reasons alleged in the Complaint and admitted earlier in this Answer, Affirmative Defenses and Counterclaim.

FACTUAL BACKGROUND

3. In early 2008, Mr. Cooper met Emmanuel Zunz while both of them were working at Sutton East Tennis in NYC, and they became very close friends.

4. In 2008, Mr. Cooper began consulting with Mr. Zunz for Mr. Zunz's company, Verge Records. During this time, Mr. Cooper, Mr. Zunz, and other participants began strategizing regarding the development, design/branding, and marketing that led to the creation of ONErpm; these discussions continued through 2010.

5. In June 2010, upon Mr. Zunz's promise to convey a 10% equity stake in ONErpm to Mr. Cooper, Mr. Cooper left the digital media company that he had co-founded in order to launch ONErpm and to continue building that company. ONErpm officially launched in Brazil during August 2010 and expanded worldwide in March 2011.

6. In January 2012, ONErpm was beginning to flourish. Mr. Cooper sent Mr. Zunz an email regarding the 10% equity interest that Mr. Zunz had promised but which Mr. Zunz and ONErpm had yet to deliver. Mr. Zunz acknowledged the conversations regarding the conveyance of a 10% equity interest in ONErpm beginning in June 2010. Mr. Zunz said that ONErpm would deliver paperwork regarding the equity interest soon.

7. Mr. Cooper, on numerous occasions over the next several years, requested paperwork representing his 10% equity interest in ONErpm. Mr. Cooper was always given some sort of excuse for the delay in conveying that intent.

8. Mr. Cooper left ONErpm in July 2018 after ten years; he had never received the 10% equity interest that was promised.

CAUSES OF ACTION

COUNT I: BREACH OF CONTRACT

9. A valid contract existed between, on the one hand, Mr. Cooper and, on the other hand, ONErpm.

10. Mr. Cooper fully performed his obligations pursuant to that contract.

11. ONErpm, on the other hand, has failed to perform its obligations under the contract. Specifically, ONErpm has failed to deliver a 10% equity interest in ONErpm, and Mr. Cooper has suffered injury and damages as a result.

COUNT II: FRAUDULENT INDUCEMENT

12. As set forth above, Mr. Zunz, on behalf of ONErpm, made specific representations to Mr. Cooper, both in person, in emails and on the telephone, that ONErpm would convey to Mr. Cooper a 10% equity interest in ONErpm in exchange for Mr. Cooper's work on behalf of ONErpm. Mr. Cooper, in justifiable reliance on those promises, devoted his services to the development of ONErpm.

13. Mr. Zunz and ONErpm never had the intent to deliver to Mr. Cooper the promised 10% equity interest.

14. As a direct and proximate result of the foregoing, Mr. Cooper has suffered injury and damages.

WHEREFORE, Mr. Cooper demands judgment against ONErpm as follows:

1. Damages in an amount to be determined by the jury at trial in an amount no less than \$10,000,000; and
2. Such other general and further relief as this Court deems just and proper.

Respectfully submitted,



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Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was served on the following by hand
delivery on this 24th day of June, 2019:

Chris L. Vlahos
Jenna L. Harris
Ritholz Levy Fields LLP
1221 6th Avenue North
Nashville, TN 37208

