

CAUSE NO. D-1-GN-12-002886

PHILIP GALFOND,

Plaintiff,

v.

WILLIAM F. MURPHY d/b/a
MGH, LLC,

Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

53RD JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff Philip Galfond ("Galfond" or "Plaintiff") and files his Original Petition seeking judgment against Defendant William F. Murphy d/b/a MGH, LLC ("Defendant"), and would respectfully show the Court the following:

I.

DISCOVERY LEVEL

1. Discovery will be conducted under Discovery Level 2 pursuant to Rule 190 of the Texas Rules of Civil Procedure.

II.

PARTIES

2. Plaintiff is an individual residing outside the state of Texas.

3. Defendant is an individual residing at 801 West Fifth Street, Apartment 1401, Austin, Travis County, Texas, and he may be served with process at his residence.

III.

VENUE & JURISDICTION

4. Venue is proper in Travis County, Texas under Chapter 15 of the Texas Civil Practice & Remedies Code because all or a substantial part of the events or omissions giving rise to the claims asserted herein occurred in Travis County.

5. The court has jurisdiction over this controversy because Plaintiff seeks an amount of damages within the jurisdictional limits of this Court, and Defendant is subject to personal jurisdiction.

IV.

APPLICABLE FACTS

6. The Plaintiff Galfond is a world champion professional poker player and is also a poker instructor.

7. In late 2008, Defendant Murphy and Plaintiff Galfond formed a joint venture to operate, manage and conduct a poker training website.

8. Pursuant to the joint venture, Plaintiff Galfond was to develop poker training videos, publish articles related to playing poker and maintain a blog on the poker training website.

9. Pursuant to the joint venture, Defendant Murphy would, in addition to other responsibilities, be responsible for the operations and finances of the joint venture similar to a corporate CEO/CFO.

10. Pursuant to the joint venture, Plaintiff Galfond was to receive one-third of the profits of the joint venture and Defendant Murphy was to receive two-thirds of the joint venture profits.

11. Pursuant to the joint venture, Plaintiff Galfond was to receive an ownership interest in the joint venture, portions of which vested over time and which would ultimately result in an ownership interest of 38.33%.

12. Upon information and belief, as of October 2011, Plaintiff Galfond had a 15.32% vested ownership interest in the joint venture.

13. Pursuant to the joint venture, the Defendant Murphy was to form a limited liability company to serve as the operating entity of the joint venture.

14. The Defendant Murphy formed MGH, LLC, a Nevada limited liability company, which became the operating entity for the joint venture. The joint venture became known as MGH, LLC ("MGH").

15. MGH, LLC has since had its charter revoked by the Nevada Secretary of State.

16. In June, 2009, MGH began operating a poker training website known as Bluefirepoker.com ("Blue Fire"). Between January 2009 and November 2011, Plaintiff Galfond contributed approximately 150 training videos along with hundreds of blog entries, participated in the website's community, reviewed videos from and vetted all professionals hired and was involved in all major decisions of Blue Fire. Plaintiff Galfond was represented by Blue Fire as its lead professional.

17. Blue Fire has been immensely successful, having thousands of members who pay an initial enrollment fee of \$100.00 in addition to a subscription fee of \$30.00 per month.

18. In May 2010, Plaintiff Galfond received from Defendant Murphy and MGH a check in the amount of \$179,324.40 representing Plaintiff Galfond's profit participation fee in MGH for calendar year 2009.

19. Plaintiff Galfond received no accounting records, financial statements or tax returns for MGH for the year 2009.

20. In May 2011, Plaintiff Galfond received wire transfers from MGH totaling \$238,977.61 representing Plaintiff Galfond's profit participation fee in MGH for calendar year 2010.

21. Plaintiff Galfond received no accounting records, financial statements or tax returns for MGH for the year 2010.

22. In November 2011, Galfond resigned as lead professional.

23. Despite MGH having generated a sizeable profit for 2011, Plaintiff Galfond has received no money owed to him for his profit participation fee in MGH.

24. Demand has been made upon Defendant Murphy for payment to Plaintiff Galfond of his 2011 profit participation fee, which demand has been refused.

25. Despite owning at least 15% of MGH, Plaintiff Galfond has received no accounting records, financial statements, or tax returns for MGH since its inception.

26. Demand has been made upon Defendant Murphy for accounting records, financial statements, and tax returns for MGH since its inception, which demand has been refused.

27. Upon information and belief, the Defendant Murphy has misappropriated and converted to his own use and possession the assets of MGH.

V.

FIRST CAUSE OF ACTION: BREACH OF CONTRACT

28. Plaintiff Galfond incorporates herein the allegations and averments set forth in the preceding paragraphs.

29. Defendant is liable for breach of contract.

30. Plaintiff Galfond performed his contractual obligations under the Joint Venture Agreement by performing services agreed upon between Galfond and Defendant.

31. The Defendant Murphy has breached the Joint Venture Agreement with Plaintiff Galfond in the following particulars:

A. By failing to pay to Plaintiff his profit participation fee in MGH for the year 2011; and

B. By failing to provide accounting records, financial statements and tax returns for MGH to Plaintiff Galfond.

32. As a result of the Defendant Murphy's breach of contract, Plaintiff Galfond has suffered irreparable harm, injury and damage.

VI.

SECOND CAUSE OF ACTION: CONVERSION

33. Plaintiff Galfond incorporates herein the allegations and averments set forth in the preceding paragraphs.

34. Pleading in the alternative to and in addition to the previous cause of action, Defendant is liable for conversion.

35. Plaintiff Galfond owned, possessed, or had the right to immediate possession of personal property.

36. Defendant Murphy has exercised rights of ownership, misappropriated and otherwise converted to his use assets of MGH without authorization in a manner contrary to Plaintiff Galfond's rights of ownership of such property.

37. As a result of the Defendant Murphy's above-described conduct, the Plaintiff Galfond has suffered irreparable harm, injury and damage for which the Defendant Murphy is liable.

VII.

ACCOUNTING

38. Plaintiff Galfond incorporates herein the allegations and averments set forth in the preceding paragraphs.

39. Plaintiff Galfond is entitled to an accounting from Defendant Murphy for all monies, cash, accounts, loans and other assets of MGH.

40. Plaintiff Galfond has no adequate remedy at law because without such accounting, Plaintiff Galfond will not have an adequate means to trace and recover monies, cash, and other assets for which Defendant Murphy is liable.

VIII.

ATTORNEYS' FEES

41. Plaintiff Galfond incorporates herein the allegations and averments set forth in the preceding paragraphs.

42. Because of the damage and loss resulting from Defendant's failure and refusal to pay the amounts due and owing from Defendant to Galfond, Plaintiff Galfond has been forced to retain the undersigned counsel to protect and secure its rights. Pursuant to the provisions of section 38.001 of the Texas Civil Practice & Remedies Code, and/or through the parties' agreement, Plaintiff Galfond is entitled to recover his reasonable and necessary attorneys' fees and costs herein, for which he now sues. All conditions precedent to the recovery of attorneys' fees have been performed, including the presentment requirement.

IX.

PUNITIVE DAMAGES

43. Plaintiff Galfond incorporates herein the allegations and averments set forth in the preceding paragraphs.

44. Plaintiff Galfond further shows that he is entitled to exemplary damages as a result of Defendant's conduct pursuant to Chapter 41 of the Texas Civil Practice & Remedies Code and any other applicable law.

45. The actions of Defendant Murphy show willful misconduct, malice, fraud, wantonness, oppression and that entire want of care, which raises the presumption of conscious indifference to the consequences, and Plaintiff Galfond is entitled to recover against Defendant Murphy punitive damages.

X.

CONDITIONS PRECEDENT


46. All conditions precedent for the relief requested herein have been performed or have occurred as required by Rule 54 of the Texas Rules of Civil Procedure.

XI.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Galfond requests that Defendant be cited to appear and answer and that, upon final hearing, Galfond have judgment against Defendant for actual and compensatory damages, including special damages, plus interest before and after judgment as provided by law, attorneys' fees, costs of suit, exemplary damages, and such other and further relief to which Galfond is justly entitled.

Respectfully submitted,



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