

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Millennium Funding, Inc., Bodyguard)	
Productions, Inc., and LHF Productions, Inc.,)	
)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 23-cv 16372
)	
Michael A. Hierl, Esq. and)	JURY TRIAL DEMANDED
Hughes Sokol Piers Resnick & Dym, Ltd.,)	
)	
Defendants.)	

COMPLAINT

Plaintiffs Millennium Funding, Inc., Bodyguard Productions, Inc., and LHF Productions, Inc., bring this action against Defendants Michael Hierl (“Mr. Hierl) and Hughes Sokol Piers Resnick & Dym, Ltd. (“HSPRD”) (collectively, “Defendants”), and allege as follows:

INTRODUCTION

1. Plaintiffs Millennium Funding, Inc., Bodyguard Productions, Inc., and LHF Productions, Inc. (collectively, “Plaintiffs” or “Millennium”) are well-known and successful independent film companies in Los Angeles, California that finance, produce, and sell films worldwide, including the well-known and successful films *The Expendables*, *Olympus Has Fallen*, and *The Hitman’s Bodyguard*.

2. Millennium and its predecessors in interest engaged Defendants to pursue certain third-parties infringing Millennium’s copyrights and trademark rights related to its film portfolio, including filing infringement actions against and collecting monetary settlement payments from the third-party infringers.

3. Despite Plaintiffs' several requests, Defendants have refused to provide Plaintiffs with a complete and accurate accounting identifying all costs, fees, and receipts for each infringement actions Defendants filed on Plaintiffs' behalf as well as Defendants' files for each of those actions.

4. Upon information and belief, Defendants have failed to remit to Plaintiffs the full settlement payments Defendants received from defendants in the infringement actions Defendants filed on Plaintiffs' behalf, and as a result of Defendants' refusal to provide Plaintiffs with Defendants' files relating to the infringement actions and a complete and accurate accounting, Plaintiffs are unable to determine the amounts Defendants have failed to pay to Plaintiffs.

5. As set forth more fully below, Defendants' conduct constitutes a breach of contract and justifies Plaintiffs' claim for a full and complete accounting from Defendants.

PARTIES TO THIS ACTION

6. Millennium Funding, Inc. is a Nevada corporation with its principal place of business in Los Angeles, California, and is the successor in interest of certain parties named in lawsuits Defendants filed on Millennium's behalf.

7. Bodyguard Productions, Inc. is a Nevada corporation with its principal place of business in Los Angeles, California.

8. LHF Productions, Inc. is a Nevada corporation with its principal place of business in Los Angeles, California.

9. Michael A. Hierl, Esq. ("Mr. Hierl") is a citizen of Illinois and an Illinois attorney who practices as a shareholder with the law firm Hughes Sokol Piers Resnick & Dym, Ltd. in Chicago, Illinois.

10. Hughes Sokol Piers Resnick & Dym, Ltd. ("HSPR&D") is an Illinois corporation with its principal place of business in Chicago, Illinois.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 as the action is between citizens of different states and countries and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

12. Venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391(b)(1), as a substantial part of the events giving rise to Plaintiffs' claims set forth in this Complaint occurred in this district.

13. This Court has personal jurisdiction over Defendants because they reside and/or transact business in Illinois and in this judicial district.

FACTS COMMON TO ALL COUNTS

14. Millennium is in the business of producing, financing, and selling films worldwide. Over the years, Millennium has produced many well-known movies, including the films *The Expendables* and *Olympus Has Fallen*, and *The Hitman's Bodyguard* (collectively, "Millennium's Films")

15. Millennium owns a substantial portfolio of trademarks and copyrights in and related to Millennium's Films (collectively, "Millennium's Intellectual Property").

16. To help combat infringing copies of Millennium's Films being sold and distributed through the Internet, in 2012, Millennium and its predecessors in interest, through their prior agent, engaged Defendants to prepare and file infringement actions against the third-party infringers in the United States District Court of the Northern District of Illinois.

17. To facilitate Defendants' representation of Millennium, Millennium's agent would supply Defendants with the internet protocol addresses of suspected infringers, and Defendants would then file a John Doe complaint and propound subpoenas to non-party internet service providers to determine the identity of the suspected infringer based on his or her internet

address. Upon learning the identity of the suspected infringer, Defendants would then amend the complaint to name that individual as a defendant.

18. If Defendants were able to settle the claims against the third-party infringers, Defendants were permitted to retain certain percentages of the settlement payment as their contingency fee, and required to remit the balance to Millennium's agent for payment to Millennium.

19. In 2019, Millennium appointed a new agent ("Millennium's Current Agent") to communicate with Defendants on Millennium's behalf to coordinate Defendants' enforcement of Millennium's Intellectual Property, thereby replacing Millennium's prior agent. Millennium informed Defendants of its appointment of its Current Agent on December 7, 2020, and instructed Defendants at that time to make any future payments resulting from Defendant's enforcement efforts to this Millennium's Current Agent on behalf of Millennium.

20. As such, as of December 7, 2020, Defendants were required to remit payments (less Defendant's retained contingency fee) to Millennium's Current Agent rather than Millennium's prior agent.

21. As part of Millennium's engagement of Defendants, Defendants are also required to deliver to Millennium and its Current Agent monthly reports providing details of the Infringement Actions including, but not limited to, any number of actions filed, the number of settlement agreements reach, and collections made as a result of any such settlement agreements.

22. Since Millennium engaged Defendants in 2012, Defendants have filed hundreds of cases on behalf of Millennium and parties that have since merged with Plaintiff Millennium Media, Inc., in the Northern District of Illinois against third-parties infringing Millennium's Intellectual Property (the "Infringement Actions").

23. At all times during Defendants' representation of Millennium, Mr. Hierl directed and supervised Defendants' work relating to Defendants' representation of Plaintiffs.

24. Beginning in 2021, Plaintiffs detected discrepancies between the information available from the dockets of the Infringement Actions and the information and accountings Defendants had provided to Plaintiffs concerning the Infringement Actions, including what appeared to be settlement payments Defendants collected but failed to report and pay to Plaintiffs.

25. Despite Plaintiffs' numerous requests for Defendants to provide their files and a complete and accurate accounting for the Infringement Actions, Defendants have refused to do so.

26. For example, on November 23, 2021, Mr. Hierl incorrectly stated in a letter to Plaintiffs' counsel that Millennium's prior agent, Copyright Management Services, Ltd. ("CMS"), not Millennium, is his client, and that he would "act appropriately" if and when CMS requests that he turn over his files for the Infringement Actions. A true and correct copy of this letter is attached hereto as **Exhibit A**.

27. In December 2021, Defendants engaged counsel to represent them in connection with Defendants' dispute with Plaintiffs, however, Plaintiffs still were unable to obtain additional information or files for the Infringement Actions from Defendants. After Defendants' counsel missed a scheduled call with Plaintiffs' counsel, on January 11, 2022, Plaintiffs' counsel sent Defendants' counsel an email asking for an update on the status of Defendants' files for the Infringement Cases.

28. After receiving no further communications from Defendants or Defendants' counsel, Plaintiffs' counsel sent Mr. Hierl a letter on November 15, 2022 again demanding that

Defendants send their files for the Infringement Actions to Millennium. A true and correct copy of this letter is attached hereto as **Exhibit B** (the “November 15 Letter”). In the same letter, Plaintiffs’ counsel also demanded that Defendants provide (a) complete list of all cases Defendants filed on Millennium’s behalf with details on the current status of each case; and (b) a current accounting identifying all costs, fees, and receipts for each case, and supporting documentation for the same. *See* **Exhibit B**.

29. On November 23, 2022, Defendants’ counsel left a voice message for Plaintiffs’ counsel stating that Defendants have “no objection” to providing the materials Plaintiffs requested in the November 15 Letter, but that Defendants would require additional time to collect the materials and that they would “get to it after the holiday.”

30. Plaintiffs’ counsel followed up with Defendants’ counsel on November 30, 2022 and December 7, 2022 asking when to expect the materials requested in the November 15 Letter. A true and correct copy of Plaintiffs’ correspondence with Defendants is attached hereto as **Exhibit C**.

31. Defendants’ counsel finally responded on December 8, 2022 stating that “[w]e plan to have the files over to you before the holiday.” *See* **Exhibit C**.

32. To date, Plaintiffs have not received any of the materials requested in the November 15 Letter from Defendants.

33. Upon information and belief, and without the benefit of a current and complete accounting, Defendants have failed to remit transfer at least \$130,000 collected in settlements of the Infringement Actions to Millennium and its Current Agent.

34. Plaintiffs have performed all conditions required of them under their agreement with Defendants.

COUNT I
BREACH OF CONTRACT

35. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 35 above as though fully set forth herein.

36. Plaintiffs and Defendants entered into a valid and enforceable contract.

37. Plaintiffs fully performed their duties under their contract with Defendants by among other things, supplying Defendants with the necessary information needed to investigate and file the Infringement Actions.

38. Upon information and belief, and without the benefit of a current and complete accounting from Defendants, Defendants have failed to remit to Plaintiffs at least \$130,000 collected in settlements of the Infringement Actions.

39. Notwithstanding Plaintiffs' several requests, Defendants have failed to provide their files for the Infringement Actions to Plaintiffs.

40. Defendants' actions constitute a breach of their contract with Plaintiffs.

41. Defendants' breach has damaged Plaintiffs in the amount of at least \$131,124.51, an amount that is likely increase upon a review of Defendants' files for and a current and complete accounting of the Infringement Actions.

COUNT II
EQUITABLE ACCOUNTING

42. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 42 above as though fully set forth herein.

43. As attorneys for Plaintiffs, Defendants have an established fiduciary relationship with Plaintiffs, and therefore owe Plaintiffs a duty as a matter of law.

44. Defendants' fiduciary duties owed to Plaintiffs include a duty to accurately account for each of the Infringement Actions

45. Defendants have breached these duties to properly account for all of the Infringement Actions, and without such an accounting and the ability to review of Defendants files for the Infringement Actions, which Defendants have refused to provide to Plaintiffs, it is impossible for Plaintiffs to determine the true amount Defendants owe Plaintiffs. Due to the unascertainable nature of the money Defendants owe to Plaintiffs, Plaintiffs lack an adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully seeks the following relief against Defendants:

A. Judgment be entered in Plaintiffs' favor and against Defendant jointly and severally;

B. An order requiring Defendants to deliver to Plaintiffs a current and complete accounting detailing all monies collected and costs and expenses incurred for each of the Infringement Actions;

C. Awarding Plaintiffs monetary relief in an amount to be proven at trial following Plaintiffs' receipt of Defendants' accounting for the Infringement Actions, plus costs, attorney fees, and whatever other relief this Court deems appropriate.

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand trial by jury of all issues so triable.

Respectfully submitted,

**MILLENNIUM FUNDING, INC.,
BODYGUARD PRODUCTIONS, INC., and
LHF PRODUCTIONS, INC.**

Dated: November 30, 2023

By: /s/ Joshua S. Frick
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