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11 PARKER MANAGEMENT, LLC

Assigned for All Purposes

Judge Richard Lee

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF ORANGE**

14 PARKER MANAGEMENT, LLC, an Oregon
15 Limited Liability Company,

16 Plaintiffs,

17 v.

18 DASTMALCHI, LLC, a California Limited
19 Liability Company; ALEX DASTMALCHI, an
20 Individual; and DOES 1-20, inclusive,

21 Defendants.
22
23
24
25
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27

Case No.: 30-2022-01286900-CU-BC-WJC

COMPLAINT FOR DAMAGES

1. BREACH OF CONTRACT

2. ACCOUNT STATED

1 Plaintiff, Parker Management, LLC, through its counsel of record, brings this action for
2 breach of contract and account stated under California law to recover \$107,350 in compensatory
3 damages, plus interest. Plaintiff alleges as follows:

4 **INTRODUCTION**

5 1. This action arises from Defendants’ patently unjustified refusal to pay money due
6 to Plaintiff under twelve clear, valid written agreements for online promotional services. It
7 presents the all-too-familiar case of a start-up CEO having second thoughts about a contractual
8 obligation, and then refusing to pay an undisputed debt – citing nonspecific “Supply chain
9 delays, general inflation fears, and . . . war” – simply because he calculates that he can get away
10 with it.

11 2. Defendants are (1) an online retailer of high-end beauty products and (2) its CEO,
12 of whom it is a mere *alter ego*. Plaintiff is a family-owned talent management company, in the
13 business of facilitating (among other things) a form of consumer advertising known as
14 “sponsored content.” Essentially, online content creators known as “influencers” are paid by
15 consumer brands to promote the brands’ products to their social media followers. Plaintiff helps
16 influencers to find new brand partnerships and facilitates them as a service to its clients.

17 3. In this case, pursuant to individual written agreements, twelve of Plaintiff’s
18 clients each were engaged to publish a “Story” on Instagram promoting Defendants’ products in
19 exchange for a fee. They did so.

20 4. Over the period of over six months since Defendants’ payments for those services
21 began to come due, they have not once challenged the amount owed under the agreements or the
22 fact that Plaintiff and its clients fully performed their obligations. In fact, Defendants’
23 employees expressly acknowledged the amount due and made repeated promises to pay it.

24 5. Nevertheless, the only payment on \$117,350 in overdue invoices was a single
25 payment of \$10,000 made on May 13, 2022. Other than that, in response to repeated and direct
26 requests for full payment, Defendants have produced a series of excuses for non-payment and
27 nothing more. By bringing this suit, Plaintiff seeks only for its clients to be made whole for the

1 work they performed.

2 **JURISDICTION AND VENUE**

3 6. Venue in this Court is proper under Code of Civil Procedure § 395 because one or
4 more of the Defendants reside in Orange County. Defendants subjected themselves to the
5 personal jurisdiction of this Court by residing and doing business in California and by express
6 written agreement.

7 **PARTIES**

8 7. Plaintiff Parker Management LLC is a limited liability corporation organized
9 under the laws of Oregon that is registered and has a principal place of business in Oregon.

10 8. Defendant Dastmalchi LLC is a limited liability corporation organized under the
11 laws of California. On information and belief, Defendant Dastmalchi LLC has a principal place
12 of business in Newport Beach, CA.

13 9. Defendant Alex Dastmalchi is an individual and, on information and belief, is a
14 resident of the state of California. Defendant Dastmalchi is the Chief Executive Officer of
15 Defendant Dastmalchi LLC.

16 **GENERAL ALLEGATIONS**

17 10. Plaintiff Parker Management LLC (“Parker”) is a talent management company in
18 the business of representing social media influencers in connection with their brand partnerships.
19 Parker’s clients generally have highly subscribed channels on Instagram and other social media
20 platforms and earn their livings by creating “sponsored content” promoting brands in return for
21 fees.

22 11. From October 2021 to March 2022, Defendants engaged twelve of Plaintiff’s
23 clients to create sponsored “Stories” on Instagram. Defendant Dastmalchi LLC entered into
24 twelve separate written agreements, the terms of which were substantially the same: Parker’s
25 clients would create and publish to Instagram a “Story” promoting Defendants’ products
26 (sometimes along with certain follow-up deliverables), and, in return, Plaintiff’s clients would be
27 paid a fee ranging from \$1,500 to \$18,000. The total fees due under these agreements was

1 \$117,500.

2 12. Each agreement provided that: "Payment will be made within thirty (30) days of
3 . . . receipt of Talent's correct invoice, and proper tax documentation."

4 13. Each agreement identified Plaintiff as the signatory's "Agency" and expressly
5 imposed certain rights and obligations on Plaintiff in that capacity. Consistent with well-
6 understood industry practice, it was Plaintiff who invoiced Defendant Dastmalchi LLC once
7 each of its clients had performed their obligations.

8 14. Each of Plaintiff's clients did fully perform their obligations, and Defendants have
9 never once indicated or established to the contrary.

10 15. In total, Plaintiff issued seventeen invoices to Defendant Dastmalchi LLC. The
11 first was issued on January 31, 2022.

12 16. On February 8, 2022, Anya Nead (Plaintiff's Finance & Operations Manager)
13 forwarded the fourth of the seventeen relevant invoices (numbered 8687) to Hallie Pullum,
14 Defendants' Talent Account Manager. Two days later, Ms. Nead followed up by email to
15 confirm that it had been received. Ms. Pullum responded: "Apologies! I confirmed receipt of
16 invoice with Stephanie [Field, Plaintiff's Director of Talent Experience.]" Ms. Pullum added a
17 "smile" emoji.

18 17. On March 11, 2022, no payment had been made. Ms. Nead emailed Ms. Pullum
19 to remind her that invoice number 8687 and the three previous invoices were overdue.

20 18. Ms. Pullum did not respond until March 28, when she wrote to Ms. Nead to say
21 she had "CC'd our Influencer Admin [Hala Hago] to help with a status update."

22 19. Ms. Hago responded as follows:

23 Hi Anya,

24 I spoke with our accountant and she asked that I
25 provide you with the message below.

26 *First - we apologize for not being able to complete*
27 *our commitment to payment terms. We want you to*
know that we recognize the amount we owe to you

1 *and we intend to make you whole - but as a business*
2 *we need some extra time. The last four months in*
3 *ecommerce have introduced significant challenges*
4 *- not just to Vanity Planet - but to brands and*
5 *manufactures [sic] around the world. Supply chain*
6 *delays, general inflation fears, and now war.*
7 *The Vanity Planet brand is strong and has a deep*
8 *history in innovation and quality products. As a*
9 *result we are in a great position to sustain the*
10 *current challenges, but we will need additional*
11 *time. We are working hard with our financing team*
12 *to prioritize by oldest past due balances first, but*
13 *we may need up to 10-14 days to get caught up with*
14 *those, before final payment is released for invoice*
15 *#8687.*

16 *We know this is frustrating - but your support*
17 *allows us to continue to potentially do business*
18 *together in the future.*
19 *With gratitude and appreciation.....*

20 Payment will be scheduled for EOD Friday or the
21 following Monday morning.

22 (Italics preserved.)

23 20. Two weeks later, by April 13, 2022, no payment had been made. In the
24 meanwhile, seven additional invoices had become overdue. Ms. Nead emailed Ms. Hago with a
25 list of 11 overdue invoices totaling \$72,050. Ms. Hago replied: "I've escalated all these invoices
26 to our director. I've told him this needs to be taken care of right away. I'm just awaiting his
27 approval to send this to our accountant so she can begin setting up the payments."

28 21. Later the same day, Ms. Nead wrote again to remind Ms. Hago of the "10-14
29 days" that Defendants' accountant had requested to "get caught up" with their outstanding
30 payments and noted that that timeframe had just expired. She requested "a firm ETA . . . so I can
31 relay the information to the influencers awaiting payment."

32 22. The next day, Ms. Nead copied the email chain to Stephanie Field, Plaintiff's
33 Director of Talent Experience. Ms. Field advised Ms. Hago that Plaintiff had "have active
34 contracts with some of our talent, and unfortunately we are not able to proceed with them until
35

1 all past due payments are made.”

2 23. On April 21, 2022, Ms. Nead followed up again, adding one additional invoice
3 that had come overdue on April 20, bringing the total overdue amount (12 invoices) to \$73,550.

4 24. On April 26, 2022, Ms. Nead included one additional invoice and a ZIP file of all
5 13 invoices then outstanding. She asked Ms. Hago to “Please have your director contact our
6 CFO, Tyson Nead, who is CC’d above.” Ms. Hago again wrote that she had “escalated this
7 matter to our director who will instruct me on how to proceed.”

8 25. On Apr 26, 2022, a Vanity Planet representative named Rudy Echeverria wrote to
9 Mr. Nead to “catch up on the below.” He wrote: “There are unforeseen issues impacting us this
10 first quarter and we need additional time to catch up; however, there is no instance in which we
11 will not be able to make payments at some point.”

12 26. On April 28, 2022, Mr. Nead identified two influencers that “we at least need to
13 have . . . paid in full.” The next day, Mr. Echeverria replied that he would “see if one or two
14 payments can be made the 2nd week of May.”

15 27. On May 9, in response to another follow-up from Mr. Nead, Mr. Echeverria
16 wrote: “This . . . isn’t a situation of us never paying the talent. It is a matter of the additional time
17 we will need to start getting to them due to unforeseen circumstances.” He reassured Mr. Nead
18 that “we have every intention of paying.”

19 28. On May 13, 2022, Defendants made a single payment in the amount of \$10,000.

20 29. Also on May 13, on information and belief, a representative of Defendants
21 directly contacted an influencer then represented by Parker and proposed a new brand
22 partnership between that influencer and Defendants’ Kove Audio brand. This is one of no less
23 than five new partnerships that Defendants had proposed to influencers with connections to
24 Parker since March 2022.

25 30. After an additional exchange of emails between Mr. Nead and Echeverria, a
26 Dastmalchi LLC representative named Justin Schmidt responded to the thread on May 18, 2022
27 as follows:

1 Please allow me to jump in. I was hired by the
2 business to work towards a plan and avoid a formal
3 restructuring. Our goal is to come to an agreement
4 with our secured and unsecured creditors and
5 continue to do business.

6 I'm very sorry that you are now in this situation, as
7 a result of the challenges we have had with our sales
8 in 2022 compounded by higher costs and supply
9 chain interruptions.

10 We hope to have a plan to present to creditors by
11 the end of next week for past due balances. We have
12 also retained an attorney and if you would like I can
13 connect you along with your counsel?

14 In the shorter term, as Rudy noted - we are trying
15 to make some payments if we can - which is based
16 on week-to-week cash flow.

17 31. On May 25, 2022 Mr. Nead responded to Mr. Schmidt:

18 I am checking back in here regarding the promised
19 plan for the outstanding balance due. Has your team
20 completed this yet? We have only received one
21 payment the past month and have been left out of
22 the monthly payment cycle thus far. What is our
23 ETA before this is sent to our counsel?

24 32. Mr. Schmidt responded: "We are working with our attorney and the secured
25 creditors. Appreciate your patience. I should have something for you in the next week."

26 33. On June 1, 2022, Mr. Nead again asked for "the status regarding our past due
27 payments[.]" Mr. Schmidt replied:

28 I am copying our attorney . . . who is now handling
29 the creditor group and working towards settlement.
30 . . . **As of 4-30-2022 our records show \$117,350.00**
31 **outstanding and due to Parker Management LLC.**
32 [Our attorney] will be sending you a letter and an
33 analysis in order to try and settle the balance
34 outstanding. Very sorry that your business is in this
35 position as a result of the challenges Dastmalchi
36 LLC has experienced over the last six months."

37 (Emphasis added.)

1 34. As of that date, Defendant Dastmalchi LLC was not (and currently is not) in
2 bankruptcy proceedings. Mr. Schmidt's email did not explain who was part of the "creditor
3 group" with whom Dastmalchi LLC was attempting to reach "settlement," nor did it explain the
4 nature of the "challenges" Defendants were facing.

5 35. Later that month, Defendants' attorney contacted Mr. Nead. He represented that
6 Dastmalchi LLC was insolvent, and proposed a purported settlement of the amounts owed to
7 Parker. In an email dated June 25, 2022, Defendants' attorney told Mr. Nead by email that "[w]e
8 can propose 10 percent." Mr. Nead declined the offer.

9 36. On July 1, 2022, Mr. Echeverria again reached out directly to an influencer
10 represented by Parker to propose a new brand partnership. In total, to Parker's knowledge,
11 Defendants proposed no less than six new contractual obligations just like the ones they were
12 telling Plaintiff they were unable to honor.

13 37. On July 20, 2022, Plaintiff's counsel contacted Defendants' counsel by email. In
14 subsequent emails and phone conversations, Defendants' counsel represented that he was
15 prepared to provide a copy of Dastmalchi LLC's relevant financial records, an analysis of its
16 outstanding debt and plans to pay, a settlement proposal directed at Plaintiff, and an explanation
17 for the conduct described in Paragraph 29 above. Ultimately, due to a scheduled vacation,
18 counsel promised to provide the foregoing by August 16. He never did so.

19 38. Dastmalchi LLC is actively in the business of marketing luxury products, and on
20 information and belief, is not insolvent. Accordingly, if Dastmalchi LLC is unable to make a
21 payment of \$107,350 due to nonspecific "challenges" it can be inferred that Defendant
22 Dastmalchi has caused Dastmalchi LLC to be undercapitalized by, inter alia, commingling its
23 funds with his own and using them for personal expenses or to pay off personal liabilities.

24 39. During the relevant period, Plaintiff issued invoices to Defendant Dastmalchi
25 LLC totaling \$117,350, and only one payment in the amount of \$10,000 has been made.
26 Accordingly, the amount overdue is \$107,350.
27

1 **FIRST CAUSE OF ACTION**

2 **(Breach of Contract)**

3 40. Plaintiff incorporates by reference the allegations contained in the preceding
4 paragraphs as if fully set forth herein.

5 41. Defendant Dastmalchi LLC entered into twelve valid contracts related to services
6 to be performed by Plaintiff's clients.

7 42. Plaintiff was an intended third-party beneficiary of each agreement.

8 43. Plaintiff and its clients fully performed their obligations under the agreements.
9 To the extent any obligations set forth in the agreements were not fully performed, Plaintiff and
10 its clients were excused or otherwise prevented from performing them.

11 44. Defendant Dastmalchi LLC breached the agreements by refusing to pay Plaintiff
12 \$107,350 of the amount it owed thereunder. Such non-performance was not excused.

13 45. Defendant Dastmalchi exercises unfettered control over his undercapitalized LLC,
14 Defendant Dastmalchi LLC, and on information and belief he has commingled its assets with his
15 own. Accordingly, Dastmalchi LLC is a mere *alter ego* of Defendant Dastmalchi.

16 46. As a result of Defendants' breach, Plaintiff has been damaged in the amount of
17 \$107,350, plus interest. Because Dastmalchi LLC is a mere *alter ego* of Dastmalchi, they are
18 jointly and severally liable for such damages under California law.

19 **SECOND CAUSE OF ACTION**

20 **(Account Stated)**

21 47. Plaintiff incorporates by reference the allegations contained in the preceding
22 paragraphs as if fully set forth herein.

23 48. Defendants and Plaintiff entered into twelve transactions establishing a debtor-
24 creditor relationship.

25 49. Defendants were provided invoices showing a balance due totaling \$117,350.
26 Defendants' representatives and counsel expressly agreed to and accepted the stated balance.

27 50. Defendants expressly and/or impliedly promised to pay the amount due.

51. Despite such promises, Defendants have paid only \$10,000 toward the above amount and have failed and refused to pay the outstanding amount of \$107,350.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. For damages in the amount of \$107,350;
2. For pre-judgment interest in an amount to be determined by the Court;
3. For an award of post-judgment interest;
4. For the costs of suit; and
5. For such other and further relief as the Court may deem just and proper.

Dated: October 18, 2022

Respectfully submitted,

By: /s/ Scott Alan Burroughs
 Scott Alan Burroughs, Esq.
 DONIGER / BURROUGHS

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