

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DARWIN QUINN and)	
MITCHELLE’L SIUM,)	
)	
Plaintiffs,)	CIVIL ACTION FILE
)	NO.
v.)	
)	
)	
ROLAND POWELL P/K/A)	
“LIL DUVAL” and)	
RICH BROKE ENTERTAINMENT,)	
LLC,)	
)	
)	
Defendants.)	

COMPLAINT

COME NOW Plaintiffs, Darwin Quinn (“Quinn”) and Michelle’l Sium (“Sium”) (collectively, “Plaintiffs”), by and through undersigned counsel, and hereby file this Complaint against Defendants Roland Powell professionally known as “Lil Duval” (“Powell”) and Rich Broke Entertainment, LLC (“RBE”) (individually, Powell, and RBE are each a “Defendant” and collectively the “Defendants”), alleging the following:

PARTIES

1.

Plaintiff Quinn is an individual resident of the state of Georgia located at 5435 Rosehall Place, Atlanta, Georgia 30349.

2.

Plaintiff Sium is an individual resident of the state of California located at 1141 Seward Street, Hollywood, California 90038.

3.

Defendant Powell is an individual resident of the state of Georgia located at 1804 Christopher Drive, Conyers, Georgia 30094.

4.

Defendant RBE is a Florida limited liability company, and may be served through its registered agent, Roland Powell, at 2012 Medinah Lane, Green Cove Springs, FL 32043.

JURISDICTION AND VENUE

5.

Plaintiffs' first claim for relief arises under the copyright laws of the United States, 17 U.S.C. §101 *et seq.* The Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331, 1332 and 1338, and has supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367.

6.

This Court has personal jurisdiction over Powell on the grounds that Powell is a resident of this State.

7.

This Court has personal jurisdiction over RBE based on RBE's substantial, continuous, and systematic activities and business ties with Powell in this State and judicial district directly related to the claims asserted herein.

8.

This Court's exercise of personal jurisdiction over RBE in this action is consistent with the Georgia's long-arm statute and traditional notions of fair play and substantial justice.

9.

Venue is proper in this District pursuant to 28 USC §1391(b) and (c) and §1400(a). All or a substantial part of the events or omissions giving rise to the claim occurred here.

FACTS COMMON TO ALL COUNTS

10.

Plaintiff Sium is a professional singer and songwriter.

11.

Plaintiff Quinn is a professional music writer and producer. He creates musical tracks and also produces master recordings for recording artists and record labels for commercial exploitation and sale.

12.

At the time of the occurrences, which are the subject of this lawsuit, both Plaintiffs were friends of Defendant Powell.

13.

Prior to January 25, 2017, Defendant Powell told Plaintiff Quinn that he would like to create a song based on the song “Curious” recorded by the artist Midnight Star, a song which he liked. “Curious” was written by Boaz Watson, Bobby Lovelace and Melvin Gentry.

14.

On January 25, 2017, Defendant Powell was at Plaintiff Quinn’s home. During that time, Plaintiff Quinn wrote and recorded an instrumental track which incorporated a sample of the musical sound recording “Curious” per Defendant Powell’s request, and Plaintiff Sium and Defendant Powell co-wrote and recorded words and melody onto the track, which they entitled “Back n Forth.” All parties intended to co-own the new work, including its “hook” (the repeated chorus) at the time of its joint creation by them.

15.

While recording “Back n Forth,” Defendant Powell live-streamed audio and video from the recording session from his phone on Instagram, and Plaintiffs also recorded video footage the session on their phones. Cordozar Calvin Broadus, Jr., p/k/a “Snoop Dogg,” who is an Instagram follower of Mr. Sium, interrupted the recording session when he reached out to Defendant Powell via a Facetime call, to discuss the song. Plaintiff Powell posted the clip on his Instagram account, featuring the recording session and showing both Mr. Sium and Mr. Quinn.

16.

After January 25, 2017, Defendant Powell went to a well-known producer, Corey “Mr. Hanky” Dennard, who follows Powell on Instagram. Defendant Powell requested that Mr. Hanky create a different instrumental track incorporating the “Back n Forth” sample from “Curious” that had been posted on Instagram. Mr. Hanky created the instrumental sound recording (the “Beat”), and Defendant Powell recorded two words onto it, which he repeated throughout: “Smile, bitch.”

17.

As Mr. Broadus liked “Back n Forth,” Defendant Powell sent the Beat (featuring his added two words) to him, and Mr. Broadus wrote and recorded a verse

onto it. Powell then went back to Mr. Hanky's studio and recorded the hook from "Back n Forth" onto the Beat containing Mr. Broadus' verse.

18.

This sound recording incorporating 1) Powell's performance of the "Back n Forth" hook, 2) Back n Forth's "Curious" sample and 3) Mr. Broadus' verse over Mr. Hanky's contributed beat was renamed "Smile (Living My Best Life)". "Smile (Living My Best Life)" was commercially released by Empire Distribution, Inc., including but not limited to digital audio transmission, and it became a huge hit.

19.

Mr. Broadus and Mr. Hanky each manifested an intent to be co-writers of the composition "Smile (Living My Best Life)" (the "Song") with Plaintiffs and Defendant, and, indeed, each of them was subsequently credited as a co-writer along with Defendant Powell – but not Plaintiffs.

20.

Defendant Powell invited Plaintiffs to be in the Video for the Song, to be recorded at Mr. Broadus' studio compound in California. When Plaintiffs arrived, Defendant Powell informed them that the shoot had ended for the day, but Plaintiffs conversed with Defendant Powell and Mr. Broadus about the Song and the shoot. Defendant Powell told the Plaintiffs that the shoot would conclude at Venice Beach on the following day, and again invited them to participate in the video. Although

the next morning Defendant Powell informed Plaintiff Sium that he would call him when it was time for the shoot, he failed to do so, and Plaintiffs later saw video on Instagram of Defendant Powell shooting the video without them.

21.

Defendants have failed to rectify Plaintiffs' notices that they have not been paid or accounted to for Defendants' reproduction, distribution, creation of derivative works, performances and digital performances of Plaintiffs' "Smile (Living My Best Life)." ¹

22.

Defendants have continued their sales of "Smile (Living My Best Life)" and retained funds from such sales without payment of any proceeds to Plaintiffs, in violation of Plaintiffs' rights.

23.

Plaintiffs and Defendant co-own the copyrights of the composition of "Back n Forth," as registered in Registration No. SRu001412114 with the U.S. Copyright Office. A copy of this registration is attached as Exhibit A.

¹ It is Plaintiffs' good faith understanding that Defendants failed to obtain a license for their sample of Midnight Star's "Curious" prior to the release of the Song, but negotiated it after the fact - when the "Curious" writers found out about the sample. Boaz Watson, Bobby Lovelace and Melvin Gentry are all now credited and paid as co-writers of the Song

**FIRST CLAIM FOR RELIEF
(For Declaratory Judgment against both Defendants)**

24.

Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

25.

An actual and present controversy now exists between Plaintiffs and Defendants regarding Plaintiffs' status as co-writers of the Song. Defendants have denied recognition of Plaintiffs' status as co-writers of the composition of the Song, which entitles Plaintiffs to writer credit and a share of the monies generated from the exploitation of the Song.

26.

Plaintiffs contend that they are co-writers with Defendant Powell of the composition of the Song. Plaintiffs and Defendant Powell each jointly contributed separate and distinct copyrightable chord progressions, melody, and rhythm to the Song.

27.

Plaintiffs and Defendant Powell each manifested an intent to be co-writers of the Song, and worked together jointly to create the Song. Plaintiffs and Powell

intended that their separate contributions be merged into inseparable or interdependent parts of a unitary composition.

28.

Plaintiffs contributed significantly to the Song, including composing the melody, rhythm and lines of the hook which repeats throughout the Song, which is considered to be the most important and memorable part of a song. Plaintiffs were responsible for directing the tempo reflected in the final sound recording of the Song.

29.

An actual and present controversy exists regarding the parties' respective rights to the Song. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, Plaintiffs are entitled to a declaration of rights as follows: (a) Plaintiffs are co-writers of the composition entitled "Smile (Living My Best Life);" (b) Plaintiffs are entitled to a co-writer credit on the copyright to the Song and on subsequently released versions of the Song; and (c) Plaintiffs are entitled to prospective and retroactive royalties and other money owed with respect to their interest in the Song.

**SECOND CLAIM FOR RELIEF
(For Accounting against all Defendants)**

30.

Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

31.

Plaintiffs, as joint authors and co-owners of the copyright of the composition of the Song are entitled to their *pro rata* share of the profits that Defendants have enjoyed from the exploitation of the Song.

32.

By commercially exploiting the Song without accounting to Plaintiffs for profits, Defendants have wrongfully deprived Plaintiffs of their rightful share of income therefrom.

33.

Defendants are in sole control of the books and records needed to ascertain the amounts due to Plaintiffs pursuant to their special relationship as joint authors and co-owners of the composition of the Song. Plaintiffs have no means by which they can assemble the information necessary to calculate what is owed to them by Defendants.

34.

Plaintiffs are entitled to an order of this Court directing Defendants to render a complete and honest accounting of all revenues derived from the exploitation of the Song and all sums due to Plaintiffs, and to pay Plaintiffs the sums shown due by such accounting.

THIRD CLAIM FOR RELIEF
(For Constructive Trust against all Defendants)

35.

Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

36.

By virtue of the foregoing, any interest that Plaintiffs have in the Song, and any and all profits received by Defendants from the commercial exploitation of the Song, are the property of Plaintiffs and Powell in equal shares.

37.

Defendants wrongfully deprived Plaintiffs of their share of the profits that they have enjoyed from the commercial exploitation of the Song.

38.

By virtue of Defendants' acts, Defendants hold two-thirds of the profits derived from the exploitation of the Song as constructive trustees for the benefit of Plaintiffs.

39.

Plaintiffs are entitled to immediate possession of their *pro rata* share of the profits held by Defendants as constructive trustees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. That the Court declare that as follows: (a) Plaintiffs are joint authors of the composition entitled “Smile (Living My Best Life)”; (b) Plaintiffs are entitled to cowriter credits to the composition entitled “Smile (Living My Best Life)”, and on subsequently released versions of “Smile (Living My Best Life)”; and (d) Plaintiffs are entitled to prospective and retroactive royalties and other money owed with respect to their respective interest in the composition entitled “Smile (Living My Best Life)” in a percentage to be proven at trial;
2. That the Court order an accounting of all revenues derived from the exploitation of the Song by Defendants;
3. That the Court impose a constructive trust over the proceeds from the exploitation of the Song pending the final disposition of this action;
4. That Plaintiffs be awarded their reasonable attorney’s fees and costs pursuant to Section 505 of the U.S. Copyright Act (17 U.S.C. § 505); and
5. For such other and further relief as the Court deems to be just and proper.

Respectfully submitted, this 15th day of June, 2022.

GREENSPOON MARDER, LLP

/s/ Alan S. Clarke, Esq.
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