

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ROBERTO WARNERT and INFIGO 360 FZ, LLC
d/b/a INFIGO - 360 EVENTS & MEDIA SOLUTIONS,

VERIFIED COMPLAINT

Plaintiffs,

Index No.

-against-

RED ENTERTAINMENT GROUP CORPORATION,
d/b/a RED ENTERTAINMENT AGENCY,
RED ENTERTAINMENT AGENCY and
CARLOS FERNANDEZ a/k/a CARLOS KEYES,

Defendants.

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Plaintiffs Infigo FZ, LLC doing business as 360 Events & Media Solutions (“Infigo”) and Roberto Warnert (“Warnert”) (collectively Infigo and Warnert are referred to herein as the “Plaintiffs”) by their attorneys, Jekielek & Janis, LLP, as and for their causes of action against defendants Red Entertainment Group Corporation d/b/a Red Entertainment Agency (“Red Group”), Red Entertainment Agency (“Red Agency”) and Carlos Fernandez a/k/a Carlos Keyes (“Fernandez”), in his individual capacity (collectively Red Group, Red Agency and Fernandez are referred to herein as the “Defendants”), respectfully allege, upon information and belief as follows:

THE PARTIES

1. Plaintiff Infigo is a foreign limited liability company duly organized and existing under the laws of the United Arab Emirates and which maintains its principal place of business in the city and Emirate of Dubai, UAE.

2. Plaintiff Warnert is a citizen of the United Arab Emirates and maintains his primary residence in the City and Emirate of Dubai, UAE. Warnert is the sole owner and the managing member of Infigo.

3. Defendant Red Group is a New York corporation duly licensed to conduct business within the State of New York since 2002 and which has maintained and currently maintains, its principal place of business in New York County. The address to which the New York Department of State will process if accepted on behalf of Red Group is 16 Penn Plaza, Suite 824, New York, NY 10001.

4. Upon information and belief, since its inception, Red Group has consistently conducted business and held itself out to the public as and under the assumed name of “Red Entertainment Agency”.

5. Upon information and belief, on June 29, 2016 the New York Department of State caused Red Group to be dissolved by proclamation and annulled its authority to conduct business in the State of New York. Notwithstanding the foregoing, since June 29, 2016, Red Group has conducted, and continues to conduct, business in the State of New York as an unincorporated entity, including but not limited to under the trade and assumed name of “Red Entertainment Agency”.

6. Upon information and belief, Red Agency is a business entity, formed owned and operated by defendant Carlos Fernandez since in or around 2002. Upon information and belief, Red Agency is a sole proprietorship, limited liability company or corporation which maintains its principal place of business in New York County, New York.

7. Defendant Carlos Fernandez, who is also known as Carlos Keyes, is a citizen of the State of New York and maintains his primary residence is New York County, New York. Upon information and belief, at all times relevant to the allegations contained in this Complaint, Fernandez was and is (i) the sole shareholder, owner and officer of Red Group and Red Agency to the extent it was and/or is an entity formed separately by Fernandez; and (ii) performed all

such duties on behalf of Red Group and/or Red Agency while they were duly licensed and authorized to conduct business in New York State and at all times thereafter dissolved and without the authority of the New York Department of State.

VENUE AND JURISDICTION

8. This Court has subject matter jurisdiction pursuant to N.Y. CONST. art. VI, § 7(a) and N.Y. JUD. LAW § 140-b. The value of Plaintiff's claims exceeds Twenty Five Thousand (\$25,000.00) Dollars.

9. Venue is proper in New York County pursuant to N.Y. C.P.L.R. § 503(a) because one or more of the Defendants reside in this county.

10. Plaintiffs do not regularly transact business in the State of New York.

11. This Court has personal jurisdiction over the Defendants because they are citizens of the State of New York and furthermore, at all times herein mentioned, the Defendants have transacted and conducted business in the State of New York, committed the acts described herein and otherwise performed acts within the State of New York subjecting them to the jurisdiction of the Courts of the State of New York.

FACTS COMMON TO ALL CLAIMS

Background - Relationship of the Parties

12. Upon information and belief, at all times herein mentioned, and since its inception in 2002, mentioned Red Group was and still is a professional booking agency in the business of securing the live performances of recording artists at venues, festivals, concerts and/or events and holds itself out to the general public and music industry as "Red Entertainment Agency".

13. Fernandez formed and began doing business as Red Group in 2002. Upon information and belief, at all times since Red Group's inception up to and including the present, Fernandez (i) was and is the president and sole shareholder of Red Group; exercised sole and complete dominion over Red Group; (iii) maintained to himself complete and absolute control of the assets and operation of Red Group's business.

14. Upon information and belief, Fernandez's exercise of control over Red Group, includes but is not limited to his handling of corporate accounts, the issuance of all contracts, checks, wires, payments and maintaining all of Red Group's books and records.

15. At all times since Red Group's inception up to and including the present Red Group and Red Agency were and are the alter egos of Fernandez.

16. At all times mentioned herein, Red Group and Red Agency were undercapitalized and as a result thereof, Fernandez used Red Group and Red Agency as instruments to defraud concert and event promoters, to advance his misrepresentations of authority as a booking agent and to finance his operation of Red Group.

17. Upon information and belief, at all times mentioned herein, Fernandez failed to observe corporate formalities while conducting Red Group's business , including but not limited to, failing to have a shareholders agreement and/or failing to have by-laws.

18. Upon information and belief, at all times since Red Group's inception up to and including the present, Fernandez co-mingled his personal monies with the income and/or capital generated by and through Red Group by, including but not limited to, making payment of his personal expenses, mortgages, bills and debts from the Red Group bank account and/or with funds that were improperly withdrawn or transferred from the Red Group bank account.

19. At all times mentioned herein, Fernandez did not adequately separate himself, his personal interests and/or liabilities from Red Group and Red Agency are one and the same.

20. As of the date of this filing, Fernandez markets, promotes and holds Red Group out to the general public and music industry, including but not limited to through Red Group's website, as the authorized booking agent and representative of, DMX, The Village People, Jodeci and other "legend" and/or older performing artists in the hip-hop, rap and rhythm and blues genres in connection with and for their live performances.

21. At all times relevant to the Plaintiff's claims, Fernandez marketed, promoted and held Red Group out to the general public and music industry, including but not limited to through Red Group's website, as the authorized booking agent and representative of, Lil Wayne, Will.I.Am, Nikki Minaj, Julie Iglesias, Drake and other then popular artists in the hip-hop, rap, Latin and pop genre's in connection with and for their live performances.

22. At all times mentioned herein, Fernandez held himself out to the general public and the music industry, including but not limited to through Red Group's website, as a professional booking agent, the owner of Red Group and an authorized representative of the above referenced recording artists in connection with and for their live appearances throughout the world.

23. Upon information and belief, the majority of Red Group's business is derived from individuals and businesses that engage in the promotion of concerts, public or private events, and festivals featuring the performance of live music, in or outside of the United States.

24. Plaintiff Infigo 360 is in the business of promoting live music events, concerts and/or festivals in cities and venues located outside of the United States, primarily in Europe and

in the Middle East. In addition to promoting its own events, Infigo also promotes and/or produces concerts, festivals and events featuring live music on behalf of its clients and/or in conjunction with other promoters or venue owners.

25. In some instances, Infigo may be hired by its client's for the sole purpose of securing and/or buying talent for a specific show, appearances or tour. In all instances, when Infigo successfully books an artist for a live performance, Infigo is the contracting party and is responsible for making payments to and/or for the Artist.

26. Plaintiff Warnert is the owner of Infigo 360 and is solely responsible for overseeing and managing Infigo 360's operations, including but not limited to securing all talent, negotiating the terms of talent/engagement agreements and making payments for the talent.

27. Prior to forming the Red Group and/or Red Agency, Fernandez was employed as a booking agent at Pyramid Entertainment Group ("Pyramid"), a talent agency and talent buyer located in New York, New York.

28. Through his employment at Pyramid, Fernandez was introduced to Warnert and Warnert booked and/or bought talent through Fernandez while he was employed by Pyramid.

29. Warnert booked enough talent through Fernandez while he was at Pyramid where a relationship of trust was formed.

30. When Fernandez left his employment at Pyramid he notified the Plaintiffs that he formed the Red Group and/or the Red Agency and solicited the Plaintiff's business.

31. The Plaintiffs have utilized the booking services of the Defendants for many years and have worked with Fernandez since he formed the Red Group and/or Red Agency.

32. On numerous occasions, Fernandez has contacted Warnert and asked him if he was interested in booking a certain artist to perform in a territory where the Plaintiff's promoted their events.

The Lil' Wayne Booking

33. In or around August of 2011, Fernandez contacted Warnert to let him know that he had had the right and was authorized to book performances of the recording artist professionally known as Lil Wayne in Dubai, the United Kingdom and Holland in November of 2011.

34. Fernandez told Warnert that Lil Wayne's performance in Dubai was scheduled for November 24, 2011 and that there was currently no promoter of record. Fernandez offered Warnert the right to promote the November 24, 2011 Lil Wayne concert in Dubai.

35. Fernandez told Warnert that Lil Wayne's performance fee for the Dubai concert was \$550,000 USD. Fernandez told Warnert that he could secure Lil Wayne's performance at the Dubai concert on November 24, 2011, and all rights to the proceeds from ticket sales, by making payment of a deposit in the amount of \$150,000 USD.

36. Fernandez told Warnert that the deposit would be paid to defendant Red Group, at which time, as the authorized booking agent of Lil Wayne, a formal contract for the Dubai concert between Infigo and Lil Wayne would be issued by the Defendants.

37. Warnert was interested in promoting the concert and told Fernandez to take the next steps.

38. On August 16, 2011, Fernandez drafted a letter to Warnert on behalf of Red Entertainment and on Red Entertainment Letter head. The letter sent to Warnert and Infigo via

email stated that “Lil Wayne’s representatives have accepted in principal the Plaintiff’s offer of \$550,000 USD to (Lil Wayne) perform at one (1) show in Dubai on November 24, 2011.”

39. The August 16, 2011 letter further stated that a deposit of \$150,000 must be sent to Lil Wayne on or before August 17, 2011 and at such time a contract will be issued to the Plaintiffs. Ex. A.

40. On August 16, 2011, the Plaintiff’s transferred \$150,000 USD via wire to Red Group’s bank account.

41. Warnert initiated the wire transfer on behalf of the Plaintiff’s in reliance of the representations made by Fernandez to Warnert, specifically that the (i) Defendants represented and were authorized to book the live performance of Lil Wayne; (ii) that the \$150,000 USD paid by the Plaintiffs would be paid to Lil Wayne by Red Entertainment and/or Red Group; (iii) that Lil Wayne had agreed to the Plaintiff’s offer “in principal”; and (iv) that the Defendants would issue a contract upon receipt of the deposit; August 16, 2011, Warnert caused \$150,000 USD to be transferred via wire to a Red Group’s bank account.

42. Red Group received the \$150,000 USD and provided Warnert with confirmation that Red Group received the payment.

43. As promised, Fernandez prepared and delivered to Warnert a written agreement between Infigo and Lil Wayne in connection with the Lil Wayne’s live performance in Dubai on November 24, 2011.

44. The agreement was issued on Red Entertainment’s letterhead and Fernandez was identified as the authorized representative of ‘Lil Wayne and would sign the contract on behalf of Lil Wayne.

45. However, within a few days after the Plaintiff's payment of \$150,000 and the contract being sent to Warnert by the Defendants, Fernandez contacted Warnert and informed him that the November 24, 2011 concert in Dubai was cancelled and Lil Wayne would not be performing.

46. Fernandez did not tell Warnert why Lil' Wayne could not perform at the concert and/or provide a specific reason as to why Lil' Wayne's performance was cancelled, just that it was not taking place.

47. Fernandez also informed the Plaintiff that the no portion of the \$150,000 was paid to Lil Wayne or his other representatives.

48. Warnert requested that \$150,000 USD be returned to the Plaintiffs, but Fernandez said that he had a replacement for Lil Wayne and that he would hold the \$150,000 in trust for the Plaintiffs in the Red Group bank account it was deposited into.

49. Warnert agreed and allowed the Defendants to hold the \$150,000 USD in trust in the Red Group bank account while Fernandez attempted to find a replacement for Lil Wayne.

The Chris Brown Booking

50. At or around the same time Fernandez informed Warnert that the Lil Wayne concert in Dubai was cancelled, Fernandez represented that he had the right and was authorized to book the live performance of Chris Brown on December 3, 2011 in Dubai.

51. Fernandez informed Warnert that he was working directly with Chris Brown's agent, Mark Cheatham of the booking agency ICM and that Fernandez had been authorized by Brown and Mark Cheatham to solicit offers for Chris Brown's performance in Dubai on December 3, 2011.

52. Warnert had personal knowledge that Mark Cheatham was Chris Brown's agent and in good faith believed and relied on the representations made by Fernandez that he had been authorized to accept offers for Chris Brown's December 3, 2011 performance in Dubai and that the Defendants were acting as what is commonly referred to as a "middle agent".

53. Fernandez informed Warnert that the Plaintiffs had to pay \$300,000 USD to secure the performance of Chris Brown in Dubai on December 3, 2011 and upon the Plaintiffs payment of that amount, the Defendants would issue a contract between Plaintiffs and Chris Brown for the concert.

54. Fernandez instructed Warnert to make payment of the deposit for Chris Brown into the Red Group bank account, at which time the Red Group would finalize the terms of the contract for Chris Brown's performance with Mark Cheatham as Chris Brown's agent and issue the contract.

55. Fernandez told Warnert that the deposit would be held by the Red Group in trust until the payments were due under the contract.

56. Because Plaintiffs previously paid the Red Group \$150,000 USD in connection with the cancelled Lil Wayne Concert, the Plaintiffs were only required to pay the Red Group an additional \$150,000 for the Chris Brown deposit.

57. In or around October of 2011, the Plaintiffs made a second payment to the Red Group bank account in the amount of \$150,000 USD in connection with and for the live performance of Chris Brown in Dubai on December 3, 2011.

58. By and through this payment, the Plaintiffs had paid Red Group a total of \$300,000 USD.

59. Shortly thereafter, Fernandez prepared and delivered to Warnert a written agreement between Warnert and Infigo on one hand and Lil Wayne on the other hand, in connection with the Chris Brown's live performance in Dubai on November 24, 2011.

60. The agreement was issued on Red Entertainment's letterhead and Fernandez was identified as the authorized representative of Chris Brown and would sign the contract on behalf of Chris Brown.

61. However, not long after the Plaintiff's second payment in the amount of \$150,000 and after receiving the contract from the Defendants, Fernandez contacted Warnert and informed him that the December 3, 2011 concert in Dubai was cancelled and that Chris Brown would not be performing.

62. Fernandez did not tell Warnert why Chris Brown could not perform at the concert and/or provide a specific reason as to why Chris Brown's performance was cancelled; just that it was not taking place.

63. Fernandez also informed the Plaintiff that the no portion of the \$300,000 USD was paid to Chris Brown and/or his other representatives.

64. Warnert requested that \$300,000 USD be returned to the Plaintiffs, but Fernandez told Warnert that he had other artists that could perform at a concert in Dubai and that Fernandez would hold the \$300,000 in trust for the Plaintiffs in the Red Group bank account it was deposited into.

65. Warnert agreed and allowed the Defendants to hold the \$300,000 USD in trust in the Red Group bank account and agreed to give Fernandez a short period of time to find a replacement for Chris Brown.

The Enrique Iglesias Booking

66. Thereafter, Fernandez began discussing with Warnert other artists that could perform in Dubai during the first quarter of 2012. One of the artists suggested by Fernandez was Enrique Iglesias, as according to Fernandez, he was authorized to solicit offers and accept dates on his behalf.

67. Warnert was interested in promoting an Enrique Iglesias concert in Dubai and allowed the Defendants a brief period of time to explore the possibility of booking this artist for a show in the first quarter of 2012.

68. On December 28, 2011, the Defendants wrote a letter to the Plaintiffs on Red Entertainment letterhead, which was sent to Warnert via email. The letter stated that Enrique Iglesias could not be confirmed for a live performance before January 8, 2012 as he was on vacation.

69. The December 28, 2011 letter from Fernandez on Red Entertainment letterhead confirmed that the Plaintiffs had deposited \$300,000 USD into the Red Group bank account. Ex B.

70. While waiting to hear from the Defendants about the availability of Enrique Iglesias, in or around January of 2012, Warnert directed Fernandez to make payments on behalf of the Plaintiffs from the \$300,000.00 USD that was being held in trust by the Defendants.

71. Fernandez complied with Warnert's requests and ultimately the amount of money the Plaintiffs had deposited with the Defendants and being held in trust in the Red Group bank account was reduced from \$300,000 USD to \$100,000USD.

72. Shortly after the transfer some of Plaintiff's money to third parties, , in or around the end of January of 2012, Fernandez called Warnert and informed him that he was authorized

to book the live performance of Enrique Iglesias in Dubai on March 8, 2012 and that Warnert's offer had been accepted.

73. Fernandez informed Warnert that Enrique Iglesias' required a deposit in an amount equal to 50% of his performance fee and in addition, the Defendants fee as the agent was 10% of that amount.

74. Fernandez informed Warnert that Enrique Iglesias' performance fee for this concert was \$500,000 and that \$250,000 USD would be paid by Red Group to the artist and that \$25,000 would be paid to the Defendants as their booking fee once the date was confirmed and a contract was issued and signed.

75. Fernandez informed Warnert that upon receipt of \$275,000 USD a contract would be issued between the Plaintiffs and Enrique Iglesias for March 8, 2012 performance in Dubai.

76. In reliance upon the representations Fernandez made to Warnert, specifically that: (i) Fernandez had the right and authority to solicit and accept offers on behalf of Enrique Iglesias; (ii) that Iglesias had agreed to perform live in Dubai on March 8, 2012; (iii) that Red Group would pay \$250,000 USD of the money deposited with it by the Plaintiff to Enrique Iglesias; and (iv) that a contract would be issued granting the Plaintiffs the right to promote the live performance of Enrique Iglesias in Dubai on March 8, 2012; the Plaintiffs transferred an additional \$175,000 USD to Red Group.

77. On or before February 3, 2012, the Plaintiffs had made payment of the additional \$175,000 and the Defendants had received payments from the Plaintiffs in the total amount of \$275,000 USD which was being held in the Red Group bank account in trust.

78. On February 3, 2012, Fernandez sent Warnert a written agreement, issued by Red Entertainment and between Infigo and Enrique Iglesias in connection with the live performance

of Enrique Iglesias in Dubai on March 8, 2012. In addition to the contract, Fernandez provided Warnert with a copy of the artists technical and hospitality riders for the performance.

79. Fernandez signed the agreement as the authorized representative of Enrique Iglesias.

80. After the Plaintiffs made the payment and the contract for concert was issued, Fernandez contacted Warnert and informed him that Enrique Iglesias could not perform in Dubai on March 8, 2012 because the artist had been previously booked to perform at another concert and therefore he was not able to perform pursuant to the contract and at Plaintiff's concert.

81. After informing the Plaintiffs that the Enrique Iglesias concert would not take place, the Plaintiffs requested the return of their \$275,000USD from the Defendants.

82. However, Fernandez informed Warnert that the Defendants could not return the money to the Plaintiffs because all of the money had been paid to Julio Iglesias (the artist's brother) on behalf of and as the authorized representative of Enrique Iglesias.

83. Despite requests by Warnert, the Defendants did not provide any proof that the Plaintiffs money, or any portion thereof, had been paid to Enrique Iglesias, through Julio Iglesias or otherwise.

84. Upon information and belief, Fernandez transferred some and/or all of the \$275,000 to his personal bank account and/or paid for his personal bills, expenses and/or business expenses or overhead.

85. From April of 2012 through November of 2012, the Plaintiffs repeatedly made requests to the Defendants to return the entire \$275,000 USD that had been paid collectively for Lil Wayne, Chris Brown and now Enrique Iglesias. Despite these numerous requests, the Defendants did not return the \$275,000 USD, or any portion thereof, to the Plaintiffs.

86. Rather than return the Plaintiff's money, Fernandez repeatedly informed Plaintiffs that the funds had not yet been turned over to him by Enrique Iglesias and for such reason, he could not yet return the funds.

The Will.I.Am Booking

87. In December 2012, Defendant once again offered Plaintiff a performance from recording artist Lil Wayne but this time no additional funds were required to be paid due to the fact that the Defendants failed to return the \$275,000 USD the Plaintiffs previously paid.

88. The Plaintiffs agreed to apply the \$275,000 to the performance fee of Lil Wayne, but once again the concert did not go forward, despite the fact that the Defendants issued a written agreement for the performance.

89. Once again, the Defendants did not provide the Plaintiffs with an explanation as to why the artist was not able to perform.

90. The Plaintiffs continued to request the return of their money and the Defendants continued to state it was in the possession of Enrique Iglesias.

91. In January 2013, Fernandez approached Warnert with an opportunity that was "guaranteed" to get the \$275,000 USD back and "more." Specifically, Fernandez offered Warnert the opportunity to book the recording artist professionally known as Will-I-Am for a live performance in Dubai.

92. Fernandez informed the Plaintiffs that the performance fee for Will.I.Am was \$385,000.00 and all the Plaintiffs had to pay the Defendants to secure the performance of Will-I-Am in Dubai on March 29, 2013 was an additional sum of \$125,000.00.

93. Fernandez promised Warnert that he had already confirmed the performance fee with Will-I-Am's management and had confirmed the artist's availability to perform in Dubai on March 29, 2013.

94. Before Warnert would pay an additional \$125,000, he required a written contract for the performance.

95. On or about January 25, 2013, Fernandez sent Warnert a contract between Infigo and Will.I.Am for the performance of Will.I.Am March 29 in Dubai to Plaintiffs.

96. The contracting party for the artist was "Will.I.Am c/o Red Entertainment Agency". Upon information and belief, Fernandez executed the contract on behalf of and as the authorized agent of Will.I.Am.

97. In reliance of Fernandez's representations and promises detailed above, the terms and conditions of the written agreement issued by the Defendants and the signature on behalf of Will.I.Am thereon; on or around February 2013 the Plaintiffs wired an additional payment of \$125,000.00 to the Defendants and into the Red Group bank account to be held in trust.

98. With this payment of \$125,000, the Plaintiffs had paid to the Defendants and the Defendants were in possession of \$400,000 USD.

99. Not long after the contract was issued by the Defendants and the Plaintiffs payment to the Defendants of \$125,000 USD, Fernandez told Warnert that he was unable to confirm Will.I.Am's performance on March 29, 2013, or thereafter, in Dubai and informed the Plaintiffs that the concert would not take place as promised.

100. When Fernandez informed Warnert of the latest "cancellation" by Will.I.Am, Warnert demanded the immediate return of the entire \$400,000 USD it had paid to the Defendants in connection with all of the above artists and concerts.

101. Despite the Plaintiffs repeated and continuous demand for payment, the Defendants have failed to return the Plaintiff's money, providing no reasonable explanation for their non-payment.

102. Thereafter, Fernandez became increasingly difficult reach and ignored Warnert's emails, texts and phone calls for months.

103. Having not received payment from the Defendants, in or around June of 2013 the Plaintiffs retained counsel to enforce their rights and facilitate the Defendants payment of the \$400,000 USD to the Plaintiffs.

104. In or around July of 2013, the Defendants acknowledged their debt to the Plaintiffs and agreed to make payments and pay interest on the amount owed to the Plaintiffs,

105. After providing the Defendants with a written settlement agreement, the Defendants made partial payments to the interest and penalties owed to the Plaintiffs in an amount not more than \$100,000 USD.

106. After making partial payments as agreed, the Defendants disappeared, and would not return emails and/or phone calls from the Plaintiffs. The Defendants did not make any additional payments.

107. Despite the promises Fernandez made that the Defendants would pay the Plaintiffs the full \$400,000 USD, plus interest and penalties, to date the Defendants have failed to pay the Plaintiffs in full.

108. The Defendants have failed to pay to the Plaintiffs an amount not less than \$300,000.00 USD in connection with its failed attempts to book the artists detailed above.

109. The Defendants have failed to pay to the Plaintiffs all interest due and owing to the Defendants from March 29, 2013 to date.

110. As the result of the Defendants actions and failure to make payment of the full \$400,000 USD to the Plaintiffs, the Plaintiffs have been damaged in an amount to be determined at trial, but in no event less than \$300,000, plus interest, penalties and fees.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Unjust Enrichment as against All Defendants)

111. Plaintiffs repeat and re-allege the allegations as set forth and contained in paragraphs 1 through 110 of this Complaint.

112. As alleged above, the Defendants have been unjustly enriched in amount not less than \$300,000.

113. The Defendants benefitted at the expense of the Plaintiffs by and through their receipt of payment in the amount of \$400,000 dollars from the Plaintiff.

114. Of the money paid to the Defendants, only 40,000.00 was payment for the services the Defendants agreed to perform on behalf of the Plaintiffs, specifically the Defendants were to book the performance of the aforementioned recording artists.

115. The \$40,000 payable to the Defendants was contingent and dependent upon the Defendant's successful booking and performance of the recording artists.

116. The balance of the funds paid by the Plaintiff, \$360,000.00, was only paid to the Defendant as the agent of the aforementioned recording artists and the Defendants were required to pay the \$360,000 to one or more artists pursuant to the written agreements issued by the Defendants.

117. The \$360,000 payable to the Artists in care of the Defendants was contingent and dependent upon the Artist's agreement to perform and subsequent performance at the Plaintiff's concerts.

118. As alleged above, the Defendants did not perform the services which they were engaged to perform, specifically, the Defendants did not successfully book any of the aforementioned artists.

119. As alleged above, the Artists did not agree to perform at and/or cancelled their respective performances at one or more concerts in Dubai promoted by the Plaintiffs. To be certain, not one of the artists performed at any of the concerts promoted by the Plaintiffs.

120. As a result of the Defendants failure to book the aforementioned artists, the cancellation of one or more performances of the artists and ultimately the undisputed fact that none of the artists performed at Plaintiffs concerts, the Defendants were not entitled to payment of a commission, in the amount of \$40,000.00 or otherwise and the artists were not entitled to payment of any portion of their respective artists fees paid by the Plaintiffs, the \$360,000 in whole or in part and which were being held by the Defendants in trust for the Plaintiffs.

121. As a result of the Plaintiffs payment, the Plaintiffs had an expectation that the services would be performed by the Defendants and that the artists would perform at one or more of the Plaintiff's concert.

122. Furthermore, the Plaintiffs had an expectation and a right to receive a refund of the entire \$400,000 from the Defendants if the Defendants failed to book one or more of the aforementioned artists and/or the artists failed to perform.

123. Notwithstanding the foregoing and despite due demand that the \$400,00.00 be returned to the Plaintiffs, the Defendants have failed to return/pay to the entire \$400,000 the

Defendants received from the Plaintiffs in connection their promise to book the performance of the aforementioned artists.

124. The Defendants have made partial payment to the Plaintiffs of the \$400,000 but to date have unlawfully retained and continue to unlawfully retain an amount equal to or greater than \$300,000 of the Plaintiffs money.

125. By the Defendants failure to remit the entire balance of the \$400,000 to the Plaintiffs, the Defendants have been unjustly enriched at the expense of the Plaintiffs, in an amount to be determined at trial, but in any event in an amount not less than Three Hundred Thousand (\$300,000) Dollars, plus interest from March 29, 2013, fees and costs.

126. In addition to the foregoing and as a direct and proximate result of the Defendants unjust enrichment and unlawful retention of the Plaintiffs money, the Plaintiffs have suffered punitive damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION

(Promissory Estoppel as against all Defendants)

127. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs I through 126 as if fully set forth herein.

128. As provided in detail above, the Defendants made clear and unambiguous promises to the Plaintiffs, upon which it was reasonable and foreseeable that the Plaintiffs would rely thereon, and the Plaintiff's reliance on those promises made by the Defendants caused Plaintiffs to suffer monetary damages.

129. During their various communications Fernandez made representations to Warnert that he was the authorized representative and/or had authority to book the live performances of Lil Wayne, Chris Brown, Enrique Iglesias and Will.I.Am in Dubai on the dates detailed above.

130. Fernandez promised that the above artists would appear and perform at concerts promoted by the Plaintiffs on the dates specified above if the Plaintiff made the payments detailed above and identified in the contracts issued by the Defendants.

131. Fernandez promised to hold the money paid by the Plaintiffs in trust until the date the monies were due pursuant to each of the agreements the Defendants issued on behalf of the Artists.

132. In reliance upon such representations and in good faith Plaintiffs paid the collective sum of \$400,000 to the Defendants.

133. Despite the Defendants express promises, the Defendants did not have authority to book any of the artists and not one of the four artists performed in Dubai at a concert promoted by the Plaintiffs.

134. Despite due demand, to date the Defendants have failed to pay all of the money paid to it by the Plaintiffs and have not made paid any of the \$400,000 it received from the Plaintiffs to any of the aforementioned artist.

135. Notwithstanding the Plaintiffs numerous demands for the return of the \$400,000. to date the Defendants have only paid the Plaintiffs in full and continue to unlawfully retain an amount not less than \$300,000.

136. Defendants knew the Plaintiffs were relying on their representations and made them with the purpose of causing the Plaintiff to make payments to the Defendants in the amount of \$400,000.

137. The Plaintiff, as a result of its reliance on the Defendants representations and promises, have been damaged in an amount to be determined at trial but not less than Three Hundred Thousand (\$300,000.00) Dollars, plus interest, costs and fees.

THIRD CAUSE OF ACTION

(Fraud in the Inducement as against Carlos Fernandez)

138. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 137 as if fully set forth herein.

139. Armed with the knowledge of Warnert's trust in him due to their existing and long standing relationship, Fernandez communicated directly with Warnert with the intent to deceive and mislead Plaintiffs and to induce Plaintiffs to pay over to Defendants the sum of \$400,000.00.

140. During their various communications, defendant Fernandez knowingly misrepresented to Warnert, among other things, that Red Group and Red Agency had the requisite legal authority to act as agent on behalf of the recording artists professionally known as (i) Lil Wayne; (ii) Chris Brown; (iii) Enrique Iglesias; and (iv) Will.I.Am in connection with one or more concerts which would take place in Dubai, United Emirates at various times in 2011, 2012 and/or 2013 and Plaintiff was compelled to pay to the Defendants a total of \$400,000.

141. Fernandez misrepresented to Warnert that he had confirmed the performance of the aforementioned artists on the dates detailed above and as provided for in the written agreements issued by the Defendants.

142. Fernandez misrepresented to Warnert that the defendants had authority to issue written performance contracts and accept payment of performance fees on behalf of the aforementioned artists,

143. Fernandez drafted numerous letters to the Plaintiffs which confirmed their purported authority and imposed deadlines for the Plaintiffs to make payments for artists they had no authority to book.

144. The Plaintiffs relied on the representations made by Fernandez as to the Defendants legal authority to book each of the artists and as a result of his reliance on these representations and documents drafted by Fernandez supporting these representations, made a series of payments to the Defendants totaling \$400,000.

145. Each time after the Plaintiffs made a payment; Fernandez would cancel the concerts and represent to Warnert that the Defendants had authority and access to a suitable artist to replace the one that had just “cancelled” its scheduled performance.

146. Of the four artists that the Defendants accepted payments from the Plaintiffs for and which they purported to book for the Plaintiffs, not one appeared and performed at a concert in Dubai that was promoted by the Plaintiff.

147. After payment of the \$400,000 to Defendants, the Plaintiffs learned that Fernandez had misled them as to Red Group and Red Entertainment’s authority to act as agents on behalf of the contracted for musical performers.

148. Fernandez purposefully concealed from Warnert that Red Group and Red Entertainment lacked of authority to book the aforementioned artists so as to fraudulently induce Plaintiffs to pay the Defendants \$400,000.

149. The foregoing misrepresentations on the part of Fernandez were made with a preconceived and undisclosed intention of taking the Plaintiffs deposits and using the money for the Defendants personal gain and business advantage.

150. Fernandez knew the representations were false when made and that the Defendants had no intention of complying with the representations so made and had no authority or capability of complying with the representations made, specifically to book the aforementioned artists to perform at one or more concerts in Dubai for the benefit of Plaintiffs.

151. Plaintiffs have since come to learn that Defendants have engaged in a systematic practice of taking money from concert promoters outside of the United States and failing to deliver the performers. More specifically, upon information and belief the Defendants have similarly induced concert promoters to deliver to them hundreds of thousands of dollars without delivering the requisite performers.

152. The Defendants' conduct as set forth herein was willful, unlawful and was directed toward the Plaintiff and was knowingly and intentionally engaged in for the purpose of depriving Plaintiff of its money and caused the losses set forth herein.

153. Fernandez knew his representations were false when made.

154. Defendants' conduct as set forth herein constitutes common law fraud.

155. Plaintiffs have been damaged by Defendants' fraudulent conduct in an amount not less than Three Hundred Thousand (\$300,000) Dollars, plus interest, costs and attorney's fees.

156. Also, as a consequence of the severity of Fernandez's actions, and as a matter of public policy and so as to deter other entities from engaging in similar actions, Plaintiffs are entitled to punitive damages in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

(Fraud in Concealment as against All Defendants)

157. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 158 as if fully set forth herein.

158. Prior to entering into a relationship with Plaintiffs, the Defendants knowingly and intentionally concealed the Defendants lack of authority to book the live performances of the foregoing artists and other information from Plaintiff, with the intent to deceive and mislead Plaintiff and to induce it to enter into an agreement, foregoing other opportunities with entities capable of performing the services.

159. Defendants acted with malice toward Plaintiffs and with willful disregard for the truth and for Plaintiff's welfare.

160. Defendants engaged in a scheme to defraud Plaintiffs and perpetuated their scheme by concealing material facts and information.

161. Fernandez purposefully concealed the Red Group and Red Entertainment's lack of authority to Warnert so as to fraudulently induce the Plaintiffs to pay the Defendants \$400,000.

162. As a direct and proximate result of the foregoing fraud and concealment Plaintiffs have suffered damages in an amount not less than Three Hundred Thousand (\$300,000.00) Dollars, the exact amount to be proven at trial.

163. Also, as a consequence of the severity of Defendants' actions, and as a matter of public policy and so as to deter other entities from engaging in similar actions, Plaintiffs are entitled to punitive damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

(Breach of Fiduciary Duty as against all Defendants)

164. Plaintiffs repeat and re-allege the allegations as set forth and contained in paragraphs 1 through 165 of this Complaint.

165. By virtue of its role as booking agent, a special relationship between the Plaintiffs and the Defendants was formed.

166. As agent for the parties to each performance agreement, the Defendants were in a position of trust and owed a fiduciary duty to the Plaintiffs, specifically with respect to the artist performance fees which the Plaintiff deposited into the Red Group bank account at the request and direction of Fernandez.

167. The Plaintiffs placed special trust and confidence in the Defendants to collect and pay the performance fees for each of the above artists.

168. Fernandez agreed on behalf of the Defendants, to hold all performance fees deposited into the Red Group bank account by the Plaintiffs in trust until such time the monies were to be paid pursuant to each performance agreement

169. Additionally, Fernandez agreed on behalf of the Defendants, to hold in trust, all performance fees deposited into the Red Group bank account by the Plaintiffs at all times the Defendants were attempting to find an artist to replace the previous artist.

170. Fernandez requested that the funds remain in the Red Group bank account until such time the Plaintiffs entered into an agreement which provided for the disbursement of the funds being held.

171. Furthermore, as agent, to the extent that the Defendants received sums of money from the Plaintiffs for the payment of performance fees to the aforementioned artists, they held such monies as fiduciaries and trustees for the benefit of Plaintiffs as the Defendants had no right, title or interest in said monies.

172. The Defendants had a duty of care, a duty of loyalty and duty of honesty to the Plaintiffs, and as such had affirmative duties to protect the deposits made by the Plaintiffs and an affirmative duty to withhold payment of the deposits by Plaintiffs to one or more artists until such time of each artists performance and had an affirmative duty not to use any portion of those deposits for the personal use or business expenses of the Defendants.

173. The Defendants breached their fiduciary duties to the Plaintiff, including their duty of care, duty of loyalty and duty of honesty, by self-dealing and advancing their own financial interests over the Plaintiffs' and by using the Plaintiff's money to pay personal and/or business expenses.

174. By reason of the foregoing, the Plaintiffs have sustained actual damages in amount not less than Three Hundred Thousand (\$300,000) Dollars.

175. Additionally, as the acts, practices and course of conduct in which the Defendants have engaged are willful and malicious; the Plaintiffs are entitled to exemplary and punitive damages in an amount to be set by the trier of fact.

JURY DEMAND

The Plaintiffs demand a trial by jury on all causes of action alleged herein.

PRAYER FOR RELIEF

WHEREFORE, the plaintiffs, INFIGO 360 FZ, LLC d/b/a INFIGO - 360 EVENTS & MEDIA SOLUTIONS and ROBERTO WARNERT demand judgment against the Defendants as follows:

(a) On the first, second, third, fourth and fifth causes of action that Plaintiffs be awarded compensatory damages from the Defendants, jointly and severally, in an amount to be determined at trial, but that is not less than Three Hundred Thousand (\$300,00.00) Dollars:

(b) On the first, second, third, fourth and fifth causes of action that Plaintiff's be awarded punitive and exemplary damages from the Defendants, jointly and severally, in an amount to be determined at trial;

(c) together with pre- and post-judgment interest, attorneys' fees, costs and disbursements as provided by law and such other and further relief as the court deems just and

DATED: December 15, 2016
New York, New York

JEKIELEK & JANIS, LLP

By: Jon Jekielek
Jon D. Jekielek, Esq.
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Attorneys for Plaintiffs

VERIFICATION

COUNTY OF NEW YORK)
) ss.:
STATE OF NEW YORK)

Jon D. Jekielek, being duly sworn, deposes and says:

I am the attorney of record for plaintiffs Roberto Warnert and Infigo 360 FZ, LLC d/b/a Infigo-360 Events & Media Solutions this action. I have read the contents of the annexed Verified Complaint and that the same is true to my own personal knowledge based upon the facts and information provided to me by the defendant, except as to those matters stated therein to be alleged on information and belief, and as to those matter I believe to be true.

I make this verification pursuant to CPLR 2106 and in lieu of the plaintiffs because Infigo is a foreign limited liability company which maintains its principal place of business outside of New York County and outside of the United States and its principal, plaintiff Warnert, resides outside of the United States and New York County, where I maintain my offices and the county which this action has been brought.

Dated: New York, New York
December 15, 2016



Jon D. Jekielek, Esq.