

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY SANTOS and I LOVE AMIGUITA
INC., as successor-in-interest to PALABRAS DE
ROMEO ENTERTAINMENT, INC.,

Plaintiffs,

vs.

ANGELO MEDINA, also known as ANGELO
MEDINA MERCADO, and PUBLIMAGEN DE
ASESORES, INC,

Defendants.

Civil Action No.

COMPLAINT

Plaintiffs, Anthony Santos and I Love Amiguita Inc., as successor-in-interest to Palabras de Romeo Entertainment, Inc. (collectively, “Plaintiffs” or “Santos”), by and through their undersigned counsel, Reed Smith, LLP, hereby allege as follows against Defendants Angelo Medina, also known as Angelo Medina Mercado (“Medina”), and Publimagen De Asesores, Inc. (“Publimagen,” and together with Medina, “Defendants”):

SUMMARY OF THE ACTION

1. This action concerns the theft of monies and breach of an agreement by Defendants in connection with their service as booking agent for live concert performances by Santos, including, but not limited to, concerts in June and July 2015.

2. Pursuant to the parties’ agreement and as reflected in the parties’ historical course of conduct, Defendants were entrusted with responsibility for booking Santos’ performances at various concert venues, including booking concert dates for Santos’ *Vol. 2 World Tour*, which took place in Spring and Summer 2015. Defendants also bore responsibility for negotiating the fees for Santos’ performances, collecting those fees on Santos’ behalf, and then distributing the fees collected as Santos instructed and directed.

3. In exchange for those services, Defendants earned a commission equal to 10% of the total fees Santos earned as a result of the live concert performances Defendants booked on his behalf.

4. Beginning in June 2015 and continuing through July 2015, Defendants booked fifteen live concerts on Santos' behalf in various locations throughout the United States and Canada (referred to, collectively, as the "June and July 2015 Concerts" and further described below). Consistent with the parties' agreement and as reflected in their historical course of conduct, Defendants collected the fees that Santos earned for those performances and, after retaining their 10% commission, were contractually obligated to remit the remainder of those fees as Santos directed and instructed, including remitting a payment to Sony Music Entertainment U.S. Latin LLC ("Sony"), Santos' exclusive recording label.

5. In connection with the June and July 2015 Concerts, Santos directed Defendants to remit \$481,146.11 to Sony on his behalf.

6. Although Defendants collected the fees earned by Santos in connection with the June and July 2015 Concerts, in breach of the parties' agreement, Defendants have not remitted any payments to Sony as Santos instructed and directed.

7. Instead, Defendants have breached the parties' agreement and retained \$481,146.11 for themselves and/or for their benefit.

8. Plaintiffs accordingly bring this action for breach of contract, unjust enrichment and conversion to recover \$481,146.11 collected by Defendants in connection with the June and July 2015 Concerts on account of live performances by Santos, which Defendants have not distributed as Santos has directed and instructed, and which they have improperly withheld.

PARTIES

9. Plaintiff, Anthony Santos, is an individual residing in Rockland County, New

York.

10. Plaintiff, I Love Amiguita Inc., as successor-in-interest to Palabras de Romeo Entertainment, Inc., is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Rockland County, New York.

11. Defendant Publimagen is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico with its principal place of business at 1412 Americo Salas, San Juan, Puerto Rico, 00910-8319. Publimagen regularly transacts business within the State of New York, including contracting to provide services to and acting as agent for Santos, a New York resident, as further described below, as well as, upon information and belief, other artists resident in the State of New York.

12. Defendant Medina is an individual who, upon information and belief, resides in San Juan, Puerto Rico. Medina regularly transacts business within the State of New York, including contracting to provide services to and acting as agent for Santos, a New York resident, as further described below, as well as, upon information and belief, other artists resident in the State of New York.

13. At all relevant times, Medina served as a president of Publimagen.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

15. Defendants are subject to personal jurisdiction because, as set forth below: (i) Defendants transacted business in this State and/or contracted to provide services in this State and the claims at issue arise from that conduct; (ii) the misconduct alleged occurred within this State and the claims arise from that misconduct; and (iii) the claims at issue arise from conduct

that caused injury in this State and (a) Defendants regularly do business, solicit business, engage in a persistent course of conduct within this State, and/or derive substantial revenue from services rendered in this State; and (b) Defendants expected and/or should have reasonably expected their conduct to have consequences in this State and Defendants derive substantial revenue from interstate commerce.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

STATEMENT OF RELEVANT FACTS

A. The Parties' Agreement and Historical Course of Conduct

17. Beginning in or around 2010, the parties' agreed that Defendants would serve as Santos' booking agent. As booking agent, Defendants worked on Santos' behalf as the "middlemen" between Santos and the venues where he held his concerts.

18. In connection with his role as booking agent, Defendant Medina often traveled to New York on his own behalf and on behalf of Publimagen in order to meet with Santos and his representatives to discuss their business dealings and Santos' past performances as well as to strategize about booking future live performances.

19. As booking agent, Defendants were responsible for, among other things, scouting venues for Santos' performances to enable Santos to perform in locations that would help build his fan base.

20. Defendants also negotiated on Santos' behalf with promoters, who are responsible for booking acts at concert venues. During all relevant times, pursuant to the parties' agreement, Defendants were tasked with reserving concert dates for Santos' live performances and for negotiating his fee for those performances, including booking performances in connection with Santos' *Vol 2 World Tour* in the Spring and Summer of 2015.

21. In consideration for Defendants' services, the parties agreed that Defendants would earn a commission, which was set at 10% of the gross amount Santos earned for his live performances at each concert that Defendants booked.

22. At all relevant times, in their role as booking agent, Santos entrusted Defendants to collect the fees earned by Santos for his performances and, then, after deducting their commission, to hold those fees on Santos' behalf and distribute them as Santos directed.

23. At all relevant times over the course of Defendants' tenure as Santos' booking agent, after receiving payment for Santos' performances, Defendants were directed by Santos to retain a 10% commission and then to distribute the remainder as Santos directed, including remitting a payment to Santos' recording label, Sony.

24. During all relevant times, Sony regularly sent invoices to Defendants seeking payment from Defendants of a certain portion of the total amount collected for performances Defendants booked on Santos behalf.

25. At all relevant times prior to June 2015, Defendants did, in fact, collect the fees earned by Santos for live performances that Defendants booked.

26. At all relevant times prior to June 2015, Defendants retained a 10% commission and, thereafter, remitted the remainder of all fees collected on Santos' behalf at Santos' express direction, including remitting the relevant percentage of the total amount collected for Santos' performances to Sony as set forth in invoices from Sony.

B. The June and July 2015 Concerts and Defendants' Breach of Their Agreement with Santos

27. Beginning in or about June 2015 and continuing through July 2015, Defendants breached their agreement with Santos by abandoning the parties' historical course of conduct and failing to remit certain fees earned by Santos as Santos directed. Instead, in breach of their

agreement with Santos, Defendants have retained certain fees earned by Santos and belonging to Santos for themselves and/or for their own benefit.

28. Defendants booked and Santos performed a concert on June 10, 2015 in the Molson Canadian Amphitheatre in Toronto, Canada. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

29. Defendants booked and Santos performed a concert on June 12, 2015 at the Allstate Arena in Rosemont, Illinois. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

30. Defendants booked and Santos performed a concert on June 13, 2015 at the Sprint Center in Kansas City, Missouri. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

31. Defendants booked and Santos performed a concert on June 14, 2015 at the Pepsi Center in Denver, Colorado. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

32. Defendants booked and Santos performed a concert on June 18, 2015 at the Arena at Gwinnet Center in Duluth, Georgia. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

33. Defendants booked and Santos performed a concert on June 19, 2015 at the Amalie Arena in Tampa, Florida. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

34. Defendants booked and Santos performed two concerts on June 20, 2015 and June 21, 2015, respectively, at the American Airlines Arena in Miami, Florida. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for these performances. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

35. Defendants booked and Santos performed a concert on June 25, 2015 at the Patriot Center in Fairfax, Virginia. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

36. Defendants booked and Santos performed a concert on June 26, 2015 at the

Boardwalk Hall Arena in Atlantic City, New Jersey. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for this performance. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

37. Defendants booked and Santos performed two concerts on June 27, 2015 and June 28, 2015, respectively, at The Grand Theater at Foxwoods in Mashantucket, Connecticut. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for these performances. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

38. Defendants booked and Santos performed concerts at the Barclays Center in Brooklyn, New York on July 10, 2015, July 11, 2015 and July 12, 2015. Consistent with the parties' course of dealing, Defendants collected the fees earned by Santos for these performances. Santos directed Defendants to retain a 10% commission and to remit the remainder as Santos directed, including a payment to Sony. Defendants ignored Santos' instruction and direction and no payment has been remitted to Sony.

39. Consistent with the parties' prior practice, Sony sent invoices to Defendants seeking payment of \$481,146.11 for the June and July 2015 Concerts.

40. Consistent with the parties' prior practice, Santos directed Defendants to remit \$481,146.11 to Sony on account of the June and July 2015 Concerts.

41. Notwithstanding the parties' historical course of dealing and Santos' express direction that a portion of the total fees he earned as a result of the June and July 2015 Concert

Performances be remitted to Sony, Defendants have failed to remit any payments to Sony as Santos directed and instead have retained \$481,146.11 for themselves and/or for their benefit.

42. Santos has made numerous demands that Defendants remit the \$481,146.11 at issue to Sony, including by letters from his counsel to Defendants dated January 23, 2018, January 25, 2018 and February 22, 2018. Defendants have neither responded to the demands nor remitted the money at issue as Santos has instructed.

FIRST CAUSE OF ACTION
BREACH OF CONTRACT

43. Plaintiffs repeat the foregoing allegations as if set forth fully herein.

44. Pursuant to parties' agreement, as evidenced by their historical course of conduct, Defendants served as booking agent for Santos.

45. As reflected in the parties' historical course of conduct, Defendants booked live performance engagements for Santos, negotiated the fees Santos would earn for those performances and collected those fees on Santos' behalf.

46. Upon collecting those fees, Defendants were required to and, at all times prior to June 2015 did, distribute those earnings at Santos' instruction and direction.

47. In exchange for their services, Defendants earned a commission totaling 10% of the total fees Santos earned for each live performance that Defendants' booked on Santos' behalf.

48. Consistent with the parties' agreement, Defendants collected fees earned by Santos for the June and July 2015 Concerts.

49. Upon collecting those fees, Santos instructed and directed Defendants to retain a 10% commission and to distribute a portion of the total fees earned to Sony.

50. In breach of the parties' agreement, Defendants have not remitted any payments

to Sony as Santos directed.

51. As a result of Defendants' breaches, Santos has been damaged in the amount of \$481,146.11 plus interest, costs and attorneys' fees.

SECOND CAUSE OF ACTION
UNJUST ENRICHMENT

52. Plaintiffs repeat the foregoing allegations as if set forth fully herein.

53. At all relevant times, Defendants served as booking agent for Santos.

54. As set forth above, Defendants collected all fees earned by Santos in connection with the June and July 2015 Concerts and were entrusted to hold those fees on Santos' behalf and distribute them at Santos' direction.

55. As set forth above, Defendants were entitled to retain 10% of all amounts collected on account of the June and July 2015 Concerts and were required to remit the remainder of the amount collected as directed by Santos.

56. As set forth above, Defendants have failed to comply with Santos' instructions and have retained \$481,146.11 for themselves and/or for their benefit to which they are not entitled.

57. Accordingly, Defendants have been unjustly enriched at Santos' expense and Santos has been damaged in the amount of \$481,146.11 plus interest, costs and attorneys' fees.

THIRD CAUSE OF ACTION
CONVERSION

58. Plaintiffs repeat the foregoing allegations as if set forth fully herein.

59. At all relevant times, Defendants collected all fees earned by Santos in connection with the June and July 2015 Concerts.

60. As set forth above, Defendants were entitled to retain 10% of all amounts collected on account of the June and July 2015 Concerts and were required to remit the

remainder of the amount collected as directed by Santos.

61. As set forth above, Defendants have failed to comply with Santos' instructions and have retained \$481,146.11 to which they are not entitled for themselves and/or for their benefit.

62. Defendants have not returned the \$481,146.11 at issue despite Santos' due demand.

63. By these acts, Defendants have wrongfully asserted dominion and control Santos' assets without Santos' permission or consent.

64. As a result of Defendants' wrongful conduct, Santos has been damaged in the amount of \$481,146.11 from Defendants plus interest, costs and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Anthony Santos and I Love Amiguita Inc., as successor-in-interest to Palabras de Romeo Entertainment, Inc., demand the following relief: (i) on the First Cause of Action for Breach of Contract, judgment in their favor in the amount of \$481,146.11 plus interest, costs and attorney's fees; (ii) on the Second Cause of Action for Unjust Enrichment, judgment in their favor in the amount of \$481,146.11 plus interest, costs and attorney's fees; and (iii) on the Third Cause of Action for Conversion, judgment in their favor in the amount of \$481,146.11 plus interest, costs and attorney's fees; and (iv) such other, further, and different relief as this Court deems just and proper

Dated: March 26, 2017
New York, New York

REED SMITH LLP

/s/ Jordan Siev

Jordan W. Siev
599 Lexington Avenue
New York, NY 10022-7650
Telephone: +1 212 521 5400
Facsimile: +1 212 521 5450

*Counsel for Plaintiffs Anthony Santos and I
Love Amiguita Inc., as successor-in-interest to
Palabras de Romeo Entertainment, Inc.*