

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**PIPELINE PRODUCTIONS, INC., and )  
BACKWOOD ENTERPRISES, LLC, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
THE MADISON COMPANIES, LLC, )  
and HORSEPOWER )  
ENTERTAINMENT LLC. )  
 )  
Defendants. )**

**CASE NUMBER**

**5:15-CV-4890**

**DESIGNATION OF PLACE OF TRIAL**

The designated place of trial is Topeka, Kansas.

**COMPLAINT DAMAGES AND FOR DECLARATORY RELIEF**

Plaintiffs, Pipeline Productions, Inc., and Backwood Enterprises, LLC, (“Pipeline/Backwood”) complain of Defendants, The Madison Companies, LLC, and Horsepower Entertainment, LLC, (“Madison”) showing the Court:

**I. PARTIES, JURISDICTION AND VENUE**

1. Pipeline is a Kansas corporation that has its principal place of business in Lawrence, Kansas.
2. Backwood is an Arkansas limited liability corporation that has its principal place of business in Lawrence, Kansas.
3. Defendant Madison is a Delaware limited liability company that has its principal place of business in Greenwood Village, Colorado.

4. Defendant Horsepower is a Delaware limited liability company that is a wholly owned subsidiary of Madison and has its principal place of business in Greenwood Village, Colorado.

5. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332, 28 U.S.C. §2201, FRCP 57, and venue is proper in this Court pursuant to 28 U.S.C. Section §1391(a).

## **II. FACTUAL ALLEGATIONS**

7. The primary person who has engaged in the business of Pipeline/Backwood is Brett Mosiman (“Mosiman”). Pipeline/Backwood, through Mosiman, is, and for 25 years, has been successfully engaged in the business of live music, concert, and music festival production.

8. Pipeline/Backwood have been told by agents of Madison, and believe, that the primary business of Madison is venture capital and investments.

9. During January 2014 Mosiman met Bryan Gordon (“Gordon”), who represented that he was the primary principal of Madison. Gordon told Mosiman that Madison wanted to involve itself as a partner with Mosiman in music festival production opportunities using Mosiman’s developed reputation and expertise, and Madison’s financial resources. Gordon proposed to Mosiman that Madison and Mosiman’s affiliated companies Pipeline/Backwood, could form a jointly owned company through which they could produce music festivals on an ongoing basis. Throughout the time Mosiman had dealings with Gordon, Madison has acted to make Gordon appear to have authority to bind Madison to agreements with Mosiman and

Pipeline/Backwood. Gordon has at all times acted with the apparent and ostensible authority to bind Madison.

10. Between February 2014 and October 23, 2014 Mosiman and Gordon discussed a number of different proposals but failed to reach, or finalize, any binding overarching agreement. A non-binding letter of intent, dated July 28, 2014 (“July 28 LOI”), was signed by Mosiman individually, and on behalf of Pipeline/Backwood, and by Madison, but was subsequently revoked by Madison, on October 23, 2014, when Madison proposed a materially different agreement. On November 4, 2014 Mosiman and Pipeline/Backwood accepted Madison’s October 23, 2014 revocation of the July 28 LOI, which had already expired of its own terms on November 1, 2014.

11. Following Madison’s October 23 notification that the July 28 LOI had been revoked, on November 4, 2014, Mosiman sent an email to Gordon proposing a joint venture agreement between Pipeline/Backwood and Madison for the limited purpose of owning and producing the *Thunder on the Mountain* music festival (“*Thunder*”) scheduled for June 26-28, 2015. (Attached hereto as Exhibit A.) Mosiman’s November 4 proposal required Madison to provide funding for *Thunder* through payment to Pipeline/Backwood of \$700,000 for the purchase of a 51% interest in *Thunder*, and a \$500,000 advance of operating capital for *Thunder*, and payment of certain operating expenses.

12. In a series of several telephone calls during the several days between November 4 and November 6, on behalf of Madison, Gordon orally accepted a slightly modified version of Mosiman’s November 4 proposal, and Gordon agreed, *inter alia*, that Madison would pay Pipeline/Backwood \$750,000 for a 51% interest in *Thunder*, that Madison would fund \$500,000

of operating capital for the festival, and that Madison would pay Pipeline/Backwood \$80,000 to operate and produce the festival.

13. Following these oral discussions, on November 6, 2014 Mosiman sought confirmation from Gordon that Mosiman could give assurance on behalf of the joint venture to music artists, and that Madison would pay artists on commitments to appear at *Thunder*. Gordon's response to Mosiman was: "Do it, Please!" (Attached as Exhibit B.) Mosiman, as Pipeline/Backwood, would not have pursued production of *Thunder* but for Madison's commitment to the terms of the November 4 proposal, as modified. Thereafter, and pursuant to the agreement outlined in the November 4, 2014 email (Exhibit A), as modified during the November 4-6 telephone conversations between Gordon and Mosiman, over a five month period from November 2014 through May 2015 Pipeline/Backwood personnel have spent more than 4000 hours producing *Thunder* by taking the ordinary and expected actions needed to do so, including: creation of infrastructure; contracting with vendors; setting up ticketing; organizing and announcing the sale of tickets; marketing; producing and placing bill boards and other advertising; producing video clips for dissemination to the media and on the internet; interviews; contacting radio stations to promote *Thunder* throughout the central part of the United States, focused specifically, in Texas, Oklahoma, Kansas, Arkansas, and Missouri. During this time Mosiman used his industry contacts to obtain commitments from approximately 50 artists, and Madison funded \$272,000 of its operating capital commitment for *Thunder* by making music artist deposit payments directly to artists upon advices it received from Pipeline/Backwood. During November 2014 through May 2015 Pipeline/Backwood kept Madison informed of the progress of *Thunder*, including daily detailed advice of advance ticket sales, by email and telephone communications with more than a dozen agents and employees of Madison, who were

in daily contact with an equal number of Pipeline/Backwood employees on matters relating to production of the Thunder festival, which contacts are reflected in thousands of contemporaneous emails.

14. In reliance upon Gordon's acceptance of the November 4 proposal, and Madison's conduct in funding the initial \$272,000 of its \$500,000 operating capital commitment, Pipeline/Backwood has performed, and continues to perform, the work required of Pipeline/Backwood to produce *Thunder*.

15. By reason of their November 4 agreement Pipeline/Backwood and Madison became joint venturers together, and Pipeline/Backwood and Madison owe reciprocal fiduciary duties to each other.

16. The expectation in the industry is that music festivals require several years of brand development to achieve profitability. *Thunder* was produced in 2013, was not produced in 2014, and is scheduled for production in 2015. It would be expected that *Thunder* might not be profitable in 2015. From date of first sale Madison has received daily email advice of advance ticket sales from which it forecasted that *Thunder* would generate a loss in 2015. Since learning of the projected loss Madison has attempted to re-characterize its investment in *Thunder* as a loan, and has repudiated the agreement it made on November 4-6, 2014.

17. Madison has refused to fulfill its commitment to provide \$500,000 to produce *Thunder*, or to fund its purchase of a 51% interest in *Thunder*, or fulfill its commitment to pay Pipeline/Backwood \$80,000 for operating costs. Madison has attempted to use non-performance of its contractual obligations to force Pipeline/Backwood to give Madison a better deal from *Thunder* than agreed during November 4-6. In doing so Madison has breached its fiduciary duty to Pipeline/Backwood and has acted in bad faith.

18. Madison has informed Pipeline/Backwood that Madison will not perform its obligations under the terms of the agreement.

19. Because Madison withheld funding due under the agreement Pipeline/Backwood has been forced to cover Madison's default by paying over \$700,000 in production costs needed for *Thunder*.

20. Madison has breached its agreement with Pipeline/Backwood and thereby damaged Pipeline/Backwood in the unpaid amounts due from Madison under the agreement.

21. Madison has breached its agreement with Pipeline/Backwood by failing to advance the balance of \$228,000 of operating capital due under the agreement, together with Madison's proportionate share of operating capital, forcing Pipeline/Backwood to cover by advancing its own funds, all of which has damaged Pipeline/Backwood.

22. By reason of its material breach of contract, and breach of fiduciary duty, Madison has harmed Pipeline/Backwood and is not entitled to any legal or equitable interest in, or financial benefit from, *Thunder*.

23. By reason of its material breach of contract, and breach of fiduciary duty, Madison has forfeited its contribution to the operating capital for *Thunder*.

### **III. CLAIMS FOR RELIEF**

#### **COUNT I - BREACH OF CONTRACT**

24. Pipeline/Backwood incorporates and re-alleges the foregoing 23 paragraphs as if fully set forth herein.

25. Madison made a contract with Pipeline/Backwood that it has breached and anticipatorily repudiated.

26. Madison is indebted to Pipeline/Backwood in the amount of \$750,000, the unpaid balance of production commitments Pipeline/Backwood totaling \$80,000, the unpaid balance of its capital commitment of \$228,000, and Madison is further indebted to Pipeline/Backwood for any losses that may be suffered from the production of *Thunder*.

27. Madison has forfeited its capital contribution to *Thunder*.

WHEREFORE, Plaintiffs pray that this Court:

(a) Award Pipeline/Backwood damages for such breach in such amount as the evidence may show; and

(b) Grant such further relief, including attorney fees and costs, as may be necessary or appropriate.

#### **COUNT II - BREACH OF FIDUCIARY DUTY**

28. Pipeline/Backwood incorporates and re-alleges the foregoing 27 paragraphs as if fully set forth herein.

29. Pipeline/Backwood and Madison entered into a joint adventure to produce the *Thunder* music festival.

30. By entering into the agreement with Madison to own and operate *Thunder*, Pipeline/Backwood believed, and reasonably relied upon the belief, that Madison would participate in the joint venture by providing a full, fair and honest disclosure of everything affecting the joint venture.

31. Madison breached its agreement with Pipeline/Backwood with the purpose of ‘strong-arming’ Pipeline/Backwood into a new agreement with terms that would be more favorable to Madison.

32. By withholding money due under the agreement at the ‘11<sup>th</sup> hour,’ Madison attempted to gain leverage to the disadvantage of its joint venturer, Pipeline/Backwood, and in so doing, use that leverage to renegotiate the joint venture agreement with terms more favorable to Madison, for which Madison should be punished.

33. By attempting to force Pipeline/Backwood into a new agreement, after substantial performance by Pipeline/Backwood, Madison Breached his Fiduciary Duty to Pipeline/Backwood and harmed Pipeline/Backwood.

WHEREFORE, Pipeline/Backwood prays that this Court:

- (a) Award Pipeline/Backwood actual damages for such breach of fiduciary duty in such amount as the evidence may show; and
- (b) Award Pipeline/Backwood punitive damages to punish Madison; and
- (c) Grant such further relief, including attorney fees and costs, as may be necessary or appropriate.

### **COUNT III – DECLARATORY JUDGMENT**

34. Pipeline/Backwood incorporates and re-alleges the foregoing 33 paragraphs as if fully set forth herein.

35. An actual and justifiable controversy exists between the parties. Pipeline/Backwood seeks declaratory relief pursuant to 28 U.S.C. §2201, and FRCP 57.

36. Pipeline/Backwood requests a declaration by the Court that Madison made a contract with Pipeline/Backwood, that Madison has breached that contract, and has anticipatorily repudiated its agreement, and that Madison has forfeited its right to any legal or equitable interest in *Thunder*.

WHEREFORE, Plaintiffs pray that this Court:

- (a) Enter an Order of Judgment declaring that Madison made a contract with Pipeline/Backwood; and
- (b) Enter an Order of Judgment declaring that Madison has breached the contract, and has anticipatorily repudiated its contract with Pipeline/Backwood.

Respectfully submitted,

**SKEPNEK LAW FIRM, P.A.**

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**JURY DEMAND**

COME NOW, Pipeline/Backwood demand a trial by jury on all issues so triable.

**SKEPNEK LAW FIRM, P.A.**

s/ William J. Skepnek  
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**ATTORNEY FOR PLAINTIFFS**

**From:** Brett Mosiman <[brett@pipelineproductions.com](mailto:brett@pipelineproductions.com)>

**Subject:** proposal

**Date:** November 4, 2014 9:56:11 AM CST

**To:** Bryan Gordon <[bgordon@madisoncos.com](mailto:bgordon@madisoncos.com)>

Bryan,

In keeping with our mutual interest of "really wanting to work something out", here is my idea. I've thought that keeping it real simple is best. This would need to happen in weeks.

FYI - The Band Perry and Zac Brown Band have confirmed for Thunder.

Hopefully one of these options works for you and your partners.

Nate & I feel that a toe in the water is the best approach right now.

The new LOI doesn't feel right.

We propose a partnership in Thunder on the Mountain only.

There are two options outlined below for your participation.

You have all the numbers and budgets.

Option A - 50% interest

Madison invests \$1.4 million in the new co for Thunder.

Pipeline gets \$80K salary to book market and produce.

Madison gets \$40K to run books.

Option B - 51% interest

Madison pays \$700K to Pipeline for majority interest in new co

Madison funds \$500 operating capital - that can be removed when appropriate

Pipeline gets \$80K salary to book market and produce.

Madison gets \$40K to run books.

thanks,

**Brett Mosiman**

**From:** Bryan Gordon <[bgordon@madisoncos.com](mailto:bgordon@madisoncos.com)>  
**Subject: Re: Fwd: Thunder offer**  
**Date:** November 6, 2014 12:19:10 PM CST  
**To:** Brett Mosiman <[brett@pipelineproductions.com](mailto:brett@pipelineproductions.com)>, Max  
Bischmann HP <[mbischmann@horsepowerent.com](mailto:mbischmann@horsepowerent.com)>

Do it, please!

**From:** Brett Mosiman <[brett@pipelineproductions.com](mailto:brett@pipelineproductions.com)>  
**Sent:** Thursday, November 6, 2014 11:05:06 AM  
**To:** Bryan Gordon; Max Bischmann HP  
**Subject:** Fwd: Thunder offer

call if you want to discuss  
Brett Mosiman

Begin forwarded message:

**From:** Becky Gardenhire  
<[BGardenhire@wmeentertainment.com](mailto:BGardenhire@wmeentertainment.com)>  
**Subject: Re: Thunder offer**  
**Date:** November 6, 2014 11:19:41 AM CST  
**To:** Brett Mosiman <[brett@pipelineproductions.com](mailto:brett@pipelineproductions.com)>  
**Cc:** Becky Gardenhire Assistant  
<[BGardenhire\\_Asst@wmeentertainment.com](mailto:BGardenhire_Asst@wmeentertainment.com)>

Which night...Direct to Miranda?  
Miranda is a pass at 500  
She picked up album of the year, single of the year, and  
female vocalist last night! Needs to be 700k

On Nov 6, 2014, at 7:45 AM, "Brett Mosiman"

<[brett@pipelineproductions.com](mailto:brett@pipelineproductions.com)> wrote:

Becky,  
Please find an offer for Chris Young  
to play Thunder on the Mountain.  
This would be a main stage set  
direct to headliner.

thanks,  
Brett Mosiman

<Chris Young.docx>

Becky Gardenhire |  
WME [bgardenhire@wmeentertainment.com](mailto:bgardenhire@wmeentertainment.com)

[bbg@wmeentertainment.com](mailto:bbg@wmeentertainment.com) 615.  
963.3307 615.342.0714 (f)

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