

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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EMMIS RADIO, LLC D/B/A HOT 97,

Index No.: 034577/2020

Plaintiff,

ANSWER

-against-

WILLIAM BENSON GROUP, LLC D/B/A
BILLIONAIRES ROW, and D/B/A
BILLIONAIRES ROW CHAMPAGNE, AND
D/B/A BILLIONAIRES ROW, LLC

Defendant.

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Defendant by and through his attorneys, Peyrot & Associates, PC,
answering the Complaint of the Plaintiff, hereby allege as follows:

1. Defendant lacks knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "1" of the Complaint.
2. With respect to the allegations set forth in paragraph "2" Defendant only admits that it is a business with an address in the State of New York.
3. Defendant denies the allegations set forth in paragraph "3" of the Complaint
4. Defendant denies the allegations set forth in paragraph "4" of the Complaint.
5. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered "1" through "4" of this Answer with the same force and effect as though more fully set forth herein.

6. Defendant denies the allegations set forth in paragraph “6” of the Complaint.
7. Defendant denies the allegations set forth in paragraph “7” of the Complaint.
8. Defendant denies each and every allegation not specifically responded to above.

As and for a First Affirmative Defense

9. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “8” of this Answer with the same force and effect as though more fully set forth herein.
10. Plaintiff’s complaint fails to state a cause of action upon which relief may be granted, including lack of privity, and must be dismissed.

As and for a Second Affirmative Defense

11. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “10” of this Answer with the same force and effect as though more fully set forth herein.
12. Plaintiff’s complaint is barred by the doctrines of waiver and estoppel, and must be dismissed.

As and for a Third Affirmative Defense

13. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “12” of this Answer with the same force and effect as though more fully set forth herein.

14. Plaintiff's complaint is barred by the equitable doctrine of unclean hands, and must be dismissed.

As and for a Fourth Affirmative Defense

15. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered "1" through "14" of this Answer with the same force and effect as though more fully set forth herein.

16. Plaintiff's complaint is barred by the doctrine of laches, and must be dismissed.

As and for a Fifth Affirmative Defense

17. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered "1" through "16" of this Answer with the same force and effect as though more fully set forth herein.

18. Plaintiff's claims are barred in whole or in part because Plaintiff has failed to comply with applicable contractual terms and conditions.

As and for a Sixth Affirmative Defense

19. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered "1" through "18" of this Answer with the same force and effect as though more fully set forth herein.

20. Plaintiff's Complaint is barred by the culpable conduct of Plaintiff and must be dismissed.

As and for a Seventh Affirmative Defense

21. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “20” of this Answer with the same force and effect as though more fully set forth herein.
22. In the event the court determines Plaintiff is entitled to any recovery as against Defendant, Plaintiff’s recovery must be reduced by its mitigation of damages.

As and for an Eighth Affirmative Defense

23. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “22” of this Answer with the same force and effect as though more fully set forth herein.
24. For each and every allegation in the complaint, there is a defense founded on documentary evidence.
25. As such, the complaint must be dismissed.

As and for a Ninth Affirmative Defense

26. Defendant repeats and realleges each and every allegation set forth in paragraphs numbered “1” through “25” of this Answer with the same force and effect as though more fully set forth herein.
27. Defendant reserves the right to rely upon such other affirmative defenses as may be supported by the facts to be determined by complete and full discovery.

WHEREFORE, Defendant demands judgment as follows:

- (a) Dismissing the Plaintiff's Complaint in its entirety and with prejudice;
- (b) Granting such other and further relief as this Court may deem just or proper.

Dated: New York, New York
June 2, 2021

PEYROT & ASSOCIATES, PC

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