

DOCKET NUMBER: [REDACTED]

SUPERIOR COURT

[REDACTED]

V.

[REDACTED]

JEM MARKETING LLC, JACKIE ELTON
MCNEILL

JUNE 18, 2024

SETTLEMENT AGREEMENT

[REDACTED] (“Plaintiff”), JEM Marketing, LLC. (“Merchant”), and Jackie Elton McNeill (“Guarantors” and together with Merchant collectively “Defendants”, and Plaintiff and Defendants are collectively “Parties”), for due and adequate consideration, hereby agree to the following terms and conditions (“Agreement”) to settle the claims of the Plaintiff against the Defendants under the Parties’ Purchase and Sale of Future Receivables agreements. The First MCA Agreements dated December 26, 2023 (“First MCA Agreement” a redacted copy of which is attached hereto as Exhibit A), The Second MCA Agreement dated March 4, 2024 (“Second MCA Agreement” a redacted copy of which is attached hereto as Exhibit B), the First MCA Agreement and the Second MCA Agreement are collectively (“MCA Agreements”) as set forth in the above captioned lawsuit (“Action”).

1. Default by Defendants and Plaintiff Agreement to Forbear. Defendants agree and acknowledge that they defaulted on the MCA Agreements due to Merchant actions that denied and interfered with Plaintiff’s rights under the Agreement, including its right to receive its share of Merchant’s revenue. Specifically, but not limited to, the Merchant blocking its designated bank account. Defendants have requested that Plaintiff agree to forbear from exercising its rights and remedies due to the default under the MCA Agreements, and the Plaintiff agrees to do so subject to the terms set forth in this Agreement.

2. Payment and other Obligations of Defendants. Defendants agree to satisfy the following obligations (payment and other), and agree to the following terms and conditions (collectively “Obligations”):

- a. Defendants shall pay Plaintiff a reduced sum of \$192,732.48 as follows:
 - i. \$192,732.48 payable through twenty-four (24) consecutive monthly installments of \$8,030.52 with the first payment being due on June 28, 2024 by 5:00 P.M. EST (excluding weekends and holidays) and the last payment being due on May 26, 2026 by 5:00 P.M. EST (excluding weekends and holidays) with time being of the essence to all payments; and
- b. Defendants shall make all payments, as set forth in Paragraph 2 (a) via wire transfer to Plaintiff per instructions attached as Exhibit C; and or automated clearing house (ACH), per the Parties’ Agreement as set forth in Exhibit A, where the Plaintiff will withdraw and debit the Merchant’s bank account; and

- c. Defendants represent and warrant that, if payment is made per Paragraph 2(a) via ACH, of this Agreement, then any and all blocks on Defendants' designated bank account have been removed so that Plaintiff may debit the bank account; in the alternative, if the Defendants intend to utilize a new designated bank account, the Defendants shall notify the Plaintiff promptly and shall execute and provide any and all authorization to allow the alternative bank account to be debited; **THE DEFENDANTS ACKNOWLEDGE AND UNDERSTAND THAT THEY WILL BE IN DEFAULT OF THIS AGREEMENT IF DEBITS ARE BLOCKED FROM THE DESIGNATED BANK ACCOUNT OR IF THE DEFENDANTS FAIL TO PROVIDE THE REQUISITE DOCUMENTS TO ALLOW THE PLAINTIFF TO DEBIT THE DESIGNATED BANK ACCOUNT;** and
- d. Defendants represent and warrant that Plaintiff has not attached any funds of Defendants in the Action. Defendants acknowledge that Plaintiff is relying on this representation in agreeing to this Agreement. Defendants further agree that should their representation be incorrect for any reason, Defendants shall release to Plaintiff all attached funds without delay up to the amount of \$192,732.48 (which Parties agree is the approximate balance owed under the MCA Agreements as of June 18, 2024 inclusive of fees and costs), less payments received under this Agreement, and in furtherance thereof, Defendants agree to sign and provide letters to Plaintiff without delay as required to release the attached funds to Plaintiff and Defendants, and Defendants shall be in default on this Agreement absent compliance; and
- e. Defendants shall cooperate and assist Plaintiff as reasonably requested, including without limitation, by executing and delivering such instruments as Plaintiff may require to effectuate the purpose, spirit, and intent of this Agreement.

3. Stay of Action. With the exception of effectuating service, returning the complaint to court, filing pleadings to obtain a court order approving this Agreement, and filing pleadings as required to maintain the Action, all of which Plaintiff is permitted to do, Plaintiff agrees to stay efforts to prosecute the Action until should there be a default on this Agreement, including without limitation, the failure of Defendants to fully comply with the Obligations set forth in Paragraph 2 of this Agreement. Should the court administratively dismiss the Action during the Defendants' performance on this Agreement, the Defendants acknowledge and understand that the Plaintiff may file motions to open the judgment, motions to restore the case to the docket, or other similar motions, and agree to waive any objection to such motions, inclusive of the four month time limitations required by [REDACTED]. Alternatively, should the court administratively dismiss the Action during the Defendants' performance on this Agreement, the Defendants acknowledge and understand that, upon the Defendants' subsequent default on this Agreement, the Plaintiff may commence a new action, based either on the MCA Agreements or this Agreement, the Defendants consent to the commencement of the new action under the provisions of [REDACTED], and the Defendants agree to waive any defense in such a new action based on the statute of limitations.

4. Compliance with Obligations. Upon execution of this agreement Plaintiff will release all UCC 9-406 notices (if any) against Defendants. Upon compliance with this Agreement, including Defendants fully complying with the Obligations set forth in Paragraph 2, Plaintiff agrees to (i) consider the debt owed under the MCA Agreements to be satisfied and the MCA Agreements to be fully discharged and terminated, with Plaintiff waiving the right to collect any remaining debt owed it by the Defendants under the MCA Agreements, (ii) file a Withdrawal of the Action as to the Defendants, if applicable, and (iii) release and terminate its UCC-1 financing statement for the Defendants, if applicable.

5. Remedies Upon Default. Upon default on this Agreement by Defendants, including the failure of Defendants to fully comply with the Obligations set forth in Paragraph 2 of this Agreement, the Parties agree that Plaintiff's obligations and agreements in this Agreement (all of them) shall be immediately null and void, including those in Paragraphs 3, and 4 of this Agreement without limitation, and Plaintiff, without notice or opportunity to cure, shall be entitled to enforce all of their rights and remedies against Defendants including without limitation, continuing prosecution of the Action, or commencing a new action if necessary, to either seek a judgment for the full amount owed under the MCA Agreements, or a judgment enforcing this Agreement. To be clear, and as set forth in Paragraph 3 of this Agreement, to preserve this right, Plaintiff is permitted to effectuate service, return the complaint to court, file pleadings to obtain a court order approving and enforcing this Agreement, and filing pleadings as required to maintain the Action.

6. General Release by Defendants. Defendants on behalf of themselves, and all persons or entities claiming by, through or under them, and their respective heirs, successors and assigns, hereby fully, completely and finally waive, release, remise, acquit, and forever discharge and covenant not to sue Plaintiff, as well as Plaintiff's respective officers, directors, shareholders, trustees, parent companies, sister companies, affiliates, subsidiaries, employers, employees, attorneys, accountants, predecessors, successors, insurers, representatives, and agents with respect to any and all claims, demands, suits, manner of obligation, debt, liability, tort, covenant, contract, or causes of action of any kind whatsoever, at law or in equity, including without limitation, all claims and causes of action arising out of or in any way relating to the MCA Agreements, the Action, and this Agreement. Defendants warrant and represent that they have not assigned or otherwise transferred any claim or cause of action released by this Agreement. Defendants specifically do not waive or release any claim that may arise for breach of this Agreement.

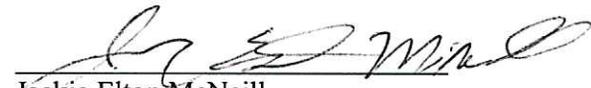
7. Set Aside. Notwithstanding anything to the contrary, at the sole and exclusive option of Plaintiff, the obligations of Plaintiff in this Agreement will be void, including those provided in Paragraphs 3, and 4 of this Agreement without limitation, and Plaintiff will be entitled to enforce all of their rights and remedies against the Defendants if any one or more of the following matters shall occur:

- a. The initiation or filing of any bankruptcy, insolvency, or similar proceeding by or against the Defendants prior to the Defendants fully complying with their payment Obligations set forth in Paragraph 2; and
- b. Set Aside: the transactions referred to in this Agreement are set aside, cancelled, or voided by a court of law, equity, or bankruptcy (collectively "a set aside") at any time. A set aside shall include without limitation, set aside, cancellation or

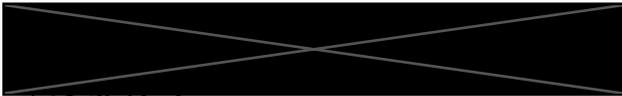
SIGNED, SEALED AND DELIVERED



JEM MARKETING LLC


Jackie Elton McNeill
Owner, Duly Authorized

JACKIE ELTON MCNEILL



An Individual