

1 FREEDMAN + TAITELMAN, LLP
2 Bryan J. Freedman (State Bar No. 151990)
3 E-mail: bfreedman@ftllp.com
4 Brian E. Turnauer (State Bar No. 214768)
5 E-mail: btturnauer@ftllp.com
6 Sean M. Hardy (State Bar No. 266466)
7 E-mail: smhardy@ftllp.com
8 1901 Avenue of the Stars, Suite 500
9 Los Angeles, California 90067
10 Telephone: (310) 201-0005
11 Facsimile: (310) 201-0045

12 Attorneys for Defendant and Cross-Complainant,
13 UNITED TALENT AGENCY, LLC and Defendants
14 GREGORY CAVIC and GREGORY MCKNIGHT

15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

13 CREATIVE ARTISTS AGENCY, LLC, a
14 Delaware limited liability company

15 Plaintiff,

16 vs.

17 UNITED TALENT AGENCY, LLC, a
18 Delaware limited liability company;
19 GREGORY CAVIC, an individual;
20 GREGORY MCKNIGHT, an individual; and
21 DOES 1 to 50, inclusive,

22 Defendants.

) Case No. SC123994
) Related to Case Nos. SS026111

) [Assigned to Hon. Lisa Hart Cole, Dept. O]

) Unlimited Civil Case
) Amount in excess of \$25,000

) **DEFENDANTS' ANSWER TO**
) **PLAINTIFF'S SECOND AMENDED**
) **COMPLAINT**

) Action filed: April 2, 2015
) Trial Date: December 12, 2016
) FSC Date: December 9, 2016

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

MAY 31 2016

Sherri R. Carter, Executive Officer/Clerk
By Donita Fowler, Deputy

COPY

1 Defendant and Cross-Complainant United Talent Agency, LLC ("UTA") and Defendants
2 Gregory Cavic ("Cavic") and Gregory McKnight ("McKnight") (collectively, "Defendants") hereby
3 answer, for themselves alone and no others, the Second Amended Complaint (the "SAC") filed by
4 Plaintiff Creative Artists Agency, LLC ("CAA");

5 **GENERAL DENIAL**

6 Pursuant to California Code of Civil Procedure § 431.30, Defendants generally deny each
7 and every allegation of the SAC and further deny that CAA is entitled to any relief whatsoever as
8 against Defendants or that CAA has been damaged as alleged, or in any other sum or sums, or at all.

9 In addition to, and without waiver of, their denial of the material allegations set forth in the
10 SAC, Defendants allege the following separate and distinct affirmative defenses:

11 **SUMMARY ALLEGATIONS**

12 1. Forget the days of Michael Ovitz and "The Art of War." CAA has a new company
13 handbook: "The Art of Whining." CAA filed this petulant lawsuit in the heat of emotion, without
14 having its facts straight, and ultimately without any evidence to support its claims. It is absurd that
15 CAA would continue to prosecute this action against Defendants, given that the talent agents at issue
16 in this matter had the unqualified right to terminate their services with CAA at any time and that
17 Defendants simply adhered to the lawful, time-honored customs and practices in the talent agency
18 industry and fair competition. This lawsuit is particularly appalling in that CAA is complaining that
19 Defendants purportedly engaged in conduct that CAA has itself employed and perfected over the last
20 20 years. While Defendants vigorously dispute CAA's allegations, and that that they engaged in any
21 wrongful or unlawful conduct, Defendants allege the following facts.

22 2. For years, CAA's *modus operandi* with respect to recruiting prospective agents has
23 been simple – target, stalk and secretly meet with agents from competing agencies with the intention
24 of "poaching" them, despite knowing that these agents are subject to written partnership agreements
25 with their employer agencies and contractual and/or other legal restrictions, including fiduciary
26 duties to their current employers. CAA's President, Richard Lovett, is the architect behind the
27 specific process in which CAA targets these agents and lures them away from their current
28

1 employer. CAA's well-tested practice has included creating and assigning code names for the
2 targeted agents so that no one but a few key CAA senior executives, including but not limited to, Mr.
3 Lovett, Michael Rubel, Bryan Lourd and Kevin Huvane, are aware of CAA's attempts to poach
4 these agents from their current employers.

5 3. CAA vaguely alleges, without any supporting evidence, that Defendants somehow
6 engaged in corporate intrigue to convince CAA's employees and clients to move to UTA. Again,
7 allegations that UTA vigorously disputes and a practice that CAA has mastered over the years. In
8 reality, Defendants simply abided by the lawful, well-established customs and practices of the talent
9 agency industry, while it has been CAA that has continued to engage in deceptive and actionable
10 wrongdoing. In fact, Mr. Lovett's pattern and practice of covertly hiring agents under contractual
11 restrictions and fiduciary obligations has included CAA renting rooms at the Mosaic Hotel in
12 Beverly Hills to meet with these targeted agents in secret, out of public view. Typically, Mr. Lovett
13 leaves a room key for these agents at the hotel's front desk and requests that the agents proceed to a
14 private hotel room and wait for Mr. Lovett to arrive for the meeting. While meeting with these
15 agents for the purpose of luring them away from their current employers, Mr. Lovett walks them
16 through the step-by-step, clandestine procedure, that includes but is not limited to, having these
17 targeted agents hire specific lawyers and having these lawyers communicate directly with CAA's
18 former General Counsel and current Managing Partner, Michael Rubel, who dictates each move of
19 the operation. Additionally, Mr. Lovett tells these agents that they have "nothing to worry about"
20 with respect to their current contractual and fiduciary obligations owed to their current agency, that
21 CAA always takes these steps with the agents it hires, and further, that CAA will protect and
22 indemnify them against any claims brought by their current agencies as a result of their breach of
23 any contractual or other obligations owed to their employers.

24 4. Once the targeted agents' lawyers contact Mr. Rubel, he requires the lawyers to turn
25 over to CAA, as a condition of their clients' hiring and employment, any and all documents which
26 provide for any contractual and/or fiduciary obligations to the agents' current employers, despite the
27 fact that the requested documents are known by CAA to be confidential and proprietary to those
28

1 agencies.

2 5. In exchange, CAA agrees to indemnify the agents, knowing full well that CAA
3 requires the agents to breach their obligations to their current employer by disclosing confidential
4 and/or proprietary materials.

5 6. With respect to former CAA agents Jason Heyman ("Heyman") and Martin Lesak
6 ("Lesak"), for over a one-year period from 2004 through mid-2005, Mr. Lovett called each of them
7 repeatedly, often on a daily basis (in Heyman's case, each day on his way to work), to inform them
8 that CAA wanted to poach them from UTA. When Heyman and Lesak declined initially to meet
9 with Mr. Lovett, he increased his pressure and enlisted other CAA senior executives to repeatedly
10 call Heyman and Lesak and tell them that CAA was going to use the full force and power of the
11 agency to surround and poach their personal clients unless they would secretly meet with Mr. Lovett
12 to discuss employment with CAA. On at least one occasion, Kevin Huvane, on behalf of Mr. Lovett,
13 told Lesak that he had two choices: "come to CAA and help kill, or stay at UTA and be killed."

14 7. On January 1, 2004, Heyman and Lesak were named partners at UTA. Their
15 partnerships were announced in several of the entertainment trades, and were well known to CAA.

16 8. Dogmatic in his attempt to poach Heyman and Lesak from UTA, Mr. Lovett
17 continually harassed and threatened each of them until they each finally agreed to have secret
18 meetings with him. As part of these secret meetings, Mr. Lovett gave Heyman and Lesak the code
19 names "Robin Yount" and "Paul Molitor," two baseball players from Mr. Lovett's hometown
20 baseball team, the Milwaukee Brewers. In an effort to keep these meetings private, Mr. Lovett
21 instructed Heyman and Lesak to refer exclusively to these code names anytime either of them
22 contacted him to discuss employment at CAA.

23 9. Once Mr. Lovett met with Heyman and Lesak, which he did on more than one
24 occasion, he pressured them to leave UTA, knowing full well that both of the agents were partners at
25 UTA and subject to UTA's partnership agreement. Mr. Lovett specifically told Heyman and Lesak
26 not to tell anyone at UTA about their meetings or that CAA was attempting to hire them. Further,
27 Mr. Lovett gave them specific instructions on what to do and the steps to take in order to keep their
28

1 meetings and discussions secret. As was his custom and practice, Mr. Lovett informed each of them
2 that they had nothing to worry about and that they should hire certain lawyers to communicate with
3 Mr. Rubel. Mr. Lovett informed them that although their partnership documents with UTA were
4 known by CAA to be confidential and proprietary, that these partnership documents and their client
5 lists must be turned over to their lawyer, who, in turn, must turn them over to CAA. Mr. Lovett
6 reiterated that this was CAA's standard operating procedure, that this happened all the time and that
7 neither Heyman nor Lesak should worry because CAA would fully indemnify them if UTA ever
8 discovered that its confidential partnership documents and client lists were turned over to CAA. Mr.
9 Lovett went so far as to tell Heyman and Lesak on one occasion that he is so generous and that they
10 will be so well taken care of by him, that "you will stop my children on the street one day and tell
11 them how generous their father was."

12 10. Mr. Rubel communicated with Heyman and Lesak's lawyers and obtained over 110
13 pages of confidential and propriety documents including UTA's confidential partnership agreements,
14 client lists and organizational documents that identified UTA's partnership structure and salary
15 information of UTA partners and employees. UTA is informed and believes that CAA has used
16 these confidential and proprietary documents to compete with UTA in the agency marketplace.
17 UTA only recently discovered that these confidential and proprietary documents were turned over to
18 CAA when it was preparing to respond to document requests CAA propounded on it in this matter.

19 11. The only party guilty of unfair competition here is CAA. CAA and Mr. Lovett have
20 used the aforementioned methods – including engaging in secret meetings at the Mosaic and other
21 hotels, using code names for agents, threatening to take their clients and providing a full indemnity –
22 to compel numerous agents from other agencies to join CAA over the past two decades. It was
23 inconsequential to CAA whether or not these targeted agents had contractual obligations or fiduciary
24 duties to their previous employers.

25 12. In December 2014, CAA sought to sell a majority interest in the company to TPG VI
26 Constellation, L.P. and TPG Partners VI, L.P., two Texas limited partnerships ("TPG") for \$225
27 million. The infusion of cash was intended to enable CAA to gain a stranglehold on the agency
28

1 marketplace and, most importantly, result in a windfall for a select few of CAA's senior executives,
2 including Richard Lovett, Bryan Lourd and Kevin Huvane.

3 13. Pursuant to certain legalities in order to prepare for TPG's majority purchase of CAA,
4 CAA had to modify and amend its existing written and oral employment agreements with a certain
5 number of key agents. On or about December 8, 2014, CAA gave these key agents 72 hours to sign
6 an 85-page plus limited liability membership agreement and supporting documents with CAA
7 Holdings, LLC (the "LLC Member Agreements"). CAA and its current General Counsel, Jeffrey
8 Freedman, forced these agents, under extreme pressure, to sign these documents within 72 hours of
9 providing the documents to them in order to ensure that all necessary parties signed and became
10 members of CAA Holdings, LLC in time for the \$225 million cash infusion to be finalized and in
11 order for Mr. Lovett, Mr. Lourd and Mr. Huvane to each pocket their personal payouts. The LLC
12 Member Agreements amended and/or modified, in part, the CAA agents' current oral and written
13 employment agreements by, among other things, permitting the agents to terminate their talent agent
14 services to CAA at any time by giving thirty (30) days' written notice.

15 14. The hubris of CAA prevented the agency from considering that any of its agents
16 would ever choose to exercise their termination rights under these documents and exit CAA for
17 another opportunity. The fact that the subject agents did choose to exercise their rights to explore
18 other opportunities beyond CAA personally offended Richard Lovett, which is why he directed CAA
19 to file this unsubstantiated lawsuit against UTA and his former colleagues in retaliation for his hurt
20 feelings and wounded pride. At the direction of Richard Lovett, CAA is now manufacturing facts in
21 an attempt to use the Court to publicly embarrass, punish and tarnish the reputations of UTA – the
22 agency whose confidential and propriety documents CAA misappropriated in order to gain an unfair
23 business advantage – and his former colleagues – **including those Mr. Lovett personally poached**
24 **from UTA** and whose collective efforts for CAA over the last two decades, in part, allowed Mr.
25 Lovett to receive the astounding personal windfall that he collected as a result of the TPG
26 recapitalization. The glaring irony and hypocrisy of CAA bringing these claims against Defendants
27 is astonishing.
28

1 15. Quite simply this lawsuit is a waste of time and judicial resources. The bruised ego
2 of CAA, and Mr. Lovett in particular, can be the only explanation for CAA's persistence in
3 advancing claims it knows to be baseless – claims that not only lack evidentiary support, but
4 contradict CAA's own admissions that the subject talent agents could terminate their services at any
5 time. Indeed, the improper actions taken by CAA in connection with its deceptive hiring practices,
6 secretive acquisition and use of its competitors' confidential and proprietary information and the
7 TPG recapitalization, has given the agency an unfair competitive advantage by improperly obtaining
8 financing to compete with UTA and other agencies in the agency marketplace.

9 As a consequence of CAA's prior unlawful, unfair, and deceptive business practices against
10 UTA and these agents, CAA is barred from recovery sought herein against Defendants.

11 **AFFIRMATIVE DEFENSES**

12 **FIRST AFFIRMATIVE DEFENSE**

13 (Unclean Hands - Unlawful, Unfair, and Deceptive Business Practices
14 in Violation of Cal. Bus. & Prof. Code § 17200)

15 16. CAA's claims are barred under the equitable doctrine of unclean hands.

16 **SECOND AFFIRMATIVE DEFENSE**

17 (Failure to State a Claim)

18 17. The SAC, and each and every purported cause of action alleged therein, fails to state
19 facts sufficient to constitute a cause of action against Defendants.

20 **THIRD AFFIRMATIVE DEFENSE**

21 (Waiver)

22 18. The SAC, and each and every cause of action stated therein, is barred as CAA
23 knowingly and voluntarily relinquished and waived any and all rights CAA may have had arising
24 from the allegations set forth in the SAC and CAA waived the breaches and conduct, if any, of
25 which it now complains and, as a consequence thereof, CAA is barred from seeking the relief sought
26 or any relief whatsoever.

1 FOURTH AFFIRMATIVE DEFENSE

2 (Estoppel)

3 19. In equity and good conscience, it would be unjust and unconscionable to assert any
4 claim of liability against these answering Defendants and in view thereof, CAA is estopped to claim
5 any liability on the part of these answering Defendants on any of the matters alleged in the SAC.

6 FIFTH AFFIRMATIVE DEFENSE

7 (Acts of Others)

8 20. Any damages allegedly incurred by CAA are the result of the acts, omissions,
9 conduct, negligence, or breach of CAA and/or persons other than Defendants.

10 SIXTH AFFIRMATIVE DEFENSE

11 (Failure to Mitigate)

12 CAA has failed to exercise reasonable care and diligence to mitigate their alleged claims and
13 damages and, therefore, CAA is barred from any and all recovery sought herein as against
14 Defendants.

15 SEVENTH AFFIRMATIVE DEFENSE

16 (Consent)

17 21. The SAC, and each and every cause of action alleged against Defendants therein, is
18 barred by reason of CAA's consent.

19 EIGHTH AFFIRMATIVE DEFENSE

20 (Superseding and Intervening Cause)

21 22. The damages, if any, suffered by CAA were directly and proximately caused solely
22 by the acts or omissions of individuals or entities other than these Defendants. The acts and
23 omissions of such other individuals or entities are superseding or intervening causes of the loss or
24 damages, if any, suffered by CAA. As a consequence thereof, CAA is barred from recovery herein.

25 ///

26 ///

27 ///

1 NINTH AFFIRMATIVE DEFENSE

2 (Comparative Fault)

3 23. CAA was negligent or failed to otherwise be legally responsible for the damages
4 alleged in the SAC, and each and every cause of action alleged against Defendants therein. This
5 conduct comparatively reduces or eliminates the percentage of liability, if any, of Defendant.
6 Defendants request that if there is a finding of liability in favor of CAA and against Defendants, an
7 apportionment of fault be made between CAA and Defendants.

8 TENTH AFFIRMATIVE DEFENSE

9 (Statute of Limitations)

10 24. The SAC, and each and every cause of action alleged against Defendants therein, is
11 barred by the applicable statutes of limitations, including, without limitation, the provisions of
12 California Code of Civil Procedure §335.1, § 337(1), §338, § 339, § 343, California Government
13 Code § 12960, and/or Bus. & Prof. Code § 17208.

14 ELEVENTH AFFIRMATIVE DEFENSE

15 (Laches)

16 25. CAA has failed to bring the causes of action alleged in the SAC in a timely manner
17 and is therefore barred from recovery against these answering Defendants.

18 TWELFTH AFFIRMATIVE DEFENSE

19 (Consent and Ratification)

20 26. The SAC and each cause of action therein are barred by CAA's consent and
21 ratification of acts. CAA is therefore not entitled to the relief prayed for or for any relief
22 whatsoever.

23 THIRTEENTH AFFIRMATIVE DEFENSE

24 (Unjust Enrichment)

25 27. CAA would be unjustly enriched if CAA recovered any of the sums claimed to be
26 due in its SAC.

27 ///

1 FOURTEENTH AFFIRMATIVE DEFENSE

2 (No Damages)

3 28. CAA has not been damaged in any amount alleged, or in any amount whatsoever and
4 is not entitled to any general, compensatory or other damages or any other relief as a result of any of
5 the allegations set forth in the SAC.

6 FIFTEENTH AFFIRMATIVE DEFENSE

7 (Breach of Duty of Good Faith)

8 29. At all times herein mentioned, CAA breached its duty of good faith and fair dealing
9 with regard to Defendants.

10 SIXTEENTH AFFIRMATIVE DEFENSE

11 (Modification/ Amendment)

12 30. The employment agreements and extensions on which CAA relies in support of its
13 causes of action against these answering Defendants, have been materially modified, amended,
14 altered and changed, so that they no longer have the same meaning, force and affect as they may
15 have had prior to the modification , amendment, alternation and change. Such modification,
16 amendment, alternation and change to be decided by a retired judge in arbitration.

17 SEVENTEENTH AFFIRMATIVE DEFENSE

18 (Failure to Plead with Particularity)

19 31. CAA has failed to plead with particularity each and every cause of action alleged
20 against Defendants in the SAC.

21 EIGHTEENTH AFFIRMATIVE DEFENSE

22 (Speculative Damages)

23 32. CAA's alleged damages or losses, if any, are speculative and/or uncertain and are
24 therefore not compensable.

25 NINETEENTH AFFIRMATIVE DEFENSE

26 (Adequate Remedy at Law)

27 33. The SAC, and each and every cause of action alleged against Defendants, is barred to
28

1 the extent it seeks equitable relief as CAA has not suffered any immediate and irreparable injury for
2 which a remedy at law is inadequate.

3 TWENTIETH AFFIRMATIVE DEFENSE

4 (Discharge)

5 34. If Defendants had any alleged obligations or legal duties, which Defendants hereby
6 deny, Defendants have appropriately, completely and fully performed and discharged any alleged
7 obligations and any alleged legal duties arising out of the matters alleged in the SAC.

8 TWENTY-FIRST AFFIRMATIVE DEFENSE

9 (Performance of Duties)

10 35. The SAC and each purported cause of action alleged therein, is barred because
11 Defendants fully performed any and all contractual, statutory, and/or other duties they arguably owe
12 to CAA under applicable law.

13 TWENTY-SECOND AFFIRMATIVE DEFENSE

14 (Offset/Set-Off)

15 36. To the extent Defendants are liable for any damages to CAA, Defendants are entitled
16 to an offset or a setoff against any such damages.

17 TWENTY-THIRD AFFIRMATIVE DEFENSE

18 (Balance of Equities)

19 37. The SAC, and each and every cause of action alleged against Defendants therein, is
20 barred because the equities in this case weigh against the relief CAA seeks.

21 TWENTY-FOURTH AFFIRMATIVE DEFENSE

22 (No Attorneys' Fees)

23 38. The SAC, and each and every cause of action alleged against Defendants therein, fails
24 to allege facts sufficient to allow recovery of attorneys' fees from Defendants.

25 ///

26 ///

27 ///

1 TWENTY-FIFTH AFFIRMATIVE DEFENSE

2 (No Valid Contract)

3 39. The SAC, and each and every cause of action stated therein, is barred in that the
4 agreements on which CAA relies are not valid contracts. The agreements on which CAA relies, and
5 CAA's purported application of these agreements, violate the provisions of California Business and
6 Professions Code section 16600 in that they contain unlawful and unenforceable restraints on a
7 person's right to engage in a lawful profession, trade or business. The agreements further violate
8 public policy and antitrust laws. Further, the agreements improperly, and unreasonably, restrict
9 solicitation.

10 TWENTY-SIXTH AFFIRMATIVE DEFENSE

11 (Improper Restraint on Trade and Employee Mobility)

12 40. The SAC, and each and every cause of action stated therein, constitutes an improper
13 effort to restrain trade and employee mobility, in violation of public policy and California Business
14 and Professions Code section 16600. Because the effect of each purported cause of action asserted
15 against Defendants is to restrain competition and employee mobility, in violation of public policy
16 and California Business and Professions Code section 16600, Defendants cannot be liable under any
17 of the purported causes of action asserted against them.

18 TWENTY-SEVENTH AFFIRMATIVE DEFENSE

19 (Privilege)

20 41. The SAC, and each purported cause of action stated therein, is barred because
21 Defendants are privileged to compete against CAA under California law.

22 TWENTY-EIGHT AFFIRMATIVE DEFENSE

23 (California Labor Code §2855)

24 42. The employment agreements and extensions on which CAA relies, and CAA's
25 purported application of these agreements, violate the provisions of California Labor Code section
26 2855 in that they constitute contracts to render personal services beyond seven years from the
27 commencement of each of Defendants' terms of employment, and are therefore unenforceable
28

1 against Defendants.

2 TWENTY-NINTH AFFIRMATIVE DEFENSE

3 (California Uniform Trade Secrets Act)

4 43. The SAC, and each purported cause of action stated therein, is preempted by, inter
5 alia, the California Uniform Trade Secrets Act, California Business and Professions Code section
6 16600, and California Labor Code section 2855.

7 THIRTIETH AFFIRMATIVE DEFENSE

8 (No Facts or Other Reasonable Basis)

9 44. CAA's recovery is barred, in whole or in part, in that CAA filed the SAC without any
10 facts or other reasonable basis supporting the purported claims set forth therein, and solely for the
11 purpose of harassing and/or inducing improper payment and/or settlement from Defendants.

12 THIRTY-FIRST AFFIRMATIVE DEFENSE

13 (Good Faith)

14 45. The SAC, and each and every cause of action stated therein, is barred because
15 Defendants alleged actions were performed in good faith.

16 THIRTY-SECOND AFFIRMATIVE DEFENSE

17 (Compliance With Statutes, Governmental Regulations and Industry Standards)

18 46. To the extent that Defendants' alleged activities were taken pursuant to statute,
19 governmental regulations and industry standards, the SAC and each and every cause of action stated
20 therein, is barred as such activities were authorized, appropriate and permitted.

21 THIRTY-THIRD AFFIRMATIVE DEFENSE

22 (Valid and Legitimate Business Purposes)

23 47. Defendants' alleged conduct was at all times undertaken in a good faith exercise of a
24 valid and legitimate business purpose, and therefore the alleged conduct was reasonable and justified
25 as a *bona fide* business competition.

26 ///

27 ///

1 THIRTY-FOURTH AFFIRMATIVE DEFENSE

2 (No Punitive or Exemplary Damages)

3 48. The SAC, and each and every cause of action stated therein, fails to state any facts
4 supporting any claim for punitive or exemplary damages, and any allegations in the SAC with
5 respect thereto should be stricken.

6 THIRTY-FIFTH AFFIRMATIVE DEFENSE

7 (Public Policy)

8 49. To grant the relief requested by CAA in the SAC would be contrary to and against
9 public policy and, as a consequence thereof, CAA is barred from recovery herein.

10 THIRTY-SIXTH AFFIRMATIVE DEFENSE

11 (Failure To Satisfy Jurisdictional and/or Statutory Procedures)

12 50. CAA's claims as set forth in the SAC are barred to the extent CAA has failed to
13 satisfy the jurisdictional and/or statutory procedures for its causes of action and/or failed to exhaust
14 any and all administrative remedies.

15 THIRTY-SEVENTH AFFIRMATIVE DEFENSE

16 (Accommodation)

17 51. CAA's claims as set forth in the SAC are barred because the accommodations sought
18 by CAA are not required by law.

19 THIRTY-EIGHTH AFFIRMATIVE DEFENSE

20 (Justification)

21 52. CAA's claims as set forth in the SAC are barred because Defendants' actions and
22 conduct were justified.

23 THIRTY-NINTH AFFIRMATIVE DEFENSE

24 (No Reliance)

25 53. CAA did not rely on any of the alleged conduct attributed to Defendants in the SAC.

26 ///

27 ///

1 FORTIETH AFFIRMATIVE DEFENSE

2 (CAA's Claims for Injunctive or Equitable Relief Are Barred)

3 54. CAA's claims for injunctive or other equitable relief are barred as moot in whole or
4 in part.

5 FORTY-FIRST AFFIRMATIVE DEFENSE

6 (Violation of California Civil Code §§ 1667 and 1668)

7 55. The SAC, and each and every purported cause of action therein, fails because they are
8 based on provisions that are illegal and against public policy, in violation of California Civil Code
9 sections 1667 and 1668.

10 FORTY-SECOND AFFIRMATIVE DEFENSE

11 (No Fiduciary Relationship)

12 56. CAA's purported cause of action for breach of fiduciary duty fails as no fiduciary
13 relationship existed at any time between CAA and Defendants.

14 FORTY-THIRD AFFIRMATIVE DEFENSE

15 (No Duty of Undivided Loyalty)

16 57. CAA's purported cause of action for breach of duty of loyalty fails because as at no
17 time did Defendants ever owe CAA a duty of undivided loyalty.

18 FORTY-FOURTH AFFIRMATIVE DEFENSE

19 (No Legally Cognizable Injury)

20 58. CAA has not suffered any legally cognizable injury and therefore lacks standing to
21 assert the purported causes of action alleged in its SAC against Defendants.

22 FORTY-FIFTH AFFIRMATIVE DEFENSE

23 (Advice of Counsel)

24 59. Defendants' actions, at all times relevant to the SAC, were justified, as such actions
25 were performed pursuant to the advice of legal counsel.

26 ///

27 ///

1 FORTY-SIXTH AFFIRMATIVE DEFENSE

2 (Fraudulent in the Inducement/ Failure to Disclose)

3 60. Any alleged employment agreements and extensions set forth in the SAC are
4 unenforceable/voidable because such employment agreements and extensions entered into by the
5 third parties referenced in the SAC were entered into as a result of CAA's fraudulent actions.
6 Specifically, when CAA entered into said employment agreements and extensions, it failed to
7 disclose to the agents who were signing the employment agreements and extensions that CAA was
8 selling, or had the right to sell, a majority of its interests to TPG. Defendants alleged on information
9 and believe that the agents referenced in the SAC would have never signed the employment
10 agreements and extensions had they know the true facts that CAA was selling, or had the right to
11 sell, its majority interest to TPG.

12 FORTY-SEVENTH AFFIRMATIVE DEFENSE

13 (No Specific Performance – Violation of California Civil Code §3391(3))

14 61. Any alleged employment agreements and extensions entered into by the third parties
15 set forth in the SAC are unenforceable/voidable because they were obtained by way of CAA's
16 misrepresentations, concealments, circumventions, and unfair practices in violation of California
17 Civil Code §3391(3). As a result of CAA's violation of Civil Code §3391(3), the third parties
18 referenced in the SAC are not required to specifically perform under those employment agreements
19 and extensions.

20 FORTY-EIGHTH AFFIRMATIVE DEFENSE

21 (Right to Assert Additional Affirmative Defenses)

22 62. Defendants presently has insufficient knowledge or information on which to form a
23 belief as to whether it may have additional, as yet, unstated affirmative defenses available.
24 Defendants reserve the right to assert additional defenses in the event that discovery indicates they
25 would be appropriate.

26 WHEREFORE, Defendants pray for judgment against CAA as follows:

27 1. That CAA takes nothing by its SAC;
28

2. That the SAC be dismissed with prejudice;
3. That Defendants recover their costs of suit incurred herein; and
4. For any other relief in Defendants' favor that the Court deems just and proper.

DATED: May 31, 2016

FREEDMAN + TAITELMAN, LLP

By: 

Bryan J. Freedman

Brian Turnauer

Sean M. Hardy

Attorneys for Defendant and Cross-
Complainant United Talent Agency, LLC
and Defendants Gregory Cavic and Gregory
McKnight

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA** }
3 **COUNTY OF LOS ANGELES** } ss.
4 }

5 I am employed in the County of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1901 Avenue of the Stars, Suite 500, Los
7 Angeles, California 90067.

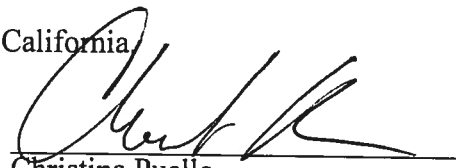
8 On May 31, 2016, I served the foregoing document(s) described as: **DEFENDANTS'**
9 **ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT** on the interested parties in
10 this action by placing ☐ the original OR ☒ true copies thereof enclosed in sealed envelopes
11 addressed as follows:

12 Anthony J. Oncidi
13 Keith A. Goodwin
14 PROSKAUER ROSE LLP
15 2049 Century Park East, Suite 3200
16 Los Angeles, CA 90067
17 aoncidi@proskauer.com
18 kgoodwin@proskauer.com
19 (310) 557-2900 – Telephone
20 (310) 557-2193 – Fax
21 *Attorneys for Plaintiff,*
22 *Creative Artists Agency, LLC*

23 ☒ **By United States Mail:** I am readily familiar with the firm's practice for collection and
24 processing correspondence for mailing. Under that practice, it would be deposited with the
25 United States Postal Service on that same day with postage thereon fully prepaid at Los
26 Angeles, California in the ordinary course of business. I am aware that on motion of the
27 party served, service is presumed invalid if postal cancellation date or postage meter date is
28 more than one day after date deposit for mailing in affidavit.

☒ **State.** I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on May 31, 2016 at Los Angeles, California


Christina Puello