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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUL 23 2010

John A. Clarke, Executive Officer/Clerk
By *Amber Lafleur* Deputy
AMBER LAFLEUR-CLAYTON

6 Attorneys for Plaintiffs
7 Joseph R. Francis and GGW Brands, Inc.

D37 Joanne O'Donnell

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

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11 JOSEPH R. FRANCIS and GGW BRANDS,
12 INC.,

12 Plaintiffs,

13 vs.

14 RYAN D. SIMKIN; 4TH STREET MEDIA,
15 LLC; 4 PARK PUBLISHING; and DOES 1-20,

16 Defendants.

Case No.

BC442226

COMPLAINT FOR:

- 1) BREACH OF WRITTEN CONTRACT;
- 2) INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS; and
- 3) INJUNCTIVE RELIEF



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07/23/10

CIT/CASE: BC442226 LEA/DEF#:
RECEIPT #: CCH503057038
DATE PAID: 07/23/10 11:29:22 AM
PAYMENT: \$355.00 0310
RECEIVED:
CHECK: 355.00
CASH:
CHANGE:
CARD:

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COMPLAINT

1 Plaintiffs Joseph R. Francis and GGW Brands, Inc. ("Plaintiffs") allege as follows:
2

3 **INTRODUCTION**

4 1. In the short span of thirteen years, Joe Francis took a simple idea, filming real
5 college coeds reveling on Spring Break, and transformed it into a multi-million dollar global media
6 enterprise and brand known as *Girls Gone Wild*. Today, the *Girls Gone Wild* brand is universally
7 considered one of the most recognizable brands in the lifestyle entertainment business. As with
8 any successful brand and business, the public image of the company and its founder are paramount
9 to its success. For this reason, those who choose to work with Mr. Francis and his companies
10 agree, when they are hired, not to disclose the confidences of Mr. Francis and his companies and to
11 refrain from publicly trading for their personal benefit on the *Girls Gone Wild* brand.

12 2. Following company policy and practice, Defendant Ryan Simkin, who began his
13 career as a *Girls Gone Wild* cameraman, agreed orally and in writing that he would not disclose
14 confidential information or speak publicly in a manner that could harm the reputation of Mr.
15 Francis or the *Girls Gone Wild* enterprise and brand. He also agreed that he would not write or
16 publish any article or book about his experiences with *Girls Gone Wild* or Mr. Francis without
17 prior approval.

18 3. Unfortunately, Simkin has decided that money and fame are more important to him
19 than keeping his promises. With the help of Defendants 4th Street Media and 4 Park Publishing,
20 who are fully aware of Simkin's confidentiality and other obligations, Simkin has announced the
21 arrival of his new book *Flash! Bars, Boobs, And Busted: 5 Years On The Road With Girls Gone*
22 *Wild*, which purports to be a "tell-all" insiders account from his days as a *Girls Gone Wild*
23 cameraman. The book is advertised as a "shocking account of . . . sex, drugs and rock & roll and
24 ultimately a few trips to the slammer" where "no-one was innocent." In this case, however, the
25 only guilty parties are Simkin and his publishers- for breaching and inducing breach of contract.

26 4. Mr. Francis is no doubt one of the most vocal advocates of an individual's right of
27 free speech, but this case has nothing to do with constitutional rights. It's about contracts, plain and
28 simple. California law has long recognized the rights of individuals to freely contract for silence,

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COMPLAINT

1 and in this case Simkin freely relinquished his right to publish his story as it relates to Mr. Francis
2 and *Girls Gone Wild*. He and his publishers should now be held financially accountable for the
3 substantial damages they have already caused, including attorneys fees as provided for in Simkin's
4 contracts. They should also be enjoined from causing further irreparable harm and ordered to cease
5 and desist from further advertising, sales and distribution of Simkin's tell-all tale.

6
7 **THE PARTIES**

8 5. Plaintiff Joseph R. Francis ("Francis") is, and at all relevant times herein was, an
9 individual residing in the County of Los Angeles in the State of California. Francis is a
10 businessman and philanthropist, perhaps best known as the founder of the *Girls Gone Wild*
11 enterprise and brand. He is also CEO of Mantra Films, Inc. ("Mantra Films"), a global media
12 company specializing in lifestyle entertainment.

13 6. Plaintiff GGW Brands, Inc. ("GGW Brands") is, and at all relevant times herein
14 was, a Delaware corporation with its principal place of business in the County of Los Angeles in
15 the State of California. GGW Brands is a sister company to Mantra Films and publisher of the
16 *Girls Gone Wild* magazine.

17 7. Plaintiffs are informed and believe that Defendant 4th Street Media, LLC is a
18 Delaware Limited Liability Company with its principal place of business in the County of Los
19 Angeles in the State of California.

20 8. Plaintiffs are informed and believe that Defendant 4 Park Publishing is a business
21 organization, form unknown, with its principal place of business in the County of Los Angeles in
22 the State of California.

23 9. Plaintiffs are informed and believe that Defendant Ryan D. Simkin ("Simkin") is,
24 and at all relevant times herein was, an individual who resides in the County of Los Angeles in the
25 State of California.

26 10. Plaintiffs are informed and believe that each of the fictitiously-named Defendants
27 captioned herein as Does 1-20 was in some manner responsible for, or legally liable for, the
28 actions, events, transactions and circumstances alleged herein. The true names and capacities of

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1 the "Doe" Defendants, whether individual, associate, corporate or otherwise, are presently
2 unknown to Plaintiffs. Plaintiffs will amend this Complaint to assert the true names and capacities
3 of such fictitiously-named Defendants when the same have been ascertained.

4 11. At all times relevant herein, each of the Defendants was the agent, representative,
5 and/or employee of each of the remaining Defendants, and in doing the things hereinafter alleged,
6 was acting within the course and scope of such relationship, and each of the Defendants approved
7 and ratified the conduct of the each of the remaining Defendants.

8
9 **FIRST CAUSE OF ACTION**

10 **(Breach Of Written Contract Against Defendant Ryan Simkin)**

11 12. Plaintiffs incorporate by reference Paragraphs 1 through 11 inclusive, as though
12 fully set forth herein.

13 13. Between 2002 and 2007, Simkin provided cameraman and production services to
14 Plaintiffs and Mantra Films pursuant to various written and oral agreements. As an essential term
15 of these various agreements, Simkin promised at all times not to use or disclose certain confidential
16 information to which he was privy, to refrain from making public statements that might harm the
17 reputation of Plaintiffs and Mantra Films and, most importantly, to refrain from publishing any
18 book or article about his work for Plaintiffs and Mantra Films.

19 14. By way of example, on or about October 18, 2005, Simkin signed a contract with
20 Mantra Films wherein he expressly agreed not to use or disclose the company's "Confidential
21 Information" (which is broadly defined and includes, among other things, any information about
22 the manner in which the company conducts its business), and further specifically agreed:

- 23
- 24 • That he "*shall not . . . publish* or otherwise disseminate . . . any news stories
25 or articles, *books* or other publicity *containing [his] name and relating it to*
26 *to be rendered by [him] or others unless first approved by Mantra*"; and
 - 27 • That he shall "*refrain from making any remarks*, either orally or in writing,
28 to the press, the electronic and broadcast media, or any person or entity not a

1 party to this Release *of any facts or opinions which might tend to*
2 *disparage, degrade or harm the reputation of Mantra Films, MRA*
3 *Holdings and/or any officers, directors or employees thereof.*" (emphasis
4 added)

5 A true and correct copy of this Agreement is attached hereto as Exhibit A.

6 15. This contract was made expressly for the benefit of Mantra Films founder and CEO,
7 Joe Francis, and in fact, Simkin expressly agreed not to disclose facts or opinions which could
8 "degrade or harm" the reputation of Mantra Film's officers and directors. In fact, on multiple
9 occasions in this time period, Mr. Francis and Mr. Simkin discussed the need for confidentiality,
10 not only to protect the *Girls Gone Wild* brand but also to protect Mr. Francis' brand as well, which
11 brand has become synonymous with *Girls Gone Wild*. Accordingly, the parties to this contract
12 intended Joe Francis to be a third party beneficiary.

13 16. Throughout the time Simkin was working with Mr. Francis and Mantra Films, it
14 was Mr. Francis' policy and practice to require all cameramen to sign a standard non-use and non-
15 disclosure agreement similar to the agreement attached as Exhibit A. In fact, as demonstrated by
16 the standard form in use in 2002 (attached as Exhibit B), the provision which expressly prohibits
17 those contracting with Mantra Films from writing and publishing any "tell-all" books about their
18 work for Mantra Films, remained the same throughout the period 2002 through 2005. Plaintiffs are
19 informed and believe, and on that basis allege, that Simkin executed Mantra Film's standard non-
20 use and non-disclosure agreement in 2002 and/or 2003. He did so with the express understanding
21 that this agreement was intended to benefit Mr. Francis.

22 17. Starting in or around July 2008, and continuing through early 2010, Simkin began
23 providing, on a freelance basis, certain writer services to Plaintiff GGW Brands, Inc. which
24 included various articles for the *Girls Gone Wild* magazine. Simkin was paid approximately
25 \$25,000 for these services pursuant to an oral agreement with GGW Brands, Inc. and Joe Francis.
26 A material effect of this agreement was that Simkin would continue to be bound by the
27 confidentiality, non-disclosure, non-use and publicity restrictions set forth in his prior written
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1 agreement with Mantra Films. It was further understood that these provisions would apply equally
2 for the benefit of Mantra Films, Plaintiffs and any of their officers, directors, and employees.

3 18. On or about February 17, 2010, Simkin entered into a written agreement with GGW
4 Brands, Inc., a true and correct copy of which is attached hereto as Exhibit C, pursuant to which
5 Simkin agreed to:

6 Refrain from making any remarks, either orally or in writing, to the press, electronic
7 and broadcast media, or any person or entity not a party to this receipt, of any facts
8 or opinions which might tend to disparage or harm the reputation of Girls Gone
9 Wild, GGW Brands, Inc., Joseph R. Francis, Mantra Films, Inc, its affiliated trade
10 names, brand names, its affiliated companies, and/or any officers, directors or
11 employees thereof.

12 Mr. Francis was an intended third-party beneficiary of this contract as well.

13 19. Implied in each of these agreements, as in every contract, is a covenant of good faith
14 and fair dealing which imposed upon Simkin an obligation to deal fairly with Plaintiffs and Mantra
15 Films and to do nothing to impair, interfere with, or injure Plaintiffs' and Mantra Films' rights
16 under the agreements.

17 20. In or around May 2010, Plaintiffs learned that, in breach of the various agreements
18 set forth above, Simkin was close to finalizing a book titled *Flash! Bars, Boobs, And Busted: 5*
19 *Years On The Road With Girls Gone Wild* and that he had secured a publisher, Defendants 4th
20 Street Media and 4 Park Publishing.

21 21. As advertised on the publishers' website, the book purports to be "the definitive
22 behind-the-scenes account" of the operations of the *Girls Gone Wild* enterprise by Simkin, who is
23 *falsely* portrayed as Mr. Francis' "right hand man." Defendants further proclaim in their advertising
24 that the Book is a "shocking account of . . . sex, drugs and rock & roll and ultimately a few trips to
25 the slammer" where "no-one was innocent." On its face, the advertising is disparaging and harmful
26 to Mr. Francis and the *Girls Gone Wild* brand. Plaintiffs are informed and believe, and on that
27 basis allege, that Simkin approved of and facilitated the advertising of this book by his publishers.

28

1 22. Plaintiffs are informed and believe, and on that basis allege, that pre-sales of the
2 book have already begun and that the book is slated to be released sometime in August 2010.

3 23. Prior to filing this lawsuit, and on at least several occasions, Plaintiffs expressly
4 informed 4 Park Publishing, 4th Street Media and Simkin, of Simkin's contractual obligations
5 regarding confidentiality, non-disparagement and publicity, and that neither Plaintiffs nor Mantra
6 Films had approved the book. Plaintiffs, in fact, provided copies of Simkin's written contracts to
7 the publishers, who acknowledged having already known about these obligations.

8 24. Despite their express knowledge of Simkin's obligations, Defendants have refused to
9 discontinue sales and distribution of the book. They have also refused to provide a copy of the
10 book to Plaintiffs despite requests to do so.

11 25. By his conduct described above, Simkin has breached both his written and oral
12 agreements with Plaintiffs and Mantra Films.

13 26. Plaintiffs and Mantra Films have performed all of their obligations under the
14 foregoing agreements, except those that have been prevented or otherwise excused by the conduct
15 of Defendants.

16 27. As a direct and proximate result of Simkin's breaches, Plaintiffs have been damaged
17 in an amount to be proven at trial but which is in excess of the jurisdictional limits of this Court.

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19 **SECOND CAUSE OF ACTION**

20 **(Intentional Interference With Contractual Relations Against Defendants 4th Street Media,
21 LLC and 4 Park Publishing)**

22 28. Plaintiffs incorporate by reference Paragraphs 1 through 27, inclusive, as though
23 fully set forth herein.

24 29. As set forth above, Plaintiffs and Mantra Films entered into various written and oral
25 agreements with Simkin pursuant to which Simkin agreed, among other things, not to publish or
26 disseminate any books about his work for Plaintiffs and Mantra Films and agreed not to make any
27 public statements that might tend to disparage, degrade or harm the reputation of Plaintiffs, Mantra
28 Films, and/or their officers, directors and employees.

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- 1 (a) advertising, printing, copying, publishing, disclosing, disseminating and/or
2 otherwise exploiting or profiting from the book *Flash! Bars, Boobs, And Busted: 5*
3 *Years On The Road With Girls Gone Wild*, and/or any portion or derivation thereof;
4 (b) assisting, aiding or abetting any other person or business entity to engage in or
5 perform any of the activities identified above.
6

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for judgment as follows:

9 **AS TO THE FIRST CAUSE OF ACTION:**

- 10 1. Awarding Plaintiffs compensatory damages according to proof at trial;

11 **AS TO THE SECOND CAUSE OF ACTION:**

- 12 2. Awarding Plaintiffs compensatory damages according to proof at trial;
13 3. Awarding Plaintiffs exemplary and punitive damages according to proof at trial;

14 **AS TO THE THIRD CAUSE OF ACTION:**

- 15 4. Awarding Plaintiffs preliminary and permanent injunctive relief as specified above;

16 **AS TO ALL CAUSES OF ACTION:**

- 17 5. Awarding Plaintiffs all costs of suit;
18 6. Awarding Plaintiffs attorney fees as specified in the written agreements with

19 Simkin;

- 20 7. Awarding Plaintiffs all applicable pre-judgment and post-judgment interest at the
21 maximum legal rate; and

- 22 8. Awarding such other and further relief as the Court deems just and proper.
23

24 Dated: July 23, 2010

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25
26 By: 

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