

SEC. 27

U65429

WHITE ENTERPRISES OF LOUISIANA,
LLC, d/b/a OCTAGON MEDIA
Plaintiff;

NUMBER: _____ DIV: _____

19th JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

SOUTHERN UNIVERSITY SYSTEM and
NATHAN B. HAYMER
Defendants.

STATE OF LOUISIANA

COST OK \$ 1044

JAN 31 2018
CH 1931A
DEPUTY CLERK OF COURT

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes White Enterprises of Louisiana, d/b/a Octagon Media ("Octagon"), a Louisiana limited liability company situated and doing business in the Parish of East Baton Rouge, who, with respect, represents:

Made Defendants herein are:

- a) **Board of Supervisors of Southern University and Agricultural and Mechanical College System (hereinafter "SU")**, a corporate body with the authority to manage the institutions of higher education and other programs which comprise the Southern University System, pursuant to La. Rev. Stat. 17:3216 and 17:3351 and an entity domiciled in the Parish of East Baton Rouge;
- b) **Southern University Foundation**, an entity domiciled in the Parish of East Baton Rouge.
- c) **Nathan Haymer**, a resident of the full age of majority residing in East Baton Rouge Parish and the band director of Southern University Mechanical and Agricultural College Marching Band;
- d) **Tracie Woods**, a resident of the full age of majority residing in East Baton Rouge Parish and General Counsel to the System and Board of Supervisors of Southern University Mechanical and Agricultural College;
- e) **M. Christopher Brown, II**, a resident of the full age of majority residing in Frankfort County, Kentucky and former Provost of Southern University;
- f) **Roynelle Ricard**, a resident of the full age of majority residing in East Baton Rouge Parish and Special Assistant to the Executive Vice President and Provost of Southern University.

FACTS COMMON TO ONE OR MORE CLAIMS

1.

Between May 1, 2015 and November 30, 2016, Defendant, Nathan Haymer, entered into a verbal contract with White Enterprises of Louisiana, d/b/a Octagon Media (hereafter "Octagon Media") to have Southern University Marching Band and Dancing Dolls appear and perform at a number of events, including:

- a) Juke Fest scheduled on November 5, 2015;
- b) The Karnival Krewe de Louisiane Mardi Gras Ball on January 22, 2016;
- c) An appearance for the Honorable Mayor Kip Holden and the Baton Rouge Visitors and Convention Bureau a/k/a Visit Baton Rouge tourism conference during the first of 2016.

FAX COPY FILED

ORIGINAL FILED

1/24/18
1/31/18

REC'D C.P.
JAN 31 2018

EBR4542425

2.

In June of 2015, Maranda White, owner of Octagon Media, was approached by Nathan Haymer, Director of Bands for SU, regarding organizing an event for East Baton Rouge Parish School System. Haymer met with White in his office in the band department at SU. Haymer advised White that he desired for her company to plan and execute an event with the purpose of improving SU's reputation in the community and to encourage students of the East Baton Rouge Parish School System to attend SU. Given the positive reputation of SU's band, the "Human Jukebox," SU's band was to be the main attraction and headliner for the event. During this meeting, Haymer presented White with a list of his desires for the event, which was to be called "Jukefest".

3.

During this meeting, Haymer advised White that Octagon Media would be compensated a percentage of the ticket sales for organizing the event.

4.

At all relevant times, Nathan Haymer represented to Maranda White and Octagon Media that he was authorized to engage her company's services to organize and handle the event management for Jukefest.

5.

Relying upon Haymer's representations that he had authority to contractually bind SU, Octagon Media began planning Jukefest, which was scheduled for November 5, 2015. Octagon Media reached out to the following vendors, some of whom agreed to provide free products, food and services: Subway, Coca-Cola, Roy's Ice, Raising Cane's, Sonic Drive In, Printing Tech, The Print Source, Lamar, Franklin Press, Graphic Designers, AV Express, and Signs in a Day. Vendors agreed to provide products food and services, provided SU would supply the required 501(c)(3) non-profit documentation. Haymer agreed to provide the documentation to Octagon Media.

6.

Octagon Media arranged for food, beverages, ice, promotional items, ushers, advertising, printing, rental of the venue, traffic control, campus police, EMS, production equipment, and speakers for the planned Jukefest on November 5, 2015.

7.

Octagon Media sold 2,306 tickets to East Baton Rouge, Orleans and Calcasieu Parish Schools.

8.

The itinerary for the event included remarks from the Emcee, LaTangela Sherman of Cumulus Radio, an opening video highlighting the SU band performances, entrance of the SU "Human Jukebox" band and Dancing Dolls, a welcome from Director of Bands Nathan Haymer, remarks from EBRPSS Superintendent, and a 30-40 minute performance by the Human Jukebox.

9.

As directed by Nathan Haymer, Octagon Media made all of the appropriate arrangements, including advancement of costs to vendors, and the event was set to go forward as planned.

10.

On October 25, 2015, a mere ten days before Jukefest was scheduled to occur, Nathan Haymer sent a disturbing series of text messages to Maranda White, owner of Octagon Media. Haymer sent the following text message at 1:29 p.m. on October 25, 2015:

Ok this is what I need:

1. Something submitted from you on letterhead stating that Octagon is managing this event and will submit all necessary documents and/or invoices at the close of the event. I got a lot of heat from the battle of the bands and Dumas is no longer my supervisor. The new supervisor is a financial hawk and I have to be as transparent as possible. Include in the letter your ticketing system so that I am in the clear of any possible accusations that may come my way. If I cannot get this information by the close of business day on Monday my supervisor will cancel the event. This is above me.
2. Either you or your designee need to submit a list of frequently asked questions so when the flood of calls come into the department the secretary and staff can properly advise all callers of factual information avoiding me or the staff from telling teachers that they get in for free.
3. Yes the ten percent needs to be a check made payable to me so that the staff can be properly compensated. I am asking for you to hide this ten percent in your percentage charge from your business. If this cannot be done, please let me know.
4. All profits need to be submitted in the form of a company check made payable to the SU System Foundation on the memo line out "Human Jukebox Fund"

11.

After receiving this text message, Maranda White became very concerned that Haymer was requesting an inappropriate "kick back" in cash of 10% of the proceeds and was attempting to hide things from his current supervisor.

12.

White informed Haymer by text message on October 25, 2015 at 3:19 p.m. that she had concerns about the requests in his text message and desired to speak with him. Haymer responded at 3:19 p.m. that he was on the bus with the band and would not speak about "business affairs around open ears."

13.

On October 26, 2015, White sent a text message to Haymer questioning to whom the requested letter should be addressed and advising Haymer that Octagon would not write a check to an individual without a W-9; thus denying Haymer's request for money under the table.

14.

Once Octagon denied Haymer's request for a "kick back," Haymer immediately began to take steps to disavow his responsibility, disavow his discussions regarding this event and future events booked with Octagon Media, and took actions to deliberately sabotage the success of Jukefest, Karnival Krewe de Louisiane Mardi Gras Ball, and an appearance for the Honorable Mayor Kip Holden and the Baton Rouge Visitors during a tourism conference Fall 2016.

15.

As requested, Octagon Media wrote a letter to Nathan Haymer on October 28, 2015 outlining the verbal agreements about Jukefest. Haymer responded with a letter that he agreed to the event and asked her to manage the event. However, in the letter, Haymer started to deny for the first time that he had any authority to hold the University to the contractual terms he had discussed with Octagon. Haymer also stated in the letter that the name "Jukefest" was the Intellectual Property of J Morgan &

Associates, another marketing firm. White's concerns about Haymer's intentions grew, as Haymer had specifically instructed her not to involve J Morgan & Associates in any decisions. Further, Haymer personally had reviewed and approved all artwork and other intellectual property that her company had created associated with Jukefest. White was completely unaware that anything about the name "Jukefest" was the intellectual property of another firm.

16.

On October 30, 2015, Haymer posted cancellation notices of Jukefest on social media. The band staff also sent text messages to local band directors and members of Kappa Kappa Si advising that the event had been cancelled. These notices resulted in the cancellation of many ticket reservations, resulting in the approximate loss of revenue of several thousand dollars.

17.

Realizing that Haymer's completely inappropriate actions in unilaterally cancelling the event were in retaliation for her refusal to provide the requested "kick back" and were likely an attempt to conceal from SU that he had arranged an event designed to profit himself and the band without the authority of the University, White forwarded Haymer's inappropriate text messages to Dr. Brandon Dumas, Vice Chancellor of SU.

18.

On November 2, 2015, Nathan Haymer met with Dr. Christopher Brown. During this meeting it was decided that Jukefest would go forward. Roynelle Ricard, Special Assistant to the Executive Vice President and Provost, and SU General Counsel, Tracie Woods, advised Nathan Haymer by email that Jukefest was to move forward on November 5, 2015.

19.

On or about November 3, 2015, Maranda White went to the Southern University administration building to discuss the unilateral cancellation of the event and the requested "kick back" by Nathan Haymer. White met with SU General Counsel, Tracie Woods, and informed her of the situation. She also met with Roynelle Ricard, Special Assistant to the Executive Vice President and Provost, and Dr. Christopher Brown, the SU Provost. While White waited, Woods prepared a written contract between Southern University and Octagon Media for the event management of Jukefest. The contract provided for a \$49,900 fee to Octagon Media for the services. The contract was signed by Benjamin Pugh, Vice Chancellor of Finance and Administration, and Ray Belton, President-Chancellor of Southern University System. Woods and all other members of the Southern University administration involved in the preparation and execution of the written contract led White to believe that the contract was binding or that Southern University would take the appropriate administrative steps to make sure that the contract was binding and would be paid in full.

20.

On November 4, 2015, the day before the event, Maranda White confirmed by email with Roynelle Ricard that the entire Human Jukebox band along with the Dancing Dolls would be performing at Jukefest in full uniform.

21.

On November 5, 2015, two sessions of Jukefest took place. Despite direct assurances from SU administration and direction from the administration to Nathan Haymer; neither Haymer, the entire SU band, drum major nor Dancing Dolls attended the event. Upon information and belief,

Haymer failed to produce the band as retaliation for Octagon Media's refusal to provide the requested "kick back".

22.

As the SU band was the major headliner for this event and the main reason various school administrations allowed their students a field trip day to purchase tickets to attend, Octagon Media received numerous complaints from ticketholders. Octagon had to provide refunds to Polk Elementary, LaBelle Aire Elementary, Arlington Preparatory, Northwest High, Glen Oaks High, Capitol Elementary and Eden Park, amounting to several thousand dollars.

23.

As Nathan Haymer and SU failed to provide the appropriate 501(c)(3) documentation, Octagon Media was additionally out of pocket for approximately \$8,305.90 for overhead expenses from sponsors and vendors who could not donate their services and products without the documentation.

24.

In total, Octagon Media had out of pocket losses of approximately \$17,005.90 for Jukefest. Despite the representations made by Nathan Haymer and SU administration officials, and despite a written contract for \$49,900, Octagon Media has yet to receive one cent from Southern University for Jukefest.

25.

Upon information and belief, based on Haymer's request for a "kick-back" for the event and his request that Octagon Media write the check for the event to the Southern University Foundation "Human Jukebox Fund," it was Haymer's intent to deceive Octagon Media into believing that he had the full authority to arrange Jukefest so that he could personally profit from the event, all the while planning to make the proceeds from the event appear as a donation to the Southern University Foundation from Octagon Media.

26.

As a result of Haymer's non-compliance and refusal to attend Jukefest, two additional events were also unattended, resulting in a financial loss to Octagon Media. Both events were booked and secured prior to the incidents unfolding for Jukefest. Deposits and non-refundable fees were incurred by Octagon Media.

27.

It was Haymer's stated desire for these events to produce positive awareness and increase visibility for himself, the SU Band, and its brand.

28.

The Karnival Krewe de Louisiane Mardi Gras Ball was held on January 22, 2016 at the Baton Rouge River Center where Haymer was to be announced as the Grand Marshall for the krewe and the SU band was to perform along with the Dancing Dolls. Haymer was also to attend a formal photoshoot for media outlets and rehearsal prior to the event. Neither Haymer nor the band participated in the event.

29.

In addition, an appearance by the SU band was required for the Honorable Mayor Kip Holden and the Baton Rouge Visitors and Convention Bureau a/k/a Visit Baton Rouge's Fall 2016 tourism conference. Neither Haymer nor the band participated in this event.

30.

Despite the email correspondence and representations made by Nathan Haymer, Octagon Media was forced to repay monies that were received from these two events resulting in the loss of \$3,500 for the Karnival Krewe de Louisiane Mardi Gras Ball and Baton Rouge Visitors and Convention Bureau Fall 2016 events due to his absence.

BREACH OF CONTRACT

31.

Made Defendants to the Breach of Contract claim: Nathan Haymer, Board of Supervisors of Southern University and Agricultural and Mechanical College and the Southern University System Foundation.

32.

White Enterprises of Louisiana, LLC, d/b/a Octagon entered into a verbal contract with Nathan Haymer, who represented that he was authorized to contractually bind SU and the SU Foundation, in order to improve the reputation of SU, including: Jukefest, Karnival Krewe de Louisiane Mardi Gras Ball, and Baton Rouge Visitors and Convention Bureau Fall 2016.

33.

Haymer, Southern University Agricultural and Mechanical College and the Southern University System Foundation breached the verbal agreement with Octagon Media because Haymer and the SU band failed to appear for Jukefest, Karnival Krewe de Louisiane Mardi Gras Ball, and Baton Rouge Visitors and Convention Bureau Fall 2016.

34.

After the SU administration learned of the verbal agreement with Haymer for Jukefest, an agreement was reduced to writing. On November 3, 2015, White Enterprises of Louisiana, LLC, d/b/a Octagon Media entered into a written contract with Southern University, whereby Octagon agreed to organize Jukefest in exchange for payment from Southern University in the amount of \$49,900.00.

35.

Octagon Media performed its obligations under the contract. However, to date, Southern University has failed to pay Octagon Media any of the \$49,900 due pursuant to the contract.

36.

Due to its failure to pay Octagon Media, Board of Supervisors of Southern University and Agricultural and Mechanical College is in breach of its contract with Octagon Media.

37.

When Maranda White of Octagon Media met with Tracie Woods, Roynelle Ricard and Dr. Christopher Brown on or about November 3, 2015 to discuss the cancellation of Jukefest and the actions of Nathan Haymer, representations were made to her that the written contract executed by Octagon Media with Southern University was a valid and enforceable agreement and that Southern University would take all administrative steps to make sure that the contract was properly approved. Accordingly, Octagon Media relied upon the representations of these parties that she would be receiving \$49,900 for the company's efforts on Jukefest.

38.

Due to the representations made to Octagon Media through Tracie Woods, Roynelle Ricard and Dr. Christopher Brown, Southern University is equitably estopped from asserting any claim that the November 3, 2015 contract between Southern University and Octagon Media is invalid.

DETRIMENTAL RELIANCE

39.

Made Defendants to the Detrimental Reliance claim: Nathan Haymer, Tracie Woods, Christopher Brown, Roynelle Ricard, Board of Supervisors of Southern University and Agricultural and Mechanical College, and Southern University Foundation.

40.

At all relevant times, Nathan Haymer was acting as an agent of Southern University and Agricultural and Mechanical College and Southern University Foundation.

41.

Nathan Haymer, acting as an agent of Southern University and Southern University Foundation, made promises to Octagon Media, which he did not uphold, and Octagon Media relied upon those promises to its detriment.

42.

Nathan Haymer represented to Octagon Media that he was authorized to engage the services of Octagon Media to organize JukeFest, Karnival Krewe de Louisiane Mardi Gras Ball, and an appearance at the Honorable Mayor Kip Holden and the Baton Rouge Visitors and Convention Bureau a/k/a Visit Baton Rouge's Fall 2016 tourism conference, and for Octagon Media to receive remuneration for its services. Relying upon those representations, Octagon Media advanced costs for the events and exerted effort and labor to organize these events.

43.

Nathan Haymer represented to Octagon Media that the entire SU band along with the Dancing Dolls would be present for all events. Once Octagon Media made it clear that it would not write a personal check to Nathan Haymer, Haymer publicized that Jukefest had been cancelled and he failed to show up at that event as well as all other events scheduled thereafter with the SU band and the Dancing Dolls. As a result of Haymer's representations, Octagon Media suffered losses due to cancellations and refunds.

44.

By reducing Nathan Haymer's actions and representations to writing in a contract for Jukefest, Southern University, adopted and ratified the actions taken by Nathan Haymer in engaging the services

of Octagon Media. Accordingly, Southern University is responsible for the losses suffered by Octagon Media due to the representations made to Octagon Media, including losses suffered due to the failure of the band to appear, all advanced costs, and the contract fee of \$49,900.

45.

When Maranda White of Octagon Media met with Tracie Woods, Roynelle Ricard and Dr. Christopher Brown, on or about November 3, 2015 to discuss the cancellation of Jukefest and the actions of Nathan Haymer, representations were made to her that the written contract executed by Octagon Media with Southern University was a valid and enforceable agreement and that Southern University would take all administrative steps to make sure that the contract was properly approved. Accordingly, Octagon Media relied upon the representations of these parties that the contract was valid and she would be receiving \$49,900 for her efforts on Jukefest to her detriment.

46.

Due to the actions of the Defendants named herein, Octagon Media suffered significant financial losses. Additionally, the actions of the Defendants damaged the reputation of Octagon Media, as Octagon Media clients, customers, associates, and contacts were very disappointed with the outcome of Jukefest, Karnival Krewe de Louisiane Mardi Gras Ball, and the Baton Rouge Visitors and Convention Bureau's Fall 2016 tourism conference

47.

Petitioner prays for a trial by jury.

WHEREFORE, Petitioner, White Enterprises of Louisiana, d/b/a Octagon Media, prays that the defendants named hereinabove be served with a copy of this Petition for Damages and cited to appear and answer same; and after due proceedings had, there be judgment herein in favor of Petitioner, White Enterprises of Louisiana, d/b/a Octagon Media, and against defendants, for all damages sustained by Petitioner, together with legal interest from the date of judicial demand.

Respectfully submitted:

NEWSOM LAW FIRM, LLC
4224 Bluebonnet Blvd., Suite B
Baton Rouge, LA 70809
Telephone: 225-761-8000
Facsimile: 225-761-8200

By:

Amy E. Newsom

Amy E. Newsom (30650)
amy@aclaw.com

**ATTORNEYS FOR PLAINTIFF,
WHITE ENTERPRISES OF
LOUISIANA, d/b/a/ OCTAGON
MEDIA**

PLEASE SERVE:

**Board of Supervisors of Southern University and Agricultural and Mechanical College System
(hereinafter "SU")**

Through its agents for Service of Process:

Jeff Landry, Attorney General for the State of Louisiana,
1885 North Third Street
Baton Rouge, LA 70802;

Ann A. Smith, Chair of Southern University Board of Supervisors
4th Floor, J.S. Clark Administration Building
Southern University and A&M College
Baton Rouge, LA 70813; and

Ray Belton, President-Chancellor of Southern University System
4th Floor, J.S. Clark Administration Building
Southern University and A&M College

Southern University System Foundation

Through its agent for Service of Process:

Alfred Harrell, III
J.S. Clark Admin Building, Room 326, Third Floor
Baton Rouge, LA 70813

Nathan Haymer

Band Director of Southern University Mechanical and Agricultural College Marching Band
Isaac Greggs Band Hall
Baton Rouge, LA 70813

Tracie Woods

General Counsel to the System and Board of Supervisors of Southern University System
J.S. Clark Admin Building, Fourth Floor
Baton Rouge, LA 70813

M. Christopher Brown, II

Through the Louisiana Long Arm Statute:
400 East Main Street
Frankfort, KY 40601

PLEASE HOLD SERVICE:

Roynelle Ricard

WHITE ENTERPRISES OF LOUISIANA,
LLC, d/b/a OCTAGON MEDIA
Plaintiff;

NUMBER: _____ DIV: _____

19th JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

SOUTHERN UNIVERSITY SYSTEM and
NATHAN B. HAYMER
Defendants.

STATE OF LOUISIANA

VERIFICATION

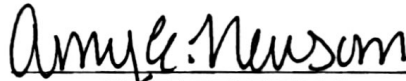
BEFORE the undersigned Notary Public, personally came and appeared, Maranda White,
who, being duly sworn, deposed that:

She is the owner of White Enterprises of Louisiana, LLC d/b/a/Octagon Media, the
Petitioner in this proceeding; and

She has read the above and foregoing Petition for Damages, and all of the allegations of fact
contained therein are true and correct to the best of her knowledge, information, and belief.


MARANDA WHITE

SWORN TO AND SUBSCRIBED before me, this 23rd day of January, 2018.



NOTARY PUBLIC


Printed Name of Notary

Amy E. Newsom

Notary Identification No. or State Bar Roll No.

301650

EBR4542426

EAST BATON ROUGE PARISH, LA
2018 JAN 31 AM 11:23

DEPUTY CLERK OF COURT