

Assigned for all purposes to: Santa Monica Courthouse, Judicial Officer: H. Ford III

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11

12 INDEPENDENT SPORTS &
ENTERTAINMENT, LLC, a Delaware
13 Limited Liability Company,
14 Plaintiff,
15 v.
16 JIMMY BUTLER, an individual; and
DOES 1 through 10, inclusive,
17
18 Defendant.
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Case No.

COMPLAINT FOR:
(1) BREACH OF CONTRACT;
(2) BREACH OF IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING;
(3) ACCOUNTS STATED;

20
21 Plaintiff Independent Sports & Entertainment, LLC (“ISE” or “Plaintiff”), formerly known
22 as Relativity Sports, LLC, for causes of action against Defendant Jimmy Butler (“Butler”
23 or “Defendant”), alleges as follows:
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25 **BRIEF OVERVIEW**

26 1. This is an action that stems from a relationship between ISE and Butler.
27 Butler executed an Exclusive Personal Marketing and Public Relations Agreement (“PR
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1 Agreement”), dated July 15, 2013, with ISE wherein Butler agreed to pay “the following
2 commission (the “Commission”) as compensation for Relativity Sports’ services
3 hereunder: with respect to all Activities contemplated under this Agreement, a fee equal to
4 Fifteen percent (15%) of the Gross Compensation (as defined below) paid to, earned by, or
5 credited to the Athlete in connection with each such Activity.” (Section 3 of PR
6 Agreement). Attached hereto as Exhibit A is a true and correct copy of the PR Agreement,
7 which is incorporated herein by this reference.

8 2. Under the PR Agreement, ““Gross Compensation’ shall mean all forms
9 of income, including (without limitation) the total compensation, salaries, earnings,
10 royalties, residuals, gifts (but only if such gifts are in lieu of partial or full compensation to
11 Athlete), bonuses, share of stock, shares of profit, partnership interests, percentages, and
12 property of any kind, earned or received, directly or indirectly by Athlete, or Athlete’s
13 heirs, executors, administrators or assigns, or any other person, firm or corporation on
14 Athlete’s behalf or for his Activities.” (Section 3 of PR Agreement).

15 3. While under the PR Agreement, Butler entered into a contract with Nike
16 (“Nike Contract”), and he later entered into an addendum to the contract (“Nike
17 Addendum”). While Butler partially performed by paying certain fees owed to ISE under
18 the PR Agreement from the compensation he earned from the Nike Contract, Butler failed
19 to pay fees owed to ISE on \$616,666.67 in compensation he earned from the Nike Contract
20 which consists of base compensation and performance bonus payments, and thus owes ISE
21 \$92,250 (15% of \$616,666.67) for such compensation. Moreover, Butler did not pay any
22 fees owed to ISE from the compensation he earned from the Nike Addendum.

23 4. Plaintiff is informed and believes and thereon alleges that under the Nike
24 Addendum, Butler received at least \$5,000,000, which consists of a \$1,000,000 signing
25 bonus and \$1,000,000 for each of the first four years of the Nike Addendum’s term (2016-
26 2017, 2017-2018, 2018-2019, and 2019-2020). As such, Defendant owes at least \$750,000
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1 (15 percent of \$5,000,000) to ISE for compensation earned by Butler under the Nike
2 Addendum.

3 **THE PARTIES**

4 **PLAINTIFF**

5 5. Plaintiff ISE is a Delaware limited liability company, qualified to do
6 business in the State of California. ISE’s principal place of business is located at 2029
7 Century Park East, Ste. 1550, Los Angeles, CA 90067.

8
9 **DEFENDANT**

10 6. Defendant Jimmy Butler is, and at all times relevant herein was, a
11 National Basketball Association (“NBA”) player. Butler currently plays for the Miami
12 Heat. On information and belief, Butler temporarily resides in Florida during the current
13 NBA season and, at all relevant times herein, has conducted and continues to conduct
14 business in California, including playing road games against the Los Angeles Clippers, Los
15 Angeles Lakers, Golden State Warriors, and Sacramento Kings.

16
17 **DOE DEFENDANTS**

18 7. ISE is unaware of the true names and capacities, whether individual,
19 corporate, associate or otherwise, of defendant Does 1 through 10, inclusive, or any of
20 them, and is gathering information to determine if other entities or individuals are
21 complicit in Butler’s wrongdoing or otherwise responsible for the obligations under the PR
22 Agreement, and therefore sues these defendants, and each of them, by such fictitious
23 names. ISE will file a DOE amendment and/or will seek leave of this Court to amend this
24 complaint when the status and identities of these defendants are ascertained or when ISE
25 determines claims against other entities or individuals are warranted. The Doe defendants
26 include any alter egos of Butler.

1 **JURISDICTION AND VENUE**

2 8. Regarding personal jurisdiction, ISE is informed and believes, and on
3 that basis, alleges that Defendant Jimmy Butler purposefully availed himself of the
4 benefits and protections of California. Butler chose to enter into this PR Agreement with
5 Relativity Sports, LLC, now known as ISE, whose principal place of business, as listed in
6 the PR Agreement was in Beverly Hills, California. Butler had and continues to have
7 obligations under the PR Agreement. Further, Butler purposefully derived benefit from his
8 activities in California because he obtained payment under the Nike Addendum by wearing
9 Nike shoes in NBA games, including games played in Los Angeles against the Los
10 Angeles Clippers and Los Angeles Lakers, games played in Oakland against the Golden
11 State Warriors, and games played in Sacramento against the Sacramento Kings.
12 Additionally, ISE is informed and believes, and on that basis, alleges that Butler paid taxes
13 in California under the “Duty Days” approach for services performed in California.
14 Moreover, the controversy relates to Butler’s contact with California, as it arises under the
15 PR Agreement entered into with the Beverly Hills office of Relativity Sports, LLC, now
16 known as ISE, and such PR Agreement pertains to payments for wearing Nike shoes in
17 NBA games, including games played in California. As such, assertion of personal
18 jurisdiction over Butler comports with fair play and substantial justice and the exercise of
19 personal jurisdiction over Butler is not unreasonable.

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21 9. ISE is informed and believes, and on that basis, alleges that venue is
22 appropriate in the County of Los Angeles because under Code of Civil Procedure Section
23 395(b), the PR Agreement was entered into in Los Angeles, the obligation at issue was
24 incurred in Los Angeles. Moreover, under Code of Civil Procedure Section 395(b),
25 because Butler does not reside in California and the state in which he is a permanent
26 resident is unknown to ISE, “the action may be tried in the superior court in any county
27 that the plaintiff may designate in his or her complaint.”

1 **GENERAL ALLEGATIONS**

2 **MARKETING AND PUBLIC RELATIONS SERVICES**

3 10. ISE is an integrated sports, media, entertainment and management
4 company that represents professional athletes relating to their off-the-field and off-the-
5 court activities and provides personal marketing and public relations services in exchange
6 for a percent of the athlete’s gross compensation. Jimmy Butler entered into the PR
7 Agreement with Relativity Sports, LLC, now known as ISE (all subsequent references to
8 ISE shall include Relativity Sports, LLC). (Exhibit A.) The PR Agreement is an exclusive
9 personal marketing and public relations agreement. The term of the PR Agreement began
10 on July 15, 2013. Pursuant to Section 5 of the PR Agreement, the term of the PR
11 Agreement extended for a period of 36 months and renewed automatically for successive
12 18-month periods.

13
14 **PR AGREEMENT**

15 11. Pursuant to Section 3 of the PR Agreement, Butler paid certain fees due
16 to ISE from the compensation he earned under the Nike Contract, but failed to pay any
17 fees due for a portion (\$666,666.67) of the compensation he earned under the Nike
18 Contract. Moreover, Butler did not pay any fees due to ISE from the compensation he
19 earned under the Nike Addendum.

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21 **DEFAULTS UNDER PR AGREEMENT**

22 12. Section 11 of the PR Agreement provides that “no breach of this
23 Agreement on the part of either party shall be deemed material, unless the non-breaching
24 party shall have given written notice specifying the nature of such breach to the breaching
25 party and the breaching party shall have failed to cure such breach within thirty (30) days
26 after the receipt of such notice.” ISE has provided written notice to Butler, specifying the
27 nature of his breach and has made numerous attempts to collect the due and owing
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1 payments. Among other efforts, at the end of 2017 and early 2018, Happy Walters, who
2 negotiated the Nike Addendum with Nike, assisted ISE's effort to collect the 15 percent
3 fee due and owing to ISE for payments received by Butler under the Nike Contract and
4 Nike Addendum, by placing ISE in touch with Butler's financial advisor, Ken Kavanaugh.
5 Mr. Kavanaugh acknowledged Butler owed the 15 percent fee, and ISE believed payment
6 would be forthcoming and withheld filing any legal action. Butler, however, failed to make
7 any payments to ISE.

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9 **DAMAGES OWED UNDER THE PR AGREEMENT**

10 13. Under the PR Agreement, Defendant owes ISE at least \$842,250. This
11 amount consists of 15 percent of \$666,666.67, which is a portion of the compensation
12 Butler received under the Nike Agreement, and \$750,000, which consists of 15 percent of
13 \$5,000,000, which ISE is informed and believes, and on that basis, alleges Butler received
14 under the Nike Addendum (\$1,000,000 signing bonus, and \$1,000,000 or each of the first
15 four years of the Nike Addendum's term (2016-2017, 2017-2018, 2018-2019, and 2019-
16 2020). The breaches as to Butler's failure to pay the \$750,000 due and owing for
17 compensation Butler received under the Nike Addendum occurred within the applicable
18 statute of limitations, as does the breach related to Butler's failure to pay \$20,625 due and
19 owing for compensation Butler received under the Nike Contract. Regarding the additional
20 \$71,625 due and owing for compensation Butler received under the Nike Contract, based
21 on the communications between ISE and Butler's financial advisor Ken Kavanaugh the
22 statute of limitations was tolled under California's equitable tolling doctrine and
23 additionally, Butler is equitably estopped from asserting any statute of limitations defense
24 based on such communications.

1 **GOVERNING LAW**

2 14. Section 14 of the PR Agreement provides that all disputes, claims, or
3 controversies, including non-contractual obligations, arising out of or in any way related to
4 the PR Agreement shall be governed by, construed under, and enforced in accordance with
5 the laws of the State of California.

6
7 **FIRST CAUSE OF ACTION**

8 **[For Breach of Contract Against Butler and DOE Defendants 1-10]**

9 15. ISE realleges paragraphs 1 through 14 of this Complaint and
10 incorporates them as though fully set forth herein.

11 16. ISE and Butler entered into the PR Agreement.

12 17. ISE duly performed all, or substantially all of the significant things the
13 PR Agreement required ISE to do or was excused from doing such things because of
14 Jimmy Butler's defaults under the PR Agreement.

15 18. All conditions required under the PR Agreement for ISE's performance
16 had occurred or were excused.

17 19. Butler failed to do things the PR Agreement required and did things that
18 the PR Agreement prohibited him from doing. More specifically, Butler breached the PR
19 Agreement by failing to pay the fees owed to ISE from the compensation he earned under
20 the Nike Addendum.

21 20. ISE is informed and believes, and on that basis, alleges that Butler
22 received \$666,666.67 in compensation, including base salary and performance bonuses, for
23 which he did not pay ISE its 15 percent fee. Moreover, ISE is informed and believes, and
24 on that basis, alleges that Butler received a \$1,000,000 signing bonus and four subsequent
25 \$1,000,000 payments (\$1,000,000 for each of the four years of the term of the Nike
26 Addendum: 2016-2017, 2017-2018, 2018-2019, and 2019-2020) for a total of \$5,000,000
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1 under the Nike Addendum. As such, Butler's breach of the PR Agreement has caused
2 injury and damage to ISE of at least \$842,250 plus prejudgment interest.

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4 **SECOND CAUSE OF ACTION**

5 **[For Breach of Implied Covenant of Good Faith and Fair Dealing Against Butler and**
6 **DOE Defendants 1-10]**

7 21. ISE realleges paragraphs 1 through 20 of this Complaint and
8 incorporates them as though fully set forth herein.

9 22. In every contract or agreement there is an implied promise of good faith
10 and fair dealing. This implied covenant of good faith and fair dealing requires that no
11 party will do anything that will have the effect of impairing, destroying, or injuring the
12 rights of the other party to receive the benefits of their agreement. The covenant implies
13 that in all contracts each party will refrain from doing things that frustrate the purpose of
14 the agreement.

15 23. One of the rights and benefits of the PR Agreement was that in exchange
16 for ISE providing Butler with personal marketing and public relations services, ISE would
17 receive fifteen percent of the Gross Compensation earned by Butler from his off-the-field
18 activities as described in the PR Agreement.

19 24. Butler breached the implied covenant of good faith and fair dealing by
20 depriving ISE of the benefits of its bargain and by frustrating the purpose of the PR
21 Agreement by, among other things, failing to pay fees owed to ISE from compensation he
22 earned under the Nike Addendum and failing to direct his financial advisor Mr. Kavanaugh
23 to make payment to ISE.

24 25. ISE is informed and believes, and on that basis, alleges that Butler
25 received \$666,666.67 in compensation, including base salary and performance bonuses, for
26 which he did not pay ISE its 15 percent fee. Moreover, ISE is informed and believes, and
27 on that basis, alleges that Butler received a \$1,000,000 signing bonus and four subsequent
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1 \$1,000,000 payments (\$1,000,000 for each of the four years of the term of the Nike
2 Addendum: 2016-2017, 2017-2018, 2018-2019, and 2019-2020) for a total of \$5,000,000
3 under the Nike Addendum. As such, Butler’s breach of the PR Agreement has caused
4 injury and damage to ISE of at least \$842,250 plus prejudgment interest.

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6 **THIRD CAUSE OF ACTION**

7 **[For Accounts Stated Against Butler And Doe Defendants 1-10]**

8 26. ISE realleges paragraphs 1 through 14 of this Complaint and
9 incorporates them as though fully set forth herein.

10 27. Butler owes ISE \$842,250 from his financial transactions governed by
11 the PR Agreement.

12 28. The \$842,250 amount stated in the account is the correct amount owed
13 to ISE. Pursuant to Section 3 of the PR Agreement, Butler agreed to pay “the following
14 commission (the “Commission”) as compensation for Relativity Sports’ services
15 hereunder: with respect to all Activities contemplated under this Agreement, a fee equal to
16 Fifteen percent (15%) of the Gross Compensation (as defined below) paid to, earned by, or
17 credited to the Athlete in connection with each such Activity.” (Section 3 of PR
18 Agreement).

19 29. Through the PR Agreement, Butler agreed to pay the amounts owed.
20 Butler’s personal financial advisor Ken Kavanaugh agreed that Butler owed to ISE fifteen
21 percent (15%) of the portion of the compensation Butler received under the Nike Contract
22 for which he had not already paid 15 percent to ISE, and 15 percent of all monies Butler
23 received from Nike under the Nike Addendum. Although ISE demanded that Butler pay all
24 amounts due under the account and although Mr. Kavanaugh acknowledged ISE’s
25 entitlement to such fees, Butler has failed to pay any portion of the amount due under the
26 account, which, ISE is informed and believes, and on that basis, alleges, stands at \$842,250
27 plus prejudgment interest. This amount consists of Fifteen percent (15%) of \$666,666.67,
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1 which is the portion of the compensation received by Butler under the Nike Contract in
2 which he failed to pay the fifteen percent (15%) fee to ISE, and fifteen percent (15%) of
3 the \$1,000,000 for the signing bonus Butler earned under the Nike Addendum and Fifteen
4 percent (15%) of \$1,000,000 for each of the four years of the term of the Nike Addendum
5 (2016-2017, 2017-2018, 2018-2019, and 2019-2020).

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7 **PRAYER FOR RELIEF**

8 WHEREFORE, ISE prays for judgment against Defendant Jimmy Butler and
9 any DOE Defendants subsequently named as follows:

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13 **ON THE FIRST CAUSE OF ACTION**

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15 1. For an award of general damages in the amount of \$842,250,
16 which consists Fifteen percent (15%) of \$666,666.67, which is the portion of the
17 compensation received by Butler under the Nike Contract in which he failed to pay the
18 fifteen percent (15%) fee to ISE, and fifteen percent (15%) of the \$1,000,000 for the
19 signing bonus Butler earned under the Nike Addendum and Fifteen percent (15%) of
20 \$1,000,000 for each of the four years of the term of the Nike Addendum (2016-2017,
21 2017-2018, 2018-2019, and 2019-2020);

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23 **ON THE SECOND CAUSE OF ACTION**

24
25 2. For an award of general damages in the amount of \$842,250,
26 which consists Fifteen percent (15%) of \$666,666.67, which is the portion of the
27 compensation received by Butler under the Nike Contract in which he failed to pay the
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1 fifteen percent (15%) fee to ISE, and fifteen percent (15%) of the \$1,000,000 for the
2 signing bonus Butler earned under the Nike Addendum and Fifteen percent (15%) of
3 \$1,000,000 for each of the four years of the term of the Nike Addendum (2016-2017,
4 2017-2018, 2018-2019, and 2019-2020);

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6 **ON THE THIRD CAUSE OF ACTION**

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8 3. For an award of general damages in the amount of \$842,250,
9 which consists Fifteen percent (15%) of \$666,666.67, which is the portion of the
10 compensation received by Butler under the Nike Contract in which he failed to pay the
11 fifteen percent (15%) fee to ISE, and fifteen percent (15%) of the \$1,000,000 for the
12 signing bonus Butler earned under the Nike Addendum and Fifteen percent (15%) of
13 \$1,000,000 for each of the four years of the term of the Nike Addendum (2016-2017,
14 2017-2018, 2018-2019, and 2019-2020);

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16 **FOR ALL CAUSES OF ACTION**

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18 4. For prejudgment interest;

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20 5. For costs of suit incurred herein;

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22 6. For suitable temporary restraining orders, writs of attachment,
23 expedited discovery orders, and preliminary injunctions, as necessary to investigate and
24 preserve the monies owed from Defendant to ISE;

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7. For such other and further relief as the Court may deem just and proper.

DATED: March 23, 2020

GARCIA RAINEY BLANK & BOWERBANK LLP

By



JEFFREY M. BLANK
Attorneys for Plaintiff
Independent Sports & Entertainment, LLC