

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

JULIUS GREENWALD,)
)
Plaintiff,)
)
v.)
)
TSE GROUP, LLC, a New York Limited)
Liability Company, d/b/a B.B. KING)
BLUES CLUB & GRILL)
)
Defendant)

DOCKET # 09-0189

PART _____

COMPLAINT

Comes now the Plaintiff by and through counsel and for suit against the Defendant alleges the following:

1. Plaintiff is a citizen and resident of Hamilton County, Chattanooga, Tennessee.
2. Defendant TSE Group, LLC (hereinafter "TSE Group") is a New York limited liability company. TSE Group, LLC has no registered agent for service of process according to the records of the Corporations Division for the State of New York, Department of State. TSE Group, LLC may be served with process by serving its managing member, DBS International, LLC in care of Danny Bensusan at 131 West Third Street, New York, New York, 10012.
3. TSE Group does business as B.B. King Blues Club & Grill in New York, New York.
4. The Plaintiff brings this lawsuit for the recovery of funds which were loaned to TSE Group pursuant to a loan agreement made and funded in Hamilton County, Tennessee. Therefore, jurisdiction and venue are proper in this Court.

09 MAR 16 AM 10: 11

FILED
S. LEE AKERS, C&M
[Signature]

5 Upon information and belief, TSE Group was formed on or about June 23, 1999 by DBS International, LLC (hereinafter “DBS”), Joseph Prebul (hereinafter “Prebul”) and Gary Chazen (hereinafter “Chazen”).

6 Upon information and belief, the managing member of DBS is Plaintiff’s step son-in-law, Danny Bensusan.

7. Joseph Prebul is Plaintiff’s step-son by marriage. Plaintiff is married to Prebul’s mother, Esther Prebul.

8. Danny Bensusan is Plaintiff’s step-son-in-law. Bensusan is married to Prebul’s sister who is the daughter of Plaintiff’s wife.

9 Upon information and belief, DBS was (and remains) the managing member of TSE Group.

10. Upon information and belief, the purpose of TSE Group was to construct and operate the “B.B. King Club” (hereinafter “club”) in New York City.

11. Upon information and belief, by January of 2000, TSE Group needed additional funds to complete construction of the club prior to opening for business.

12. Upon information and belief, Danny Bensusan, Joseph Prebul and Gary Chazen agreed to request a loan from the Plaintiff for TSE Group and authorized Prebul to solicit a loan from the Plaintiff to fund ongoing construction of the club.

13. Prebul approached the Plaintiff in Hamilton County, Chattanooga in January of 2000 to request a loan (hereinafter “loan”) from the Plaintiff for TSE Group. Following negotiations and an oral agreement between Prebul on behalf of TSE Group and the Plaintiff, the Plaintiff loaned TSE Group \$1,500,000.00 and paid the loan proceeds to TSE Group.

14. The terms of the loan from the Plaintiff to TSE Group were that interest would accrue on the principal amount of the loan at the rate of “prime plus 2%” until the club opened. Plaintiff and TSE Group agreed that interest would be compounded and calculated monthly and that ongoing interest would be computed based upon the accrued balance of the loan, including interest. The Plaintiff and TSE Group further agreed that payments from TSE Group on the principal and interest would be deferred until the club opened for business. The Plaintiff and TSE Group agreed that when the club opened for business, interest would accrue thereafter on the principal and interest (compounded monthly) at the rate of “LIBOR plus 2%”. The Plaintiff and TSE Group further agreed that when the club opened for business, TSE Group would pay the accrued interest each month based upon the deferred loan balance. The Plaintiff and TSE Group further agreed that when the club or TSE Group was sold, the Plaintiff’s loan would be repaid in full with accrued interest from the proceeds of the sale.

15. Danny Bensusan, Joseph Prebul and Gary Chazen orally agreed to personally guarantee repayment of the loan with accrued interest from the Plaintiff to TSE Group in the amount of 1/3rd each. Upon information and belief, the personal guaranties of Bensusan, Prebul and Chazen are not disputed as of the date of the filing of this complaint because Bensusan has never denied his personal guaranty on the loan with accrued interest and Chazen and Prebul have re-affirmed their personal guaranty for repayment of the loan with accrued interest.

16. Upon information and belief, the club opened for business in January of 2002.

17. On January 1, 2002, the balance due on the loan, with accrued interest, was \$1,702,885.20.

18. In March of 2002, TSE Group began making monthly interest payments according to the terms of the loan agreement. Plaintiff received regular monthly interest payments from March of 2002 until October 21, 2008 when plaintiff received the payment for the September interest. The September interest payment was the last payment made by the Defendant who has failed or refused to make further interest payments.

19. The Defendant is in breach of the terms of the loan agreement and is therefore liable to the Plaintiff for breach of contract. In the alternative, the Defendant is liable to the Plaintiff based upon the equitable doctrines of unjust enrichment or quantum meruit.

20. Plaintiff has been damaged from the Defendant's conduct.

WHEREFORE, Plaintiff prays for the following relief:

1. That proper process issue and be served upon the Defendant requiring the Defendant to answer according to law.

2. That the Plaintiff have and recover judgment against the Defendant for Plaintiffs damages in the amount of \$1,702,885.20 as of October 1, 2008.

3. That Plaintiff have and recover judgment against the Defendant for interest at the agreed rate, LIBOR plus 2%, from October 1, 2008 through the date of judgment. In the alternative, that the Plaintiff have and recover pre-judgment interest pursuant to T.C.A. §47-14-123.

4. That the costs of this cause be taxed to the Defendant.

5. That the Plaintiff have further general relief.

Respectfully submitted,

CAVETT & ABBOTT, PLLC

By: 

Barry L. Abbott, BPR #015149

Attorneys for Plaintiff

801 Broad Street, Suite 428

Chattanooga, TN 37402

(423) 265-8804

babbott@cavett-abbott.com

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged against the Plaintiffs in the event said Plaintiffs shall not pay the same. Witness my hand this 16th day of March, 2009.

CAVETT & ABBOTT, PLLC

By: 

Barry L. Abbott, Surety

801 Broad Street, Suite 428

Chattanooga, TN 37402

423/265-8804

CIVIL CASE COVER SHEET

RECEIVED AS
3-16-09
Clerk & Master

Check one: CHANCERY COURT CIRCUIT COURT

Docket No. 09-0189

Date: March 16, 2009

Attorney of Record Barry L. Abbott

I. Origin Original Proceeding Case Reopened Counter-claim Cross-claim 3rd Party Claim Intervening Claim
 Answer/Initial Responsive Pleading Other (Specify) _____

II. Type of Action (Check one)

Domestic Relations

361 Paternity 362 Legitimation 363 Adoption 364 Surrender
 371 Divorce with minor children 372 Divorce without minor children 381 Order of Protection 391 Interstate Support-Incoming
 401 Other Domestic Relations (Specify) _____ 392 Interstate Support-Outgoing

General Civil

461 Contract/Debt 462 Specific Performance 471 Damages/Torts 481 Real Estate Matter
 491 Workers Compensation 501 Probate 511 Juvenile Court Appeal 512 General Sessions Appeal
 513 Appeal from Admin. Hearing 571 Conservatorship 572 Guardianship 573 Trust
 581 Miscellaneous General Civil (Specify) _____

Other 541 Judicial Hospitalization

Petition for: (Reopened Cases)

381 Order of Protection 382 Contempt 383 Residential Parenting/No Child Support
 84 Residential Parenting/Child Support 385 Child Support 387 Wage Assignment Hearing
 551 Other _____

III. Total amount sued for \$ _____ Specific type of damages or relief sought _____

Statutory authority for suit, if any _____

IV. Check one: Affidavit to proceed *in forma pauperis* Cost Bond Surety Cavett & Abbott

JURY DEMAND (Check YES only if demanded in complaint) YES NO

VI. RELATED CASES (if any) Docket No. _____ Judge _____

Date filed _____ Status _____

VII. PLAINTIFF/PETITIONER INFORMATION (List additional parties on supplemental form.)

I. Name Greenwald Julius
Last First Middle

AKA DBA BNF _____

S.S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

300 Willow Glen Road

ADDRESS _____

Chattanooga, TN 37421

CITY STATE ZIP _____

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP _____

Barry L. Abbott 015149

ATTORNEY BPR # _____

801 Broad Street, Suite 428

ADDRESS _____

Chattanooga, TN 37402

CITY STATE ZIP _____

423-265-8804 423-267-5915

PHONE FACSIMILE _____

VIII. DEFENDANT/RESPONDENT INFORMATION (List additional parties on supplemental form.)

NAME TSE Group, LLC
Last first Middle

AKA DBA BNF B.B. King Blues Club & Grill

S. S. # _____ DOB _____ Driver's License # _____

TSE Group, LLC c/o DBS International, LLC

COMPANY NAME _____

c/o Danny Bensusan, 131 West Third Street

ADDRESS _____

New York, NY 10012

CITY STATE ZIP _____

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP _____

ATTORNEY BPR # _____

ADDRESS _____

CITY STATE ZIP _____

PHONE FACSIMILE _____

TYPE OF SERVICE REQUIRED

Out of County Sheriff Publication (specify) _____

Local Sheriff Other (specify) Attorney to serve

Secretary of State Comm. Of Ins. _____

Special Instructions _____

IX. ASSOCIATED PARTY (Uninsured Motorist Carrier) INFORMATION

1. Name _____ Address _____

Type of Service (specify) _____

Are additional plaintiffs or defendants listed on a separate sheet? YES NO