

Cause No. 19-09-12777

RENE ETCHARREN,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	MONTGOMERY COUNTY
	§	
JUAN CARLOS PADILLA and	§	
SPORTS PRO DEVELOPMENT, LLC,	§	Montgomery County - 284th Judicial District Court
	§	
Defendants.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Plaintiff, RENE ETCHARREN ("Etcharren"), and files this Original Petition against Defendants, JUAN CARLOS PADILLA ("Padilla") and SPORTS PRO DEVELOPMENT, LLC ("Sports Pro"), and in support thereof would respectfully show this Court the following:

**I.
DISCOVERY CONTROL PLAN**

1. Discovery is to be conducted under Level 2 of TEX. R. CIV. P. 190.3.
2. Etcharren seeks monetary relief over \$200,000 but not more than \$1,000,000, excluding court costs, prejudgment interest, and attorney's fees.

**II.
PARTIES**

3. Etcharren is an individual residing Harris County, Texas.
4. Padilla is an individual residing in Montgomery County, Texas at his last known residential address located at 6 Desert Rose Place, The Woodlands, Texas 77382 and may be

served through his attorney, Phillip R. Livingston, 2950 Unity Dr., #37056, Houston, TX 77237-4704, prlivingston@sbcglobal.net.

5. Sports Pro is a Texas limited liability company registered and conducting business in the State of Texas in Montgomery County and may be served through its attorney, Phillip R. Livingston, 2950 Unity Dr., #37056, Houston, TX 77237-4704, prlivingston@sbcglobal.net.

III. JURISDICTION AND VENUE

6. The amount in controversy is within the jurisdiction of this Court and it has personal jurisdiction over Padilla and Sports Pro because he resides and it is located in Texas, they are doing business with a Texas resident in Texas and have breached contracts that were to be performed, in whole or in part, in Texas.

7. Venue is proper in this Court because Montgomery County is the county in which all or a substantial part of the events or omissions giving rise to the claims occurred. TEX. CIV. PRAC. & REM. CODE §15.002.

IV. STATEMENT OF FACTS

8. On December 1, 2018, Padilla for the support and benefit of Sports Pro issued a Promissory Note to Etcharren in the original Principal amount of \$270,000, bearing interest at an initial annual rate of 0% and at a default rate of 9%, and maturing on February 28, 2019.

9. On December 1, 2018, Padilla for the support and benefit of Sports Pro issued a second Promissory Note to Etcharren in the original Principal amount of \$45,000, bearing interest at an initial annual rate of 0% and at a default rate of 9%, and maturing on February 28, 2019.

10. On January 15, 2019, Padilla for the support and benefit of Sports Pro issued a third Promissory Note to Etcharren in the original Principal amount of \$110,000, bearing interest at an initial annual rate of 0% and at a default rate of 9%, and maturing on February 28, 2019.

11. Etcharren is the current owner and holder of all three Promissory Notes issued by Padilla to Etcharren for the support and benefit of Sports Pro in the Principal amounts of \$270,000, \$45,000 and \$110,000, respectively.

12. All three Promissory Notes issued by Padilla to Etcharren for the support and benefit of Sports Pro were due and payable in single payments in the amounts of \$270,000, \$45,000 and \$110,000, respectively, for return of the Principal amounts to Etcharren and due on the maturity date of February 28, 2019 from proceeds from Sports Pro events and Padilla.

13. Neither Padilla nor Sports Pro paid the payments on any of the Promissory Notes when due and thus, they are in default. As of February 28, 2019, the outstanding Principal amounts of the Notes were \$270,000, \$45,000 and \$110,000 (the "Default Date Balances"). The Default Date Balances remain unpaid and have accrued interest since February 28, 2019 at an annual rate equal to 9% pursuant to the terms of the Promissory Notes with said interest due continuing to accrue daily until the Promissory Notes and the interest thereupon have been paid in full.

14. At the same time that Padilla executed the Promissory Notes for the support and benefit of Sports Pro, Padilla presented checks written on Sports Pro's bank account to Etcharren post-dated to February 2019 for payment on the Notes. Thereafter, however, Padilla told Etcharren to postpone cashing the checks and Etcharren was informed by Defendants' counsel that said tendered checks would not be honored by Sport Pro's bank due to insufficient funds. Thus, and accordingly, Etcharren did not present Defendants' checks to the bank for processing.

15. Since Padilla's promises and misstatements to Etcharren, several other lawsuits were filed against Padilla and Sports Pro of which Padilla was aware but never informed Etcharren who he owes \$425,000 plus interest.

16. As of the filing of this lawsuit, Padilla and Sports Pro have refused to pay Etcharren the Default Date Balances plus all interest accrued thereon.

CAUSES OF ACTION

V. BREACH OF CONTRACT

17. Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 16, supra, as if fully set forth at length herein.

18. Defendants have failed to pay the Principal payments due to Etcharren in accordance with the terms of three Promissory Notes. Etcharren has demanded Defendants make payment of the Default Date Balances, but Defendants have failed and refuse to pay all or any part of the amounts due under the three Promissory Notes. Etcharren has suffered damages in the amount of approximately \$425,000, together with interest continuing to accrue at the default rate until paid in full.

VI. NEGLIGENT OR FRAUDULENT INDUCEMENT

19. Etcharren re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 18, supra, as if fully set forth at length herein.

20. Padilla intentionally and/or negligently misstated his intentions to pay the payments due on the Promissory Notes at issue in this case. These misrepresentations were material to Etcharren in entering into the agreements to loan Padilla and Sports Pro \$425,000. Padilla made these statements to Etcharren with the knowledge of their falsity or asserted them without

knowledge of their truth. Padilla made these misstatements with the intention that Etcharren would rely upon those statements and Etcharren did so rely upon the misrepresentations. As a result of Padilla's negligent or intentional statements or acts, Etcharren was damaged and seeks to recover his economic damages, and all other damages upon which he is justly entitled.

VII. FRAUD

21. Etcharren re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 20, supra, as if fully set forth at length herein.

22. Padilla presented to Etcharren post-dated two checks written on Sports Pro's bank account (checks #1673 and #1674) representing them as valid instruments that could be cashed on the date the balance became due and owing on the subject Promissory Notes. When the time came for Etcharren to present the Sports Pro checks to the bank for payment on the Notes, Padilla instructed Etcharren not do so because Padilla knew that the checks were not valid payments since Defendants had insufficient funds in the account to satisfy those payments. Padilla's representations about the checks were material, false and knowingly or recklessly made by Padilla with the intent that Etcharren rely upon them and he did so to his detriment in loaning Padilla and Sports Pro \$425,000 which Defendants cannot and/or refuse to repay. In addition, Padilla and his agents represented that upcoming matches would be used to satisfy the payments due and owing and strongly "cautioned" Etcharren against legal recourse as that would result in a decreased chance of payment. Again, relying on the statements that proceeds from the late June and July 2019 sporting events would be used to satisfy the sums due and owing, Etcharren heeded his warnings. Instead, Padilla used the time to enter into an agreement to use the proceeds from those funds to pay other investors. Padilla's representations about the use of the proceeds were material, false and knowingly or recklessly made by Padilla with the intent that Etcharren rely upon them

and he did so to his detriment. Etcharren has been damaged and seeks to recover his economic damages, and all other damages upon which he is justly entitled.

**VIII.
ATTORNEY'S FEES**

23. Etcharren re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 22, supra, as if fully set forth at length herein.

24. The terms of the three Promissory Notes, and the stated cause(s) of action require Defendants to pay all costs and attorney's fees for collection and enforcement thereof. Defendants' conduct has made it necessary for Etcharren to employ the undersigned attorney and to agree to pay such attorney a reasonable fee. Etcharren is thus entitled to recover attorney's fees and all costs incurred pursuant to § 38.001 *et. seq.* of the Texas Civil Practice and Remedies Code.

**IX.
PRE AND POST-JUDGMENT INTEREST**

25. Etcharren re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 24, supra, as if fully set forth at length herein.

26. The above and foregoing wrongful acts and/or conduct of Padilla have caused damages to Etcharren that entitle him to prejudgment interest on the damages sustained at the contractual rate of 9% per annum. Additionally, Etcharren is entitled to post-judgment interest from the date of any judgment in this case at the contractual rate of 9% per annum.

**X.
REQUEST FOR DISCLOSURE**

27. Etcharren re-alleges and incorporates by reference the facts and allegations set forth in paragraphs numbered 1 through 26, supra, as if fully set forth at length herein.

28. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose, within fifty (50) days of service of this Request, the information or material described in Rule 194.2(a)-(i), to the extent the same has not already been disclosed or produced.

**XI.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Rene Etcharren, respectfully requests that:

1. Defendants, Padilla and Sports Pro, be cited to appear and answer herein;
2. Etcharren be granted judgment for the amounts due under the three Promissory Notes totaling to the sum of \$425,000;
3. Etcharren be granted judgment for prejudgment interest at the highest legal or contractual rate allowed by law until the date of judgment;
4. Etcharren be granted judgment for his reasonable attorney's fees;
5. Etcharren be granted judgment for all costs of court;
6. Etcharren be granted judgment for post-judgment interest at the highest legal or contractual rate allowed by law on the total amount of the judgment from the date of judgment until paid; and
7. Etcharren be granted such other and further relief, special or general, legal or equitable, as Etcharren may be shown to be justly entitled to receive.

Respectfully submitted,

RENNE LAW, PLLC

By: Christine Renne

Christine M. Renne

State Bar No. 00794518

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-and-

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon counsel for Padilla and Sports Pro pursuant to the Texas Rules of Civil Procedure on this 16^h day of September, 2019 via both first class mail and electronic mail to the following addresses:

Phillip R. Livingston
2950 Unity Dr., #37056
Houston, TX 77237-4704
prlivingston@sbcglobal.net

Christine Renne

Christine M. Renne