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ORIGINAL FILED

NOV - 8 2010

**LOS ANGELES
SUPERIOR COURT**

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 STARZ HOME ENTERTAINMENT, LLC, a)
Delaware Limited Liability Corporation;)

12)
13 Plaintiff,)
14)

15 vs.)
16)

16 LINDSAY DUNLAP, an individual; EMBER)
ENTERTAINMENT; and DOES 1 through)
17 10;)

18 Defendants.)
19)
20)
21)
22)
23)
24)

Case No. BC373707

**JUDGMENT ON SPECIAL VERDICT IN
JURY TRIAL**

25 The above captioned matter came on regularly for trial on August 9, 2010, in Department 56
26 of the Los Angeles Superior Court, Central District, Jane Johnson, Judge, presiding. Dennis P. Wilson and
27 Alan J. Romero appeared as the attorneys of record for Plaintiff STARZ Home Entertainment, LLC, and
28 Lindsay Dunlap appeared in pro per for herself. The subject matter of the trial was Plaintiff's Complaint,

1 Causes of Action Four (4) through (7), and the Defendant Lindsay Dunlap's Answer thereto.

2 A jury of 12 persons was impaneled and sworn. Witnesses were sworn and testified. After hearing
3 the evidence and argument of both sides, the jury was instructed by the court and retired to consider its
4 Special Verdict.

5 After returning into court and being called, the jurors rendered their Special verdict in writing in
6 words and figures as follows:

7 "WE, THE JURY, in the above captioned case find on the following questions
8 submitted to us as follows:

9
10 **QUESTION NO. 1:** Did either Ember Entertainment, Inc. or Lindsay Dunlap enter into a
11 written agreement with Anchor Bay Entertainment, Inc.?

12 YES 12 NO 0

13 *If you answer Question No. 1 "YES", Please proceed to the question No. 2. If you answered*
14 *"NO" go to Question No. 7.*

15
16 **QUESTION NO. 2:** Did Anchor Bay Entertainment, Inc. tender a check to Ember
17 Entertainment, Inc. or Lindsay Dunlap in the amount of \$250,000.00 on or about 11-3-2005?

18 YES 12 NO 0

19 *Please proceed to the question No. 2.*

20
21 **QUESTION NO. 3:** Did Anchor Bay Entertainment, Inc. tender a second check to Ember
22 Entertainment, Inc. or Lindsay Dunlap in the amount of \$250,000.00 on or about 2-2-2006 ?

23 YES 12 NO 0

24 *Please proceed to the question No. 3.*

25
26 **QUESTION NO. 4:** Did Anchor Bay Entertainment, Inc. tender a third check to Ember
27 Entertainment, Inc. or Lindsay Dunlap in the amount of \$125,000.00 on or about 2-24-2006?

28 YES 12 NO 0

1 *If you answered Question 2 or Question 3 or Question 4 "YES" go to Question No. 5,*
2 *otherwise go to Question .*

4 **QUESTION NO. 5:** Did Ember Entertainment or Lindsay Dunlap fail to do something that
5 the written agreement required either one to do?

6 YES 12 NO 0

7 *If you answered Question 5 "YES" go to Question No. 6, otherwise go to Question 7.*

8 ///

9 ///

11 **QUESTION NO. 6.** What are all of Anchor Bay Entertainment, Inc.'s damages for breach
12 of contract?

- 13 a. Money paid out of pocket \$ 625,000
- 14 b. Post production expenses \$ 85,921
- 15 c. Lost profits \$ 768,925

17 **TOTAL AMOUNT OF DAMAGES**

18 \$ 1,479,846

19 *Please proceed to the question No. 7.*

20 ///

21 **NEGLIGENT MISREPRESENTATION**

22 **QUESTION NO. 7:** Did Ember Entertainment, Inc. or Lindsay Dunlap make any false
23 representations to Anchor Bay Entertainment, Inc. related to the written agreement?

25 YES 12 NO 0

27 *If you answered Question No. 7 "YES", then proceed to Question No. 8, otherwise proceed*
28 *to Question No. 12.*

1 **QUESTION NO. 8:** Did Ember Entertainment, Inc. or Lindsay Dunlap have a reasonable
2 and good faith belief that the representations they made were true?

3 YES 0 NO 12

4 *If you answer Question No. 8 "NO", Please proceed to the question No. 9. If you answered*
5 *"YES" go to Question No. 12.*

7 **QUESTION NO. 9:** Did Anchor Bay Entertainment, Inc. rely on any of the representations
8 made by either Ember Entertainment, Inc. or Lindsay Dunlap?

9 YES 12 NO 0

10 *If you answer Question No. 9 "YES", Please proceed to the question No. 10. If you*
11 *answered "NO" go to Question No. 12.*

13 **QUESTION NO. 10:** Was Anchor Bay Entertainment, Inc.'s reliance on any of Lindsay
14 Dunlap's or Ember Entertainment's representations a substantial factor in causing harm to
15 Anchor Bay Entertainment, Inc.?

16 10 YES 2 NO

17 *If you answered Question No. 10 "YES", then proceed to the question No. 11, otherwise*
18 *proceed to Question No. 12.*

20 **QUESTION NO. 11:** What are Anchor Bay Entertainment, Inc.'s damages attributable to
21 Lindsay Dunlap or Ember Entertainment, Inc.'s Negligent Misrepresentations?

23 Money paid out of pocket	\$ <u>625,000</u>
24 Lost profits	\$ <u>768,925</u>
25 Post production costs	\$ <u>85,921</u>

26 *Proceed to Question No. 12.*

27 *///*

1 **INTENTIONAL MISREPRESENTATION**

2 **QUESTION NO. 12:** Did Ember Entertainment, Inc. or Lindsay Dunlap know that they did
3 not have the exclusive home and video rights for the television series "Man from
4 U.N.C.L.E." and "Girl from U.N.C.L.E." when they entered into the written agreement with
5 Anchor Bay Entertainment, Inc.?

6 YES 12 NO 0

7 *If you answer Question No. 12 "YES", Please proceed to the question No. 13. If you*
8 *answered "NO" go to Question No. 17.*

9
10 **QUESTION NO. 13:** Did Ember Entertainment, Inc. or Lindsay Dunlap have the exclusive
11 home and video rights to the television series "Man from U.N.C.L.E." and "Girl from
12 U.N.C.L.E." when they entered into the written agreement?

13 YES 0 NO 12

14 *If you answered Question No. 13 "NO", then proceed to the question No. 14, otherwise*
15 *proceed to Question No. 17.*

16
17 **QUESTION NO. 14:** Was Anchor Bay Entertainment, Inc.'s reliance on Lindsay Dunlap's
18 or Ember Entertainment's representation a substantial factor in causing harm to Anchor Bay
19 Entertainment, Inc.?

20 YES 12 NO 0

21 *If you answered Question No. 14 "YES", then proceed to the question No. 15, otherwise*
22 *proceed to Question No. 17.*

23 ///

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1 **QUESTION NO. 15:** Did Anchor Bay Entertainment, Inc. prove, by clear and convincing
2 evidence, that any of the Defendants acted with malice, oppression or fraud conduct?

3 *Answer (check "Yes" or "No") following the name of each Defendant:*

4
5 LINDSAY DUNLAP YES 10 NO 2

6 EMBER ENTERTAINMENT, INC. YES 12 NO 0

7 *Proceed to Question No. 16.*

8
9 **QUESTION NO. 16:** What are Anchor Bay Entertainment, Inc.'s damages attributable to
10 Lindsay Dunlap or Ember Entertainment, Inc.'s Intentional Misrepresentations?

11
12 Money paid out of pocket \$ 625,000

13 Lost profits \$ 768,925

14 Post production costs \$ 85,921

15 *Proceed to Question No. 17.*

16
17 **FRAUD**

18 **QUESTION NO. 17:** Did Lindsay Dunlap or Ember Entertainment, Inc. make a promise to
19 ANCHOR BAY ENTERTAINMENT, INC. that was important to the transaction?

20 YES 12 NO 0

21 *If your answer to question 17 is yes, then answer question 18. If you answered no, answer no*
22 *please proceed to Question 25.*

23
24 **QUESTION NO. 18:** Did Lindsay Dunlap or Ember Entertainment, Inc. intend to perform
25 this promise when it was made?

26 YES 0 NO 12

27 *If your answer to question 18 is no, then answer question 19. If your answer to question 18*
28 *is yes, then please proceed to Question 25.*

1 **QUESTION NO. 19:** Did Lindsay Dunlap or Ember Entertainment, Inc. intend that Anchor
2 Bay Entertainment, Inc. rely on this promise?

3 YES 12 NO 0

4
5 *If your answer to question 19 is yes, then answer question 20. If you answered no then*
6 *please proceed to Question 25.*

7
8 **QUESTION NO. 20:** Did Anchor Bay Entertainment, Inc. reasonably rely on this promise?

9 YES 12 NO 0

10 *If your answer to question 20 is yes, then answer question 21. If you answered no, then*
11 *please proceed to Question 25.*

12
13 **QUESTION NO. 21:** Did Lindsay Dunlap or Ember Entertainment, Inc. perform the
14 promised act?

15 YES 0 NO 12

16 *If your answer to question 21 is no, then answer question 22. If you answered yes, then*
17 *please proceed to Question 25.*

18
19 **QUESTION NO. 22:** Was Anchor Bay Entertainment, Inc.'s reliance on Lindsay Dunlap's
20 or Ember Entertainment, Inc.'s promise a substantial factor in causing harm to them?

21 YES 12 NO 0

22 *If your answer to question 22 is yes, then answer question 23. If you answered no, then*
23 *please proceed to Question 25.*

24
25 ///

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28

1 **QUESTION NO. 23:** Did Anchor Bay Entertainment, Inc. prove, by clear and convincing
2 evidence, that any of the Defendants acted with malice, oppression or fraud?

3 *Answer (check "Yes" or "No") following the name of each Defendant:*

4 LINDSAY DUNLAP YES 9 NO 3
5 EMBER ENTERTAINMENT, INC. YES 12 NO 0

6 *Please proceed to QUESTION NO. 24.*

7
8 **QUESTION NO. 24:** What are Anchor Bay Entertainment, Inc.'s damages attributable to
9 Lindsay Dunlap or Ember Entertainment, Inc.'s fraud?

10 Money paid out of pocket \$ 625,000
11 Lost profits \$ 768,000
12 Post production costs \$ 85,921

13 *Please proceed to Question No. 25.*

14
15 **QUESTION NO. 25.** If you answered any part of Question 23 or Question 15 "YES" then
16 please set forth the amount of punitive damages you award to Anchor Bay Entertainment,
17 Inc. for the intentional misrepresentation or fraud committed upon them?

18 \$ 1,400,000

19 ///
20 ///
21 ///

22 Please sign and date the verdict form and return it to the clerk of the Court.

23
24 Signed: (signature) Dated: 8/20/2010
25 Foreperson"

26
27 IT IS ADJUDGED that the plaintiff, STARZ Home Entertainment, LLC, recover judgment on the
28 merits against defendants Lindsay Dunlap and Ember Entertainment Inc., in the amounts ~~set forth in this~~ ^{of \$1,479,864.00} *JLJ*

JLJ

plus punitive damages in the amount of \$1,400,000.00

1 Judgment, less a credit of \$120,000.00 for monies received from Ember Entertainment previously, with
2 interest at an annual rate of 10 percent from the date the verdict was rendered on August 20, 2010, until this
3 Judgment is paid, plus costs pursuant to Memorandum of Costs in the amount of \$25,467.⁹⁵ and plus
4 attorney fees pursuant to motion in the amount of \$ 269,362.⁵⁰ 3/11/11

6 DATED: NOV 8 2010

JANE L. JOHNSON
JUDGE OF THE SUPERIOR COURT

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1 **PROOF OF SERVICE BY MAIL**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

3 I am employed in the County of LOS ANGELES, State of California. I am over the age of eighteen, and not a
4 party to the within action; my business address is 3322 W. Victory Boulevard, Burbank, CA 91505-1542.

5 On October 13, 2010, I served the following document(s) described as:

6 **JUDGMENT ON SPECIAL VERDICT IN JURY TRIAL**

7
8 on the following parties by placing true copies thereof enclosed in sealed envelopes with first class U.S.
9 postage thereon fully prepaid addressed as follows:

10 Ember Entertainment
11 509 Washington Avenue
12 Santa Monica, CA 90402

Lindsay Dunlap
31620 Broad Beach Road
Malibu, CA 90265

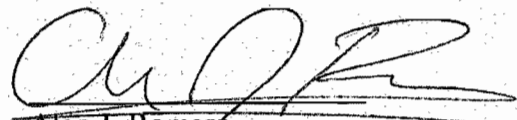
13 [] I deposited such envelopes in the mail at Burbank, California.

14 [X] I caused such envelopes to be deposited in the mail at Burbank, California.

15 I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is
16 deposited with U. S. Postal Service on that same day in the ordinary course of business. I am aware that on
17 motion of party served, service is presumed invalid if the postal cancellation date or postage meter date is
18 more than one day after date of deposit for mailing in affidavit.

19 I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

20 DATED: October 13, 2010

21 
22 Alan J. Romero
23
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28

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY: (LEAVE BLANK IF NOTICE IS BY CLERK OF THE COURT)		STATE BAR NUMBER	Reserved for Clerk's File Stamp
DENNIS P. WILSON DENNIS P. WILSON LAW OFFICES OF DENNIS P. WILSON 3322 W. VICTORY BOULEVARD BURBANK, CALIFORNIA 91506 (818) 843-1788			ORIGINAL FILED NOV - 8 2010 LOS ANGELES SUPERIOR COURT
ATTORNEY FOR (Name): STARZ HOME ENTERTAINMENT			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS: 111 N. HILL STREET LOS ANGELES, CALIFORNIA 90012			
PLAINTIFF: STARZ HOME ENTERTAINMENT			
DEFENDANT: EMBER ENTERTAINMENT AND LINDSAY DUNLAP			
NOTICE OF ENTRY OF: <input checked="" type="checkbox"/> JUDGMENT <input type="checkbox"/> DISMISSAL <input type="checkbox"/> OTHER ORDER		CASE NUMBER: BC 373707	

To the above named parties and to their attorneys of record, you are hereby given notice of entry of:

Judgment in the above-entitled matter, entered on (date): NOV 8 2010

Order of Dismissal in the above-entitled matter, filed on (date): _____

Order _____, filed on (date): _____

DECLARATION OF MAILING

I, (typed or printed name) C. Wright, do hereby (check one):

- declare under penalty of perjury under the laws of the State of California that I am an active member of the State Bar of California;
- declare under penalty of perjury under the laws of the State of California that I am (check one) employed in/ a resident of Los Angeles County, (where mailing occurred) over the age of 18 years, and not a party to the cause within; that my (check one) business/ residence address is as shown above;

and that on the date shown below I served the notice of entry of the above-named document filed and entered herein, by depositing true copies thereof in sealed envelope(s), with postage fully prepaid, in the United States Mail Service located at Los Angeles, California addressed to the parties named below: (city) (state)

LINDSAY DUNLAP 31620 BROAD BEACH ROAD MALIBU, CA 90265	LAW OFFICES OF DENNIS P. WILSON DENNIS P. WILSON, ESQ. 3322 W. VICTORY BOULEVARD BURBANK, CA 91505
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Additional names and addresses on attached sheet.

Dated: NOV 8 2010 Signed: C. Wright
(Signature of declarant)

Typed or printed name of declarant: C. Wright