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**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
CIVIL TRIAL DIVISION**

**SAMUEL DALEMBERT d/b/a  
ATO ENTERPRISES**

**Plaintiffs,**

**vs.**

**ART ASYLUM**

**And**

**ADAM UNGER**

**And**

**ADAM SIMMENS**

**And**

**ALAN COHEN**

**And**

**NEWTON COHEN**

**and**

**JOSEPH DALY**

**And**

**THEODORE PENDERGRASS II**

**Defendants.**

**CIVIL ACTION**

**TERM: 2008**

**NO.**

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**COMPLAINT**

1. That Plaintiff invokes subject matter jurisdiction of the Court of Common Pleas, Philadelphia County, Pennsylvania, over this Complaint.
2. That Plaintiff, Samuel Dalembert d/b/a ATO Enterprises, resides at \_\_\_\_\_
3. That Plaintiff is incorporated and does business as ATO Enterprises.
4. That Defendant, Art Asylum, is a business located at 1115 Broadway Suite 402 New York, New York 10010.

5. That Defendants Adam Unger, Alan Cohen, Newton Cohen, Joseph Daly are or were agents of Art Asylum at the time of Plaintiffs dealings with Art Asylum.
6. That Defendants Adam Unger, Alan Cohen, Newton Cohen, Joseph Daly worked for or on behalf of Art Asylum at 1115 Broadway Suite 402 New York, New York 10010.
7. That Defendant, Adam Simmens, is in business as an attorney and accountant and is located at 1907 South Broad Street Philadelphia, PA 19148 and also acted as an agent of Art Asylum in these transactions.
8. That Defendant, Theodore Pendergrass, resides at

### COUNT I-BREACH OF CONTRACT

9. Plaintiff and Defendants entered into a contract regarding investing in the licensing rights of "Speed Racer" products and merchandise.
10. In reliance on said contract and subsequent amended contracts, Plaintiff has expended in excess of one million dollars (\$1,000,000) into the venture.
11. Despite numerous assurances by the various Defendants, the contractual rights to Speed Racer which Plaintiff was supposedly investing in, were in fact not owned by any of the defendants.
12. None of the Defendants had the legal means to contract with Plaintiff to invest in rights not owned by them or assigned to them for such purposes.
13. On various occasions, Defendants not only failed to adhere to contracts signed by Plaintiff, but were also violating contracts they entered into with the legal owners of the "Speed Racer" product.

14. Not only did Defendants default on verbal agreements, but they defaulted under the terms of the promissory note agreed to by the parties.
15. As a result of the breach of this contract, Plaintiff has suffered and will continue to suffer an injury in the form of monetary loss.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court to enter judgment in his favor in an amount to exceed \$50,000 plus interest, attorney's fees and costs along with any such further relief deemed appropriate by this Honorable Court.

**COUNT II-UNJUST ENRICHMENT**

16. Plaintiff incorporates the above paragraphs as though more fully set forth at length herein.
17. Defendants have benefitted greatly from the large amounts of money expended by Plaintiff to further the rights that the Defendants had no viable interest in.
18. Defendants not only benefitted from Plaintiff's initial investment, but they insisted on further funding which ultimately exceeded one million dollars.
19. Defendants have failed to properly compensate Plaintiff based on his percentage interest in the company from earned revenues.
20. Defendants have been unjustly enriched by being able to use and enjoy the funds provided by the Plaintiff without compensating Plaintiff pursuant to their agreement.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court to enter judgment in his favor in an amount to exceed \$50,000 plus interest, attorney's fees and costs along with any such further relief deemed appropriate by this Honorable Court.

**COUNT III-ACCOUNTING**

21. Plaintiff incorporates the above paragraphs as though more fully set forth at length herein.
22. Defendants and Plaintiff entered into an agreement and an amended agreement whereby Plaintiff was to be entitled to a specified percent of the income from the venture's revenue.
23. To date, despite numerous requests, Defendants have never accounted to Plaintiff for said monies or credited him with same.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court to enter judgment in his favor in an amount to exceed \$50,000 plus interest, attorney's fees and costs along with any such further relief deemed appropriate by this Honorable Court.

**COUNT IV-FRAUD**

24. Plaintiff incorporates the above paragraphs as though more fully set forth at length herein.
25. Defendant made numerous representations to Plaintiff regarding the agreement that was to be entered into and the rights that were to be conferred between the parties, the details of which have been elaborated on in aforesaid averments.

26. At the time Defendants made the above referenced representations to Plaintiff, they knew or should have known that the representations were in fact inaccurate and false.
27. Defendants deceitfully, fraudulently, and intentionally made the foregoing misrepresentations in order to entice Plaintiff into expending various large sums of money into the Defendant's company.
28. Plaintiff justifiably relied upon the foregoing fraudulent misrepresentations by Defendants, believing that they shared interests in the company, a fact that was later proven inaccurate.
29. As a result of the Defendants' fraud, deceit and misrepresentations, as described herein, Plaintiff has suffered and will continue to suffer an injury in the form of monetary loss.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court to enter judgment in his favor in an amount to exceed \$50,000 plus interest, attorney's fees and costs along with any such further relief deemed appropriate by this Honorable Court.

**COUNT V-PUNITIVE DAMAGES**

30. Plaintiff incorporates the above paragraphs as though more fully set forth at length herein.
31. Defendants' conduct was outrageous, intentional, malicious, willful and in blatant disregard of the rights of Plaintiff.
32. As a result of said conduct, Defendants are liable to Plaintiff for punitive damages.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court to enter judgment in his favor in an amount to exceed \$50,000 plus interest, attorney's fees and costs along with any such further relief deemed appropriate by this Honorable Court.

Date: 5/12/08

Respectfully submitted,

Nino V. Tinari

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