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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11 Osama Ahmed Fahmy, an individual,
12 Plaintiff,

13 v.

14 Jay-Z (aka Shawn Carter), Timothy
15 Mosely, Kyambo Joshua, Rob
16 Bourdon, Brad Delson, Mike
17 Shinoda, Dave Farrell, Joseph Hahn,
18 Chester Bennington, Big Bad Mr.
19 Hahn Music, Chesterchaz Publishing,
20 EMI Blackwood Music Inc., EMI
21 Music Publishing Ltd., Kenji
22 Kobayashi Music, Lil Lulu
23 Publishing, Machine Shop
24 Recordings LLC, Marcy Projects
25 Productions II, Inc., MTV Networks
Enterprise Inc., Nondisclosure
Agreement Music, Paramount Home
Entertainment, Inc., Paramount
Pictures Corporation, Radical Media,
Rob Bourdon Music, Roc-A-Fella
Records LLC, Timbaland Productions
Inc., UMG Recordings, Inc.,
Universal Music and Video
Distribution Inc., and Warner Music
Inc.,

26 Defendants.

No. CV 07-05715-CAS (Ex)

The Honorable Christina A. Snyder

DEFENDANT SHAWN CARTER
P/K/A JAY-Z'S ANSWER TO
COMPLAINT

1 Defendant Shawn Carter, p/k/a “Jay-Z” (“Defendant”), hereby answers
2 plaintiff Osama Ahmed Fahmy’s Complaint as follows:

3 **JURISDICTION AND VENUE**

4 1. Defendant responds that the allegations contained in paragraph 1 of the
5 Complaint state legal conclusions to which no response is required. To the extent the
6 allegations in paragraph 1 are factual in nature, Defendant denies each and every
7 remaining allegation set forth therein.

8 **Parties**

9 2. Answering the first and second sentences of paragraph 2, Defendant lacks
10 information sufficient to form a belief as to the truth of said allegations and on that
11 basis denies each and every allegation set forth therein; and answering the third
12 sentence of paragraph 2, denies each and every allegation set forth therein.

13 3. Defendant admits that he is an entertainer professionally known as “Jay-
14 Z”. Defendant further admits that Timothy Mosley is a music producer who has
15 written musical compositions and that Mosley is a producer of “Big Pimpin”, which
16 appears on an album by the Defendant entitled Vol. 3 . . . *Life and Times of S. Carter*.
17 Defendant denies the remaining allegations in paragraph 3.

18 4. Defendant admits that the individuals referenced in paragraph 4 are
19 members of the band “Linkin Park,” but lacks knowledge or information sufficient to
20 form a belief as to the truth of the allegations in paragraph 4, and, on that basis,
21 denies said allegations.

22 5. Defendant lacks knowledge or information sufficient to form a belief as to
23 the truth of the allegations in paragraph 5, and on that basis denies said allegations,
24 but avers that the “Big Pimpin’/Papercut” collaboration featured Linkin Park and the
25 Defendant.

26 6. Defendant lacks knowledge or information sufficient to form a belief as to
27 the truth of the allegations in paragraph 6, and on that basis denies said allegations,
28

1 but avers that the musical work “Big Pimpin” features vocals by Defendant and was
2 released on the CD, *Jay-Z Vol. 3 . . . Life and Times of S. Carter*.

3 7. Defendant lacks knowledge or information sufficient to form a belief as to
4 the truth of the allegations in paragraph 7, and on that basis denies said allegations.

5 **Allegations Common to All Claims**

6 8. Answering the final sentence of paragraph 8, Defendant denies each and
7 every allegation set forth therein. Answering the remainder of paragraph 8,
8 Defendant lacks information sufficient to form a belief as to the truth of said
9 allegations and on that basis denies each and every allegation set forth therein.

10 9. Defendant lacks knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 9, and on that basis denies said
12 allegations.

13 10. Defendant lacks knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 10, and on that basis denies said
15 allegations.

16 11. Defendant lacks knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 11, and on that basis denies said
18 allegations.

19 12. Answering the final sentence of paragraph 12, Defendant admits that the
20 album *Vol. 3...Life and Times of S. Carter*, which contains a sound recording entitled
21 “Big Pimpin,” was released in or about December 1999. Defendant denies the
22 remaining allegations contained in paragraph 12.

23 13. Answering the first sentence of paragraph 13, Defendant admits that
24 distribution of the album *Vol. 3...Life and Times of S. Carter* has continued from its
25 original release through the present. Defendant denies each and every remaining
26 allegation set forth in paragraph 13.

27 14. Defendant avers that Defendant performed a joint concert with Linkin
28 Park, promoted as the “Collision Course” concert, and that portions of this concert

1 were embodied on a sound recording entitled *Collision Course*, which was
2 commercially released in 2004 and continues to be distributed today, and contains a
3 version of the musical composition “Big Pimpin’/Papercut”. Defendant denies each
4 and every remaining allegation set forth in paragraph 14.

5 15. Defendant denies the allegations in paragraph 15, but avers that
6 Defendant was featured in a film called “*Fade to Black*”, which was commercially
7 released in 2005 and this contained “Big Pimpin’”.

8 16. Answering the first sentence of paragraph 16, Defendant denies each and
9 every allegation set forth therein. Answering the second sentence of paragraph 16,
10 Defendant lacks information sufficient to form a belief as to the truth of said
11 allegations and on that basis denies each and every allegation set forth therein.

12 17. Defendant responds that the allegations contained in paragraph 17 of the
13 Complaint are legal conclusions to which no response is required. To the extent the
14 allegations in paragraph 17 are factual in nature, Defendant lacks knowledge or
15 information sufficient to form a belief as to the truth of the remaining allegations in
16 paragraph 17, and, on that basis, denies said allegations.

17 18. Defendant responds that the allegations contained in paragraph 18 of the
18 Complaint state legal conclusions to which no response is required. To the extent the
19 allegations in paragraph 18 are factual in nature, Defendant lacks knowledge or
20 information sufficient to form a belief as to the truth of the remaining allegations in
21 paragraph 18.

22 **First Claim For Relief**

23 19. In response to paragraph 19, Defendant incorporates, repeats and realleges
24 each of his responses to paragraphs 1 to 18 as if fully stated herein.

25 20. Defendant denies each and every allegation set forth in paragraph 20.

26 21. Defendant denies each and every allegation in paragraph 21.

27 22. Defendant denies each and every allegation in paragraph 22.

28 23. Defendant denies each and every allegation in paragraph 23.

1 24. Defendant denies each and every allegation set forth in paragraph 24.

2 25. Defendant denies each and every allegation in paragraph 25.

3 26. Defendant denies the allegations in paragraph 26.

4 27. Defendant denies the allegations in paragraph 27.

5 **Second Claim For Relief**

6 28. In response to paragraph 28, Defendant incorporates, repeats and realleges
7 each of his responses to paragraphs 1 to 18 as if fully stated herein.

8 29. Defendant denies the allegations in paragraph 29.

9 30. Defendant denies the allegations in paragraph 30.

10 31. Defendant admits the allegation in the first sentence of paragraph 31.

11 Defendant denies each and every remaining allegation in paragraph 31.

12 32. Defendant denies the allegations in paragraph 32.

13 33. Defendant denies each and every allegation in paragraph 33.

14 34. Defendant denies the allegations in paragraph 34.

15 35. Defendant denies the allegations in paragraph 35.

16 **Third Claim For Relief**

17 36. In response to paragraph 36, Defendant incorporates, repeats and realleges
18 each of his responses to paragraphs 1 to 18 as if fully stated herein.

19 37. Defendant denies the allegations in paragraph 37.

20 38. Defendant denies the allegations in paragraph 37.

21 39. Defendant denies the allegations in paragraph 39.

22 40. Defendant denies the allegations in paragraph 40.

23 41. Defendant denies the allegations in paragraph 41.

24 42. Defendant denies the allegations in paragraph 42.

25 **Fourth Claim For Relief**

26 43. This claim for relief has been dismissed pursuant to the Court's Order of
27 March 20, 2008, and as such no answer to paragraph 43 is required. To the extent
28

1 any answer is required, Defendant incorporates by reference its answers to
2 paragraphs 1 through 37 above, as if set forth in full herein.

3 44. This claim for relief has been dismissed pursuant to the Court's Order of
4 March 20, 2008, and as such no answer to paragraph 44 is required. To the extent
5 any answer is required, Defendant denies each and every allegation set forth therein.

6 45. This claim for relief has been dismissed pursuant to the Court's Order of
7 March 20, 2008, and as such no answer to paragraph 45 is required. To the extent
8 any answer is required, Defendant denies each and every allegation set forth therein.

9 46. This claim for relief has been dismissed pursuant to the Court's Order of
10 March 20, 2008, and as such no answer to paragraph 46 is required. To the extent
11 any answer is required, Defendant denies each and every allegation set forth therein.

12 47. This claim for relief has been dismissed pursuant to the Court's Order of
13 March 20, 2008, and as such no answer to paragraph 47 is required. To the extent
14 any answer is required, Defendant denies each and every allegation set forth therein.

15 **PRAYER FOR RELIEF**

16 Defendant denies that Plaintiff is entitled to recover any of the damages,
17 injunctive or other relief sought in his Prayer for Relief, and denies each and every
18 allegation contained therein.

19 **AFFIRMATIVE AND OTHER DEFENSES**

20 **FIRST DEFENSE**

21 **(Statute of Limitations)**

- 22 1. This action is barred, in whole or in part, under the Statute of Limitations.

23 **SECOND DEFENSE**

24 **(Failure to State a Claim for Relief)**

- 25 2. The Complaint, and each cause of action therein, fails to state a cause of
26 action.

1 **THIRD DEFENSE**

2 **(Waiver/Estoppel)**

3 3. Plaintiff's claims are barred, in whole or in part, by the doctrines of
4 waiver and/or estoppel.

5 **FOURTH DEFENSE**

6 **(Laches)**

7 4. Plaintiff is barred by the equitable doctrine of laches from asserting any of
8 the alleged equitable claims for relief.

9 **FIFTH DEFENSE**

10 **(Unclean Hands)**

11 5. Plaintiff's claims are barred, in whole or in part, by fraud, mistake and/or
12 the doctrine of unclean hands.

13 **SIXTH DEFENSE**

14 **(Not Copyrightable Expression)**

15 6. Plaintiff's claims are barred, in whole or in part, because there is no
16 infringement of copyrightable expression.

17 **SEVENTH DEFENSE**

18 **(Independent Creation)**

19 7. Defendant's works were the result of Defendant's independent creation.

20 **EIGHTH DEFENSE**

21 **(De Minimis)**

22 8. To the extent any copyrightable elements from any of the allegedly
23 infringed works were used in allegedly infringing works and were not independently
24 created, such use is de minimis and not actionable.

25 **NINTH DEFENSE**

26 **(Fair Use)**

27 9. To the extent any copyrightable elements from any of the allegedly
28 infringed works were used, such use constituted fair use.

1 **TENTH DEFENSE**

2 **(Standing)**

3 10. Plaintiff has no standing to bring this action, in whole or in part, because
4 he does not own valid copyrights of the musical compositions and/or recordings at
5 issue.

6 **ELEVENTH DEFENSE**

7 **(Invalid Copyright Registration)**

8 11. Plaintiff claims for statutory damages are barred, in whole or in part,
9 because Plaintiff has not filed proper or timely copyright registrations.

10 **TWELFTH DEFENSE**

11 **(Authorized Use)**

12 12. Plaintiff's claims are barred, in whole or in part, by virtue of licenses
13 granted for the musical compositions and/or sound recordings at issue.

14 **THIRTEENTH DEFENSE**

15 **(Failure to Join Necessary and Indispensable Parties)**

16 13. The Complaint fails to name necessary or indispensable parties, including
17 those persons and entities that own the allegedly infringed works, as alleged in the
18 Complaint.

19 **FOURTEENTH DEFENSE**

20 **(Adequate Remedy at Law)**

21 14. Plaintiff's causes of action, and each of them, and his injunctive and
22 restitution remedies, are barred in light of the fact that Plaintiff has an adequate
23 remedy at law.

24 **FIFTEENTH DEFENSE**

25 **(Attorneys' Fees Not Recoverable)**

26 15. Plaintiff is barred from any recovery of attorneys' fees, because, in
27 bringing this action, Plaintiff has not alleged any basis upon which attorneys' fees are
28 recoverable.

