

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01228-LTB-MEH

LARRY W. MCCORMACK,

Plaintiff,

v.

PRORODEO HALL OF FAME AND MUSEUM OF
THE AMERICAN COWBOY, INC.,
PROFESSIONAL RODEO COWBOYS
ASSOCIATION, INC.,
TROY L. ELLERMAN,
TANNA KIMBLE,
CARA TURNER,
RYER HITCHCOCK,
PROFILE EMPLOYEE ASSISTANT PROGRAM,
STEVE TUCKER, M.D.,
DOES I THROUGH V, INCLUSIVELY.

ANSWER OF PROFILE EMPLOYEE ASSISTANCE PROGRAM
AND STEVE TUCKER, PH.D.

Defendants Profile Employee Assistance Program and Steve Tucker, Ph.D., through their counsel, Kutak Rock LLP, answer the Plaintiff's Complaint as follows:

1. These Defendants are without knowledge regarding all allegations of the Complaint, and therefore deny the same, with the exception of those specifically enumerated below.

2. The allegations of paragraph 7 of the Complaint are admitted with the clarification that Profile Employee Assistance Programs offices are at the Medical Center Point location referenced in that paragraph of the Complaint.

3. The allegations of paragraph 8 of the Complaint are admitted with the exception that Steve Tucker is a resident of Colorado Springs, Colorado.

4. Paragraph 9 of the Complaint states a legal conclusion as to which no response is necessary.

5. With regard to Paragraph 70 of the Complaint, these Defendants admit the first sentence of that paragraph with the clarification that the meeting occurred on June 23, 2006. These Defendants are without knowledge regarding the second sentence of Paragraph 70 and, therefore, deny the same. These Defendants deny the third sentence of Paragraph 70. These Defendants admit the final sentence of Paragraph 70.

6. With regard to Paragraph 71, these Defendants admit the first sentence of that Paragraph and are without knowledge of the remaining sentences and therefore deny the same.

7. With regard to Paragraph 75 of Plaintiff's Complaint, these Defendants are without knowledge regarding any disclosure of facts related to McCormack's consultation with Dr. Tucker. These Defendants deny that those facts were private between McCormack and the EAP therapist. These Defendants admit that Profile EAP's brochure speaks for itself.

8. With regard to Paragraph 101 of Plaintiff's Complaint, these Defendants admit that Dr. Tucker interviewed members of McCormack's staff and deny the remaining allegations of that Paragraph.

9. With regard to Paragraph 102 of Plaintiff's Complaint, these Defendants admit that Dr. Tucker proposed a plan to Ellerman and are without knowledge regarding the remaining allegations of that Paragraph and, therefore, deny the same.

10. All causes of action except the Third Cause of Action in Plaintiff's Complaint appear to be directed to other Defendants, thus requiring no response from these Defendants. To the extent that they are intended to be directed to these Defendants, they are denied in their entirety.

11. With regard to the Third Cause of Action, these Defendants deny Paragraphs 142 and 143 of Plaintiff's Complaint.

12. These Defendants deny any allegation not specifically admitted herein.

AFFIRMATIVE DEFENSES

13. Plaintiff's Complaint fails to state a cause of action upon which relief against These Defendants can be granted.

14. Plaintiff's claims are barred by the doctrines of release, waiver, and estoppel.

WHEREFORE, Defendants Profile Employee Assistance Program and Steve Tucker, Ph.D., respectfully pray this Court to dismiss all claims against them and to award them their reasonable fees and costs incurred in defending this frivolous litigation.

Respectfully submitted this 13th day of August, 2007.

KUTAK ROCK LLP

s/ Melvin B. Sabey

Melvin B. Sabey
1801 California Street, Suite 3100
Denver, CO 80202
(303) 297-2400

CERTIFICATE OF SERVICE

The undersigned certifies that on the 13th day of August, 2007, a true and correct copy of the foregoing was served by placing same in the U.S Mail, first class postage prepaid, addressed as follows:

Larry W. McCormack
6387 Mesedge Drive
Colorado Springs, CO 80919

s/ Peggy L. Forest