

CAUSE NO. 2022-52190

TRICIA LUGO	§	IN THE DISTRICT COURT
	§	
v.	§	
	§	113 th JUDICIAL DISTRICT
	§	
MAPLE REIDENTIAL, LTD.,	§	
MYSTIC ENERGY, INC., STALLONES	§	
HOLDING, INC., TOMBALL	§	
GATEWAYWAY, LTD, AND	§	
JEFFEREY STALLONE (INDIVIDUALLY)	§	
AND ROBERT KRUCKEMEYER	§	HARRIS COUNTY, T E X A S

TRICIA LUGO’S ORIGINAL COUNTERPETITION

Counter-Plaintiff herein, TRICIA LUGO makes and pleads the following claims against Counter-Defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE AND ROBERT KRUCKEMEYER (Individually) also herein referred to collectively as the “STALLONE DEFENDANTS”).

I.
PARTIES

(1) MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, are all parties in suit an may be served by providing service upon their attorney of record, Robert Kruckemeyer, 244 Malone Street, Houston, Texas 77007; Ph: (713) 600-7574; Fax: (713) 600-7579; Bob@Kruckemeyerlaw.com

(2) JEFFEREY STALLONE, is an individual whom resides at, and may be served at: 7510 Kalebs Pond, Spring Texas, 77389, or anywhere else he may be found.

ROBERT KRUCKEMEYER is an individual whom offices at, and may be served at: 244 Malone Street Houston, Texas 77007; Ph: (713) 600-7574; Fax: (713) 600-7579;

Bob@Kruckemeyerlaw.com, and/or any other place he may be found.

II. FACTS

- (3) Tricia Lugo, original Defendant in suit, was employed by Mr. Jeff Stallones as his bookkeeper, and general office, and operations manager, from approximately 2002 to 2022. During the approximate twenty years of employment with Mr. Stallones, Ms. Tricia Lugo handled the books and records for Mr. Stallones personal affairs, and his various Plaintiff companies, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD.
- (4) Mr. Jefferey Stallone (“Jeff Stallone”) and Ms. Lugo maintained a close and trusting business relationship for a very long time, approximately twenty (20) years.
- (5) In addition to Tricia Lugo being Mr. Stallone’s bookkeeper, office manager, and general personal assistant, Mr. Stallones and Ms. Lugo worked an additional side venture business wherein Ms. Lugo would search for certain distressed properties, and land, and the two, Tricia Lugo and Mr. Stallones, would purchase them, with Mr. Stallones financing, and Ms. Lugo supervising, and acting as contractor and agent for the rehab and sale of the properties. Mr. Stallone and Ms. Lugo would share evenly in the profit from the sale, and in the costs of financing the properties for purchasers, which included sharing in the payments profit and interest costs, and charges paid by purchasers.
- (6) It appears that Mr. Stallone has either retired or become to some degree less competent, and Mr. Kruckemeyer has, self proclaimed, taking over operations of Mr. Stallones interests and his companies, and that of Mr. Stallones personal business. Since then, Ms. Lugo has not been paid for certain final hours of work she performed for Mr. Stallones, and the Stallone Defendants.

- (7) Ms. Lugo is owed for certain profits and interest payments made by purchasers of properties.
- (8) Ms. Lugo is also owed title, free and clear, to her property that Mr. Stallone financed for her, and in which she repaid all amounts owed Mr. Stallone. The Property located at: 12323 Piney Bend Drive, Tomball, Texas 77375. The home was transferred to Ms. Lugo by Mr. Stallones and Mystic Energy, Inc., with paperwork through a title company.
- (9) Ms. Lugo requires proof of final payment and a release of any deed of trust on her property listed above.
- (10) The Stallone Defendants have filed a frivolous suit without any evidence of any wrongdoing on the part of Tricia Lugo.

III. CAUSES OF ACTION

A.

BREACH OF CONTRACT

(11) Plaintiff incorporates by reference all the allegations set forth above, as if the same were fully set forth herein. Counter-Petitioner was employed by Plaintiff, Jeffrey Stallones, and/or any of his corporations to provide bookkeeping and secretarial and office manager services to Defendant Jeffrey Stallones and his various companies. Plaintiff Jeffrey Stallones breached the agreement, along with his Plaintiff/ Counter-Defendant corporations, therein causing damages to the Defendant, Tricia Lugo. The Parties had an agreement, evidenced by the course of business and actions of the Parties wherein the two of them, Jeff Stallones and Tricia Lugo, purchased and rehabbed properties, and shared in the profits, interest payments, and any split of fees. The Stallones Defendants, along with Mr. Stallones and Mr. Kruckemeyer have breached that agreement by refusing to make payment to Tricia Lugo, and filed this frivolous suit against the interest of the agreements of the Parties.

(12) Therein, Plaintiff failed to meet those requirements, breaching the Agreements of the Parties.

(13) Plaintiff's and Counter-Defendant's breach of the Agreements has caused injury and damages to Counter-Petitioner, Tricia Lugo.

B.

PROMISSORY ESTOPPEL

(14) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. Herein, Plaintiffs, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAY, LTD, JEFFEREY STALLONE and ROBERT KRUCKEMEYER, made promises to Defendant, Counter-Plaintiff, with regard to profit sharing profit in the sale of properties rehabbed and sold outright, and/or on owner financed properties, sharing of 50/50 in interest payments by property purchasing parties, and which were not maintained or reasonably provided Defendant, Counter Plaintiff, Tricia Lugo.

(15) The Parties had an agreement, evidenced by the course of business and actions of the Parties wherein the two of them purchased ad rehabbed properties, and shared in the profits, interest payments, and any split of fees. The Stallones Defendants, along with Mr. Stallones and Mr. Kruckemeyer have breached that agreement by refusing to make payment to Tricia Lugo, and filed this frivolous suit against the interest of the agreements of the Parties.

(16) Tricia Lugo has not been provided her continual payments for profits and interest payments, made the basis of their agreements, regarding Plaintiff's part of the bargain for Ms. Lugo's services and the level of service the Defendant would receive. Those promises

were made a part of the agreement between the Parties, and were not upheld by Plaintiffs. As a result of the breached promises of Plaintiffs, Defendant has been damaged

(17) Counter-Defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, AND JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, made certain promises to the Defendant TRICIA LUGO, or were charged maintaining promises to Tricia Lugo, with to share certain profit and income based upon work completed by Ms. Lugo, in purchasing properties with Mr. Stallone, buy and through his companies, and Ms. Lugo rehabilitating the properties for profit, and then placing them for sale.

(18) The court can only avoid an injustice by acknowledging the Original Plaintiff's promises to Defendant, the Defendant, TRICIA LUGO'S reliance thereon, and the damages suffered at the hands of Plaintiffs, Counter-Defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KEUCKEMEYER .

C.

FRIVOLOUS LAWSUIT/MALICIOUS CIVIL PROSECUTION

(19) Counter-Plaintiff, TRICIA LUGO, incorporates by reference the allegations set forth above as if the same were fully set forth herein.

(20) Counter-Defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, initiated a lawsuit against the Counter-Plaintiffs/Defendants, in an attempt to lay inappropriate claim to MS. LUGO's rightful property and rights to property and future profits of Counter- Defendants, MAPLE RESIDENTIAL,

LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER.

(21) Counter-Defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, have commenced and filed a frivolous lawsuit against the Counter-Plaintiff, wherein the evidence in this matter clearly identifies the fact that the sole damages claimed are unenforceable, and legally provided loans paid back by TRICIA LUGO, or legally owed.

(22) Counter-Plaintiff, has not been fully paid under the terms of Agreement of the Parties, as is evidenced by the payment/transaction sheets provided Defendants, by Plaintiff, and that the Plaintiff's, acts, actions , and/or its failure to properly act, was the producing, intervening cause of the incident in question, and more possibly that AIMS ATM has caused its own injuries, if any, and Counter-Defendant has filed this lawsuit to simply harass, intimidate, and annoy the Counter-Plaintiff, knowing its claimed damages are a penalty in nature, and unrecoverable.

E.

FRAUD, FRAUDULENT INDUCEMENT

(23) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. Counter-Defendants purposefully and intentionally made statements to induce the Defendant to enter into agreements with Plaintiffs, and to work for Plaintiffs. Plaintiffs made promises to the Defendant, providing that the Parties would make payment to her for certain work performed by Defendant for pay, and to enter into certain business relationships based upon certain promises of sharing in profits and certain payments, in exchange for Tricia Lugo's services and experience in purchasing properties and in

rehabilitation and sales of properties. The Plaintiffs made these representations to Defendant, wherein the Plaintiffs knew the representations were false, or made the representations recklessly, as a positive assertion, and without knowledge of the truth. Plaintiffs made the representations with the intent that the Defendant act upon them, and Defendant relied upon the representations of Plaintiffs. The representations caused injury to Defendant. Plaintiff made representations to Defendant in order to induce her to enter certain agreements, with Plaintiff's intention of not providing payment or the benefits agreed, in fraudulently inducing Defendant to act in contracting with Plaintiff.

F.

MONEY HAD AND RECEIVED

(24) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. Counterdefendants, the Stallone Defendants, have monies that rightfully belong to Counterpetitioner, Tricia Lugo. (1) the defendants hold money and (2) the money belongs to the Counterplaintiff in equity and good conscience. *Staats v. Miller*, 243 S.W.2d 686, 687-88 (Tex. 1951). To prove a cause of action for money had and received, the plaintiff must show that the defendant holds money that in good conscience and equity belongs to the plaintiff, not whether any wrongdoing was committed on the part of the defendant.

G.

VIOLATIONS OF THE TEXAS WAGE CLAIMS ACT/ FAIR LABOR STANDARDS ACT

(25) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. The Stallone Defendants have refused to make payment to Tricia Lugo for her earned wages, covered under the Texas Payment of Wages Act/ Fair Labor Standards

Act. TEXAS LABOR CODE, TITLE 2, SECTION 61. Payment of Wages. Tricia Lugo has been injured as a result of the Stallone Defendants, Kurckemeyer, and Jefferey Stallone's unwillingness to properly pay Tricia Lugo.

H.

UNJUST ENRICHMENT

(26) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. Counter Defendants have been unjustly enriched; The acquisition of the benefit of the business relationship between the Parties, between Tricia Lugo, and the Stallone Defendants, occurred at the detriment of Patricia Lugo. There exists no formal written contract between the parties either due to absence of a formal agreement, or agreement on other terms such as course of business. The Stallone Defendants, Mr. Kruckemeyer, and Jefferey Stallone are improperly holding funds to be paid to Tricia Lugo, and owed her in accordance with the business agreements of the Parties.

(27) As a result of The Stallone Defendants, Mr. Kruckemeyer, and Jefferey Stallone withholding monies or funds which are rightfully the property of Tricia Lugo, Tricia Lugo has been injured, and continues to be injured as a result of All Defendants actions or inactions.

I

QUANTUM MERUIT

(28) Plaintiff incorporates by reference the allegations set forth above as if the same were fully set forth herein. The Counterplaintiff, Tricia Lugo, performed "valuable services" for the Counterdefendants; The Counterdefendants accepted, uses, and enjoyed those services, and continue to so enjoy Tricia Lugo's services; and under the circumstances, the Counterdefendants

were “reasonably notified” that the Counterplaintiff, Tricia Lugo, expected payment for those services, which she did not receive.

(29) All Defendants withholding the funds duly owed Tricia Lugo have damaged Tricia Lugo, and an injustice can only be prevented by granting Counter-Plaintiff, Tricia Lugo, the funds duly owed her.

J.

TRESSPASS TO TRY TITLE

Defendant, Counter-Plaintiff, Tricia Lugo Purchased a certain property from Mr. Jeff Stallones, and Mystic Energy, Inc., 12323 Piney Bend Drive, Tomball, Texas 77375; Lot 3 Block 2, Pinecrest Forest, Section 6, Harris County. The Parties closed on the property with a title company, Stewart Title Company, on September 18, 2014.

In Texas, causes of action for challenging or asserting ownership of real property — including ownership of mineral estates — are governed by statute. In this regard, Section 22.001(a) of the Texas Property Code states that a “trespass to try title action is the method of determining title to lands, tenements, and other real property.” *See* TEX. PROP. CODE § 22.001(a). Texas courts have interpreted this provision to mean that a trespass-to-try-title cause action is the exclusive remedy for resolving competing claims to ownership of real property. In a trespass to try title action, the Plaintiff is required to prove its title by proving (1) a regular chain of title of conveyances from the sovereign to the plaintiff; (2) a superior title to that of the defendant out of a common source; (3) title by limitations; or (4) prior possession which has not been abandoned. *Teon Mgmt., LLC v. Turquoise Bay Corp.*, 357 S.W.3d 719, 728 (App—Eastland 2012).

Counter Plaintiff, Tricia Lugo, maintains title to the property, as she obtained title to the property from Plaintiff Jeff Stallones, and Mystic Energy, Inc., by and through title closing.

Counter-Defendants have injured Ms. Tricia Lugo by challenging her ownership interest in the property, and causing damages in defending her title to the property.

K

ATTORNEY FEES

(29) Based upon the actions or inaction of MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, , the “STALLONE DEFENDANTS,” and the terms of the alleged agreements and promises made between the Parties, the withholding of funds from Tricia Lugo, and Plaintiff’s frivolous suit against Tricia Lugo, Defendant has been required to employ the services of counsel, Mamasis & Associates, P.C., (the undersigned counsel) to prosecute her claims and defend against the frivolous claims of Plaintiffs. Defendant herein makes claim for her attorney fees, costs and expenses, as a result of the breach of agreements, warranties and fraudulent activities of the Plaintiffs, the issues discussed herein.

H.

EXEMPLARY DAMAGES

(30) Based upon the breach on the part of Plaintiffs, the intentional acts on the part of MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, and fraudulent and frivolous lawsuit over unfounded allegations seek exemplary or punitive damages against Plaintiffs and as apply to Counterpetitioner, are warranted. Defendant respectfully requests damages as a punitive nature to penalize RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC.,

TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER for their intentional acts and refusal to act when it reasonably was aware of its duty to act, and the fraudulent acts committed against Counterpetitioner, and to deter this type of action on the part of COUNTER-DEFENDANTS against any other person or entity. Plaintiffs intentional and knowing acts in filing a suit claiming false damageswarrants exemplary damages be assessed MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER.

(31) Defendants reserve the right to plead in the alternative to all defenses and claims, as per the Texas Rules of Civil Procedure.

JURY DEMAND

Defendants herein request a jury trial of this case.

WHEREFORE PREMISES CONSIDERED, Defendant/Counterpetitioner TRICIA LUGO respectively prays that Plaintiffs/Counter-defendants, MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, take nothing by way of their claims, herein, and that Defendant/Counterpetitioner, TRICIA LUGO, recover her damages, costs and attorney fees herein, and recover exemplary/punitive damages from MAPLE RESIDENTIAL, LTD., MYSTIC ENERGY, INC., STALLONES HOLDING, INC., TOMBALL GATEWAYWAY, LTD, JEFFEREY STALLONE, and ROBERT KRUCKEMEYER, the (STALLONE DEFENDANTS) and have such other and additional relief, both special and general, in law and in equity, to which this Court's Defendant/Counterpetitioner, TRICIA LUGO may show herself justly entitled.

Respectfully submitted,

MAMASIS & ASSOCIATES, P.C.

By: Shawn M Mamasis

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ATTORNEYS FOR DEFENDANT, COUNTER-
PETITIONER TRICIA LUGO

CERTIFICATE OF SERVICE

On March 1, 2023, a true and correct copy of the foregoing instrument, TRICIA LUGOS FIRST AMENDED COUNTERPETITION was served upon the following in accordance with the Texas Rules of Civil Procedure.

Robert Kruckemeyer 244 Malone Street Houston, Texas 77007 Ph: (713) 600-7574 Fax: (713) 600-7579 Bob@Kruckemeyerlaw.com	<input type="radio"/> CM/RRR <input type="radio"/> Facsimile <input type="radio"/> Regular Mail <input type="radio"/> Courier <input type="radio"/> E-mail <input type="radio"/> Hand Delivery <input checked="" type="radio"/> Electronic Service
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Shawn M. Mamas

