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8 Attorney for Plaintiff,
9 ROBERT KIVIAT

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8
9 FOR THE COUNTY OF ORANGE

10 ROBERT KIVIAT, an Individual;
11
12 Plaintiff,

13 v.

14 JOSPEH P. FIRMAGE, an Individual;
15 InterNASA, a Utah Business entity of
16 unknown form; RONALD PANDOLFI, an
17 individual; DAVID DANIEL MARRIOTT, an
18 individual; and DOES 1-50, inclusive,
19
20 Defendants.

Case No. 30-2019-01053880-CU-CO-CJC

COMPLAINT FOR DAMAGES

Judge Martha K. Gooding

[JURY TRIAL DEMANDED]

19 1. COMES NOW PLAINTIFF ROBERT KIVIAT, who alleges against defendants
20 JOSPEH P. FIRMAGE, InterNASA, RONALD PANDOLFI, DAVID DANIEL MARRIOTT
21 and DOES 1-50, and each of them, as follows:

22 **JURISDICTION AND VENUE**

23 2. The Court has personal jurisdiction over the defendants because they are
24 residents of and/or are doing business in the State of California.

25 3. Venue is proper under *Code of Civil Procedure section 395* because some or all
26 of the parties are residents of Orange County, or are doing or did business in Orange County at
27 all times relevant herein.

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FACTUAL ALLEGATIONS

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2 13. On December 12, 2017, InterNASA offered Plaintiff the position of President,
3 InterNASA Studios, and Plaintiff accepted said position on January 1, 2018.

4 14. Pursuant to the agreement (the “Agreement”) between InterNASA and Plaintiff,
5 Plaintiff’s base salary is \$20,000.00 per month for a period of no less than 24 months.
6 Attached hereto as Exhibit 1 is a copy of the Agreement.

7 15. Prior to entering into the Agreement, FIRMAGE represented to, and assured,
8 Plaintiff that he had secured over \$1,000,000.00 in seed capital, and that such capital had been
9 received and deposited in InterNASA’s bank account. Such representation and assurance
10 induced Plaintiff to enter into the Agreement.

11 16. As the president, Plaintiff was and is to report directly to the owner and founder
12 of InterNASA, FIRMAGE. Further, Plaintiff was to “participate within the Office of the CEO
13 that steers the InterNASA organization as a whole, which is comprised of the core CXO
14 management.”

15 17. Plaintiff’s responsibilities included, but were not limited to, the following:

- 16 a. “Evolving and overseeing all television, film and theatrical operations of the
17 several, and growing, department and divisions of InterNASA Studios, in direct
18 participation with [FIRMAGE] in particular.”
- 19 b. “Participating with the Board and Institute Directors, and the senior executive
20 team in determining InterNASA strategy and primary tactics, including the
21 specific processes defining the formation and structure of InterNASA’s primary
22 R&D and revenue centers Motion Physics, ManyOne, and InterNASA Studio.”
- 23 c. “Leading the InterNASA’s overall corporate and international development
24 strategy which will include acquisitions, spinouts, major technology industry
25 partnerships and licenses, and the establishment of joint ventures for the growth
26 of InterNASA worldwide.”
- 27 d. “Participating with the CEO and CFO in fund-raising activities.”
- 28 e. “Managing personnel associated with the corporate and international
development function.”

1 f. "Working as an integral team member with the InterNASA's officers
2 responsible for engineering, marketing, finance, and operations."

3 18. FIRMAGE represented to Plaintiff that bona fide elements of the United States
4 Intelligence Community were in support of InterNASA's advanced physics and other research
5 and development activities. FIRMAGE made it abundantly clear that the references to the
6 "United States Intelligence Community" were approved by PANDOLFI.

7 19. FIRMAGE represented to and assured Plaintiff on multiple occasions that
8 Plaintiff was working for both FIRMAGE and PANDOLFI. Said representations and
9 assurances induced Plaintiff to sign the Agreement and work for Defendants.

10 20. MARRIOTT expressed concerns with Plaintiff regarding PANDOLFI'S CIA
11 affiliations, amongst other concerns, which were supposedly preventing him from providing
12 sorely needed funding to cover technology development and salaries such as Plaintiff's.
13 Specifically, MARRIOTT represented to Plaintiff that once he and the law firm representing
14 him were convinced that PANDOLFI was real and had CIA affiliations, that no FBI
15 investigation was actively looking into InterNASA and that no SEC investigation was in
16 progress, he would invest the necessary funds. Months later, with still no salary paid to
17 Plaintiff despite working in excess of 70 hours per week, and having all of his stated concerns
18 satisfactorily put to rest largely by Plaintiff's diligent vetting and communications with him,
19 MARRIOTT claimed he now needed to see if the "Anti-Gravity" device FIRMAGE was
20 perfecting with PANDOLFI'S guidance would lift several feet in the air.

21 21. Upon information and belief, MARRIOTT contrived the new requirement that
22 the "Anti-Gravity" device FIRMAGE was perfecting with PANDOLFI'S guidance would lift
23 several feet in the air to fund InterNASA's growing overhead liabilities to keep Plaintiff
24 working despite the breach of the employment contract.

25 22. Plaintiff has upheld his end of the bargain by working diligently months for
26 InterNASA.

27 23. To date, Plaintiff has not received any compensation from InterNASA
28 whatsoever other than \$5,000.00, which was paid by MARRIOTT in April 2018.
MARRIOTT'S payment of \$5,000.00 to Plaintiff was an admission that he knew Plaintiff was
working extremely hard despite the salary arrears, and while FIRMAGE did emphasize to
MARRIOTT that Plaintiff was owed much more, MARRIOTT refused to pay Plaintiff what he

1 was owed and induced. MARRIOTT induced Plaintiff to continue to work for InterNASA
2 without InterNASA and those involved at the highest level having to pay for Plaintiff's expert
3 services.

4 **FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT**
5 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

6 24. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
7 stated here inclusive.

8 25. Plaintiff, FIRMAGE and InterNasa entered into a contract whereby Plaintiff was
9 appointed the position of President, InterNASA Studios for a base salary is \$20,000.00 per
10 month for a period of no less than 24 months.

11 26. Defendants breached this contract by not paying Plaintiff any moneys
12 whatsoever, as provided by the Agreement.

13 27. Plaintiff did all, or substantially all, of the significant things that the contract
14 required him to do or was excused from having to do those things.

15 28. To date, Defendants' breach of the Agreement has caused Plaintiff harm in the
16 amount of \$255,000.00, the amount of which Defendant owes Plaintiff in outstanding salary.
17 Said amount is expected to increase substantially with the passage of time.

18 29. Defendant's breach of contract was a substantial factor in causing Plaintiff's
19 harm.

20 **SECOND CAUSE OF ACTION FOR BREACH OF**
21 **IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
22 **30. (Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

23 31. Plaintiff re-alleges and incorporates by reference all prior paragraphs as
24 though stated here inclusive.

25 32. Plaintiff, FIRMAGE and InterNasa entered into a contract whereby Plaintiff was
26 appointed the position of President, InterNASA Studios for a base salary is \$20,000.00 per
27 month for a period of no less than 24 months.

28 33. Plaintiff did all, or substantially all, of the significant things that the contract
required him to do or was excused from having to do those things.

34. All conditions required for Defendants' performance had occurred in that
Plaintiff has worked for Defendants according to the Agreement and Defendants failed to pay
Plaintiff any compensation as required by the Agreement.

1 35. Defendants unfairly interfered with Plaintiff's right to receive the benefits of the
2 Agreement.

3 36. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
4 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
5 substantially with the passage of time.

6 37. Defendant's breach of contract was a substantial factor in causing Plaintiff's
7 harm.

8 **THIRD CAUSE OF ACTION FOR FRAUD: INTENTIONAL MISREPRESENTATION**
9 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

10 38. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
11 stated here inclusive.

12 39. Prior to entering into the Agreement, FIRMAGE represented to, and assured,
13 Plaintiff that he had secured over \$1,000,000.00 in seed capital, and that such capital had been
14 received and deposited in InterNASA's bank account.

15 40. Said representation was false.

16 41. Defendants knew that the representation was false when they made it or made
17 the representation recklessly and without regard for its truth.

18 42. Defendants intended that Plaintiff rely on the representation.

19 43. Plaintiff reasonably relied on Defendants' representation.

20 44. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
21 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
22 substantially with the passage of time.

23 45. Plaintiff's reliance on Defendants' representation was a substantial factor in
24 causing his harm in that Plaintiff would have never entered into the Agreement to work for
25 Defendants.

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1 57. Defendants knew that the representation was false when they made it or made
2 the representation recklessly and without regard for its truth.

3 58. Defendants intended that Plaintiff rely on the representation.

4 59. Plaintiff reasonably relied on Defendants' representation.

5 60. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
6 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
7 substantially with the passage of time.

8 61. Plaintiff's reliance on Defendants' representation was a substantial factor in
9 causing his harm in that Plaintiff would have never entered into the Agreement to work for
10 Defendants.

11 **SIXTH CAUSE OF ACTION FOR FRAUD:**
12 **INTENTIONAL MISREPRESENTATION**
13 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

14 62. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
15 stated here inclusive.

16 63. Prior to entering into the Agreement, FIRMAGE represented to and assured
17 Plaintiff on multiple occasions that Plaintiff was working for both FIRMAGE and PANDOLFI.
18 Said representations and assurances induced Plaintiff to sign the Agreement and work for
19 Defendants.

20 64. Said representation was false.

21 65. Defendants knew that the representation was false when they made it or made
22 the representation recklessly and without regard for its truth.

23 66. Defendants intended that Plaintiff rely on the representation.

24 67. Plaintiff reasonably relied on Defendants' representation.

25 68. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
26 Defendant owes Plaintiff in outstanding salary. Said amount is expected to increase
27 substantially with the passage of time.

28 69. Plaintiff's reliance on Defendants' representation was a substantial factor in
causing his harm in that Plaintiff would have never entered into the Agreement to work for
Defendants.

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1 81. Although Defendants may have honestly believed that the representation was
2 true, Defendants had no reasonable grounds for believing the representation was true when they
3 made it.

4 82. Defendants intended that Plaintiff rely on the representation.

5 83. Plaintiff reasonably relied on Defendants' representation.

6 84. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
7 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
8 substantially with the passage of time.

9 85. Plaintiff's reliance on Defendants' representation was a substantial factor in
10 causing his harm in that Plaintiff would have never entered into the Agreement to work for
11 Defendants.

12 **NINTH CAUSE OF ACTION FOR FRAUD:**
13 **NEGLIGENT MISREPRESENTATION**
14 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

15 86. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
16 stated here inclusive.

17 87. Prior to entering into the Agreement, FIRMAGE represented to Plaintiff that
18 bona fide elements of the United States Intelligence Community were in support of
19 InterNASA's advanced physics and other research and development activities. FIRMAGE
20 made it abundantly clear that the references to the "United States Intelligence Community"
21 were approved by PANDOLFI.

22 88. Said representation was false.

23 89. Although Defendants may have honestly believed that the representation was
24 true, Defendants had no reasonable grounds for believing the representation was true when they
25 made it.

26 90. Defendants intended that Plaintiff rely on the representation.

27 91. Plaintiff reasonably relied on Defendants' representation.

28 92. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
substantially with the passage of time.

1 93. Plaintiff's reliance on Defendants' representation was a substantial factor in
2 causing his harm in that Plaintiff would have never entered into the Agreement to work for
3 Defendants.

4 **TENTH CAUSE OF ACTION FOR FRAUD:**
5 **NEGLIGENT MISREPRESENTATION**
6 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

7 94. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
8 stated here inclusive.

9 95. Prior to entering into the Agreement, FIRMAGE represented to and assured
10 Plaintiff on multiple occasions that Plaintiff was working for both FIRMAGE and PANDOLFI.
11 Said representations and assurances induced Plaintiff to sign the Agreement and work for
12 Defendants.

13 96. Said representation was false.

14 97. Although Defendants may have honestly believed that the representation was
15 true, Defendants had no reasonable grounds for believing the representation was true when they
16 made it.

17 98. Defendants intended that Plaintiff rely on the representation.

18 99. Plaintiff reasonably relied on Defendants' representation.

19 100. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
20 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
21 substantially with the passage of time.

22 101. Plaintiff's reliance on Defendants' representation was a substantial factor in
23 causing his harm in that Plaintiff would have never entered into the Agreement to work for
24 Defendants.

25 **ELEVENTH CAUSE OF ACTION FOR FRAUD: FALSE PROMISE**
26 **(Against FIRMAGE, InterNASA, PANDOLFI and DOES 1-50)**

27 102. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
28 stated here inclusive.

 103. Prior to entering into the Agreement, Defendants promised Plaintiff that they
had secured over \$1,000,000.00 in seed capital, and that such capital had been received and
deposited in InterNASA's bank account.

1 104. Further, Defendants made a promise to Plaintiff that they would pay him
2 \$20,000.00 per month for a period of no less than 24 months.

3 105. Defendants did not intend to perform the promise of paying Plaintiff when they
4 made it while Plaintiff worked for Defendants without receiving any compensation whatsoever.

5 106. Defendants intended that Plaintiff rely on this promise.

6 107. Plaintiff reasonably relied on Defendants' promise.

7 108. Defendants did not perform the promise act of paying Plaintiff compensation as
8 agreed upon.

9 109. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
10 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
11 substantially with the passage of time.

12 **TWELFTH CAUSE OF ACTION FOR FRAUD:**
13 **INTENTIONAL MISREPRESENTATION**
14 **(Against MARRIOTT and DOES 1-50)**

15 110. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
16 stated here inclusive.

17 111. Defendants represented to Plaintiff that once MARRIOTT and the law firm
18 representing him were convinced that PANDOLFI was real and had CIA affiliations, that no
19 FBI investigation was actively looking into InterNASA and that no SEC investigation was in
20 progress, he would invest the necessary funds. Months later, with still no salary paid to
21 Plaintiff despite working in excess of 70 hours per week, and having all of his stated concerns
22 satisfactorily put to rest largely by Plaintiff's diligent vetting and communications with him,
23 MARRIOTT claimed he now needed to see if the "Anti-Gravity" device FIRMAGE was
24 perfecting with PANDOLFI'S guidance would lift several feet in the air.

25 112. Upon information and belief, MARRIOTT contrived the new requirement that
26 the "Anti-Gravity" device FIRMAGE was perfecting with PANDOLFI'S guidance would lift
27 several feet in the air to fund InterNASA's growing overhead liabilities to keep Plaintiff
28 working for InterNASA despite the breach of the employment contract.

113. Said representations were false.

1 114. Defendants knew that the representations were false when they made it or made
2 the representations recklessly and without regard for its truth.

3 115. Defendants intended that Plaintiff rely on the representation.

4 116. Plaintiff reasonably relied on Defendants' representations.

5 117. Plaintiff was harmed harm in the amount of \$255,000.00, the amount of which
6 Defendant owes Plaintiff in outstanding salary. Said amount is expected to increase
substantially with the passage of time.

7 118. Plaintiff's reliance on Defendants' representation was a substantial factor in
8 causing his harm.

9 119. To date, Plaintiff has not received any compensation from InterNASA
10 whatsoever other than \$5,000.00, which was paid by MARRIOTT in April 2018.
11 MARRIOTT'S payment of \$5,000.00 to Plaintiff was an admission that he knew Plaintiff was
12 working extremely hard despite the salary arrears, and while FIRMAGE did emphasize to
13 MARRIOTT that Plaintiff was owed much more, MARRIOTT refused to pay Plaintiff what he
was owed and induced.

14 120. MARRIOTT induced Plaintiff to continue to work for InterNASA without
15 InterNASA and those involved at the highest level having to pay for Plaintiff's expert services.

16 121. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
17 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
18 substantially with the passage of time.

19 **THIRTEENTH CAUSE OF ACTION FOR FRAUD:**
20 **NEGLIGENT MISREPRESENTATION**
21 **(Against MARRIOTT and DOES 1-50)**

22 122. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
23 stated here inclusive.

24 123. Defendants represented to Plaintiff that once MARRIOTT and the law firm
25 representing him were convinced that PANDOLFI was real and had CIA affiliations, that no
26 FBI investigation was actively looking into InterNASA and that no SEC investigation was in
27 progress, he would invest the necessary funds. Months later, with still no salary paid to
28 Plaintiff despite working in excess of 70 hours per week, and having all of his stated concerns

1 satisfactorily put to rest largely by Plaintiff's diligent vetting and communications with him,
2 MARRIOTT claimed he now needed to see if the "Anti-Gravity" device FIRMAGE was
3 perfecting with PANDOLFI'S guidance would lift several feet in the air.

4 124. Upon information and belief, MARRIOTT contrived the new requirement that
5 the "Anti-Gravity" device FIRMAGE was perfecting with PANDOLFI'S guidance would lift
6 several feet in the air to fund InterNASA's growing overhead liabilities to keep Plaintiff
7 working for InterNASA despite the breach of the employment contract.

8 125. Said representations were false.

9 126. Although Defendants may have honestly believed that the representations were
10 true, Defendants had no reasonable grounds for believing the representation was true when they
11 made it.

12 127. Defendants intended that Plaintiff rely on the representation.

13 128. Plaintiff reasonably relied on Defendants' representations.

14 129. Plaintiff was harmed harm in the amount of \$255,000.00, the amount of which
15 Defendant owes Plaintiff in outstanding salary. Said amount is expected to increase
16 substantially with the passage of time.

17 130. Plaintiff's reliance on Defendants' representation was a substantial factor in
18 causing his harm.

19 131. To date, Plaintiff has not received any compensation from InterNASA
20 whatsoever other than \$5,000.00, which was paid by MARRIOTT in April 2018.
21 MARRIOTT'S payment of \$5,000.00 to Plaintiff was an admission that he knew Plaintiff was
22 working extremely hard despite the salary arrears, and while FIRMAGE did emphasize to
23 MARRIOTT that Plaintiff was owed much more, MARRIOTT refused to pay Plaintiff what he
24 was owed and induced.

25 132. MARRIOTT induced Plaintiff to continue to work for InterNASA without
26 InterNASA and those involved at the highest level having to pay for Plaintiff's expert services.

27 133. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
28 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
substantially with the passage of time.

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FOURTEENTH CAUSE OF ACTION FOR FRAUD:
FALSE PROMISE
(Against MARRIOTT and DOES 1-50)

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3 134. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
4 stated here inclusive.

5 135. Defendants represented to Plaintiff that once MARRIOTT and the law firm
6 representing him were convinced that PANDOLFI was real and had CIA affiliations, that no
7 FBI investigation was actively looking into InterNASA and that no SEC investigation was in
8 progress, he would invest the necessary funds. Months later, with still no salary paid to
9 Plaintiff despite working in excess of 70 hours per week, and having all of his stated concerns
10 satisfactorily put to rest largely by Plaintiff's diligent vetting and communications with him,
11 MARRIOTT claimed he now needed to see if the "Anti-Gravity" device FIRMAGE was
12 perfecting with PANDOLFI'S guidance would lift several feet in the air.

13 136. Upon information and belief, MARRIOTT contrived the new requirement that
14 the "Anti-Gravity" device FIRMAGE was perfecting with PANDOLFI'S guidance would lift
15 several feet in the air to fund InterNASA's growing overhead liabilities to keep Plaintiff
16 working for InterNASA despite the breach of the employment contract.

17 137. Defendants did not intend to perform the promise of paying Plaintiff when they
18 made it while Plaintiff worked for Defendants without receiving any compensation whatsoever.

19 138. Defendants intended that Plaintiff rely on this promise.

20 139. Plaintiff reasonably relied on Defendants' promise.

21 140. Defendants did not perform the promise act of paying Plaintiff compensation as
22 agreed upon.

23 141. Plaintiff was harmed in the amount of \$255,000.00, the amount of which
24 Defendants owe Plaintiff in outstanding salary. Said amount is expected to increase
25 substantially with the passage of time.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendants for the following:

1. For compensatory, general and special damages according to proof against all Defendants.
2. For attorney's fees pursuant to Code of Civil Procedure section 1021.5.
3. For costs of suit, and for such further relief as the Court may order.
4. Punitive Damages.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

PLEASE TAKE NOTICE that PLAINTIFF ROBERT KIVIAT demands a jury trial in this case.

Dated: January 31, 2019

LAW OFFICE OF ERIC SAPIR

By: 

Eric Sapir, Esq.
Attorney for Plaintiff,
ROBERT KIVIAT