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IN THE CIRCUIT COURT FOR THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO. 13-13794 CA 24

TOTAL ACCESS TALENT, INC.,

Plaintiff,

vs.

RICK ROSS TOURING (LLC)  
and WILLIAM ROBERTS, individually,

Defendants.

2014 JUN 20 PM 4:26  
CIVIL 899

**GENERAL MAGISTRATE'S REPORT AND RECOMMENDATION ON  
PLAINTIFF'S MOTION TO COMPEL PROPER DEPOSITION RESPONSES  
AND TO RECONVENE DEPOSITION OF DEFENDANT ROBERTS**

This matter came on without a hearing pursuant to the Court's April 23, 2014, and April 24, 2014, Orders of Referral on Plaintiff, Total Access Talent, Inc.'s ("Talent"), February 4, 2014, Motion to Compel Proper Deposition Responses, to Reconvene Deposition, and for Sanctions Against Defendant William Roberts and his Attorney, Xavier Donaldson, Esq.,<sup>1</sup> and the Magistrate, having reviewed the transcript of Mr. Roberts' September 12, 2013, Deposition and the exhibits to Talent's Motion and Talent's schedule of Talent's counsel's deposition inquiry and Mr. Roberts' responses at Ex. "B," and having reviewed the file herein and being otherwise advised in the premises, it is

<sup>1</sup>The Court's April 23, 2014, Order denied Talent's Motion for Sanctions against Mr. Roberts and Mr. Donaldson without prejudice.

FOUND AND RECOMMENDED as follows:

1. Based upon the following findings, the Magistrate denies Talent's Motion to compel "proper deposition responses" and denies Talent's Motion to reconvene Mr. Roberts' deposition, without prejudice.
2. The Magistrate carefully reviewed the entirety of Mr. Roberts' September 2013 deposition and paid particular attention to the pages and lines of Mr. Roberts' testimony identified in Ex. B to Talent's Motion. Talent's argument that Mr. Roberts was uncooperative and hostile is not supported by a review of the paper transcript. The Magistrate finds that the fact that a party deponent cannot recall is not per se an evasive answer. As to Talent's claims that Mr. Roberts' answers were "untruthful," the Magistrate finds that arguments of counsel are not evidence and cannot be bolstered by the hearsay exhibits attached to Talent's Motion where those documents were not exhibits to Mr. Roberts' deposition.
3. As indicated in the Notice and Re-Notice for Mr. Roberts' deposition, he was deposed in his individual capacity and not as the designated corporate representative of Defendant Rick Ross Touring (LLC) ("Touring").
4. Well into Mr. Roberts' deposition, Talent's counsel summarized succinctly the limited scope of Mr. Roberts' knowledge of the specific facts and circumstances related to the corporate formation, ownership, business operations and finances of Touring and matters related to touring and booking in general, and the negotiation and formation

of the MMG Tour in particular, as follows:

Q. Mr. Roberts, I'm trying to get a handle on how much you know about what your management and your representatives do on your behalf and that's the nature of the questions that I'm asking here. So you have on several occasions indicated that you defer to management and attorneys and things of that nature, *and that's fine*. Some artists are very hands on and want to know everything about their career and who is doing what and I want to establish the parameters of your knowledge with regard to things that are done on your behalf for your career. So these are things that are documented in the records of e-mails going back and forth transmitting the contract to Theo Sedlmayr and I'm wondering whether you knew about it. *So that's the gist of my question and your answer is that you didn't know about it. Is that a fair assessment of your answer?*

A. *I believe so.* (Roberts Deposition, page 102)(emphasis supplied)

5. As revealed through an examination of the preceding 100 pages of deposition transcript, Mr. Roberts testified consistently that he was remote from the day to day details of the corporate, legal, business and financial aspects of Touring and his other companies (not involved in this action) and he directed Talent's counsel to his attorney for the source of accurate information on matters related to corporate ownership, corporate officers, management, employees, and independent contractors. (See Roberts Deposition at page 98, "For the record, I've stated several times that I have no knowledge of business or contracts....") Mr. Roberts declined consistently each of Talent's counsel's repeated invitations to speculate on such specific matters as whether persons were employees or independent contractors, or managers, or managers under contract.
6. Mr. Roberts' testimony was also consistent that he had no recollection of events related

to the arrangements or bookings for events, including who does the arranging and booking. Roberts Deposition at page 84.

7. Mr. Roberts' denied that he spoke with Talent's principal, Ms. Sessums, at any time about any business matters, including the MMG Tour upon which Talent's Complaint is based, and he denied that he gave Ms. Sessums his approval for the MMG Tour. Roberts Deposition at pages 66, 67, 69, 72, 73, 79, 86, 87, 89, 104, 106, and 117.
8. While Talent is correct that Mr. Roberts' counsel made some speaking objections, the objections were not many and did not result in changing or otherwise altering Mr. Roberts' testimony. In several instances, Mr. Roberts answered questions to which his counsel previously objected. For example, compare Roberts Deposition at page 8:7-15 with page 8:22 and page 12:7. See also Roberts Deposition at pages 113-114.
9. The Magistrate further finds that certain of Mr. Roberts' answers that Talent challenges as evasive were not evasive when placed in fair context. For example, Talent's cite to page 65 that Mr. Roberts did not recall cancelling any tours, fails to provide the context of his answer which related to the cancellation of tours based upon threats of gang violence. By way of another example, Talent's cite to pages 74 and 75 that Mr. Roberts refused to speculate as to the manager of Touring was asked within the context of questions relating to paychecks and personnel issues and whether there was a personnel manager or officer manager.
10. Although objections to relevance are preserved, the Magistrate finds, in the context of

the limited issues presented in this fairly straightforward commercial dispute, that Talent's questions about Mr. Roberts' children, who he lives with, the residences he owns, his percentage of ownership and his control of various companies other than Touring, his 2013 cancelled engagements and Reebok sponsorship, and various events subsequent to the MMG Tour, such as the attempted shooting in 2013, were not calculated to lead to the discovery of admissible evidence in this action.

11. In further support of Talent's argument that Mr. Roberts' deposition testimony was evasive, at the conclusion of the June 19, 2014, hearing on Touring's Motion to Compel, Talent's counsel indicated that he had transcripts of Mr. Roberts' depositions in other lawsuits in which Mr. Roberts answered the same questions put to him in September 12, 2013 in this case when he was unable to recall or otherwise unable to answer. As indicated on the record, while such discrepancies in deposition testimony may certainly provide opportunities for some effective cross-examination, the transcripts of Mr. Roberts' depositions in other matters are not part of the record in this action.
12. Again at the close of the June 19, 2014, hearing, Talent's counsel suggested that the Magistrate recommend the appointment of a special magistrate to attend depositions to rule on objections and to compel answers. However, based upon the present record, the Magistrate finds no support for the added expense of a special magistrate, absent agreement of the parties.

13. Talent's Motion to Compel Proper Deposition Responses is denied and his Motion to Reconvene Mr. Roberts' Deposition is denied, without prejudice and pending further development of the record through the deposition testimony of the Fla. R. Civ. P. 1.310(b) designated representative(s) of Rick Ross Touring (LLC).

**IF YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE MAGISTRATE, YOU MUST FILE EXCEPTIONS IN ACCORDANCE WITH FLORIDA RULE OF CIVIL PROCEDURE 1.490(i). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.**

This Revised Report and Recommendation is filed with the Clerk of Court in Miami, Miami-Dade County, Florida, this 20<sup>th</sup> day of June, 2014.



Elizabeth M. Schwabedissen  
GENERAL MAGISTRATE

Conformed copies furnished by e-mail on June 20, 2014, to:

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