

PART V

New York State Supreme Court, Kings County

Macca Elery McLaughlin,)	
)	
Plaintiff)	
)	
versus.)	
)	
Lee and Robbie McLaughlin,)	
)	
Defendants)	Index No. I 2005-1234

Statement of Stipulated Facts*

“North American Shining Stars!” (NASS!) was a television program produced by Goldstar Productions, and presented weekly on WOLF-TV, a national television network. It ran in prime time from 1998 until 2003. The program’s format was that of an amateur contest, in which non-professionals from all three major North American nations competed for the title “Year’s Best New Pop Artist.” The top three winners of the competition were guaranteed a recording contract with Woolly Mammoth Records, as well as a first place prize of \$1,000,000, a second place prize of \$500,000, and a third place prize of \$250,000.

Regional competitions were held before judges in several cities including Toronto, New York, Baltimore, San Francisco, Vancouver, Chicago and Mexico City.

Those who won the regional competitions advanced to the finals, which were held in Hollywood, California where NASS! was filmed before a live audience.

Macca Elery McLaughlin, an aspiring singer, was fourteen at the time of the Spring 2001 competition. Macca competed in and won the regional competition held in New York City that year and then traveled to California to compete in the finals, finishing in third place on March 15, 2001. As a result, Macca won \$250,000, a recording contract and the opportunity to participate with the other NASS! winners on the PEPTARTS NASS! WINNERS tour that summer. For performing on that tour, Macca, who had by then adopted the stage name M-EEE-M, was paid an additional \$250,000 by the Peptarts Company.

In April 2001, Lee and Robbie McLaughlin, Macca's parents, in their capacity as Macca's legal guardians, signed Macca to a three-year recording contract with Wooly Mammoth Records. Cameron Cruelle, President of Wooly Mammoth Records, signed on behalf of Wooly Mammoth. The contract called for M-EEE-M to deliver three "albums" (an album being enough songs to complete a full-length compact disc), one each year for the life of the contract. Wooly Mammoth gained all rights to the artistic creations of M-EEE-M during the contract period. The contract obliged Wooly Mammoth to pay royalties to M-EEE-M in set percentages depending on the market in which the CDs and other products were sold or profits were generated.

Because Macca was a minor, Cameron Cruelle insisted that the contract be court-approved so that Macca could not later seek to declare the contract void, as is the general right of a minor. Lee and Robbie McLaughlin petitioned a New York court on May 8, 2001 to approve the contract pursuant to New York Cultural Affairs Law §35.03. Although Lee and Robbie's petition requested that ten percent (10%) of any money earned by Macca under the contract be set aside for Macca's behalf, the New York court ordered that one-half of the money earned by Macca under the contract be set aside and turned over to Macca upon Macca's reaching the age of 18. Robbie McLaughlin was made the guardian of the court-ordered account.

Robbie and Lee, who had two children in addition to Macca, put into their own bank accounts the \$250,000 NASS! third-place prize money, the \$250,000 PEPTARTS NASS! TOUR payment, and one-half of all the money paid under the Woolly Mammoth contract for Macca's first, enormously successful CD. Robbie set up an account on Macca's behalf for the other one-half of Macca's earnings. Using the money they put in their own account, Lee and Robbie paid \$500,000 down on a million dollar home, joined a prestigious country club, hired a manager, Tony Triacon, and a public relations agent, Sammy Wright, for Macca, and hired expensive trainers and teachers to develop the talent of their other two children.

In Spring 2002, friends they met at the club mentioned to Robbie and Lee that they were investing in an Initial Public Offering (IPO) of stock in a technology company called Odyssey Omni. Robbie, who did some studying of the company, thought the stock looked like a fantastic investment and desperately wanted to participate in the IPO. Because the McLaughlin's had significantly lowered the balances in their accounts in acquiring the assets and services described above, Robbie took over \$750,000 in the account established for Macca, nearly all that was in that account, and invested it in Odyssey Omni. Unfortunately, within a year the stock had plummeted, Odyssey Omni had dissolved, its Chief Executive Officer and Chief Financial Officer had been indicted, and Lee and Robbie lost the total investment.

After Lee and Robbie invested in Odyssey Omni but before its fortunes sunk, M-EEE-M's second CD was found unacceptable by Cameron Cruelle and Woolly Mammoth refused to release it. Under the terms of the contract, M-EEE-M was not permitted to contract with any other company to release that or any other M-EEE-M CD and, as a result, Macca earned no further money under the contract, other than limited continued royalties for the first CD.

Upon turning 18 in June 2004, Macca immediately fired Tony and Sammy and then hired his/her friend and former voice and guitar teacher, Stevie Styx, a former

member of the band, the “Mash Trashers.” Stevie, still known by the stage name “Tiny Mash,” found Macca a new recording company, Strawberry Fields, but that company required an initial investment by the artist of \$250,000. Only when Macca sought control of the guardianship account in order to engage the new recording company did the fact that there was virtually no money in the account come to light. As a result, Macca was not able to engage Strawberry Fields to produce his/her CD.

Macca has brought a claim against Robbie and Lee. Macca alleges that both parents have grossly mismanaged Macca’s funds and failed in their fiduciary roles not only in squandering the money but also in hiring a manager and public relations agent who were disastrous to Macca’s career, causing gross economic hardship to Macca. Macca seeks damages in the amount of \$1,827, 661. The amount of the guardianship is \$827,661 created by the earlier court order. Macca asserts that the other million dollars demanded is a low valuation of the cost of the career-ending demands of Tony Triacon and Sammy Wright. Robbie and Lee defend on the ground that they always acted in the best interest of their children and did not violate any fiduciary duty imposed on them by law.

*Witness statements are duly sworn and notarized

Affidavit of Robbie McLaughlin

Witness for the Defense

My name is Robbie McLaughlin. I've been married for 24 years to Lee, the best spouse anyone could have. We have three beautiful children, Macca, Alexander, who we call Sasha, and Jenna. They are just great kids, all incredibly talented. Lee and I always laugh that we don't know where the talent came from because neither Lee nor I have an ounce of musical talent. We live at 16 Meadow Hill Road in Great Wessex, New York.

When Lee and I got married we had nothing. We really had to struggle. It seemed like all we did was work. It was worth it to both of us because we knew we wanted a family and we wanted to be able to provide a nice life for them. When Sasha, our second child, was born, Lee quit work outside the home and stayed with the kids. It was tough to go without Lee's income but we thought Lee would be able to work at home and take care of the kids as well. Unfortunately, Lee never could make much money at home so things were really tight.

That was the year Macca was 3. I guess we had been working so much, neither of us really appreciated what a natural performer Macca was. Lee told me that Macca just never stopped singing. Even though we hardly had any disposable income, Lee thought we owed it to Macca to develop that talent so we began lessons. For the next ten years we spent every cent we could on lessons for Macca. It was hard but Macca's joy made it worth every penny and all the sacrifice.

When Macca lost a couple of early competitions, that child was so devastated that Lee and I decided to hire someone who could really help refine Macca's remaining rough edges. That's when we hired Stevie Styx. Macca really loved Stevie and seemed to learn and grow a lot through that association. Lee and I admired Stevie's talent and were glad for Macca's growth and happiness but it bothered us that Stevie seemed so down on

the entertainment industry. It was almost as if Stevie was convinced that whatever happened to Stevie was going to happen to Macca, too.

Anyway, Macca just rose like a shooting star. When our child came in third in the NASS! Competition it was just incredible. All that sacrifice for ten years, not just by Macca but by all of us, had paid off. Lots of times during that ten years Lee and I wondered whether we were being fair to Sasha and Jenna by putting so much time and money into Macca's talents. You see, Sasha and Jenna are really talented, too. We thought that at last, we'd be able to make it up to them, too.

Wooly Mammoth offered Macca a recording contract. We felt that we should sign that contract because, without NASS! and Wooly Mammoth, Macca would never have gotten the national exposure. We weren't sure that anyone else would give Macca a contract. That's what Cameron Cruelle told us. Stevie said we should shop around because the contract was no good.

Everybody was happy except Stevie. Stevie seemed to get greedier as Macca's exposure grew - even asking for a cut when we hadn't even started to cover all the expenses we had laid out all those years. We must have laid out thirty thousand dollars to get Macca to be a star and a lot of that money went to Stevie. I wanted to end it with Stevie right then but Lee talked me out of it. Anyway, Stevie didn't want us to sign the contract with Wooly Mammoth. We finally told Stevie that it was time to end it. Macca was upset but we sent him/her a letter promising everything would be alright and that seemed to calm him/her down a little.

We called Tony Triacon to get a recommendation of somebody to manage Macca's career. Tony volunteered. Well, not volunteered exactly - Tony wanted to be hired as Macca's manager. We owed Tony some money from when Lee and Tony had been in business so it seemed like we owed it to Tony to give it a try. Tony told us to sign the Wooly Mammoth contract. Tony also said we needed to get court approval so the contract would be binding. So we signed the contract and went to court. The court

directed us to set aside half of Macca's earnings for Macca's use as an adult. Tony hadn't told us about that possibility. Our attorney told us that we could use the money for Macca's and the family's needs. I wanted to just put the money in a savings account but our friends said that the law requires us to invest it wisely so that Macca would have as much as possible as an adult.

I should say that one of the things we were so anxious to do was to make everything up to Sasha and Jenna. The first thing we did when Macca got some money from the NASS! and the Peptarts tour was to buy a new house so that each of the kids could have their own room. We put \$500,000 down - that was the competition prize and tour money - and we borrowed \$500,000. Can you imagine we live in a million dollar house! We joined a golf and tennis club so that all the kids could enjoy it. Later, we got two great cars, a Mercedes and a BMW. We also made it up to Sasha and Jenna by buying them lessons to support their talents. They really wanted to follow in Macca's footsteps. We got them the best lessons we could buy. This time we could afford real professionals to help the kids.

We also hired Sammy Wright as Macca's public relations agent. Sammy's been my friend since high school. Sammy did a lot of advertising and public relations when she was first out of college and she's really got a knack for it. Unfortunately, Macca resented us for firing Stevie and resisted all the things Tony and Sammy tried to do to enhance Macca's career.

A couple of years ago, we made what turned out to be a big mistake but we had no way of knowing that at the time. There just wasn't a good place to put the money Macca had earned and we knew we had a responsibility to make that money grow. About that time, some friends we met at the club were talking about an IPO that they were all determined to be a part of. It was for a company named Odyssey Omni. The company had developed a new search engine for the Web that was supposed to be better than Google and Yahoo. Everything that they told us made us think that this stock was a sure bet. I've studied the stock market a lot and know the risk but I did my homework on this

company and it seemed solid. We also knew that one of the people at the club was an expert on technology companies. And all those folks at the Club were backing up their optimism with their money. We asked Sammy to ask her stock broker and she said the broker told her it was a golden opportunity. Sammy told us, "Go for it - Macca will thank you for it later." So we took Macca's account and participated in the IPO. At first it seemed like it was going to be a winner. We didn't tell Macca about our good fortune because we were having trouble with Macca's attitude.

Then the stock plummeted and the company folded. I don't know exactly what happened, except that the CEO and CFO of the company have been indicted. We lost the money we invested. We didn't worry about it that much at the time because we figured Macca's career was going to go straight up, with or without Woolly Mammoth. We planned to put all the money that Macca would earn off the second CD in his/her account to make up for what we lost. But there never was another CD. Lee and I feel really terrible about it but there is nothing we can do. We made every decision in Macca's interest. It broke our heart when Macca decided to sue us. All we have ever tried to do is what was best for our child.

A handwritten signature in cursive script that reads "Robbie McLaughlin". The signature is written in black ink and is positioned above a horizontal line.

Robbie McLaughlin 1/6/2005