

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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PERFORMLINE, INC.

Index No.: 650217/2021

**AFFIRMATION**

Plaintiff,

-against-

APOGEE EVENTS INC.,

Defendant(s).

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Rebecca Miller, an attorney duly admitted to practice law in the courts of the State of New York, hereby affirms the following under the penalties of perjury:

1. I am associated with the law firm of Stonberg Moran, LLP, attorneys for Plaintiff, **PERFORMLINE, INC** (hereinafter referred to as "Performline") in this matter. I am fully familiar with the facts and circumstances set forth herein from review of the file maintained by this firm in connection with the above-mentioned litigation.

2. I submit this affirmation in support of Plaintiff's motion, pursuant to CPLR § 3215, for a default judgment against defendant **APOGEE EVENTS**.

3. Plaintiff's Verified Complaint alleges that on September 25, 2019, Apogee Events breached its contract with Performline when an event that was to be held at Apogee was cancelled due to COVID restrictions, and Apogee refused to refund Performline its full deposit pursuant to the terms of their contract. A copy of plaintiff's Summons and Complaint dated December 16, 2020, and E-filed on January 12, 2021, is annexed hereto as **Exhibit "A"**.

4. Under the terms and conditions of their agreement, Apogee agreed to host an event for plaintiff on May 5 and 6, 2020. However, due to COVID-19 restrictions, defendant could not host the event. The agreement provided that, in such event, defendant would refund plaintiff's deposit in full. Despite written requests, defendant only agreed to return a portion of the deposit. Attached as **Exhibit "B"** is a copy of the contract.

5. Attached as **Exhibit "C"** is an Affidavit of Merit from Michael Demarco, CFO of Performline.

6. Service of the Complaint was effected on APOGEE EVENTS on January 14, 2021. A copy of the affidavit of service of the Summons and Complaint on APOGEE is annexed hereto as **Exhibit "D"**.

7. On February 17, 2021, this office, on behalf of PERFORMLINE, sent a letter to APOGEE requesting an appearance to avoid a default judgment. A copy of the letter, including the green certified mail receipt indicating that our letter was received, is annexed hereto as **Exhibit "E"**. To date, APOGEE has not appeared in the action, thus necessitating this motion.

**WHEREFORE**, it is respectfully requested that this Court enter an order granting a default judgment against Defendant APOGEE EVENTS, together with such other and further relief as the Court deems just and proper under the circumstances.

Dated: New York, New York  
March 11, 2021

STONBERG MORAN, LLP  
Attorneys for Plaintiff  
**PERFORMLINE, INC.**

By:

  
\_\_\_\_\_  
Rebecca Miller, Esq.

505 Eighth Avenue, Suite 2302  
New York, New York 10018  
(212) 231-2220  
Our File No.: 30800

TO:

Apogee Events Inc.  
10 Desbrosses Street  
New York, NY, 10013  
**By Certified Mail, Return Receipt Requested**

**CERTIFICATION**

I certify that the number of words in the foregoing document are   778  

I certify that the foregoing **Motion for Default** complies with the word count limit

I certify that I relied on the count of the word-processing system used to prepare the document.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for contempt of Court.

Dated: March 5 2021

By:   
\_\_\_\_\_  
Rebecca Miller, Esq.