

22-CV-1474

CAUSE NO. \_\_\_\_\_

THE HARLI GROUP, LLC	§	IN THE DISTRICT COURT
	§	
Plaintiff	§	Galveston County - 10th District Court
	§	
v.	§	_____ JUDICIAL DISTRICT
	§	
TINY TOWN STUDIOS, LLC,	§	
	§	
Defendant	§	GALVESTON COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

NOW COMES The Harli Group, LLC ("Plaintiff") and files this, its Original Petition, and in support thereof, would respectfully show the Court the following:

**I. DISCOVERY LEVEL**

1. Discovery in this matter will proceed in accordance with Discovery Control Plan Level 3 pursuant to Texas Rule of Civil Procedure 190.4.

**II. PARTIES**

2. Plaintiff The Harli Group, LLC is a Texas limited liability company with its principal office and principal place of business at 311 Silver Cliff Lane, Friendswood, Texas 77546.

3. Defendant Tiny Town Studios, LLC is a Florida limited liability company with its principal office and principal place of business located at 2262 County Road 358, Gause, Texas 77857. Defendant Tiny Studios, LLC may be served with citation by and through its registered agent for service of process, John D. Biddinger at his principal office, 2262 County Road 358, Gause, Texas 77857.

### **III. VENUE**

4. Venue in this matter is permissive in Galveston County, Texas, because the parties entered into a contract in writing to perform obligations in Galveston County, Texas, in accordance with Texas Civil Practice & Remedies Code § 15.035(a). Venue in this matter is proper in Galveston County, Texas, because all, or a substantial part, of the events or omissions giving rise to Plaintiff's claims occurred in Galveston County, Texas, in accordance with Texas Civil Practice & Remedies Code § 15.002(a)(1).

### **IV. BACKGROUND FACTS**

5. In March 2017, Plaintiff hired Defendant to construct the Adventure Pointe Theme Park in Texas City just off of Interstate 45. The parties executed a contract to that effect setting forth the scope of work. The scope of work included construction of the Land of Oz, including a Tornado House, Munchkinville, Cowardly Lion Forest, Tin Man House, Scarecrow Corn Maze and Wicked Witch is Dead. The second portion of the project was Dry Gulch Mining Town with Water Features. The third major feature was Shanty Town with an Exterior Pirate Ship Experience. Finally, the contract included various other water, refreshment and entertainment features.

6. During the course of negotiations, Defendant expressly represented to Plaintiff that it had the ability to construct the project, including all buildings, features and infrastructure necessary. The original contract price was \$1,115,000. The parties executed an amendment to the contract, modifying some features and adding a few. The contract price increased to a total of \$1,500,000.

7. Plaintiff advanced funds for the project. Defendant undertook some of the work. Defendant worked on most of the features nearly simultaneously but made little progress. By March 2018, Defendant failed to complete any portion of the project.

8. Plaintiffs paid to Defendant the full amount of the contract, but Defendant has failed and refused to perform. Defendant continued working into 2019, 2020, 2021 and 2022 without any significant progress. In 2022, Plaintiffs hired Amvet to conduct an inspection of the status of the project. AMVET issued a detailed report that set forth the following defects:

<b>Feature</b>	<b>Description of Construction Defects</b>
Tornado House	Work not completed to pay point; Structure in peril of collapse; Wood deteriorated and not fastened well
Munchkinville	Work not completed to pay point; Frame only, left to deteriorate; Caps not complete or attached well
Cowardly Lion Forest	Work not completed to pay point
Tin Man House	Work not completed to pay point; Inferior construction not per design and hazardous; No separate drink hut; Not windstorm compliant
Scarecrow Corn Maze	Work not completed to pay point; No structure at all
Wicked Witch is Dead	Work not completed to pay point; Essentially nothing done
Dry Gulch Mining Town	Work not completed to pay point
Shanty Town	Work not completed to pay point; Exterior structure collapsed due to inferior attachment to substructure
Pirate Ship Exterior	Work not completed to pay point
Waterfall Rockscape	Cancelled; No refund
Foam Popcorn Kiosk	Work not completed to pay point
Tunnel for Train Track	Work not completed to pay point

Splash Pad	Work not completed to pay point; Essentially nothing done
Train Depot	Work not completed to pay point; Essentially nothing done
Concession Trailers	Work not completed to pay point
Train Yard	Work not completed to pay point
Stern of Ship Framing	Work not completed
Ice Rink	Work not completed to pay point

9. Plaintiff solicited a correction and completion estimate. The cost to complete the project that Defendant left incomplete and to correct Defendant's deficient work is \$800,000.

#### **V. RELIEF REQUESTED**

10. Plaintiff is seeking only monetary relief over \$250,000 but not more than \$1,000,000.

#### **VI. CAUSES OF ACTION**

11. **Breach of Contract:** The between Plaintiff and Defendant to construct The Adventure Pointe Theme Park for Plaintiff in exchange for payment to Defendant constitutes a contract between the parties. Plaintiff has fully performed all obligations it was required to perform under the contract. Defendant has failed to perform its obligations by its defective and incomplete work. Such failure constitutes a breach of contract that has proximately caused damages to Plaintiff in an amount in excess of the minimum jurisdictional limits of this Court, for which Plaintiff here sues.

12. **Money Had & Received:** In the alternative, Plaintiff is entitled to recover money had and received. Plaintiff advanced funds to Defendant for the work. The work remains

incomplete, and not all the materials are present. Defendant holds all such funds, which in equity and good conscience belong to Plaintiffs and should be returned to Plaintiffs.

**VII. DAMAGES & ATTORNEY'S FEES**

13. Plaintiff seeks recovery of its actual damages in the amount of \$800,000 as a result of Defendant's failure to pay. In the alternative, Plaintiff seeks recovery of money had and received by Defendant.

14. Plaintiff seeks recovery of its attorney's fees as allowed under Chapter 38 of the Texas Civil Practice & Remedies Code.

**VIII. CONDITIONS PRECEDENT**

15. All conditions precedent to Plaintiff's right to recovery have been performed, have occurred or have been waived.

WHEREFORE, PREMISES CONSIDERED, Plaintiff The Harli Group, LLC respectfully requests that Defendant Tiny Town Studios, LLC be cited to answer and appear herein and that upon trial in this matter, the Court enter judgment awarding Plaintiff its actual damages; award Plaintiff its attorney's fees as allowed under the Chapter 38 of the Texas Civil Practice & Remedies Code; award to Plaintiff all costs of court; award to Plaintiff all prejudgment and postjudgment interest to which Plaintiff may be entitled; and for all such other and further relief, both general and special, at law and in equity, to which Plaintiff may show itself justly entitled.

**Respectfully submitted,**

/s/ Craig W. Saunders

Craig W. Saunders

State Bar No. 24027834

Craig W. Saunders, PLLC

1322 Space Park Drive, Suite C201-B

Houston, Texas 77058

Telephone: (832) 864-2410

Facsimile: (281) 715-4994

craighsaunders2@icloud.com

Thomas Knickerbocker

Texas BAR 24058936

The Knickerbocker Law Firm, PLLC

2503 Dauphin Court

Nassau Bay, Texas 77058

(713) 818-4155

Thomas@klawtexas.com

**ATTORNEYS FOR PLAINTIFF THE  
HARLI GROUP, LLC**