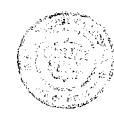


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Attorney for Plaintiff
Isagenix International, LLC

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

ISAGENIX INTERNATIONAL LLC, an
Arizona limited liability company,

Plaintiff,

vs.

JACQUES C. DUPUIS,

Defendant.

Case No.: CV2008-090641

**COMPLAINT AND APPLICATION
FOR PRELIMINARY
INJUNCTION**

(Contract and Tort Non-Motor Vehicle)

Plaintiff, Isagenix International, LLC ("Isagenix"), through counsel, alleges as follows:

JURISDICTION AND PARTIES

1. Plaintiff is an Arizona Limited Liability Company organized pursuant to the laws of the State of Arizona with its principal place of business in Maricopa County.
2. The contract and the Defendant's conduct which gives rise to this complaint occurred in Maricopa County, Arizona.
3. This Court has personal jurisdiction over the parties and has jurisdiction over the subject matter of this case.
4. Venue is proper pursuant to A.R.S. § 12-401(5).

1 **FACTUAL ALLEGATIONS**

2 5. At all time relevant herein, Defendant was acting on his own behalf as an
3 independent contractor and not an employee.

4 6. Isagenix is considered a front runner in the health and wellness industry, with
5 operations in six countries and sales exceeding \$500 million for its nutritional and
6 weight-loss products.

7 7. As a multi-level marketing organization, Isagenix's products are distributed
8 through a network of independent associates worldwide. Based on the accomplishment
9 of certain sales and recruiting goals, an individual associate earns commissions not only
10 from their own sales but also from the sales of those they have recruited into the
11 company, referred to as their "downline."

12 8. Isagenix pays certain bonuses and/or commissions to any particular associate
13 based upon the sales of the associates that are located in their downline.

14 9. One of the reasons for Isagenix's success is its adherence to certain practices.
15 Included in these practices is a commitment to the highest-quality products and customer
16 satisfaction in using those products. Thus, the independent associate's face-to-face
17 interaction with those using Isagenix's products is paramount.

18 10. A requirement of Isagenix accepting an individual as an independent associate is
19 the agreement to strictly abide by Isagenix's written Policies & Procedures (P&P's). In
20 exchange for being an Isagenix independent associate and the requisite agreement to
21 adhere to Isagenix's Policies & Procedures, the associate is able to purchase Isagenix's
22 products at a wholesale cost and participation in Isagenix's commission/bonus program.

23 11. Provision 2.2 of the P&P's states:

24 As an Isagenix Independent Associate:

25 At all times I will conduct myself and my business in an ethical, moral, legal and
26 financially sound manner (with honesty and fairness and an ethical and
professional manner at all times.). I will not engage in activities that would bring
disrepute to Isagenix or myself nor will I criticize Isagenix, its Management, other
Isagenix Associates, the competition or their products.

1
2 12. Provision 2.3 of the P&P's states:

3 I shall not, by my actions, bring Isagenix or the image of the Network Marketing
4 industry into disrepute.

5 13. Provision 2.5 of the P&P's states:

6 I will provide support and encouragement to my customers to ensure that their
7 experience with Isagenix is a successful and happy experience. I understand that it
8 is important to consistently provide follow-up service and support to my
9 Associates and Preferred Customers.

10 14. Provision 2.8 of the P&P's states:

11 I will not willfully manipulate the Isagenix Team Compensation Plan at any time
12 without exception.

13 15. Provision 2.11 of the P&P's states:

14 I will abide by all of Isagenix's Policies and Procedures now and as they may be
15 changed in the future. under any circumstances short of the written confirmation
16 alluded to above.

17 16. Provision 3.1 of the P&P's states:

18 As an Independent Associate you are required to give us your Social Security or
19 Federal Tax ID number where applicable. You must certify under the penalty of
20 law that the Tax ID number and valid personal identification submitted to the
21 Company is correct.

22 17. Provision 4.7.1 of the P&P's states:

23 Only authorized Independent Associates of Isagenix may purchase Isagenix
24 products for resale.

25 18. Provision 4.7.3 of the P&P's states:

26 Internet product sales may be made only on Isagenix approved Associate or
Preferred Customer Web sites. Isagenix products may not be sold or displayed on
any online auctions, including but not limited to, eBay, UBid, eBay stores, Yahoo,
Buy It Now stores, etc.

1 19. Provision 6.8.2 of the P&P's states:

2 We may suspend or terminate your Associate or Preferred Customer status as a
3 corrective action for any violation or alleged violation of the Associate or
4 Preferred Customer Application and Agreement, or any violation of the Policies
5 and Procedures. Whenever there is a complaint or evidence or a prohibited
6 activity, generally, we will contact you to let you know that we suspect a violation
7 of a Company Policy & Procure. We will generally offer you an opportunity to
8 present facts that would show that you have not violated the Policy or Procedure.
9 We reserve the right to make the final determination as to whether the Policy or
10 Procedure has been violated and our decision is final and may not be appealed.

11 20. Provision 6.8.6 of the P&P's states:

12 After termination, you will still be liable for any compensation or bonus
13 deductions that you would have had to pay as the result of any Buy-Backs or
14 returns that occur in your downline. If we have to file a lawsuit to collect those
15 amounts, you agree to pay any collection and legal costs that we incur.

16 21. Provision 7.1.1 of the P&P's states:

17 Independent Associates . . . may not use any part of our trademarks, images, trade-
18 names, copyrights, written, printed, recorded or other types of intellectual property
19 in advertising, promoting or describing Isagenix's products or marketing program,
20 unless it has been submitted to Isagenix and approved by us in writing prior to
21 being disseminated, published or displayed.

22 22. Provision 7.2.2.2 of the P&P's states:

23 You may not post "Isagenix" or any derivative or confusingly similar variation of
24 its trademarks or trade name on any internet forum, discussion group, news group
25 or online auctions.

26 23. On or about February 17, 2007 the Defendant first enrolled as an Isagenix
independent associate and electronically signed his acceptance to be bound by the P&P's.

24 24. Subsequent to the Defendant's enrollment and agreement to the P&P's, Isagenix's
25 compliance department discovered that the Defendant was selling its products on eBay, a
26 strictly prohibited activity and in violation of the P&P's. Further, the Defendant used
images of Isagenix's products in breach of the P&P's.

1 25. Isagenix's compliance department contacted the Defendant on several occasions
2 and instructed him to cease and desist from such prohibited conduct, or his independent
3 associate account would be terminated. Defendant admitted to breaching the P&P's and
4 selling the products on eBay, but promised to discontinue doing so.

5 26. Despite the Defendant's promises to stop selling on eBay, he continued to do so.
6 Accordingly, his independent associate account was terminated by Isagenix.

7 27. Isagenix is informed and believes and thereupon alleges the Defendant progressed
8 to enroll in approximately thirteen independent associate accounts by submitting
9 fraudulent information and thereby concealing his true identity, which again violated the
10 P&P's.

11 28. Isagenix is informed and believes and thereupon alleges the Defendant used false
12 social security numbers to further trick Isagenix and facilitates his wrongful enrollment in
13 additional independent associate accounts, which violated the P&P's.

14 29. Isagenix is informed and believes and thereupon alleges the Defendant not only
15 continued to engage in these prohibited activities, but started a campaign to undermine
16 Isagenix's compliance department by alerting other eBay sellers to the techniques used
17 by Isagenix to discover other potentially noncompliant independent associates selling on
18 eBay and thereby breaching of the P&P's.

19 30. Isagenix complied with all of its duties under the contract between the parties.

20 31. The Defendant earned certain commissions by engaging in the prohibited conduct
21 and through the fraudulently obtained associate accounts.

22 32. Moreover, Isagenix paid commissions to the Defendant's "upline" based upon his
23 wrongful conduct.

24 33. Isagenix has a legitimate business interest in protecting its business interests by
25 enforcing its Policies and Procedures, including prohibiting sales on eBay or other online
26 auctions.

1 34. Isagenix independent associates, and those who are considering becoming an
2 independent associate, rely on Isagenix's representations that it will enforce the P&P's
3 and thereby protect the integrity of its products and customer relationship. Isagenix
4 prides itself on its independent associates' one-to-one relations with its customers.
5 Further, Isagenix prides itself on guaranteeing its products by its full satisfaction refund
6 policy, which is not offered for products purchased through an online auction such as
7 eBay because of the lack of control as to whether the product has been tampered with or
8 expired.

9 **COUNT ONE**

10 **(Breach of Contract)**

11 35. Isagenix incorporates herein all allegations set forth above.

12 36. On or about March 6, 2006 the Defendant first enrolled as an Isagenix independent
13 associate and electronically signed his acceptance to be contractually bound by the
14 P&P's.

15 37. Isagenix complied with all of its obligations under the parties' contractual
16 agreement, that is, the P&P's.

17 38. The Defendant materially breached the contract by selling Isagenix's products on
18 eBay, providing fraudulent identities and social security numbers to Isagenix when
19 enrolling as an independent associate, posting images of Isagenix products on an online
20 auction and willfully manipulating the compensation plan for his own gain.

21 39. As a result of the Defendant's breach of contract, Isagenix has suffered damages
22 by paying out commissions to both the Defendant and the Defendant's upline and selling
23 products to the Defendant at a reduced independent associate costs, an amount to be
24 determined at trial.

25 40. Isagenix is entitled to an award of its attorney's fees pursuant to A.R.S. § 12-
26 341.01.

COUNT TWO

1 51. On numerous occasions, Defendant provided Isagenix with false or incorrect
2 information when enrolled as an independent associate, including, but not limited to false
3 identities and social security numbers.

4 52. Defendant intended that Isagenix rely on the false or incorrect information he
5 provided and, in fact, provided it for that purpose.

6 53. Isagenix reasonably and justifiably relied on the false or incorrect information
7 Defendant provided and as a result, was damaged.

8 54. Isagenix is entitled to damages caused by the Defendant's false and information he
9 provided Isagenix.

10 **COUNT FIVE**

11 **(Common Law Fraud)**

12 55. Isagenix incorporates herein all allegations set forth above.

13 56. As set forth above, on numerous occasions Defendant provided Isagenix
14 with false material information, knowing his representations were false.

15 57. Defendants' fraudulent actions are intentional, deliberate, calculated, and willful.

16 58. Defendant knew his representations were false and intended that Isagenix would
17 rely on them.

18 59. Isagenix did, in fact, rely on Defendant's false and fraudulent representations.

19 60. Under the circumstances, Isagenix reasonably and justifiably relied on
20 Defendant's false representations and as a result, was damaged.

21 70. Because of Defendant's wrongful and intentional conduct, Isagenix is entitled to
22 damages.

23 **COUNT SIX**

24 **(Inference With Business Expectancies)**

25 71. Isagenix incorporates herein all allegations set forth above.

26 72. Isagenix has existing and potential economic relationships with numerous
potential customers and independent associates.

1 73. Isagenix had a reasonable expectation that its potential customers and potential
2 independent associates would continue to purchase Isagenix's products and enroll in
3 associate accounts. Further, Isagenix had a reasonable expectation of developing and
4 maintaining business relationships with its prospective customers and independent
5 associates in the future.

6 74. The Defendant was aware of these business relationships and of Isagenix's
7 expectancy of continued future economic benefits by direct sales to customers, as well as
8 through its independent associate accounts. However, despite this knowledge, Defendant
9 intentionally engaged in the foregoing non-privileged wrongful conduct which interfered
10 with Isagenix's business relationships.

11 75. As a direct and proximate result of such wrongful and tortious conduct of the
12 Defendant, Isagenix has suffered damages in an amount to be proven at trial which
13 include, but are not limited to, the profits that Defendant received from the sales of
14 Isagenix products which sales would not have occurred if Defendant had not tortiously
15 interfered with Isagenix business relationships.

16 APPLICATION FOR PRELIMINARY INJUNCTION

17 76. Isagenix incorporates herein all allegations set forth above.

18 77. Pursuant to Rule 65, *Ariz.R.C.P.*, Isagenix respectfully requests this Court enjoin
19 the Defendant, and any and all persons in active concert or participation with the
20 Defendant, from selling Isagenix's products on eBay and/or from using images of
21 Isagenix's products on any online auction or other venue prohibited by the P&P's.

22 78. Isagenix has demonstrated and met its burden by all that is set forth above that the
23 Defendant is likely to engage and continue to engage in wrongfully selling Isagenix's
24 products on eBay.

25 79. Isagenix will suffer immediate and irreparable injury, loss, and damage unless the
26 Defendant is enjoined and restrained by this Court, and Isagenix has no adequate remedy
at law.

1 WHEREFORE, Isagenix requests the following relief:

2 A. For a money judgment against Defendant as a consequence of Defendant's
3 breach of contract and negligence in an amount to be determined by the Court;

4 B. For the Defendant be ordered to account for any gains, profits and
5 advantages derived by his wrongful conduct;

6 C. Award punitive damages in such amount as the Court may deem
7 appropriate to penalize Defendant for his intentional and malicious acts of misconduct;

8 D. Enjoin Defendant from selling Plaintiff's products on eBay;

9 E. For pre- and post-judgment interest at the statutory rate;

10 F. As to Isagenix's claim for breach of contract, for an award of attorneys'
11 pursuant to A.R.S. § 12-341.01;

12 G. For Isagenix's costs; and

13 H. For such other and further relief as the Court deems appropriate under the
14 circumstances.

15 RESPECTFULLY SUBMITTED this 3rd day of March, 2008.

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20 *Attorney for Plaintiff*
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