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**IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH**

WAKE UP NOW, INC.

Plaintiff,

vs.

KIRBY D. COCHRAN, individually and doing business as GLOBAL CONNECTION NETWORK; NATHAN COCHRAN, individually and doing business as GLOBAL CONNECTION NETWORK; GARY COCHRAN, individually and doing business as GLOBAL CONNECTION NETWORK; MICHAEL WACH, individually and doing business as GLOBAL CONNECTION NETWORK; GLOBAL CONNECTION NETWORK, an entity of unknown origin; ELAINE M. COCHRAN, individually; ELAINE M. COCHRAN, P.C. a Utah professional corporation; JUAN CARLOS LOZANO, AND DOES 1-10,

Defendants.

COMPLAINT AND JURY DEMAND

Case No.

Judge

Plaintiff Wake Up Now, by and through undersigned counsel, for its claims for relief against defendants Kirby D. Cochran, Nathan Cochran, Gary Cochran, Elaine M. Cochran, Elaine M. Cochran, P.C. (“Elaine C.”), Michael Wach, and Global Connection Network and Does 1-10 (collectively, “Defendants”), complains, alleges and asserts as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Wake Up Now (sometimes “WUN”) is a Utah corporation with its principal place of business in Utah.

2. Kirby Cochran (“Kirby Cochran”) is an individual residing in Utah County, and, on information and belief, is doing business as Global Connection Network.

3. Gary Cochran (“Gary C.”) is an individual residing in Utah County, and, on information and belief, is doing business as Global Connection Network.

4. Nathan Cochran (“Nathan C.”) is an individual residing in Utah County. On information and belief, Nathan C. is doing business as Global Connection Network.

5. Elaine Cochran (“Elaine C.”) is an individual residing in Utah County, does business as Elaine M. Cochran, P.C. and served as legal counsel for WUN from September 12, 2013 through October 29, 2014. (See “Termination of Representation” Letter from Elaine Cochran) (Exhibit A).

6. Michael Wach (“Wach”) is an individual residing in California, and, on information and belief, is doing business as Global Connection Network.

7. Juan Carlos Lozano (“Lozano”) is an individual residing in Mexico has travelled to the U.S. multiple times (including Utah), committed acts in the U.S. and Mexico that

adversely affect commerce within the United States and has purposefully directed his activities at Utah.

8. Global Connection Network (“Global” or “GCN”) is an entity of unknown origin that does business in Utah County.

9. The Fourth Judicial District Court in and for Utah County, State of Utah, has subject matter jurisdiction of this action pursuant to §78A-5-102, Utah Code Ann.

10. Venue is properly laid before the Fourth Judicial District Court, in and for Utah County, State of Utah, pursuant to the provisions of §78B-3-307(1)(b), Utah Code Ann., in that at least one defendant resides in Utah County.

GENERAL ALLEGATIONS

Wake Up Now’s Business

11. Wake Up Now is a multi-level marketing and retail products company headquartered in Provo, Utah and owns the U.S. registered trademark to Wake Up Now, Registration #3925616 (Exhibit B), and common law trademark WUN (U.S. trademark registration pending; Serial #86361590). (Exhibit C)

12. Wake Up Now was founded in 2009 by Troy Muhlestein, who has remained actively involved with Wake Up Now in several capacities since that time.

13. Wake Up Now sells a digital product bundle tag-lined “software for a better lifeSM,” which includes a premium language learning software, a top of the line personal finance management software with banking integration powered by MX, formerly MoneyDesktop®, WUNprotectTM, an online identity protection software and computer maintenance service by Invisis, and TaxBot®, a business expense tracking application.

14. Wake Up Now also sells a number of energy related products, including Awaken Thunder™ (U.S. trademark pending; Serial Number 86360229) a canned, carbonated, energy drink.

15. Other Wake Up Now products include WUNLocal, which allows users to use their phones to get discounts on products and services at local merchants across the United States, and “WakeUpNow Vacation Club,” which allows customers to book timeshares, condos, and hotels at discounted prices.

16. WakeUpNow also sells a WUNfit™ (U.S. trademark registration pending; Serial #86361590) line of fitness supplements, including protein powder.

17. Wake Up Now continues to add new products to its product lines.

18. Wake Up Now makes its products available to retail customers, whom Wake Up Now categorizes as “insiders,” “preferred customers,” and “IBOs.”

19. Wake Up Now sells a majority of its products via direct sales, sometimes referred to as multi-level marketing, which means that independent contractors (IBOs) market and sell Wake Up Now’s products in exchange for commissions from product sales.

20. A person does not have to pay a start-up fee or purchase Wake Up Now’s products to become a Wake Up Now IBO.

21. Without purchasing any product herself, a Wake Up Now IBO may sell Wake Up Now products to third parties and earn commissions pursuant to Wake Up Now’s compensation plan.

22. Wake Up Now’s growth is not limited to any particular geographic area, and its leaders are located across the United States, Central, South America and parts of Asia.

23. Wake Up Now has attracted many talented IBO leaders—with reputations for hard work, honesty, and success—in the industry.

24. The direct sales business is highly competitive. To remain successful, direct sales companies rely on distributors, repeat customers, and a solid reputation for excellent products, honest and able management, longevity, financial health, and distributor and customer satisfaction.

25. Direct sales companies that develop bad reputations for their companies or management do not survive long.

26. Wake Up Now, its IBOs and many of its leaders have worked extremely hard to develop its reputation as a sound and growing business with the highest levels of ethics and integrity.

Kirby Cochran Gets His Nose Into The WUN Tent.

27. In December 2010, Kirby Cochran, who previously had no involvement with Wake Up Now, learned through his brother Gary C. that the management of Wake Up Now was interested in going public.

28. Kirby Cochran, acting as a middle-man, orchestrated a going public shell merger wherein Wake Up Now, an operating Utah corporation, was acquired as a subsidiary by a Delaware publicly traded corporation, trading/ticker symbol “WORC”. In connection with the merger, the Delaware publicly traded shell corporation parent changed its name to Wake Up Now, but kept its trading/ticker symbol WORC.

29. Wake Up Now later discovered that, near the time of the transaction, Kirby Cochran's brother and co-defendant Gary C. secretly purchased a large percentage of WORC's public float.

30. Wake Up Now has also recently discovered that, at the time of the transaction, Kirby Cochran, who was not a licensed broker, was negotiating both sides of the deal. He induced the public shell company to issue significant shares of stock to Wake Up Now founder Troy Muhlestein to close the acquisition, but then surreptitiously induced Muhlestein to deliver to Kirby Cochran's possession, medallion guaranteed stock certificates evidencing at least 6,412,500 of those shares, which Kirby Cochran promised to hold for Richard Smith and others ("Nominee Shares"). The naïve and trusting Mr. Muhlestein complied as directed by Kirby Cochran, leaving him with only 2,137,500 shares for the company that he founded and continued to run.

31. Kirby Cochran, who was an adjunct business professor at the University of Utah, requested that one of his business students set up a company to hold the 6,412,500 Nominee Shares in a name not traceable to Kirby Cochran. On January 24, 2011, Kirby Cochran's student complied and incorporated Vestry Consulting Services, L.L.C. ("Vestry") in Utah. Cochran then caused the Nominee Shares to be transferred to Vestry. (See Vestry Consulting Services, L.L.C. Articles of Organization; file stamped at the Utah Dept. of Commerce.) (Exhibit D)

32. Notwithstanding his secret, undisclosed and significant ownership of Wake Up Now through the Nominee Shares, Kirby Cochran had minimal involvement with Wake Up Now as he was then attempting to wind down Castle Arch Real Estate Investment Company, L.L.C. ("CAREIC"), where he had served as CEO between 2004 and November 2010 and director from

2004 through late 2011. Kirby Cochran was also busy working as CEO and Director of Clear Peak Energy, Inc., (“Clear Peak”) a position that he assumed on January 4, 2010.

Kirby Cochran Infiltrates¹ WUN.

33. Later in 2011, with CAREIC and Clear Peak both driven to insolvency and ultimate bankruptcy² due in large part to Kirby Cochran’s gross mismanagement and insatiable appetite for uncapped expense accounts, first class travel, fine hotels, fine restaurants, company cars, home office allowances, and salaries to his children, spouse and siblings (including defendant Nathan³ C., Elaine C. and Gary C.), Kirby Cochran targeted Wake Up Now as his next “piggy bank”.

34. Kirby Cochran’s first step in infiltrating Wake Up Now was to locate an investor. He located Phil Polich, a real estate investor, and induced him to commit to make an equity investment in Wake Up Now. Kirby Cochran induced Mr. Polich to invest in Wake Up Now in large part due to Kirby Cochran’s claims that he had already invested \$1.5 million of his own money into Wake Up Now. Mr. Polich later discovered that Kirby Cochran had lied to him and at no time did Kirby Cochran personally ever have any material amount of his own money at risk at Wake Up Now and at no time did Kirby Cochran pay anything but nominal consideration for his WUN stock. Kirby Cochran also concealed from and did not disclose to Mr. Polich his secret control of the 6,412,500 Nominee Shares.

¹ Note that this Complaint contains many negative facts regarding Kirby Cochran. One of the reasons for this is that a significant portion of this Complaint relates to trade libel and defamation by Cochran. These facts are relevant to show that Cochran’s defamatory statements, which are being used to impugn and compete with Wake Up Now, in particular attacks on Wake Up Now’s current management’s abilities and integrity, are indeed untrue and unwarranted.

² CAREIC: Bankruptcy Case #2:11-bk-35082 (District of Utah) and Clear Peak: Bankruptcy Case # 2:12-bk-03225 (District of Arizona)

³ Nathan C. has been sued by the CAREIC bankruptcy trustee for fraudulent transfers to him by CAREIC.

35. After getting a commitment from Mr. Polich to invest approximately \$1 million into Wake Up Now, Kirby Cochran then contacted the Wake Up Now management and indicated that he could raise millions of dollars for Wake Up Now, but that nobody in his network of investors would invest unless Kirby Cochran was appointed CEO of Wake Up Now.

36. After some thrashing among the Wake Up Now management team, the Wake Up Now Board of Directors agreed to appoint Kirby Cochran as CEO on August 1, 2011 with several dissenting members of management leaving WUN.

Kirby Cochran Takes Control of Wake Up Now

37. As he had done at CAREIC⁴, as CEO at Wake Up Now, Kirby Cochran attempted to take total control of Wake Up Now by causing the resignation of all dissenting board members, such as founder Troy Muhlestein and early director Jon Holbrook, causing the Board to grant him two board votes, ceasing all stockholder meetings, and ceasing all formal board meetings. Indeed, during his tenure, Wake Up Now held no stockholder meetings and only one board meeting. Kirby Cochran also caused the termination or resignation of all dissenting employees and members of management.

38. As another tactic to ensure his desire to control matters, Kirby Cochran created a substantial number of secret side-deals and promises with employees, managers, and investors with the implicit requirement that in order for the counterparties to profit from the side-deals, loyalty to, and protection of, Kirby Cochran was required.

⁴ See CAREIC Bankruptcy Case #2:11-bk-35082 (District of Utah), wherein Kirby Cochran required that he have unilateral managerial control over nearly all corporate activities and functions. CAREIC lost approximately \$70 million in equity investor funds.

39. Kirby Cochran also installed cameras around the Wake Up Now offices at 5252 Edgewood Drive, and even admitted to at one time secretly wiretapping executive offices there.

40. However, due to the fact that Kirby Cochran had over \$1 million in judgments against him (State of Utah Courts, Case #136403300 and #120902142), and was being threatened by a bankruptcy trustee who later sued him for breach of fiduciary duties and fraud in late 2014 for his actions as CEO of CAREIC, (U.S. Federal Case # 2:14-cv-00788), Kirby Cochran was unable to acquire voting control of Wake Up Now's stock, a problem that later allowed him to be jettisoned from Wake Up Now after his leadership had, pursuant to his *modus operandi*, placed Wake Up Now in a precarious financial situation.

41. As CEO at WUN, Kirby Cochran controlled or was involved in all aspects of WUN's business and had access to all of WUN's confidential information, including contact information on all IBOs, financial condition, financial planning, financial strategy, identity of the top producing IBOs, top vendors, best selling and most profitable products and most profitable markets (countries), top producing markets, sales data, and business and marketing plans.

42. Kirby Cochran used his position to travel throughout WUN's markets in the U.S., and South America and developed relationships with top IBOs and leaders, the life-blood of generating and growing sales revenues for WUN.

43. On October 21, 2013, Kirby Cochran executed a Confidentiality, Non-Compete, Non-Solicitation, and Non-Disclosure Agreement with WUN (the "KC Agreement") (Exhibit E).

44. Kirby Cochran's son and co-defendant Nathan C. also signed a substantially similar Agreement (the "NC Agreement") (Exhibit F).

45. Due to the fact that he had over \$1 million in judgments against him, and was being threatened by a bankruptcy trustee (a forensic accountant) who later sued Kirby Cochran for tens of millions of dollars for fraud and breach of fiduciary duties in late 2014 for his actions as CEO, Kirby Cochran insisted that WUN pay him only minimum wage (so that he qualified for health care and other corporate benefits).

46. However, Kirby Cochran secretly arranged that he be compensated in ways outside of his creditors reach or knowledge by causing WUN to pay his credit card bills which featured tens of thousands of dollars of charges each month, including significant personal expenditures. In addition, Kirby Cochran caused WUN to pay for dozens of unnecessary personal trips across the world which included first-class and business class international air accommodations, nights in some of the world's finest hotels, and meals at fine restaurants.

Kirby Gets "Loving Brother" Gary C. In On The Action

47. Kirby Cochran and his brother Gary C. have been padding each others pockets for years.

48. In the 1990s, Gary C. cut Kirby Cochran into ABS, Inc., Gary C.'s speaking and sales company.

49. The Cochran brothers lived a lavish lifestyle at the expense of ABS, which included fine meals, travel, homes, personal use of the ABS "company" jet, and apparently gross mismanagement.

50. With all of its resources depleted, in large part due to the lavish spending by the Cochran brothers, ABS was unable to pay dividends to its investors, much less a return of principal, or to pay its creditors.

51. Moreover, ABS became subject to a myriad of regulatory and tax issues across a number of states and went into bankruptcy (Case #2:91-bk-26927). Trustee Roger Segal, Esq. and John Morgan, Esq., now a U.S. Trustee, pursued the Cochran brothers in the courts for years.

52. Once the dust settled from ABS, the Cochran brothers once again commenced padding each other's pockets and cutting the other into business deals, more recently through WUN and now Global.

53. In the days leading up to Kirby Cochran's official appointment as CEO of WUN, Kirby Cochran duped WUN's management into signing a sham "consulting agreement" with Kirby Cochran's nominee company Vestry. In exchange for illusory services that were never intended to be, and never were, performed by Vestry, the consulting agreement required WUN to pay Vestry \$4.00 per month per active salesperson. At no time has WUN's profit exceeded \$4.00 per active salesperson per month, meaning that Kirby Cochran masterminded a contract to suck 100% of the profits from WUN into his secret nominee Vestry. (See "Amended and Restate Contract for Services") (Exhibit G)

54. After becoming CEO and Chairman, Kirby Cochran fired the WUN officer who signed the consulting agreement on WUN's behalf.

55. On January 20, 2012, Kirby Cochran caused the entire sham Vestry contract to be assigned to Gary C. (See notarized "Assignment and Assumption Agreement") (Exhibit H). On that same day, Kirby Cochran caused to be transferred the 6,412,500 Nominee Shares to Gary C. (*see Id.*). Based in the average trading price of WUN's stock at the time, the 6,412,500 Nominee Shares were valued at approximately \$2,565,000. Based on WUN's current stock price, the current paper value is \$6,540,750.

56. As if the obligation for WUN to pay 100% of profit margins through the Vestry sham “consulting contract” were not enough, Kirby Cochran also caused WUN to hire Gary C. as a “consultant” with no responsibility or oversight. Kirby Cochran caused Gary C. to be paid \$167,953 “salary” and “dividends” between February 23, 2012 and the time that the Cochran brothers were removed in September 2014. On information and belief, Gary C. directed some of this money back to Kirby Cochran.

57. In addition, based on information and belief, between March and August 2013, Gary C. sold a significant portion of WORC’s public float in the market during a stock run-up. The sales resulted in great personal profit to him.

58. Gary C. did virtually nothing for WUN and only spent his time ghost-writing a disorganized vanity book for Kirby Cochran entitled “The Wolf Mentality”. Despite the fact that WUN has been unable to sell enough copies to cover the book’s printing costs, Gary C. is astonishingly demanding that WUN pay him additional cash royalties for the book.

59. It is little wonder that Gary C. made a Facebook post on January 20, 2015 refuting claims circulating that Kirby Cochran is a con-man, while admitting to aiding and abetting Kirby Cochran, Wach and Rosales involvement with Global, and admitting that Kirby Cochran “helped to enhance my life both personally and financially”. (See Facebook Post “from a loving brother” by Gary C., dated January 20, 2015) (Exhibit I).

Contractual and Other Violations

60. In consideration for the salary and benefits he would be receiving and in an effort to protect WUN’s confidential information and IBO and customer goodwill, Kirby Cochran

became bound by noncompetition, nonsolicitation, and confidentiality covenants contained in the KC Agreement.

61. In their respective noncompetition covenants, Kirby Cochran and Nathan C. agreed as follows:

COVENANT NOT TO COMPETE

2.1 Covenant. I agree that I will not directly or indirectly compete with WakeUpNow (as defined in Section 2.2 below), in any geographic area in which WakeUpNow does business, both during the term of this Agreement from the date of this Agreement and for a period of two (2) years from the date my status as an employee with WakeUpNow terminates for any reason.

2.2 Direct and Indirect Competition. I agree that the phrase "directly or indirectly compete" shall include owning, managing, operating, controlling, or participating in the ownership, management, operation, or control of, or being connected with or having any interest in, as a stockholder, director, officer, sole proprietor, partner, or otherwise (except as an employee, consultant, assistant, or advisor), any business (other than WakeUpNow's) which is the same as, or similar to, or competitive with any business conducted or to be conducted by WakeUpNow or any of WakeUpNow's subsidiaries, or inducing employees of WakeUpNow to leave WakeUpNow's employ; provided, however, that this prohibition shall not apply to my ownership of less than one percent (1%) of the voting stock in companies whose stock is traded on a national securities exchange or in the over-the-counter market.

62. Kirby Cochran's and Nathan C.'s nonsolicitation covenant states as follows:

3.3 Non-Solicitation Upon Termination of Employment. For two years following the termination of my employment with WakeUpNow for any reason, I will not directly or indirectly solicit or attempt to solicit the business of any of the customers, clients, or vendors of WakeUpNow who became known to me while I was employed by WakeUpNow either for myself or for any other person or entity, if such solicitation is competitive with the business of WakeUpNow. Moreover, for two years following the termination of my employment with WakeUpNow for any reason, I will not directly or indirectly solicit or attempt to solicit the services of any employees of WakeUpNow, either for myself or for any other entity.

KC Agreement, § 3.3; NC Agreement, § 3.3.

63. The reason a two-year non-compete period was chosen was to ensure that WUN would have sufficient time to give Kirby Cochran's replacement the opportunity to develop the same relationships of trust with WUN's IBOs (IBOs sales efforts are the substantial source of revenue to WUN). Additionally, WUN forecasts and plans its business for at least a year in advance. Thus, the two-year period is necessary to ensure that a competitor does not have the competitive advantage of knowing what WUN's marketing plan and products will be for the ensuing year.

64. In the confidentiality covenant, Kirby Cochran agreed as follows:

Obligation Not to Disclose. At all times, both while I am employed with WakeUpNow and after the termination of my employment with WakeUpNow for any reason, I will keep in strict confidence all Confidential Information and I will not use or disclose any Confidential Information or anything relating to it in whole or in part, nor permit others to use or disclose it in any way, without the prior written consent of WakeUpNow, except as may be necessary in the ordinary course of performing my duties as an employee of WakeUpNow.

KC Agreement, § 1.3; NC Agreement, § 1.3.

65. Kirby Cochran agreed to return to the Company upon his termination all of the Company's property, and "immediately return whatever was taken and not thereafter retain any copies, information, or other property of WakeUpNow." *See id.*, § 1.1.

66. Notwithstanding the requirement to return all property, Kirby Cochran did not return a single file, continues to use a new Apple MacBook laptop, and a new iPhone 6, all purchased and owned by WUN. Despite recently claiming that he had nothing to do with Wake Up Now after October 1, 2014, for months he kept possession of and continued to drive a new 2014 Jeep Grand Cherokee which he had induced Wake Up Now to purchase for his use.

WUN Entrusted to Kirby Cochran Its Goodwill and Confidential Information

67. With the covenants of the Agreement in place, WUN entrusted Kirby Cochran, as CEO, with contact information on all IBOs, identity of the top producing IBOs, top producing markets, sales data, and business and marketing plans, improvements, techniques, services, marketing plans, product plans, strategies, forecasts, financial condition, financial planning, financial strategy, and other confidential information. Kirby Cochran's position as CEO required Kirby Cochran himself to work with top IBOs, deal with WUN's financial condition, plan the company's future markets, business plans, and strategic future planning.

"Confidential Information" is defined in the KC Agreement and NC Agreement as:

CONFIDENTIALITY

1.1 **Confidential Information.** I recognize that WakeUpNow now possesses or will possess information of a confidential or secret nature in both written and unwritten form that has unique commercial value in the business in which WakeUpNow is engaged (hereinafter referred to as "Confidential Information"). For purposes of this Agreement, Confidential Information includes, but is not limited to, trade secrets, processes, methods, computer programs or databases, data, know-how, inventions, improvements, techniques, services, marketing plans, product plans, strategies, forecasts, and customer or vendor lists, whether belonging to WakeUpNow or to any of its customers, clients, vendors, or suppliers. I understand that my employment with WakeUpNow creates a relationship of trust and confidence between me and WakeUpNow with respect to the Confidential Information that I may learn or develop as a result of my employment with WakeUpNow. I agree that, if I have inadvertently taken anything belonging to WakeUpNow without prior written permission from WakeUpNow, then, upon discovering or being informed regarding such inadvertent taking, I will immediately return whatever was taken and not thereafter retain any copies, information, or other property of WakeUpNow.

1.2 **Ownership and Assignment.** I agree that all Confidential Information is the sole property of WakeUpNow and its assigns. I will promptly disclose all Confidential Information to WakeUpNow upon

request, and I assign to WakeUpNow any rights that I may have, or that I may acquire, in any Confidential Information.

KC Agreement and NC Agreement, § 1.1 to § 1.2

68. WUN also tasked Kirby Cochran with maintaining relationships with certain important IBOs. While CEO, Kirby Cochran had access to lists containing contact information and other information for WUN's best IBOs and leaders.

69. Kirby Cochran regularly met these IBOs, spoke before them, interacted with them, and developed close personal relationships with them. Kirby Cochran also directed WUN to build him up as a "visionary" leader. In this way, WUN repositied in Kirby Cochran a significant amount of its IBO and customer⁵ goodwill.

70. Based on the goodwill vested in Kirby Cochran over the years, many of WUN's IBOs identified WUN through Kirby Cochran.

71. In addition to providing to Kirby Cochran access to WUN's IBOs and customers, WUN entrusted Kirby Cochran with developing much of WUN's Latin American markets.

72. Kirby Cochran even hired his son and co-defendant Nathan C. to act as WUN's VP of International with a focus on Latin America due to Nathan C.'s Spanish speaking abilities. Like Kirby Cochran, Nathan C. was also subject to the Confidentiality, Non-Compete, Non-Solicitation, and Non-Disclosure Agreements set out in Exhibit F.

Kirby Cochran Fails to Adequately Perform as Wake Up Now CEO and is Terminated

73. As CEO, Kirby Cochran caused excessive personal and corporate expenditures despite the Corporation's relative cash positions, engaged in side-dealings with employees and affiliates, engaged in undisclosed and/or veiled agreements with family members, including Gary

⁵ Most IBOs are WUN customers as well.

C., failed to adequately plan to avoid repeated financial emergencies, nearly unilaterally caused multiple severe business disruptions and costs due to his personal insistence on internally developing software to perform critical business processes despite the existence of cost-effective off-the-shelf alternatives, distraction from personal judgments and other legal issues due to past business dealings, and negatively affecting corporate morale by installing surveillance cameras throughout employee work areas, and creepily commenting to attractive young women that he was watching over them.

74. Moreover, members of WUN's board and certain large investors had discovered that Kirby Cochran manufactured personal credibility by dishonestly taking credit for the success of a company called Headwaters, Inc. (formerly known as Covol, Inc.). In reality, Kirby Cochran was president of Covol for 9 months in 1995-96. During the time that he was President at Covol, its gross revenues were only a few hundred thousand dollars with millions of dollars of investor funded losses. Facing millions in losses, Kirby Cochran quit in 1996 citing health issues. Despite Kirby Cochran's representations, when he left Covol, its stock price (if adjusted for stock splits) differed little from the stock price at the time he started (despite a brief \$250 million market capitalization spike during his brief tenure).

75. After Kirby Cochran's departure, Covol changed its management, significantly changed its business, raised new money, and changed its name to Headwaters and most significantly, hired Kirk A. Benson, as chief executive officer & chairman of the Board who continues to serve in that capacity today. Many years after Kirby Cochran's departure, and under Mr. Benson and his team's leadership, Headwaters started to gross millions of dollars in sales, showed its first profit, and became publicly listed on the NASDAQ. Despite having little or

nothing to do with its success, as Headwaters reached a billion dollar market cap in 2004 (8 years after his departure), Kirby Cochran started to falsely claim that it was he that built Headwaters into a billion dollar company.

76. Moreover, WUN's largest investor, which by September 2014 had invested approximately \$3 million in order to meet a series of cash shortfalls WUN faced from time to time due to Kirby Cochran's rampant and reckless spending, lost faith in Kirby Cochran's honesty due to his falsely claiming that he had personally invested over \$1.5 million in WUN when in reality, he had no, or negligible, investment in WUN.

77. Kirby Cochran also wasted approximately \$2 million dollars by purchasing and attempting to reboot the Southeast Asian operations of Veyea, Inc., a failed MLM started by James Watson, a former HR director of Utah based MLM Neways. Together with Mr. Watson, Kirby Cochran and his son collectively spent months in Malaysia, Thailand and Vietnam without evidence of any work being accomplished. Kirby Cochran even caused WUN to hire private, personal security to stop IBOs from being able to interact with him.

78. Most significantly, Kirby Cochran's desire to control all aspects of WUN's business resulted in WUN irrationally shunning third-party "commission engine" software used by substantially all direct sales companies with a multi-level compensation structure.

79. Kirby Cochran created a false narrative that third-party commission engine software, despite being used by substantially all of WUN's competitors, was prohibitively expensive and problematic.

80. Those WUN employees and consultants with technical backgrounds who objected to WUN creating its own commission engine were marginalized and often terminated.

81. Kirby Cochran requested that his long-time acquaintance, Ben Anderson, who is a trained and experienced computer scientist and former Senior Vice President of Novell, Inc. from 1998-2002, advise Wake Up Now in building its own software platform and commission engine (referred to by WUN as the “HUB”) which would integrate all IBO sign-ups, facilitate marketing, customer sales, charge customer credit cards, facilitate credit card refunds, calculate and deliver sales commissions, and other functionality fundamentally essential and at the core of WUN’s business.

82. Unsurprisingly, Mr. Anderson spoke in terms of years of development and beta testing and millions of dollars of development costs. Kirby Cochran never again invited Mr. Anderson back to WUN.

83. Kirby Cochran instead turned to a couple of ambitious young developers to “complete” the development of the HUB.

84. Chad Jardine, WUN’s head of marketing at the time, who was closely aligned with the needs and interests of both WUN’s customers and IBOs and had enough technical knowledge to digest the “progress” of Kirby Cochran’s chosen developers, vehemently objected to the quick creation of a new HUB. Mr. Jardine was quickly marginalized and eventually fired by Kirby Cochran.

85. Over the objection of a number of advisors and management team members who were powerless to stop it, Kirby Cochran and his young developers launched the new HUB in October 2013, just 3 months after Ben Anderson had assessed the need for *years* of development.

86. Mr. Anderson was right.

87. Kirby Cochran caused the HUB to be launched without sufficient development and with no beta testing. The HUB was virtually non-functional at the time of launch. Astonishingly, Kirby Cochran's hand-picked development team had somehow destroyed the former functional HUB system in the process of launching the new HUB. There was no going back.

88. The result of the HUB debacle was disastrous. WUN became nearly totally blind to its business functions. It was unable to confirm delivery of its product, unable to determine whether products were paid for. WUN's call center had wait times for over 4 hours with disgruntled customers and IBOs who were unable to purchase product, unable to log-in to receive product, and IBOs unable to view their accrued commissions.

89. WUN, which already had an extremely liberal refund policy, commenced honoring substantially every refund request, even where products had been used and commissions paid.

90. Many customers, understandably enraged by multi-hour call center wait times, simply charged-back their purchases.

91. Despite what by necessity became a nearly no-questions-asked-refund policy, hundreds of people inquired with, or made actual complaints to, governmental agencies, including the U.S. Federal Trade Commission ("FTC"), and the Better Business Bureau.

92. Competitors pounced causing great damage to WUN's business and reputation.

93. WUN was forced to spend significant money to increase its customer support staff and even hired a third party call center, which spoke for WUN, but lacked the training and skill of most of WUN's in-house customer support agents.

94. Kirby Cochran's gross mismanagement, side-deals with family members to pay out all of WUN's profits, lavish expenditures, failed business initiatives, and the botched HUB launch placed WUN in a position where it needed millions of dollars to survive.

95. Likely remembering the negative result to them when ABS imploded, the Cochrans returned \$371,000 to WUN via two unilateral Wells Fargo Bank counter transfers to WUN in September 2014. The Cochrans excluded WUN's management and Board of Directors from any knowledge of the transfers back to WUN. Only the CFO became aware of the transfer when the teller at Wells Fargo called him after-the-fact to inquire as to why a large sum of money was being transferred into the WUN account. After the fact, the Cochrans created a writing deceptively suggesting that WUN's 32 year old CFO had somehow coordinated with the Cochrans and induced the Cochran brothers to act.

96. As the Cochran brothers inevitably knew would occur, the \$371,000 was instantly absorbed to pay the most pressing creditors, including WUN's IBOs and employees, with millions of dollars of other accrued liabilities still unmet. The payment of the \$371,000 to WUN creditors occurred prior to Kirby Cochran's termination.

97. In order to meet the acute cash shortfall caused by the gross mismanagement and obscene spending, WUN commenced several rounds of reduction in force, even terminating a number of low-paid support workers.

98. In a display of Kirby Cochran's lack of touch, he demanded that one of WUN's remaining staff members program his new, expensive company iPhone 6 (replacing his iPhone 5) even as the staff member's colleagues were cleaning out their desks. About that time, he berated

another employee tasked with preparing his daily smoothie for neglecting to include carrots in the mixture.

99. Due to the foregoing, on September 27, 2014, WUN stockholders owning a majority of the voting shares of WUN removed Kirby Cochran from the WUN board of directors. That same day, the remaining members of the Board of Directors voted to have Kirby Cochran take an unpaid leave of absence as CEO for a period of at least 6 months, leaving him with the title of “Chairman” (despite being terminated from the Board). Kirby Cochran was instructed that day that he was no longer welcome to have an office on the WUN premises.

Kirby Cochran goes on the War Path

100. Kirby Cochran was indignant. He immediately went to the home of Richard Smith, one of WUN founder Troy Muhlestein’s original key advisors, and invited Mr. Smith to join him in creating a new company to compete with WUN during a wild drive where Kirby Cochran sped through a windy canyon road.

101. Moreover, a few days later Kirby Cochran attempted to cherry-pick and recruit several of WUN’s employees, including Josh Daily, who was the primary contact point for all of WUN’s primary digital product vendors. Cochran also solicited its principal office manager.

102. Some of Kirby Cochran’s comments turned from defamatory to threatening. Kirby Cochran claimed to at least one WUN employee that he had major leverage over WUN and that it was “safe” to follow him, explaining that “If I don’t get everything that I am asking for, I’m going to drop an atomic bomb on this place”, suggesting that he would devastate WUN.

103. Due to the behavior described above in the preceding paragraphs, on October 16, 2014, WUN’s board of directors permanently terminated Kirby Cochran from all positions at

WUN, including CEO and “Chairman”. Prior to October 16, 2014, Kirby Cochran gave no notice that he had resigned as Chairman or any other position with Wake Up Now

Kirby Cochran Launches a Full-Scale Assault on WUN

104. Kirby Cochran then launched a full-scale assault on WUN. First, Kirby Cochran recruited his family who he had already inserted in positions of power and profit in WUN, including his son Nathan C, the former leader of WUN’s Latin American markets.

105. Kirby Cochran recruited his brother Gary, one of WUN’s highest paid, tasked with building up Kirby Cochran’s image.

106. Kirby Cochran recruited his wife Elaine C. despite her continuing to serve as legal counsel to WUN with the specific duty of providing personal estate planning services to WUN’s top IBOs and leaders who reach “pearl rank”; the very people who the Cochrans were targeting.

Kirby Cochran Creates Global Connection Network

107. Kirby Cochran then formed and/or become involved with as CEO of “Global Connection Network” and caused it to commence competing directly against WUN, in the same markets, with similar products, in violation of his covenants with the company. Kirby Cochran is now aggressively marketing to many of WUN’s most important IBOs and customers using the IBO customer information entrusted to his while he served as WUN’s CEO.

108. Through his actions, Kirby Cochran has breached the noncompetition, nonsolicitation and confidentiality covenants of the KC Agreement. Specifically, Kirby Cochran has breached the covenant not to compete by participating in and assisting a business that is directly competitive to WUN. Kirby Cochran has breached the non-solicitation covenant by directly or indirectly soliciting WUN’s IBOs and customers. Kirby Cochran has breached the

confidentiality covenant by, among other things, using and sharing WUN's confidential IBO and customer information, contact information on all IBOs, financial condition, financial planning, financial strategy, identity of the top producing IBOs, top vendors, best selling and most profitable products and most profitable markets (countries), top producing markets, sales data, and business and marketing plans.

Kirby Cochran Drops his "Atomic Bomb" causing Defendants to breach their Fiduciary Obligations, and Ethical and Contractual Duties, to Commence Competing Against WUN, to Solicit IBOs and Customers, Divulge Confidential Information and Engage in False and Baseless Attacks on Wake Up Now, its Management and Its IBO Leaders

109. Cochran induced Defendants Nathan C., Gary C., Rosales and Wach to join Global. Wach, who speaks fluent Spanish, participated in Global's January 1, 2015 launch webinar where he introduced Kirby Cochran as president and CEO, Gary C. as marketing strategist, and Nathan C. as head of international finance. (See screen shots from Global's January 1, 2015 webinar introducing.) (Exhibit J)

110. Through his involvement at WUN, Kirby Cochran created a relationship with Adam Rosales, the top IBO and country manager in Chile. Kirby Cochran and Rosales contacted WUN's product manufacturers in both Chile and Ecuador and requested that they produce products for Global. The Chilean factory agreed and Rosales, Kirby Cochran and Wach designed a new label to place over cans of what is, based on information and belief, an energy drink substantially similar to or identical to WUN's energy drink produced in Chile and manufactured in the same factory. (See email of Adam Rosales forwarded by Michael Wach on December 31, 2014 to Nathan C., Gary C. and Kirby C. with Axion's can design attached as an exhibit) (Exhibit K).

111. On top of being contractually prohibited from competing against WUN at all, the Defendants have engaged in a campaign of smearing Wake Up Now with confidential information which they are contractually and/or ethically forbidden from disclosing, as well as with false and malicious lies.

112. In particular, Defendants have carefully designed and broadly executed a coordinated plan to disparage and defame Wake Up Now with outrageously false and malicious claims. Many of the disparagements include confidential information which they are contractually prohibited from divulging, and in the case of Elaine C., whose legal ethics as current WUN legal counsel, prohibited her from divulging privileged information and from competing against her client.

113. Among the baseless attacks, Defendants recently have contended that WUN has never been registered in Mexico and has no legal entity there, that Wake Up Now's management was dishonest, that WUN betrayed Kirby Cochran, that WUN's management stole Kirby Cochran's stock, that WUN's management was negligent, that despite being CEO, Kirby Cochran had no responsibility for anything negative occurring at WUN, that WUN's compensation plan was unsustainable, and that WUN would not survive more than a few months. Each of these statements is false, disparaging, and made with actual malice with the intent to harm WUN.

114. On October 8, 2014, Kirby Cochran, Nathan C. and Elaine C. invited WUN's top leader and IBO in Mexico, Juan Carlos Lozano into their home in Orem Utah and over a three day period between October 8 and October 10, 2014 poisoned Mr. Lozano against WUN and its management with false, confidential and/or privileged information.

115. During these meetings and despite their contractual, fiduciary and ethical obligations to not reveal WUN's confidential information and their general legal duty to not unlawfully defame WUN, Kirby Cochran, Nathan C. and Elaine C. polluted Lozano with their unlawful narrative that that Wake Up Now's management was dishonest, that WUN betrayed Kirby Cochran, that they stole Kirby Cochran's stock, that WUN's management was negligent, that despite being CEO Kirby Cochran had no responsibility for anything negative occurring at WUN, and that WUN would not survive more than a few months.

116. Poisoned and encouraged by Kirby Cochran, Nathan C. and Elaine C. divulging both confidential information and injurious falsehoods in October 2014, Lozano stopped making efforts to sell WUN products. He also commenced private meetings where he disparaged WUN among its IBOs, leaders and customers. Lozano encouraged WUN's Mexican customers to stop purchasing WUN products. Lozano encouraged WUN's Mexican customers, all of whom had received the product that they purchased from WUN, to fraudulently demand refunds of their purchases and even charge-back credit card purchased.

117. Indeed, as a result of Kirby Cochran, Nathan C., Elaine C. and Lozano's efforts, product revenues in Mexico decreased by \$3,623,476 in October, November and December. Product refund demands increased over ten-times in November compared to the average requests in the prior months. By December 2014, revenues in Mexico were approximately 10% of August 2014 revenues.

118. On December 7, 2014, Lozano sponsored a conference call attended by dozens of carefully selected WUN IBO leaders in Mexico and falsely stated that WUN was not a legal entity in Mexico. That it was never registered in Mexico; and was therefore operating illegally.

119. The forgoing statements by Lozano are false.

120. The result of Kirby Cochran, Nathan C. and Elaine C.'s poisoning of Lozano and Lozano regurgitating confidential information and falsehoods among WUN sales force in Mexico has resulted in a more than \$3,623,476 aggregate reduction in revenues since October 10, 2014 through December 31, 2014.

121. The Defendants' disparaging and defamatory comments were not limited to Lozano and the Cochrans. Defendant Michael Wach, has also been on the attack.

122. On or about January 16, 2015, Wach's direct IBO enrollee, and close associate, Ludwig Agurto was linked to a despicable email stating, among other things, false claims that WUN is attempting to steal IBO commissions and imploring WUN's IBO's to contact the FBI and SEC and file complaints against WUN. The libelous email believed by WUN to be conceptualized and/or written by Wach and Kirby Cochran and distributed by Agurto even provide links for people to file FBI and SEC complaints against WUN. (Email, Ludwig Agurto (sent via Agurto's "wunfraud.com", Jan. 16, 2015) (Exhibit L.)

123. On January 13, 2015, Wach made a Facebook post announcing that he and Kirby Cochran would be holding events in South America on behalf of Global. The post makes thinly veiled attacks on WUN claiming that "Global pays commissions on-time".

124. On December 1, 2014, Kirby Cochran contacted Rodrigo Mastrangelo, WUN's key manager of its interest and operations in Brazil and disparaged WUN and its management, indicated that he had been betrayed, that WUN would not last, and inviting Mr. Mastrangelo to join him in his new rival MLM in South America and to lead its operations in Brazil. (See sworn Declaration of Rodrigo Mastrangelo) (Exhibit M).

125. Except for statements relating to WUN's financial condition ironically caused by Cochran himself, which is protected confidential information, none of the above statements are true. They are all false.

126. The true facts are that Kirby Cochran was fired for cause, Kirby Cochran failed as a manager, nobody at WUN betrayed Kirby Cochran. Instead, Kirby Cochran and his co-defendants are engaging in a false and disparaging smear campaign to attempt to harm Wake up Now's business and to personally profit from it in breach of their obligations.

127. Kirby Cochran's brazenness may stem from that fact that despite being the principal executive responsible for losing over \$100 million dollars in investor and creditor money in the last 20 years, he has been successfully protected and defended by his long-time white collar defense attorney, who has successfully defended Kirby Cochran's interests when he was arrested in relation to his business dealings with his brother and co-defendant Gary C., pursued by State Attorneys General, through at least one SEC investigation, and in fraud and RICO lawsuits brought by both business partners and bankruptcy trustees. Cochran also keeps his assets, including his house, tucked away in a trust in his wife's name, and other assets, such as the Nominee Shares, in the names of nominees such as Gary C.

Defendants Attempt to Poach Key Wake Up Now Leaders

128. Motivated by the desire to both avenge the termination of Kirby Cochran, Gary C. and Nathan C. and to unlawfully exploit relationships and knowledge that they developed while at WUN, and despite their contractual duties, or in the case of Elaine C., ethical duties, the Cochrans went on a frontal assault of attempting to poach WUN leaders, IBOs and customers.

129. Gary C., Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of WUN IBO Wach to join Global. At the time that they solicited Wach, Defendants knew that Wach was an active WUN IBO subject to an IBO contract with WUN.

130. As a result of Gary C., Nathan C. and Kirby Cochran's efforts, Wach has joined Global and is now competing against WUN and soliciting WUN IBOs and customers in violation of Wach's IBO agreement with WUN.

131. On September 27, 2014, Kirby Cochran directly solicited the services of Richard Smith, an initial key consultant to WUN founder Troy Muhlestein who had developed one of the larger WUN sales organizations in the U.S. Kirby Cochran arrived at Mr. Smith's house unannounced, and frantically drove him on mountain roads while inviting Smith to join and assist him in starting a new venture rival to WUN.

132. On October 8-10, 2014, Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Lozano by inviting him into their home in Orem Utah, and requesting that he join him in their new rival venture. Kirby Cochran led the conversations. Nathan C. translated. Elaine C., WUN's legal counsel, who was hired by WUN to create estate plans for WUN's top handful of IBOs who achieved "Pearl" status, such as Lozano, participated in discussions and encouraged Lozano to develop a "plan B" away from WUN despite the fact that she did not resign as WUN's legal counsel until October 29, 2014, based on information and belief divulged privileged information to Lozano, and provided support to Kirby Cochran and Nathan C.'s false narratives against WUN and its management, and aided and abetted Kirby Cochran and Nathan C.'s breaches of their contractual obligations against WUN. At the time that

they solicited Lozano, Defendants knew that Lozano was an active WUN IBO subject to an IBO contract with WUN.

133. On or about December 1, 2014 Kirby Cochran directly solicited the services of WUN Brazil manager Rodrigo Mastrangelo via Skype call. Kirby Cochran invited Mr. Mastrangelo to join his rival company that he was forming and to run the business in Brazil. Mr. Mastrangelo is the top WUN manager in Brazil, personally responsible for developing substantially all WUN products in Brazil and growing the WUN business in Brazil. The positive impact on Global in stealing Mr. Mastrangelo would have been proportionate to the loss to WUN.

134. In December 2014, Kirby Cochran directly and/or indirectly solicited the services of Bryon Robert, one of WUN's top IBOs responsible greatly for WUN's growth in the U.S., Brazil, Mexico and Peru. Kirby Cochran disparaged WUN's management and business to Mr. Robert and invited him to join his new venture. At the time that Kirby Cochran solicited Mr. Robert, he knew that Mr. Robert was an active WUN IBO subject to an IBO contract with WUN.

135. As described above, Kirby Cochran induced Adam Rosales to join Global. At the time that he solicited Rosales, he was an active WUN IBO, the top WUN manager in Chile, personally responsible for developing substantially all WUN products in Chile and growing the WUN business in Chile

136. Defendants, and in particular Nathan C. and Kirby Cochran were aware at the time that Wach, Rosales, Robert, Smith and Lozano were under contract with Wake Up Now, and that members of Wach's, Rosales', Robert's, Smith's and Lozano's sales force were under contract with Wake Up Now.

137. Despite their knowledge that Wach, Rosales, Robert, Smith and Lozano and their Wake Up Now sales force were under contract with Wake Up Now, Defendants Nathan C. and Kirby Cochran offered confidential information, untrue falsehoods, and based on information and belief, equity interest in Global to convince Wach, Rosales, Robert, Smith and Lozano to leave WUN and move to Global.

138. Messrs. Robert and Smith decided to stay at Wake Up Now, while Wach and Rosales, joined Global.

139. Lozano, in violation of his IBO agreement with WUN, is attempting to compete through another competitor.

140. Lozano targeted all existing and potential WUN customers and IBOs in Mexico by without WUN's permission using a Facebook page that he unilaterally titled "Wakeupnow Mexico Official" in an attempt to exploit the interest in Wake Up Now and create confusion to unlawfully direct traffic to his webinars where he pitched competitive business interests. The Facebook page was visited by thousands of people, including WUN's IBOs and customers, receiving 9,586 "likes". (See Facebook page "Wakeupnow Mexico Official" December 21, 2014) (Exhibit N).

141. Like Lozano, Wach targeted all existing and potential WUN customers and IBOs in Chile and Equator by posting on his Facebook page followed by a significant number of WUN's existing IBOs and customers, stating:

Super happy with the tremendous start of GCN in Chile! You will see many earning in the hundreds of dollars (For some, it will be more than one thousand dollars) in the first bonus payout next week... and this is ONLY the first week!!! It's so great to be associated with Kirby Cochran, our CEO, and Carla Souza, our master distributor!

Kirby Cochran, Nathan Cochran and I will be in Santiago Chile in 10 days and in Quito in 13 days!!!

This is exploding and we will be opening soon in Peru, Mexico, Colombia and Brazil!!! Those who are in these countries, get ready!!

Who wants to make REAL MONEY in your FIRST week with Connection? Who wants to be associated with a company that honors its word and pays all bonuses and commissions on time?

This is the opportunity we all look for. Seize the opportunity!

(See Facebook page of Michael Wach; January 13, 2015) (Exhibit O).

FIRST CLAIM FOR RELIEF
(Breach Of Contract – Nathan C. and Kirby Cochran)

142. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 141 above, as if fully set forth herein.

143. The Confidentiality, Non-Compete, Non-Solicitation, and Non-Disclosure Agreements between WUN and Nathan C. and WUN and Kirby Cochran are binding and enforceable contracts between WUN and Nathan C. on one hand, and WUN and Kirby Cochran on the other-hand.

144. Nathan and Kirby Cochran breached their respective Confidentiality, Non-Compete, Non-Solicitation, and Non-Disclosure Agreements with WUN in various ways, including but not limited to:

Violations of Contractual Duties of Confidentiality and Non-Disclosure

a. By divulging confidential information about WUN's IBOs, financial condition, financial planning, financial strategy, identity of the top producing IBOs, top vendors, best-selling and most profitable products and most profitable markets and countries, including to:

i. WUN IBO Michael Wach. During December 2014, Nathan C. and Kirby Cochran used a combination of confidential information (along with false misrepresentations), including detailed information about WUN's financial condition, ironically caused by

Kirby Cochran's gross mismanagement, to sour Wach against WUN, its management and its business prospects with the intent of unlawfully persuading Wach and his organization of IBOs to quit WUN to the detriment of WUN, its management, creditors, and investors. Wach indeed left WUN, destroyed much of his WUN IBO organization and continues to attack WUN.

ii. WUN IBO Juan Carlos Lozano. Lozano was the top IBO/distributor in Mexico who helped develop and was the face leading a huge organization of IBOs and customers in Mexico responsible for a significant amount of WUN's revenues. Commencing on October 8-10, 2014 and thereafter, Nathan C. and Kirby Cochran used a combination of confidential information (along with false misrepresentations), including detailed information about WUN's financial condition, ironically caused by Kirby Cochran's gross mismanagement, to turn Lozano against WUN, its management and its business prospects with the intent of unlawfully persuading Lozano and his organization of IBOs to quit WUN to the detriment of WUN, its management, creditors, and investors. Lozano indeed left WUN, destroyed much of his WUN IBO organization and continues to attack WUN.

iii. WUN Manager Rodrigo Mastrangelo. Mastrangelo is the top WUN manager in Brazil, personally responsible for developing substantially all WUN products in Brazil and growing the WUN business in Brazil. On December 1, 2014, Kirby Cochran contacted Mr. Mastrangelo via Skype and revealed confidential information (along with false misrepresentations), including detailed information about WUN's financial condition, ironically caused by Kirby Cochran's gross mismanagement.

iv. Richard Smith. Smith is a consultant with years of network marketing experience, and initial key consultant to WUN founder Troy Muhlestein who had developed one of the larger WUN sales organizations in the U.S. On or about September 27, 2014, Kirby Cochran used a combination of confidential information about WUN's financial and business prospects (along with false misrepresentations) to sour Smith against WUN, its management and its business prospects with the intent of unlawfully persuading Smith and his organization of IBOs to quit WUN to the detriment of WUN, its management, creditors, and investors.

v. Bryan Robert. Robert is one of WUN's top IBOs responsible greatly for WUN's growth in the U.S., Brazil, Mexico and Peru. Nathan C. and Kirby Cochran used a combination of confidential information (along with false misrepresentations), including detailed information about WUN's financial condition, ironically caused by Kirby Cochran's gross mismanagement, to sour Robert against WUN, its management and its business prospects with the intent of unlawfully persuading Robert and his organization of IBOs to quit WUN to the detriment of WUN, its management, creditors, and investors.

vi. Adam Rosales. Rosales is the top WUN manager in Chile, personally responsible for developing substantially all WUN products in Chile and growing the WUN business in

Chile. In November and December 2014, Kirby Cochran used a combination of confidential information (along with false misrepresentations) to sour Rosales against WUN, its management and its business prospects with the intent of unlawfully persuading Rosales and his organization of IBOs to quit WUN to the detriment of WUN, its management, creditors, and investors. Rosales indeed left WUN, destroyed much of his WUN IBO organization and continues to attack WUN.

Violations of Contractual Duties to Not Solicit

b. By soliciting key WUN customers and IBOs to join his new company, including:

i. WUN IBO Michael Wach. Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Wach to join Global. The Cochrans were successful. At the time that they solicited Wach, he was an active WUN IBO. He is now heavily involved in Global using his financial resources, fluency in Spanish, and contacts in Latin American markets to compete against WUN.

ii. WUN IBO Juan Carlos Lozano. Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Lozano by inviting them into their home in Orem Utah on October 8-10, 2014, and requesting that they join him in their new rival venture. Kirby Cochran lead the conversations. Nathan C. translated.

iii. WUN Manager Rodrigo Mastrangelo. Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Mastrangelo to join his rival company that he was forming. Kirby Cochran contacted Mastrangelo via Skype on or about December 1, 2014 inviting him to run the Cochran's new rival business in Brazil. Mastrangelo is the top WUN manager in Brazil, personally responsible for developing substantially all WUN products in Brazil and growing the WUN business in Brazil.

iv. Richard Smith. Kirby Cochran directly solicited the services of Smith by picking Smith up at his house on or about September 27, 2014 and soliciting Smith to join and assist him in starting a new venture rival to WUN. Kirby Cochran. Smith is a consultant with years of network marketing experience, and initial key consultant to WUN founder Troy Muhlestein who had developed one of the larger WUN sales organizations in the U.S.

v. Bryan Robert. Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Robert. On a number of occasions, in December 2014, Kirby Cochran contacted Robert to relating to Global. Robert is one of WUN's top IBOs responsible greatly for WUN's growth in the U.S., Brazil, Mexico and Peru.

vi. Adam Rosales. Nathan C. and Kirby Cochran directly and/or indirectly solicited the services of Rosales to join Global. The Cochrans were successful. At the time that they solicited Rosales, he was an active WUN IBO. At the time they solicited him, Rosales

the top WUN manager in Chile, personally responsible for developing substantially all WUN products in Chile and growing the WUN business in Chile.

Violations of Contractual Duties to Not Compete

c. By starting and running Global, Nathan C. and Kirby Cochran directly competing with WUN in markets where WUN does business and has planned business operations.

145. WUN has performed its obligations under Defendants Nathan C. and Kirby Cochran's respective Confidentiality, Non-Compete, Non-Solicitation, and Non-Disclosure Agreements, and/or is excused from such performance.

146. Defendants Nathan C. and Kirby Cochran's actions have damaged WUN in an amount to be proven at trial, but which presently is estimated to exceed \$10 million, as well as consequential damages, and punitive damages.

SECOND CLAIM FOR RELIEF
(Intentional Interference With Economic Relations – all Defendants)

147. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 146 above, as if fully set forth herein.

148. By making public, false, disparaging and derogatory statements about Wake Up Now and its leadership, and by engaging in underhanded tactics to pull away some of Wake Up Now's best leaders, Defendants have intentionally interfered with Wake Up Now's existing and potential economic relations for, as set forth above, an improper purpose and/or by improper means.

149. Defendants' predominant purpose in taking these actions has been to injure Wake Up Now's business, its reputation, and the reputation of its leadership.

150. The manner in which Defendants poached Wake Up Now leaders was contrary to common law because Defendants unlawfully solicited, divulged confidential information,

manufactured falsehoods to sour WUN's leaders and IBO leaders to leave WUN and/or make the switch to Global.

151. As a direct and proximate result of Defendants' intentional interference, Wake Up Now has been damaged in an amount to be determined at trial, but which is presently estimated to be at least \$10,500,000.

152. By poaching Wake Up Now's leaders in the course of their smear campaign against Wake Up Now, Defendants acted in a willful and malicious manner, manifesting a knowing and reckless indifference toward Wake Up Now and its rights. Accordingly, in addition to its direct and compensatory damages, Wake Up Now is entitled to an award of punitive damages against Defendants.

153. In addition to monetary damages, and in the alternative, Wake Up Now is entitled to a temporary restraining order, a preliminary injunction, or a permanent injunction prohibiting Defendants from intentionally interfering with Wake Up Now or its business. Wake Up Now does not have an adequate remedy at law, and unless enjoined, Defendants will continue to interfere in the relationships set forth herein.

THIRD CLAIM FOR RELIEF
(Injurious Falsehood – All Defendants)

154. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 153 above, as if fully set forth herein.

155. Over the course of the last several months, Defendants have made numerous false, derogatory statements about Wake Up Now, its prospects for success, its leadership, its culture, and its purportedly inevitable downfall.

156. In particular, Defendants stated that Wake Up Now would soon fail, that Wake Up Now's management betrayed Kirby Cochran, that they had stolen his WUN stock and hundreds of thousands of dollars from him, and would therefore, betray its IBOs and leaders, that WUN could not survive without Kirby Cochran's leadership and vision, that WUN employees were upset that Kirby Cochran had been fired, that WUN's remaining management were attempting to steal or at least never pay IBO commissions, that WUN's compensation plan was unsustainable, and that people should make false accusations and complaints to the FBI and the SEC that WUN is attempting to steal IBO commissions.

157. Each of Defendants' statements is false. WUN is still in business. Kirby Cochran was not betrayed by anybody at WUN, but rather fired for cause. Kirby's WUN stock was not stolen, but rather did not vest due to his termination pursuant to the terms of a vesting agreement signed by Kirby Cochran. Moreover, it was Kirby Cochran himself who had insisted on vesting provisions so that his creditors would not execute on his stock. Indeed that WUN stock that Kirby Cochran kept in his own name was executed on by creditors and sold at public auction to the highest bidder in 2014. There is no record that WUN owes any money to Kirby Cochran and Kirby Cochran has made no claims to WUN for any money owed to him, much less hundreds of thousands of dollars. WUN has not betrayed its IBOs and leaders. WUN is surviving without Kirby Cochran's leadership and vision. The majority of WUN employees are not upset that Kirby Cochran had been fired, in fact, a number of WUN employees and IBOs lobbied to have Kirby Cochran fired. WUN's compensation plan allows enough profit to WUN to allow WUN to remain solvent so long as WUN is managed well, WUN's management is paying IBO commissions and intends to pay all IBO commissions in full.

158. Defendants made these false statements knowing—or at least in reckless disregard as to whether—they were untrue. In other words, Defendants, made these statements with actual malice motivated by a desire to harm WUN and poach its IBOs and customers.

159. As a direct and proximate result of Defendants' false and defamatory statements, Wake Up Now has been damaged in an amount to be determined at trial, but which is presently estimated to be at least \$10,500,000.

160. By making these disparaging comments time and time again, Defendants acted in a willful and malicious manner, manifesting a knowing and reckless indifference toward Wake Up Now and its rights. Accordingly, in addition to its direct and compensatory damages, Wake Up Now is entitled to an award of punitive damages against Kirby Cochran, Nathan C., Elaine C., Gary C., and others.

161. In addition to monetary damages, and in the alternative, Wake Up Now is entitled to a temporary restraining order, a preliminary injunction, or a permanent injunction prohibiting Defendants from making further disparaging and defamatory comments regarding Wake Up Now, its culture, its leadership, its prospects for success, or the legality of its actions.

FOURTH CLAIM FOR RELIEF
(Trade Libel – All Defendants)

162. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 161 above, as if fully set forth herein.

163. Orally and in writing, Defendants Global, Kirby Cochran, Wach, Nathan C., Lozano, and others made derogatory statements about Wake Up Now's leadership.

164. Kirby Cochran, Wach, Nathan C., and Lozano stated via social media, conversations, webcasts, and emails in a number of conversations that Wake Up Now would

soon fail, that Wake Up Now's management betrayed him, that they had stolen his WUN stock and hundreds of thousands of dollars from him, and would therefore, betray its IBOs and leaders, that WUN could not survive without his leadership and vision, that WUN employees were upset that Kirby Cochran had been fired, that WUN's remaining management were attempting to steal or at least never pay IBO commissions, compensation plan was unsustainable, that people should complain to the FBI and the SEC that WUN is attempting to steal IBO commissions.

165. Kirby Cochran, Wach, Nathan C., and Lozano made these statements knowing—or at least in reckless disregard as to whether—they were untrue. In other words, Kirby Cochran, Wach, Nathan C., and Lozano made these statements with actual malice, knowing the statements were untrue, and motivated to harm the growth, and even the survival of Wake Up Now, and to personally profit from the damage.

166. Because Kirby Cochran, Wach, Nathan C., and Lozano's statements allege conduct that is incompatible with the exercise of a lawful business, Wake Up Now need not plead or prove damages.

167. Nonetheless, as a direct and proximate result of Defendants Kirby Cochran, Wach, Nathan C., and Lozano's false and defamatory statements, Wake Up Now has been damaged in an amount to be determined at trial, but which is presently estimated to be \$10,500,000.

168. By making these disparaging comments time and time again, Defendants acted in a willful and malicious manner, manifesting a knowing and reckless indifference toward Wake Up Now's leadership and their rights. Accordingly, in addition to its direct and compensatory

damages, Wake Up Now is entitled to an award of punitive damages against Global, Kirby Cochran, Wach, Nathan C., Lozano, and others.

169. In addition to monetary damages, and in the alternative, Wake Up Now is entitled to a temporary restraining order, a preliminary injunction, or a permanent injunction prohibiting Defendants from making further disparaging and defamatory comments regarding Wake Up Now, its culture, its leadership, its prospects for success, or the legality of its actions.

FIFTH CLAIM FOR RELIEF
(Deceptive Practice/False Advertising – All Defendants)

170. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 169 above, as if fully set forth herein.

171. By making the false statements and misrepresentations including in the advertising described above, Defendants have engaged in deceptive sales practices, false advertising, or both, in violation of Utah Code § 13-11a-1 et seq.

172. In particular, Defendants have violated, *inter alia*, Utah Code § 13-11a-3(h), by disparaging the goods, services, and business of Wake Up Now by false or misleading representations of fact in advertising.

173. Under Utah Code § 13-11a-4, Wake Up Now is entitled to money damages for each of Defendants' statutory violations.

174. In addition to monetary damages, and in the alternative, Wake Up Now is entitled to a temporary restraining order, a preliminary injunction, or a permanent injunction prohibiting Defendants from disparaging the goods, services, or business of Wake Up Now by false or misleading representations of fact.

SIXTH CLAIM FOR RELIEF
(Civil Conspiracy – All Defendants)

175. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 174 above, as if fully set forth herein.

176. Defendants conspired together to commit the torts set forth in the second, third and fourth causes of action.

177. Defendants agreed to denigrate, disparage, and defame Wake Up Now and its leadership.

178. Defendants agreed to intentionally interfere with Wake Up Now's economic relations.

179. Pursuant to their conspiracy, Defendants took to social media, including Facebook, email, and webinars, to make public disparaging and defamatory comments about Wake Up Now.

180. As a direct and proximate result of Defendants' false and defamatory statements, Wake Up Now has been damaged in an amount to be determined at trial, but which is presently estimated to be \$10,500,000.

181. By jointly agreeing to make disparaging comments time and time again about Wake Up Now, Defendants Global, Kirby Cochran, Nathan C., Elaine C., Gary C., Wach, Lozano and Rosales acted in a willful and malicious manner, manifesting a knowing and reckless indifference toward Wake Up Now and its rights. Accordingly, in addition to its direct and compensatory damages, Wake Up Now is entitled to an award of punitive damages against Global, Kirby Cochran, Nathan C., Elaine C., Gary C., Wach, Lozano and Rosales.

SEVENTH CLAIM FOR RELIEF
(Injunctive Relief – Kirby Cochran and Nathan C.)

182. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 181 above, as if fully set forth herein.

183. This action as to Kirby Cochran and Nathan C. arises under Section 4.2 of their respective Agreements, which provides: “Injunctive Relief. I understand that my breach of this Agreement may cause WakeUpNow irreparable harm that may not be adequately compensated by money damages. Accordingly, in the event of a breach or threatened breach by me of this Agreement, WakeUpNow shall be entitled to an injunction restraining such breach or threatened breach, in addition to any other remedy provided at law or in equity, including the recovery of money damages, all of which remedies shall be cumulative and not exclusive.” § 4.2

184. WUN is presently suffering, and is threatened with, immediate and irreparable injury by defendants’ wrongful conduct.

185. WUN is being irreparably injured because its goodwill and confidential information are being used and disclosed by defendants, through their direct competition with WUN, which cannot be remedied by legal damages.

186. Defendants’ activities threaten a misappropriation of goodwill and the inevitable disclosure of confidential information, belonging to WUN, which harm is incalculable by any accurate standard.

187. The threat of injury to WUN outweighs any damage that injunctive relief may cause to the parties restrained.

188. Injunctive relief is not adverse to the public interest.

189. There is a substantial likelihood that WUN will prevail on the merits of the underlying claims, namely that Kirby Cochran and Nathan C. have breached their noncompetition, nonsolicitation, and confidentiality covenants, and this case presents serious, substantial, and difficult issues on the merits that should be the subject of further litigation and deliberate investigation.

190. The defendants other than Kirby Cochran and Nathan C. should likewise be enjoined based on their aiding and abetting Kirby Cochran's breach of his contractual obligations to WUN and because their competition is tainted by Kirby Cochran and Nathan C.'s breaches.

191. Pursuant to Rule 65A of the Utah Rules of Civil Procedure, WUN is entitled to a temporary restraining order and preliminary injunction, thereafter to be made permanent, enjoining defendants Kirby Cochran and Nathan C., their agents, servants, employees, and all those persons and entities in active concert or participation with them as follows:

- a. Enjoining defendants from in any manner, directly or indirectly owning, managing, operating, controlling, or participating in the ownership, management, operation, or control of, or being connected with or having any interest in, as a stockholder, director, officer, sole proprietor, partner, or otherwise in any business which is the same as, or similar to, or competitive with any business conducted or to be conducted by WakeUpNow or any of WakeUpNow's subsidiaries;
- b. Enjoining defendants from (1) soliciting any employee of WUN, (2) soliciting any customer or vendor of WUN in connection with a business similar to the business of WUN, or (3) taking any action intended to cause injury to the relationships

between WUN and any of its employees, customers, vendors, retailers, or other business associates of WUN;

- c. Enjoining defendants from using, disclosing, selling, conveying, copying, or retaining any of WUN's confidential or proprietary information, including any information that relates to the actual or anticipated business of WUN, including trade secrets, processes, methods, computer programs or databases, data, know-how, inventions, improvements, techniques, services, marketing plans, product plans, strategies, forecasts, and customer or vendor lists, whether belonging to WakeUpNow or to any of its customers, clients, vendors, or suppliers.
- d. Ordering defendants, through Global Connection Network, or any other business that is competitive with WUN, to immediately cease taking orders, cease fulfilling orders, and cease any further marketing efforts.

192. Based on the fact that Kirby Cochran and Nathan C. have been breaching his covenants for several months, the Court should award prospective relief by continuing the injunction for two full years from the time the relief is first granted.

193. Pursuant to Paragraph 4.3 of the Agreement, WUN is entitled to its reasonable attorney fees and costs incurred in connection with this action.

EIGHTH CLAIM FOR RELIEF
(Breach of Contract Elaine M. Cochran, P.C. and Elaine M. Cochran)

194. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 193 above, as if fully set forth herein.

195. Through the conduct alleged in this Complaint, (a) Elaine M. Cochran, P.C. materially breached its express and implied contractual obligations to WUN under its retainer

agreement, and (b) Elaine M. Cochran, P.C. and Elaine M. Cochran materially breached their implied-in-fact agreement with WUN. These contractual commitments included the obligations to provide high quality legal services to WUN, to take all action legally necessary and appropriate to protect WUN's interests in connection with its Pearl IBOs, including Lozano, and its business, to perform all legal services with the requisite level of due care and diligence, and to refrain from conduct that might prejudice WUN's legal rights.

196. As a proximate result of Elaine M. Cochran, P.C.'s and Elaine M. Cochran's material breaches of contract, WUN has suffered injury and damages in the principal amount of at least \$3,623,476, plus Interest from at least December 31, 2014, attorney fees and costs.

NINTH CLAIM FOR RELIEF
(Breach of Fiduciary Duty:
Conflict of Interest Elaine M. Cochran, P.C. and Elaine M. Cochran)

197. Wake Up Now incorporates by reference the allegations set forth in paragraphs 1 through 196 above, as if fully set forth herein.

198. As WUN's legal counsel, Elaine M. Cochran, P.C. and Elaine M. Cochran owed WUN an unqualified fiduciary duty of loyalty, due care and good faith. This duty required, at a minimum, that they (a) take all action legally necessary and appropriate to protect WUN's interests, (b) refrain from conduct that could expose WUN to unnecessary or unreasonable financial harm, (c) act solely in WUN's best interests, and (d) avoid conflicts of interest arising from, among other things, favoring the interest of her husband Kirby C., her son Nathan C., and her brother-in-law Gary C. at the expense of WUN.

199. Through the conduct alleged in this Complaint generally, and by elevating the personal financial interests of Kirby C., Nathan C. and Gary C. over those of WUN specifically,

Elaine M. Cochran, P.C. and Elaine M. Cochran breached their fiduciary duties to WUN, as a proximate result of which WUN (a) has suffered injury and damages in the principal amount of at least \$3,623,476, plus prejudgment interest at the statutory rate of ten percent (10%) per annum (“Interest”) from at least December 31, 2014, attorney fees and costs.

200. To the extent Elaine M. Cochran, P.C.’s and Elaine M. Cochran’s conduct manifests a knowing and reckless indifference toward, and disregard of, WUN’s rights, punitive damages in an amount equal to at least 300 percent (300 %) of WUN’s proven compensatory damages should be awarded.

PRAYER FOR RELIEF

WHEREFORE, Wake Up Now prays for judgment in his favor as follows:

1. On its first claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;
2. On its second claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;
3. On its third claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;
4. On its fourth claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;
5. On its fifth claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;
6. On its sixth claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$10,500,000;

7. On its eighth claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$3,623,476;

8. On its ninth claim for relief, for a monetary judgment against Defendants in an amount to be determined at trial, but not less than \$3,623,476;

9. On its first, second, third, and fourth claims for relief, in the alternative, for a temporary restraining order, preliminary injunction, or permanent injunction, prohibiting Defendants from continuing to act in a manner contrary to law;

10. For pre- and post-judgment interest on all sums due at the rate provided by law;

11. For an award of reasonable attorney's fees and costs; and

12. For such other and further relief as the Court may deem equitable, appropriate and just under the circumstances.

DATED this 27th day of January, 2015.

/s/ Erik A. Christiansen
ERIK A. CHRISTIANSEN
ALAN S. MOURITSEN
PARSONS BEHLE & LATIMER
Attorneys for Wake-Up Now

Jury Demand

Wake Up Now hereby demands a jury on all claims, causes of action, issues, and/or defenses properly triable before a jury.