

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WHITE WAVE INTERNATIONAL LABS,
INC., a Florida corporation

Case No. 8:09-cv-01260-VMC-TGW

Plaintiff,

vs.

LINDSAY LOHAN, *et al.*

Defendants.

**DEFENDANT LORIT, LLC'S ANSWER TO COMPLAINT OF WHITE WAVE
INTERNATIONAL LABS, INC.; DEMAND FOR JURY TRIAL**

COMES NOW, defendant LORIT, LLC (hereinafter "Lorit") and, through its undersigned counsel, files this, its Answer to White Wave International Labs, Inc.'s (hereinafter "White Wave") Complaint, and in support, states as follows:

1. Responding to Paragraph 1 of the Complaint, Lorit admits that in this action, White Wave seeks to recover damages for an alleged breach of a purported contract and for alleged violations of Florida law. Except as so admitted, Lorit denies the allegations pleaded.
2. Responding to Paragraph 2 of the Complaint, Lorit admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.
3. Responding to Paragraph 3 of the Complaint, Lorit denies that venue is appropriate or convenient in this district in light of the fact that there is no personal jurisdiction over all of the other defendants.

4. Responding to Paragraph 4 of the Complaint, Lorit lacks knowledge or information sufficient to form a belief about the truth of the allegations pleaded and therefore denies them.

5. Responding to Paragraph 5 of the Complaint, Lorit admits the allegations pleaded.

6. Responding to Paragraph 6 of the Complaint, Lorit admits the allegations pleaded.

7. Responding to Paragraph 7 of the Complaint, Lorit admits the allegations pleaded.

8. Responding to Paragraph 8 of the Complaint, Lorit admits the allegations pleaded.

9. Responding to Paragraph 9 of the Complaint, Lorit admits the allegations pleaded.

10. Responding to Paragraph 10 of the Complaint, Lorit lacks knowledge or information sufficient to form a belief about the truth of the allegations pleaded and therefore denies them.

11. Responding to Paragraph 11 of the Complaint, Lorit admits the allegations pleaded.

12. Responding to Paragraph 12 of the Complaint, Lorit admits the allegations pleaded.

13. Responding to Paragraph 13 of the Complaint, Lorit denies the allegations pleaded.

14. Responding to Paragraph 14 of the Complaint, Lorit admits that White Wave sent samples of a product to Lorit. Except as so admitted, Lorit denies the allegations pleaded.

15. Responding to Paragraph 15 of the Complaint, Lorit admits that it did not reach an agreement to do business with White Wave. Except as so admitted, Lorit denies the allegations pleaded.

16. Responding to Paragraph 16 of the Complaint, Lorit admits that White Wave sought to do business with Lorit but that the parties never reached an agreement to do business together. Except as so admitted, Lorit denies the allegations pleaded.

17. Responding to Paragraph 17 of the Complaint, Lorit admits that White Wave sought to do business with Lorit but that the parties never reached an agreement to do business together. Except as so admitted, Lorit denies the allegations pleaded.

18. Responding to Paragraph 18 of the Complaint, Lorit admits that it has sold a tanning product under the name "Sevin Nyne." Except as so admitted, Lorit denies the allegations pleaded.

19. Responding to Paragraph 19 of the Complaint, Lorit admits that it has sold a tanning product under the name "Sevin Nyne." Except as so admitted, Lorit denies the allegations pleaded.

20. Responding to Paragraph 20 of the Complaint, Lorit denies the allegations pleaded.

21. Responding to Paragraph 21 of the Complaint, Lorit admits that it is owned in part by Lorit Simon, Shawn Lampman and Crossheart Productions, Inc. Lorit admits that Crossheart Productions "is owned in substantial measure by [Lindsay] Lohan." Lorit admits that it is managed in part by its members. Except as so admitted, Lorit denies the allegations pleaded.

22. Responding to Paragraph 22 of the Complaint, Lorit admits that Sevin Nyne was made available for sale on sephora.com in 2009. Lorit admits that it has issued press releases and that those press releases speak for themselves. Except as so admitted, Lorit denies the allegations pleaded.

COUNT I

23. Lorit realleges and incorporates by reference the admissions and denials contained in Paragraphs 1 through 22 as though fully set forth herein.

24. Responding to Paragraph 24 of the Complaint, Lorit denies the allegations pleaded.

25. Responding to Paragraph 25 of the Complaint, including the prayer for relief under it, Lorit denies the allegations pleaded.

COUNT II

26. Lorit realleges and incorporates by reference the admissions and denials contained in Paragraphs 1 through 22 as though fully set forth herein.

27. Responding to Paragraph 27 of the Complaint, Lorit denies the allegations pleaded.

28. Responding to Paragraph 28 of the Complaint, including the prayer for relief under it, Lorit denies the allegations pleaded.

COUNT III

29. Lorit realleges and incorporates by reference the admissions and denials contained in Paragraphs 1 through 22 as though fully set forth herein.

30. Responding to Paragraph 30 of the Complaint, Lorit denies the allegations pleaded.

31. Responding to Paragraph 31 of the Complaint, Lorit denies the allegations pleaded.

32. Responding to Paragraph 32 of the Complaint, including the prayer for relief under it, Lorit denies the allegations pleaded.

COUNT VI

33. Lorit realleges and incorporates by reference the admissions and denials contained in Paragraphs 1 through 22 as though fully set forth herein.

34. Responding to Paragraph 34 of the Complaint, including the prayer for relief under it, Lorit denies the allegations pleaded.

COUNT V

35. Lorit realleges and incorporates by reference the admissions and denials contained in Paragraphs 1 through 22 as though fully set forth herein.

36. Responding to Paragraph 36 of the Complaint, Lorit denies the allegations pleaded.

37. Responding to Paragraph 37 of the Complaint, Lorit denies the allegations pleaded.

38. Responding to Paragraph 38 of the Complaint, including the prayer for relief under it, Lorit denies the allegations pleaded.

AFFIRMATIVE DEFENSES

First Affirmative Defense

(Unclean Hands)

39. White Wave's purported claims for relief are barred in whole or in part by the doctrine of unclean hands.

Second Affirmative Defense

(Laches)

40. White Wave's purported claims for relief are barred in whole or in part by the doctrine of laches.

Third Affirmative Defense

(Equitable Estoppel)

41. White Wave's purported claims for relief are barred by the doctrine of equitable estoppel.

Fourth Affirmative Defense

(Waiver)

42. As a result of White Wave's conduct, words and/or actions, White Wave has waived any and all of the alleged rights asserted in the complaint and in each and every purported claim for relief therein.

Fifth Affirmative Defense

(Performance Excused)

43. Any performance under the alleged agreement owed by Lorit is excused by White Wave's prior breaches of those agreements.

Sixth Affirmative Defense

(Statute of Limitations)

44. White Wave's purported claims for relief are barred in whole or in part by the statute of limitations.

Seventh Affirmative Defense

(Set-Off)

45. To the extent that Plaintiffs have suffered any damages, such damages should be set-off in an amount to be proven.

Eighth Affirmative Defense

(Punitive Damages Unconstitutional)

46. Under the circumstances of this case, any award of punitive damages would violate the United States Constitution and the Florida Constitution.

Ninth Affirmative Defense

(No Trade Secrets)

47. Plaintiffs cannot recover as they are unable to demonstrate that the information at issue is considered a trade secret, a legitimate business interest under Florida law, or that all necessary steps were taken to ensure to the secrecy of the supposed trade secrets.

Tenth Affirmative Defense

(Impossible Conspiracy)

48. To the extent that Plaintiffs purport to state a claim for civil conspiracy whereby the conspiracy is alleged to be between an entity and its members, no claim for conspiracy can be stated.

Eleventh Affirmative Defense

(No Actual Damages)

49. Plaintiffs cannot demonstrate that they have actual damages as is necessary to recover on a claim under FDUTPA.

Twelfth Affirmative Defense

(No Interference)

50. Plaintiffs are unable to recover under a theory of interference with contractual relations without demonstrating a viable contract with a third party, that the Defendant was aware of such a contract and interfered with the third party contract.

DEMAND FOR JURY TRIAL

Lorit demands a jury trial.

WHEREFORE, Lorit prays for judgment against White Wave on its complaint as follows:

1. That White Wave take nothing on its amended complaint;
2. That Lorit be awarded attorneys' fees and costs of suit incurred herein; and

3. For such other and further relief as the Court may deem just and proper.

POWELL & PEARSON LLP

/s/Ronnie J. Bitman
Ronnie J. Bitman, Esquire
Florida Bar No. 0744891
rbitman@powellpearson.com
399 Carolina Ave., Suite 100
Winter Park, FL 32789
Telephone: (407) 647-5551
Facsimile: (407) 647-5551

Gregory P. Korn, Esquire*
Cal Bar No. 205306
Jonathan P. Steinsapir, Esquire*
Cal. Bar No. 226281
Kinsella Weitzman Iser Kump & Aldisert LLP
808 Wilshire Boulevard, Third Floor
Santa Monica, CA 90401
Telephone: (310) 566-9800
Facsimile: (310) 566-9850
**pro hac vice*

Attorneys for Defendants Lorit, LLC, Lorit Simon,
Crossheart Productions, Inc. and Shawn Lampman

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of the foregoing via the CM/ECF system.

/s/Ronnie J. Bitman
Ronnie J. Bitman, Esquire
Florida Bar No. 0744891
rbitman@powellpearson.com
399 Carolina Ave., Suite 100
Winter Park, FL 32789
Telephone: (407) 647-5551
Facsimile: (407) 647-5551

Gregory P. Korn, Esquire*
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Jonathan P. Steinsapir, Esquire*
Cal. Bar No. 226281
Kinsella Weitzman Iser Kump & Aldisert LLP
808 Wilshire Boulevard, Third Floor

Santa Monica, CA 90401
Tel: (310) 566-9800
Fax: (310) 566-9884
**pro hac vice*

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