

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE MARRERO

NAKED COWBOY )  
D/B/A NAKED COWBOY ENTERPRISES )

Plaintiff, )

v. )

SANDRA BRODSKY )  
A/K/A SANDY KANE )

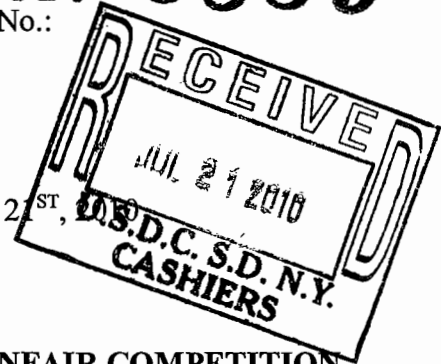
Defendant. )

10 CIV 5539

Case No.:

Judge:

JULY 21<sup>ST</sup>, 2010



**COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION,  
FALSE DESCRIPTION, FALSE ADVERTISING, PASSING OFF, DILUTION OF  
FAMOUS TRADEMARK, FRAUD, DECEPTIVE ACTS AND PRACTICES  
AND INJURY TO BUSINESS REPUTATION.  
DEMAND FOR JURY TRIAL**

Plaintiff Robert John Burck a/k/a "Naked Cowboy", Sole Proprietor of Naked Cowboy Enterprises (hereinafter "Naked Cowboy" or "Plaintiff"), by his attorneys, Koehler & Isaacs, LLP., by Joey Jackson, Esq., as and for their Complaint against Defendant, Sandra Brodsky a/k/a Sandy Kane and or the "Naked Cowgirl" (hereinafter "Sandy Kane" or "Defendant"), alleges as follows:

**I. JURISDICTION AND VENUE**

1) This is an action for Trademark Infringement under the Lanham Act, 15 U.S.C. § 1051 *et seq.*; 15 U.S.C. § 1114(a); Unfair Competition, Passing Off, False Advertising and False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); and Dilution of a Famous Mark under the Lanham Act, 15 U.S.C. § 1125( c) of the Naked Cowboy's World-Famous Trademark in addition to Fraud under New York State (N.Y.S.) Law, specifically Deceptive Acts and Practices under N.Y.S. Business Law §349; False Advertising Unlawful under N.Y.S. Law §350; and Injury to Business Reputation pursuant to N.Y.S. Business Law §360-1.

2) This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121. Personal Jurisdiction in this District is proper inasmuch as the Defendant conducts and solicits business here, and maintains her principal residence and/or place of business here. This Court has related claim jurisdiction over the state law claim pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367.

3) This Court has personal jurisdiction over the Defendant because she maintains her principal place of business in the State of New York and/or resides here.

4) Venue is proper in this District under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and the defendant either resides in and/or maintains her principal place of business in this District.

## **II. THE PARTIES**

5) Naked Cowboy is and at all times mentioned herein was, a Sole Proprietorship D/B/A Naked Cowboy Enterprises organized, existing, and operating under the laws of Tennessee, having a principal place of business at 1431 Finland Drive, Nashville TN 37207. See, Exhibit A (Business License).

6) Upon information and belief, Defendant was and is a citizen of the United States seeking to profit, capitalize, and make a living from, the intellectual property of the Naked Cowboy.

## **III. FACTUAL BACKGROUND**

7) Some 13 years ago, to wit, in 1997, Naked Cowboy developed a concept that has resonated with the public in a profound way. In short, the idea in which he pioneered has made him a part of the New York cultural dynamic—as he is observed, enjoyed, and appreciated by native New Yorkers and tourists from around the world alike.

8) The idea, saw him dress up in: briefs; cowboy boots; a cowboy hat; and guitar so as to sing, speak with, and to meet and greet the public in New York City's Times Square. Essentially, he dresses as a cowboy—only a virtually Naked one.

9) The idea then, as now, is unique, original, and authentic. He is a pioneer who has for many years, spread love, cheer, good humor, and fellowship throughout New York and indeed the world—putting a smile on many a face.

10) Whether people are tourists from around the globe or Native New Yorkers, he has charmed them, entertained them, and captivated them, with his guitar, good nature, personality, smile, and gentle approach. Naked Cowboy also performs in Times Square for NYC and The Times Square Alliance as part of their ongoing series "Grate Performances" which are organized street performances to entertain tourists and visitors in Times Square.

11) Since the inception of the concept, he has taken his act on the road, well beyond the City that never sleeps—appearing throughout the country and indeed the world. He has additionally appeared on television, in movies, the radio, magazines, newspapers, and a variety of other mediums.

12) The Naked Cowboy has built his concept into a brand which enjoys both domestic and international recognition and good will. The public, upon whom he depends for his livelihood have come to support and appreciate his brand in a way that has made him enormously successful and popular.

13) A look at the Naked Cowboy's biography shows a person driven to succeed by bringing his talents to multiple venues so as to captivate the attention and imagination of audiences in New York and throughout the globe. See, Exhibit B (Naked Cowboy Biography).

14) In fact, the Naked Cowboy's "Trail of Events" is an indication that he has worked tirelessly and left no stone unturned in his efforts to popularize his brand and to build it into the successful empire that it is today. He has indeed had an enormous amount of public exposure. One would only need to go to his website to examine the venues in which he has performed to have this confirmed. See, website <http://www.nakedcowboy.com/trailofevents.html>.

15) So as to protect the integrity and propriety of his brand, the Naked Cowboy, filed on October 24th, 2000 for his first trademark, which was registered April 9th, 2002. It was registered under registration # 2560456 and subsequently re-registered May 25th, 2010 under registration # 3792432. See, Exhibit C (Trademark Registration) & Exhibit J, supra (§38)

16) As a sole proprietorship, Naked Cowboy Enterprises earns its revenues on the quality, strength and reputation of the brand—which must be kept in tact and presented in the manner intended.

17) Based upon the Naked Cowboy brand's recognition and respect, Naked Cowboy has entered into numerous corporate sponsorships, and licensed merchandise is available from vendors throughout New York City. Naked Cowboy's merchandise includes T-Shirts, Postcards, Keychains, Shot Glasses, Music CDs, Pencils, Photos and more. It is essential that the integrity and propriety of the brand be kept in tact.

18) Additional licensed Naked Cowboy products are distributed through New York Popular & Robin Ruth. Another official endorsement/license is with Blue Island Shellfish Farms distributing Naked Cowboy Oysters throughout New York and beyond. These premium oysters are harvested from Long Island Sound and can be found in fine restaurants worldwide.

19) Given the nature of the success of the Naked Cowboy brand, mimicking and other commercial threats associated with those attempting to profit off of the image and likeness of the Naked Cowboy brand became inevitable.

20) On or about September 5th, 2006, Luisa Holmlund's efforts to trademark the name of "Naked Cowgirl" were summarily rebuked. In being so rejected, it was recognized that she would pollute the Naked Cowboy brand and otherwise cause confusion amongst the general public. See, Exhibit D (Holmlund's Trademark Application).

21) In order to allow others to earn a living without diluting the Naked Cowboy brand or otherwise capitalize off of his unique, preserved, protected and trademarked idea, he developed a franchise agreement for others seeking to mimic his brand by engaging in activities analogous to his own. See, Exhibit E (Franchise Agreement).

22) The Franchise Agreement sets out the rules, standards, regulations, guidelines and policies for others to follow, thereby ensuring the integrity of the brand.

23) Franchisees are required to have training and are informed as to how to conduct and comport themselves so as to uphold the quality, propriety, integrity, and reputation of the Naked Cowboy brand.

24) Some two years ago, two wit, 2008, unbeknownst at that time to Plaintiff, Sandy Kane began showing up in Times Square, calling herself the "Naked Cowgirl", claiming affiliations with Plaintiff, and otherwise profiting off of the Naked Cowboy brand.

25) She presented herself to the public in virtually identical attire, with the exception being that she wore a brazier as well. In all other respects, her outfit was the same-- complete with cowgirl boots, a cowgirl hat, and a guitar.

26) In so doing, she began singing as he does, frequenting the same location in Times Square as Plaintiff, greeting passerbys, being photographed with the public and mimicking the lot of his activities.

27) Upon hearing about Sandy Kane's actions, Plaintiff initially thought it was just a joke and or parody and hence did not take it seriously. He subsequently learned, however, that it was not a joke, parody or humorous publicity stunt of short duration, but rather, that defendant was seeking to earn a living by appropriating his intellectual property for her own commercial benefit. She then began appearing on Radio Shows, TV Shows, doing Comedy routines at Night Clubs, and receiving lots of press and visibility as the Naked Cowgirl.

28) Plaintiff took notice, obtained her phone number and began speaking with her so as to explain that she could only use the Naked Cowboy Trademark under a franchise agreement. It was explained in no uncertain terms that unless she became licensed and supported by the brand for the unique and exclusive use of the trademark, her actions could not continue. She indicated that she was amenable to such an arrangement and asked that the papers be sent.

29) Sandy Kane has continued to use his image, likeness, profit from his ideas, concepts, image, reputation, and claim false association with him. This has been in the face of repeated and persistent requests that she discontinue these activities. She additionally created and distributed a "Naked Cowgirl" CD, published by EMI Music, featuring "Naked Cowboy". See, Exhibit F (Scan of CD Cover). This was is no way sanctioned, supported or approved by Naked Cowboy.

30) What's more, Sandy Kane has released products under the guise of having the support and approval of the Naked Cowboy brand, professing that they are supported, sanctioned and sponsored by Naked Cowboy.

31) Multiple efforts have been made to have Sandy Kane discontinue her activities of mimicking the Naked Cowboy, or in the alternative, to have her comply with the standards, requirements, policies and procedures of the Naked Cowboy brand by becoming a legitimate franchisee. Plaintiff has been friendly, cordial, and beyond patient. See, Exhibit G (Written Communications with Sandy Kane)

32) These efforts have been unsuccessful as Sandy Kane has not dealt in good faith, indicating that she will indeed comply, but then continuing her activities to appropriate the Naked Cowboy image and likeness while using multiple excuses to delay, impede, and pretend to be taking steps toward becoming a franchisee.

33) Despite Sandy Kane's repeated assurances that she will operate under the Naked Cowboy strictures and guidelines by signing a Franchise Agreement, she has taken the following actions: She acted as if she would sign a Franchise Agreement, and upon one being emailed to her several times, she would say she had trouble receiving it or could not open it, or had computer difficulty, her system was down, etc. She has had excuses aplenty. Then upon one being mailed to her, she would say she did not receive it yet, ultimately admitting to receiving it, but saying her schedule precluded her from reading it immediately, but that she would do so as soon as her schedule permitted, and report back after doing so. This never happened. She would then claim to have lost the agreement. Sandy Kane has found persistent and repeated excuses to avoid legal participation with the Naked Cowboy brand.

34) While serious efforts have been made by Naked Cowboy Enterprises to avoid the filing of the instant Complaint, it has become apparent that her intentions have been to flaunt and otherwise disregard the process of operating under the rules. She simply will not do so voluntarily. She has always said that she will sign a Franchise Agreement tomorrow, next week, next month, next year. She clearly has no intentions of ever operating legitimately or lawfully.

35) It has also been learned that Sandy Kane's activities are bringing ill repute, ill will, and disfavor upon the Naked Cowboy brand based upon her activities which are inconsistent and in direct contravention to what Naked Cowboy stands for and otherwise represents. She is additionally placing products into the marketplace that are of low standards of quality and completely inconsistent with the quality of official Naked Cowboy products that are licensed and available worldwide.

36) She also initiated her look using official Naked Cowboy bumper stickers on her guitar and she would make obscene gestures when being photographed. See, Exhibit H (Photo of Sandy Kane as "Naked Cowgirl").

37) As a last ditch effort to have her comply, the first Cease & Desist was sent on June 4<sup>th</sup>, 2010. See, Exhibit I (First Cease & Desist). Naked Cowboy was in Nashville from June 9<sup>th</sup> to June 13<sup>th</sup> 2010, knowing that Sandy Kane was there as well. Messages were left on her cell phone each day, which she ignored.

38) Nonetheless, she has continued to sport the official Naked Cowboy bumper sticker on her guitar and deny the validity of the Naked Cowboy trademark and franchise. Hence, a final demand was sent. See, Exhibit J (Second Cease & Desist).

39) To date she did not comply and apparently has no intention of ever doing so.

40) Sandy Kane additionally took out a quarter page ad that she's been running in Nashville Music Guide for the last three months, paying almost \$200.00 per month for same and her handbill, which unlike the CD, says: "Featuring The Cowboy". See, Exhibit K (Sandy Kane Handbill) Her music recordings as the Naked Cowgirl are estimated to have cost no less than \$10,000.00.

41) The fact that Sandy Kane is using the Naked Cowboy trademark without authorization or payment is significantly damaging to the value of the mark. She has publicly created an implication that the trademark is worthless and anyone can use it without authorization. Additionally she uses dialog that is inconsistent with the brand. She's creating websites, products, t-shirts, bumper stickers and music published by EMI Music, with the implication that it is being endorsed and otherwise supported by Naked Cowboy. This is not true. These are all products that are being marketed under "Naked Cowgirl" and being used in a manner that is infringing upon the registered Naked Cowboy trademark.

42) She's using the Naked Cowboy trademark without authorization. Naked Cowboy Enterprises issues license for the use of the Naked Cowboy® name for several products and corporate circumstances. There is confusion in the corporate community that she is somehow associated with Naked Cowboy. She is not. She has been observed using visual profanity (flipping a bird at the camera) when photographing with people in Times Square. This is inconsistent with the way manner in which Naked Cowboy conducts business. She has claimed on TV and radio that she can use the name "Naked Cowgirl" which implies that the name is common license or public domain, devaluing the goodwill and effort that Naked Cowboy has developed over the past 13 years and disputing the legitimacy of a legally registered, federal trademark, which has achieved international status.

43) Sandy Kane has put a potentially permanent devaluation on a real American Brand and Icon that has been created, trademarked and propagated into success by the Naked Cowboy's hard work and goodwill. She is likely making the same amount of money that Naked Cowboy makes which is no less than \$100/hr.

44) Each time she goes on TV, on a radio show, in public and calls herself the Naked Cowgirl, she is marketing a product and the Naked Cowboy brand in a light that is inconsistent with Plaintiff's quality standards. Additionally, she sells bumper stickers and t-shirts, gives out handbills and she has taken out paid magazine ads promoting her music and herself as the Naked Cowgirl in several publications including the Nashville Music Guide. See, Exhibit L (Advertisement in Nashville Music Guide)

45) Each day she goes into Times Square, she is cheating a system that is supposed to protect intellectual property rights. This is not fair and is un-American. This is a country that rewards hard work, innovation, ingenuity, creativity and effort by thwarting those who attempt to profit off of the concepts, ideas and innovations of others. Naked Cowboy is constantly working very hard on new corporate endorsements, its image, reputation, good name, licensing deals and anything else that can provide strength to the Naked Cowboy brand. Sandy Kane is making a mockery of the system and the Trademark Infringement laws by acting as if she is allowed to use the trademark name and confusing the current and potential corporate relationships regarding who is and who is not an official associate.

who is and who is not an official associate.

**FIRST CAUSE OF ACTION**  
**TRADEMARK INFRINGEMENT UNDER LANHAM ACT § 3231.**

46) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 45.

47) Defendant's aforementioned acts constitute trademark infringement in violation of the Lanham Act, 15 U.S.C. § 1114

48) Defendant, Sandy Kane's use of "Naked Cowgirl" comprises an infringement of Naked Cowboy's registered trademark and is likely to cause confusion, mistake and deception of the public as to the identity and origin of Naked Cowboy's goods, causing irreparable harm to Naked Cowboy for which there is no adequate remedy at law.

49) As a proximate result of Sandy Kane's actions, Naked Cowboy has suffered and will continue to suffer great damage to its business, good will, reputation, profits and strength of its trademark. The injury to Naked Cowboy is and continues to be ongoing and irreparable. An award of monetary damages alone cannot fully compensate Naked Cowboy for its injuries, and Naked Cowboy lacks an adequate remedy at law.

50) By reason of the foregoing acts, Sandy Kane is liable to Naked Cowboy for trademark infringement under 15 U.S.C. § 1114.

51) Naked Cowboy is entitled to a permanent injunction against the Defendant, as well as all other remedies available under the Lanham Act, including, but not limited to, compensatory damages, treble damages, disgorgement of profits, costs and attorney fees.

**SECOND CAUSE OF ACTION**  
**UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN, PASSING OFF AND  
FALSE ADVERTISEMENT UNDER LANHAM ACT § 4334.**

52) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 51.

53) The use of "Naked Cowboy" and all of the services, products, promotional advertisements, solicitations and marketing thereto are distinctive marks, and have become associated with and thus exclusively identify Naked Cowboy's business, products and services.

54) Because of Sandy Kane's wrongful use of the name "Naked Cowgirl", consumers are deceptively led to believe that Naked Cowgirl has its origins or is otherwise sponsored by Naked Cowboy in violation of §43 (a) of the Lanham Act, 15 U.S.C. 1125(a), or alternatively, will cause patrons to believe that the Naked Cowboy brand is generic, thus destroying the good will and value of the brand.

55) The foregoing acts and conduct of the defendant constitutes false designation of origin, passing off, and false advertising in connection with products and services distributed and provided through interstate commerce in direct violation of §43 (a) of the Lanham Act, 15 U.S.C. 1125(a).

56) Defendant's acts have caused irreparable injury to Naked Cowboy's good will and reputation. The injury is and continues to be ongoing and irreparable.

57) Sandy Kane's use of the "Naked Cowgirl" mark to promote, market, and/or sell analogous services and/or merchandise to the general public is in direct competition with Naked Cowboy's products and services and therefore constitutes Unfair Competition pursuant to 15 U.S.C. § 1125(a). Sandy Kane's use of the Naked Cowgirl mark is likely to cause confusion, mistake, and deception among consumers. Sandy Kane's unfair competition has caused and will continue to cause damage to Naked Cowboy, and is causing irreparable harm to Naked Cowboy for which there is no adequate remedy at law.

**THIRD CAUSE OF ACTION**  
**DILUTION OF MARK**

58) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 57.

59) The Naked Cowboy is a famous Trademark within the meaning of the Anti-Dilution Act, 15 U.S.C. 1125( c).

60) Naked Cowboy has no control over the quality of Naked Cowgirl advertising or other promotional materials as well as the services she performs or products she offers. As a result of Naked Cowgirl's misappropriation, the distinctive qualities of Naked Cowboy are being and will continue to be diluted.

61) Defendant's wrongful conduct constitutes an extreme threat to the distinctiveness of Naked Cowboy and, as Naked Cowboy has expended extreme effort to develop and maintain its brand through strict quality control.

62) The distinctive nature of Naked Cowboy is of enormous value and Naked Cowboy has suffered and will continue to suffer irreparable harm and blurring of Naked Cowboy uniqueness, if Defendant's wrongful conduct is allowed to continue.

63) Defendant's conduct will continue unless thwarted.

**FOURTH CAUSE OF ACTION**  
**FALSE DESCRIPTION**

64) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 63.



65) Sandy Kane's Naked Cowgirl mark is such a colorable imitation and copy of Naked Cowboy's trademark established in the consumer market that Sandy Kane's use thereof in the context of marketing, soliciting, and promoting herself in public is likely to create confusion, or to cause mistake, or to deceive consumers as to the affiliation, connection or association of Naked Cowboy's products, or to deceive consumers as to the origin, sponsorship or approval of Naked Cowboy's products.

66) Naked Cowboy avers that Sandy Kane's use of the term Naked Cowgirl comprises a false description or representation of such business or products under 15 U.S.C. § 1125(a) (Section 43(a) of the Lanham Act).

**FIFTH CAUSE OF ACTION**  
**INJURY TO BUSINESS REPUTATION PURSUANT TO**  
**N.Y.S. BUSINESS LAW 360-1**

67) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 66.

68) Naked Cowboy alleges that Sandy Kane's use of the Naked Cowgirl trademark inures and creates a likelihood of injury to Naked Cowboy's business reputation because persons encountering Naked Cowgirl and its products and services will believe that Naked Cowgirl is affiliated with or related to or has the approval of Naked Cowboy, and any adverse reaction by the public to Naked Cowgirl and the quality of its products and the nature of its business will injure the business reputation of Naked Cowboy and the goodwill that it enjoys in connection with its Naked Cowboy trademark.

**SIXTH CAUSE OF ACTION**  
**DECEPTIVE ACTS AND PRACTICES PURSUANT TO**  
**N.Y.S. BUSINESS LAW 349**

69) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 68.

70) The use of "Naked Cowboy" and all of the services, products, promotional advertisements, solicitations and marketing thereto are distinctive marks, and have become associated with and thus exclusively identify Naked Cowboy's business, products and services.

71) Because of Sandy Kane's wrongful use of the name Naked Cowgirl, consumers are deceptively led to believe that Naked Cowgirl has its origins or is otherwise sponsored by Naked Cowboy in violation of N.Y.S. Business Law §349, or alternatively, will cause patrons to believe that the Naked Cowboy brand is generic, thus destroying the good will and value of the brand.

72) Defendant's acts have cause irreparable injury to Naked Cowboy's good will and reputation. The injury is and continues to be ongoing and irreparable.

73) Pursuant to Article 63, to wit, §6301, Naked Cowboy is entitled to preliminary and permanent injunctive relief ordering Sandy Kane to cease and desist from engaging in this fraudulent activity, as well as disgorgement of all of Sandy Kane's profits associated with said fraud.

### SEVENTH CAUSE OF ACTION

#### **FALSE ADVERTISING UNLAWFUL PURSUANT TO N.Y.S. BUSINESS LAW 350**

74) Plaintiff repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 73.

75) Sandy Kane's use of the Naked Cowgirl mark is likely to cause confusion, mistake, and deception among consumers, thereby causing and continuing to cause damage to Naked Cowboy, and is causing irreparable harm to Naked Cowboy for which there is no adequate remedy at law.

**WHEREFORE**, Plaintiff prays for the following relief:

1) That Defendant Sandy Kane, and any and all of her agents, officers, employees, representatives, successors, assigns, attorneys and all other persons acting for, with, by, through or under authority from Defendant, and each of them, be preliminarily and permanently enjoined from: (a) using the Naked Cowboy trademark and brand, or any colorable imitation thereof; (b) using any trademark that imitates or is confusingly similar to or in anyway similar to Naked Cowboy trademark, or that is likely to cause confusion, mistake, deception, or public misunderstanding as to the origin of Naked Cowboy products, services and brand;

2) That Defendant be required to file with the Court and serve upon the undersigned as Naked Cowboy's attorney within thirty (30) days after entry of the Injunction, a report in writing under oath setting forth in detail the manner and form in which Defendant has complied with the Injunction;

3) That, pursuant to 15 U.S.C. § 1117, Defendant be held liable for all damages suffered by Naked Cowboy resulting from the acts alleged herein;

4) That, pursuant to 15 U.S.C. § 1117, Defendant be compelled to account to Naked Cowboy for any and all profits derived by it from its illegal acts complained of herein;

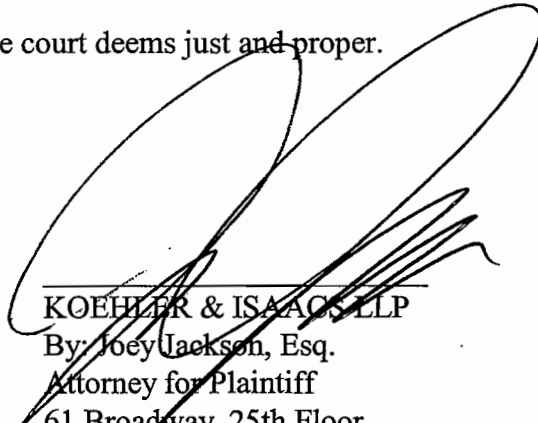
5) That the Defendant be ordered pursuant to 15 U.S.C. § 1118 to deliver up for destruction all containers, labels, signs, prints, packages, wrappers, receptacles, advertising, promotional material or the like in possession, custody or under the control of Defendant bearing a trademark found to infringe Naked Cowboy's trademark rights, as well as all plates, matrices, and other means of making the same;

6) That the Court declare this to be an exceptional case and award Naked Cowboy its full costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

7) That the Court grant Naked Cowboy any other remedy to which it may be entitled as provided for in 15 U.S.C. §§ 1116 and 1117 or under state law; and,

8) For such and other further relief that the court deems just and proper.

Dated: New York, New York  
July 21, 2010



KOEHLER & ISAACS LLP  
By: Joey Jackson, Esq.  
Attorney for Plaintiff  
61 Broadway, 25th Floor  
New York, New York 10006  
(917) 551-1310 (Office)  
(917) 551-0030 (Fax)

Exhibit A



**JOHN  
ARRIOLA**  
COUNTY CLERK

523 MAINSTREAM DRIVE  
P.O. BOX 196333  
NASHVILLE, TN 37219-6333

METROPOLITAN NASHVILLE  
AND DAVIDSON COUNTY

BUSINESS TAX LICENSE RECEIPT

RECEIPT NUMBER **680561**  
BUSINESS NUMBER **158514**

OWNER 1

**TODD ROBENSTEIN**

OWNER 2

MAILING NAME AND ADDRESS

**NAKED COWBOY ENTERPRISES  
1431 FINNLAND DR  
NASHVILLE TN 37207**

BUSINESS LOCATION ADDRESS

**NAKED COWBOY ENTERPRISES  
1431 FINNLAND DR  
NASHVILLE TN 37207**

THIS LICENSE EXPIRES **6/30/2011**

↓ Issuance of this license does not necessarily indicate this location is properly zoned.

\* MUST DISPLAY UPPER PORTION OF  
THIS LICENSE. FOLD ON  
DOTTED LINE.

CLASS **3** BUSINESS

TAX PERIOD

FROM: **7/1/2009**  
TO: **6/30/2010**

STATE SALES TAX NUMBER:

**00000000**

ISSUE DATE: **7/7/2010**

*John Arriola*  
COUNTY CLERK

**LAWRENCE**  
DEPUTY CLERK

METRO (U.S.D.)

COUNTY (G.S.D.)

TOTAL GROSS SALES  
LESS DEDUCTIONS  
TAXABLE GROSS SALES  
RETAIL %  
WHOLESALE %  
TAX DUE  
CREDITS  
PENALTY ON TAX DUE  
INTEREST ON TAX DUE  
RECORDING FEE  
MINIMUM TAX  
PENALTY ON MINIMUM TAX  
INTEREST ON MINIMUM TAX  
ADJUSTMENTS  
TOTAL TAX DUE

15.00

15.00

15.00

15.00

30.00

TOTAL COMBINED METRO AND  
COUNTY TAX

TAXPAYER'S COPY

Exhibit B

# NAKED COWBOY

**[www.nakedcowboy.com](http://www.nakedcowboy.com)**  
**866-99-NAKED**

Born Robert John Burck December 23, 1970 in Cincinnati, OH.

Burck is an American Busker who has claimed worldwide fame in association with New York City's Times Square. He wears only cowboy boots, a hat, and briefs with his registered Trademark "Naked Cowboy" hand painted on his butt in red and blue. He can be seen on any given day in Times Square regardless of rain, sleet, snow, terrorist or assassin threats with his guitar strategically placed to give the illusion of nudity.

Burck began busking as Naked Cowboy Christmas Day in 1997 where Naked Cowboy first appeared on Venice Beach in Los Angeles. He discovered that he earned much more money after a friend suggested to him that he dress only in his underwear in order to generate higher earnings. Burck has a bachelor's degree in political science from the University of Cincinnati.

Although he is best known as a fixture of New York City's Times Square where tour guides on passing buses point him out, Burck is also a regular in the streets of the French Quarter during the New Orleans Mardi Gras season. He also makes appearances in his hometown of Cincinnati, at the Memorial Day weekend Taste of Cincinnati festival and the Riverfest Labor Day Festival. He also can be seen annually at events in Austin, Texas, during the South by Southwest Music Conference, Nashville, TN during Country Music Association's Fanfare and he travels internationally on a regular basis for corporate events and has visited such countries as Germany, Japan, Australia and Ireland. A complete list of every day of Naked Cowboy's life can be found on his website under the title "Trail Of Events". This day by day account is accurate back to 1997 and can be found at:

[nakedcowboy.com/trailofevents.html](http://nakedcowboy.com/trailofevents.html)

On December 10, 2008 he was officially registered as a marriage officiant by the City of New York after becoming an Ordained Minister.

As the popularity of Naked Cowboy grew, Burck began to make appearances on television, in music videos, and on other popular media. He auditioned for American Idol during its first season, but was not advanced to the next round. He also tried out for Australian Idol and Star Search, but with the same results. In 2000, he was on the short-lived show Moral Court, where conservative talk show host Larry Elder ruled that, in his opinion, Burck's Naked Cowboy persona was not immoral and not a danger to public safety. Burck replied, "Actually, I think I am an inspiration to public safety." On January 24, 2009, Burck also appeared on the Tubridy Tonight show on Ireland's RTÉ television network, performing his theme song "I'm The Naked Cowboy" accompanied by the Camembert Quartet. There have been discussions of possible television show concepts with several production houses, including Eric Bischoff of Bischoff Hervey Entertainment. There currently is a Naked Cowboy Reality series that can be found on youtube produced by Ron Israel.

**Here are Burck's Celebrity Credentials from IMDB:**

Survive This (2005) .... The Naked Cowboy

Der Schein trügt (2009) .... Himself

Black Mold Exposure (2009) .... Himself

"The Apprentice" .... Himself (2 episodes, 2004-2009)

... aka "Celebrity Apprentice" - USA (*seventh season title*)

... aka "The Apprentice 2" - USA (*second season title*)

... aka "The Apprentice Los Angeles" - USA (*sixth season title*)

... aka "The Celebrity Apprentice" - USA (*eighth season title*)

- Episode #8.1 (2009) TV episode .... Himself

- Ethics Shmethics (2004) TV episode (uncredited) .... Himself

"Xposé" .... Himself (1 episode, 2009)

- Episode #3.93 (2009) TV episode (as Robert Burck) .... Himself

"Le grand journal de Canal+" .... Himself (1 episode, 2008)

- Episode dated 4 November 2008 (2008) TV episode .... Himself

The Genius of Charles Darwin (2008) (TV) .... Himself

"Law & Order: Criminal Intent" .... Himself (1 episode, 2008)

... aka "Law & Order: CI" - USA (*promotional abbreviation*)

- Vanishing Act (2008) TV episode .... Himself

Science of Horror (2008) .... Himself

"Today" .... Himself (1 episode, 2008)

... aka "NBC News Today" - USA (*promotional title*)

... aka "The Today Show" - USA (*alternative title*)

- Episode dated 25 June 2008 (2008) TV episode .... Himself

Meet Dave (2008) .... Himself

"Cristina's Court" .... Himself (1 episode, 2008)

- Episode dated 2 January 2008 (2008) TV episode .... Himself

"Big Time" .... Himself (1 episode, 2004)

... aka "Steve Harvey's Big Time" - USA (*complete title*)

... aka "Steve Harvey's Big Time Challenge" - USA (*new title*)

- Episode #2.4 (2004) TV episode .... Himself

New York Minute (2004/I) (uncredited) .... Himself

Creature Feature: 50 Years of the Gill-Man (2004) (V) .... Himself

"Lonely Planet" .... Himself (1 episode, 2003)

... aka "Globe Trekker" - USA

- New York 2 (2003) TV episode (as John Robert Burck) .... Himself

"Troma's Edge TV" (2000) TV series .... Himself (unknown episodes, 2001)

American Icon (2001) (as John Robert Burck) .... The Naked Cowboy

Mulva: Zombie Ass Kicker! (2001) (V) .... Himself

"Howard Stern" .... Himself (3 episodes, 1999-2000)

- Episode dated 3 October 2000 (2000) TV episode .... Himself

- Episode dated 7 February 2000 (2000) TV episode .... Himself

- Episode dated 16 November 1999 (1999) TV episode .... Himself

"The Howard Stern Radio Show" .... Himself (3 episodes, 1999-2000)

- Episode dated 20 May 2000 (2000) TV episode .... Himself

- Episode dated 15 January 2000 (2000) TV episode .... Himself

- Episode dated 13 November 1999 (1999) TV episode .... Himself



Burck has also been featured in numerous corporate advertising campaigns. In 2006 he was part of USA Network's "Characters Welcome" campaign, and he also appeared in a Chevrolet commercial that aired during Super Bowl XLI, as well as a Guinness advertisement that aired only in the United Kingdom and Ireland, a Pepsi commercial with Beyoncé directed by Spike Lee and several TV commercials for MTV and VH-1. Burck currently has 10 active corporate endorsement/licensing deals with:

- \* **ConstantLink.com**
- \* **The Times Square Visitor's Center**
- \* **Blue Island Shellfish Farms (Naked Cowboy Oysters)**
- \* **Anthony Ruiz Photography**
- \* **Kaufman Furs**
- \* **Vodafone**
- \* **Joseph Abboud**
- \* **Tour Supply**
- \* **Parillo Performance**
- \* **Hudson Hair**

Burck has also made appearances in several music videos, including Cake's "Short Skirt/Long Jacket" and Nickelback's "Rockstar". In 2007, Burck released two albums of his own, signing two independent record deals. One with 4Sight Music Productions recording the pop-rock album "Year of the Cowboy" produced by Lee Evans and Gaetano Lattanzi at JAMBOX Recording Studios in New York City and the second with TMR Records recording the country music album "What The Naked Cowboy Wants To Hear" produced by Todd Rubenstein at TMR Productions, The Funhouse and The Tracking Room recording studios in Nashville, TN. Burck & Rubenstein are currently producing his second album for TMR Records called "X-Rated Country" which will release by fall of 2010. Rubenstein is also Burck's business manager and the Executive Director of Naked Cowboy Enterprises.

Burck has increasing significant success as a world known media icon representing New York City and Times Square with Network Premiers, News Stories, Radio Interviews, Press Releases, Political Events, Live Shows, TV Shows, Music Videos, "Grate Performances" for the Times Square Alliance in conjunction with Event Networks and merchandising sales at the Times Square Visitor's Center, Major Motion Pictures, TV Commercials, etc., etc.

Burck has been declared by the New York State tourism department as "more recognizable than The Statue of Liberty", been named "The Ambassador of New York Tourism" and crowned the Spokesperson for "The Times Square Survival Guide". NAKED COWBOY also officially became the most photographed person in the world at the end of 2007. Burck ran for mayor of NYC in 2009 and he is also the Grand Marshal of NYC's famous Underwear Run as part of the NYC marathon.

In 2010, Rubenstein negotiated Naked Cowboy's biggest endorsement deal to date with Chris Quartuccio of Blue Island Shellfish Farms to harvest "Naked Cowboy Oysters" from Long Island Sound and distribute them live to fine restaurants worldwide. Naked Cowboy Oysters are already available at 22 of NYC's finest restaurants and are starting to appear on menus nationally and internationally.

# Exhibit C

**TYPED DRAWING**

**Serial Number**

78032177

**Status**

REGISTERED

**Word Mark**

NAKED COWBOY

**Standard Character Mark**

No

**Registration Number**

2560456

**Date Registered**

2002/04/09

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Burck, Robert John INDIVIDUAL UNITED STATES 36 DeWitt Street  
Cincinnati OHIO 452181018

**Goods/Services**

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:  
Entertainment services, namely personal appearance by a celebrity;  
Entertainment, namely live performances by a musical band;  
Entertainment in the nature of circuses; Entertainment, namely live  
music concerts; Entertainment in the nature of dance performances;  
Educational and entertainment services, namely, providing motivational  
and educational speakers; Conducting entertainment exhibitions in the  
nature of trade shows, festivals and expositions; Entertainment in the  
nature of live musical group, television comedy series and ethnic  
festivals; Entertainment in the nature of prerecorded sex-oriented,  
joke-oriented and insult-oriented messages by telephone; Entertainment  
services, namely, personal appearances by a radio-TV personality,  
actor, movie star, model, sports celebrity; Entertainment services,  
namely, providing an on-line computer game; Entertainment services,  
namely, providing a radio program in the field of entertainment,  
comedy, motivational speaking via a global computer network;  
Entertainment services, namely, providing a television program in the

field of entertainment, comedy, motivational speaking via a global computer network; Entertainment, namely a continuing comedy, variety show distributed over television, satellite, audio and video media; Live performances by a musical personality/performer; Multimedia entertainment software production services; Entertainment, namely, television news shows; Entertainment in the nature of on-going radio programs in the field of news, comedy and variety; Entertainment in the nature of on-going television programs in the field of news, comedy and variety; Radio entertainment production; Radio entertainment services, namely radio programs featuring performances by a person or individual, fictional character, radio personality or TV personality; Entertainment, namely, live performances by rock groups; Entertainment in the nature of live performances by groups of singers. First Use: 1998/11/06. First Use In Commerce: 1998/11/06.

**Filing Date**

2000/10/24

**Examining Attorney**

SUAREZ, MARIA-VICTORIA

Exhibit D

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**To:** Holmlund, Louisa K ([louholmlund@hotmail.com](mailto:louholmlund@hotmail.com))  
**Subject:** TRADEMARK APPLICATION NO. 78837035 - NAKED COWGIRL - N/A  
**Sent:** 9/5/06 2:01:37 PM  
**Sent As:** ECOM111@USPTO.GOV  
**Attachments:** Attachment - 1  
Attachment - 2

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/837035

**APPLICANT:** Holmlund, Louisa K

**CORRESPONDENT ADDRESS:**  
HOLMLUND, LOUISA K  
14233 SE STEPHENS ST.  
PORTLAND, OR 97233

**\*78837035\***

**RETURN ADDRESS:**  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** NAKED COWGIRL

**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A

**CORRESPONDENT EMAIL ADDRESS:**  
[louholmlund@hotmail.com](mailto:louholmlund@hotmail.com)

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/837035

The assigned examining attorney has reviewed the referenced application and determined the following.

**Likelihood of Confusion**

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified services, so resembles the mark in U.S. Registration No. 2560456 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP section 1207. See the enclosed registration.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant's mark is NAKED COWGIRL. The registrant's mark is NAKED COWBOY. The marks are very similar because of the common use of the word NAKED followed by COW(GIRL/BOY). Therefore, the first prong of the likelihood of confusion is met.

The second prong of the likelihood of confusion test is a comparison of the goods and or services. The applicant's services are entertainment services, namely, personal appearance by a celebrity; entertainment, namely, live performances by a musical band; entertainment in the nature of circuses; entertainment, namely, live music concerts; entertainment in the nature of dance performances; educational and entertainment services, namely, providing motivational and educational speakers; conducting entertainment exhibitions in the nature of trade shows, festivals and expositions; entertainment in the nature of live musical group, television comedy series and ethnic festivals; entertainment in the nature of prerecorded sex-oriented, joke-oriented and insult-oriented messages by telephone; entertainment services, namely, personal appearances by a radio-TV personality, actor, movie star, model, sports celebrity; entertainment services, namely, providing an on-line computer game; entertainment services, namely, providing a radio program in the field of entertainment, comedy, motivational speaking via a global computer network; entertainment services, namely, providing a television program in the field of entertainment, comedy, motivational speaking via a global computer network; entertainment, namely, a continuing comedy, variety show distributed over television, satellite, audio and video media; live performances by a musical personality/performer; multimedia entertainment software production services; entertainment, namely, television news shows; entertainment in the nature of on-going radio programs in the field of news, comedy and variety; entertainment in the nature of on-going radio programs in the field of news, comedy and variety; entertainment in the nature of on-going television programs in the field of news, comedy and variety; radio entertainment production; radio entertainment services, namely, radio programs featuring performances by a person or individual, fictional character, radio personality or TV personality; entertainment, namely, live performances by rock groups. Entertainment in the nature of live performances by groups of singers; any goods or promotional material containing the words Naked Cowgirl. The registrant's services are entertainment services, namely, personal appearance by a celebrity;

entertainment, namely, live performances by a musical band; entertainment in the nature of circuses; entertainment, namely, live music concerts; entertainment in the nature of dance performances; educational and entertainment services, namely, providing motivational and educational speakers; conducting entertainment exhibitions in the nature of trade shows, festivals and expositions; entertainment in the nature of live musical group, television comedy series and ethnic festivals; entertainment in the nature of prerecorded sex-oriented, joke-oriented and insult-oriented messages by telephone; entertainment services, namely, personal appearances by a radio-TV personality, actor, movie star, model, sports celebrity; entertainment services, namely, providing an on-line computer game; entertainment services, namely, providing a radio program in the field of entertainment, comedy, motivational speaking via a global computer network; entertainment services, namely, providing a television program in the field of entertainment, comedy, motivational speaking via a global computer network; entertainment, namely, a continuing comedy, variety show distributed over television, satellite, audio and video media; live performances by a musical personality/performer; multimedia entertainment software production services; entertainment, namely, television news shows; entertainment in the nature of on-going radio programs in the field of news, comedy and variety; entertainment in the nature of on-going radio programs in the field of news, comedy and variety; entertainment in the nature of on-going television programs in the field of news, comedy and variety; radio entertainment production; radio entertainment services, namely, radio programs featuring performances by a person or individual, fictional character, radio personality or TV personality; entertainment, namely, live performances by rock groups. Entertainment in the nature of live performances by groups of singers. The services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). In this case, the marks are identical, and the services are very closely related. Consequently, the second prong of the likelihood of confusion test is met and registration is refused under Section 2(d) of the Trademark Act.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following issues.

**Wording is Indefinite**

The wording "ANY GOODS OR PROMOTIONAL MATERIAL CONTAINING THE WORDS NAKED COWGIRL" in the identification of goods needs clarification because this wording could include different items that could be classified in different classes. Additionally, the use of NAKED COWGIRL is unacceptable because the mark cannot be used in the identification of goods or services. Applicant must amend the identification of goods to specify the common commercial or generic name for the goods. If there is no common commercial or generic name for the product, then applicant must describe the product and intended consumer as well as its main purpose and intended uses. TMEP §1402.01.

**For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahhtml/tidm.html>.**



/Inga Ervin/  
Trademark Examining Attorney  
United States Patent & Trademark Office  
Law Office 111  
571 272-9379

**HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the *date of receipt in the Office*, not the postmarked date.** To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

Exhibit E

# **NAKED COWBOY ENTERPRISES**

## **FRANCHISE AGREEMENT**

This Franchise Agreement (“Agreement”), dated for identification purposes only as of \_\_\_\_\_, 200\_\_, is made and entered into by and between **NAKED COWBOY ENTERPRISES**, a Trademarked Concept (the “Company”), and \_\_\_\_\_ (“Franchisee”).

- A. The Company operates and franchises others to operate as Naked Cowboy in connection with “NAKED COWBOY ENTERPRISES” name and the Company’s distinctive plan of Busking, Endorsements, Celebrity Appearances or any other Naked Cowboy related circumstance.
- B. Franchisee desires to operate as Naked Cowboy under the Company’s name and to utilize the Naked Cowboy’s plan all in accordance with the terms, covenants and conditions of this Agreement.
- C. Franchisee understands that the success of the business contemplated by this Agreement is subject to substantial risks and depends in large part on the business ability of Franchisee and its active participation in the development and management of the franchise business.

### **1. SCOPE AND PURPOSE OF AGREEMENT**

1.1 Franchisee desires to operate and manage as NAKED COWBOY to be located in and around The City of Denver, Colorado (the “Location”). The Company owns certain proprietary and other property rights and interests in and in regards to the “THE NAKED COWBOY” trademark and service mark, and such other trademarks, service marks, logo types, insignias, trade dress designs and commercial symbols as Company may from time to time authorize or direct Franchisee to use in connection with his operation. The Company has a distinctive plan for the operation, which plan includes but is not limited to THE NAKED COWBOY Marks and NAKED COWBOY DIALOG (the “Manual”), policies, standards, procedures, employee uniforms, and related items, and the reputation and goodwill of the Company. Therefore, in entering into this Agreement, Franchisee fully understands and agrees that this Agreement is conditioned upon the continued strict adherence by Franchisee to all standards, policies, procedures and requirements published or which may from time to time be published or otherwise brought to Franchisee’s attention by the Company for the operation, maintenance or improvement of “NAKED COWBOY ENTERPRISES” under the NAKED COWBOY ENTERPRISES System and THE NAKED COWBOY Marks. Franchisee understands and agrees that strict adherence to these standards, policies, procedures and requirements is essential to the value of the NAKED COWBOY ENTERPRISES System and THE NAKED COWBOY Marks.

1.2 Franchisee represents that it is experienced in and has independent knowledge of the nature and specifics of NAKED COWBOY. Franchisee understands that there is not, nor can there be, any assurance or guaranty of success in the franchise business and that Franchisee’s business ability and attitude are primary in determining Franchisee’s success. Franchisee represents that, in entering into this Agreement, it has relied solely on its personal knowledge and understanding and has not relied on any representation of the Company or any of its officers, directors, employees or agents, except those representations contained in any legally required disclosure document delivered to Franchisee.

1.3 In consideration of the foregoing representations and agreements of Franchisee and other consideration as set forth herein, and subject to all of the terms, covenants and conditions of this Agreement, the Company hereby grants to Franchisee, and Franchisee hereby accepts from the

Company, the right and license to operate as THE NAKED COWBOY under THE NAKED COWBOY Marks and in accordance with the NAKED COWBOY ENTERPRISES System at the Location. Franchisee acknowledges that the franchise granted hereunder is only for the Location and Franchisee is not granted any area, market or protected territorial rights. Franchisee expressly acknowledges and agrees that the Company and its affiliates have and expressly reserve the right to (a) operate and license others to operate as THE NAKED COWBOY at any location; and (b) merchandise and distribute goods and services identified by THE NAKED COWBOY Marks at any location through any method or channel of visibility, distribution, without limitation, anywhere in the universe and via the Internet.

1.4 It is expressly understood and agreed by the parties that Franchisee is and shall be an independent contractor, that Franchisee is not for any purpose an employee or agent of the Company, and that all of the personnel employed by Franchisee will be employees or agents of Franchisee as an independent contractor and will not be employees or agents of the Company. Franchisee understands and agrees that, as an independent contractor, it does not have the authority to do anything for or on behalf of the Company including, but not limited to, holding itself out as the Company; signing contracts, notes or other instruments; purchasing, acquiring or disposing of any property; or incurring any other obligation or liability.

## **2. THE NAKED COWBOY ENTERPRISES MARKS & SYSTEM**

2.1 Upon the terms, covenants and conditions contained herein and during the term hereof, Franchisee shall have the right to display and use THE NAKED COWBOY Marks, but only for use in connection with personal operations in allowed or contracted areas and circumstances and to sell picture opportunities to the general public in the Location.

2.2 Nothing contained herein shall be construed as authorizing or permitting Franchisee to use THE NAKED COWBOY Marks or the NAKED COWBOY ENTERPRISES System at any location other than the Location or for any purpose or in any manner other than that authorized herein; or in connection with allowed or contracted operations, or any products not required or approved by the Company, or any products prepared at any place other than at the Location. Notwithstanding anything to the contrary contained herein, the Company may require Franchisee to discontinue use if Franchisee does not conform to the quality standards or image of the Company and its objectives.

2.3 Nothing contained herein shall give Franchisee any right, title or interest in or to any of THE NAKED COWBOY Marks excepting only the privilege and license, during the term hereof, to display and use the same according to the foregoing limitations. Any and all goodwill arising in connection with Franchisee's use of THE NAKED COWBOY Marks and the NAKED COWBOY ENTERPRISES System of operation shall belong to the Company.

2.4 Franchisee agrees that the business franchised hereunder shall be named "NAKED COWBOY" without any suffix or prefix attached thereto. Franchisee shall use signs and other advertising which denote the name specifically as "NAKED COWBOY" and which are approved by the Company in advance. If Franchisee is an Entity (as defined below), the name of such corporation shall not contain any of THE NAKED COWBOY Marks.

2.5 Except as the Company may otherwise permit in writing, Franchisee shall not display or use the trademark, trade name, service mark, logo types, label, design or other identifying symbol or name of any other person, or Entity in, on or at the Location.

2.6 Franchisee agrees that in all public records, in its relationship with other persons or companies, and in any offering circular, prospectus or similar document, Franchisee shall indicate clearly that Franchisee's business is independently owned and that the operations of said business are separate and distinct from the operation of the Company's business. Franchisee shall display in business cards and at such locations as may be specified by the Company and in all correspondence and forms, a notification that the Franchise is operated by an independent operator and not by the Company.

2.7 Franchisee shall not develop, create, generate, own, license, lease or use in any manner any computer medium or electronic medium (including, without limitation, any Internet home page, e-mail address, website, domain name, bulletin board, newsgroup or other Internet-related medium) which in any way uses or displays, in whole or in part, THE NAKED COWBOY Marks, or any of them, or any words, symbols or terms confusingly similar thereto without Franchisor's express written consent, and then only in such manner and in accordance with such procedures, policies, standards and specifications as Franchisor may establish from time to time.

2.8 Franchisor is the owner of, and will retain all right, title and interest in and to the domain names associated to NAKED COWBOY; all existing and future domain names, URLs, future addresses and subaddresses using THE NAKED COWBOY Marks in any manner; all software; all content prepared for, or used on, the Website; and all intellectual property rights in and to any of them.

### **3. TERM**

3.1 The term of this Agreement shall commence on the date Company executes this Agreement and shall end on the date which is the 1st anniversary of the date Franchisee first appears to the public (the "Opening Date"), unless sooner terminated as provided herein. Upon the expiration of this Agreement, Franchisee shall have the option to renew its Franchise under the same terms of this Agreement.

#### **4. PERSONAL DEVELOPMENT**

4.1 Franchisee shall purchase any and all needed items to be able to perform as NAKED COWBOY and submit a picture and audio of, or video performance of "I'm The Naked Cowboy" song together with such additional personal information as may be reasonably required by Franchisor to evaluate the proposed use. Franchisor shall, provided there exists no default by Franchisee under this Agreement or any other development, franchise or other agreement between Franchisor and Franchisee, evaluate the proposed uses for which Franchisee has provided all necessary evaluation information, and shall promptly, but not more than seven (7) days after receipt of Franchisee's proposal, send to Franchisee written notice of acceptance or non-acceptance of the use. Use approval does not assure that a Franchise Agreement will be executed. Execution of the Franchise Agreement is contingent upon payment by Franchisee and acceptance by Company of proposed use or uses.

4.2 After execution of this Agreement, Franchisee will be required to achieve certain milestones to assure the timely development of his personal image:

- a. Franchisee shall complete the acquisition of guitar, boots, hat, accessories and the insignia tools including but not limited to acrylic paint, bumper stickers, etc.; and
- b. Within two (2) weeks following the date of Company's execution of this Agreement, Franchisee must have completed the development of the character/franchise.

The Company shall have no liability under any purchase agreement for the Franchisee and shall not guaranty Franchisee's obligations under the same. In the event that Franchisee executes any obligation to develop its franchise, Franchisee shall furnish to the Company a copy of any related documents and under no circumstance will hold the Company responsible for any of these Franchisee obligations.

#### **5. FEES, COST AND CHARGES**

Franchisee agrees to pay to the Company during the term of this Agreement the following:

- a. Annual franchise fee of Five Thousand Dollars (\$5,000.00), payable as follows: (i) Five Thousand Dollars (\$5,000.00) upon execution of this Agreement (and within 10 days of delivery of execution copies of this Agreement to Franchisee); or (ii) Five Hundred Dollars (\$500.00) per month, each month for a total of Six Thousand Dollars (\$6,000.00) per year, due on each 1<sup>st</sup> day of each month. All such payments shall be made by Paypal Electronic Payment or other form of payment acceptable to the Company. Franchisee hereby acknowledges and agrees that the grant of this franchise and the agreements of the Company contained in this Agreement constitute the sole and only consideration for the payment of the initial franchise fee and the initial franchise fee shall be fully earned by the Company upon execution of this Agreement. In that regard, upon the payment of any portion of the initial franchise fee, the entire initial franchise fee shall be deemed fully earned and non-refundable in consideration of the administrative and other expenses incurred by the Company in granting this franchise and for the Company's lost or deferred opportunity to franchise to others.
- b. An additional appearance royalty fee in the sum of 20 percent (20%) of Franchisee's appearance earnings will be subtracted from any and all bookings contracted, negotiated or provided to Franchisee by the Company.

## **6. LICENSES, PERMITS AND INDEMNIFICATION**

6.1 During the term hereof, it is expected that the Franchisee shall obtain and maintain licenses and/or permits with the governing body of any location that the Franchisee operates in to meet any requirements as governed by law or ownership to operate legally at any location at all times. Any and all costs of such licenses and or permits, or incurred fees or fines due to Franchisee's failure to comply will be the sole responsibility of the Franchisee.

6.2 Franchisee agrees to defend at its own cost and to indemnify and hold harmless the Company, its subsidiaries, parent and affiliates, shareholders, directors, officers, employees and agents (each an "Indemnity") from and against any and all loss, costs, expenses (including attorneys' fees), damages and liabilities, however caused, resulting directly or indirectly from or pertaining to the use, condition, construction, equipment, decorating, maintenance or operation by Franchisee at any time at any location for whatever reason and including the preparation and sale of any service made or sold, and including any labor or other employee related claims of any kind including, without limitation, any claims made by an employee of Franchisee resulting from the employee's training in a Company operated appearance or contract, and including Franchisee's failure for any reason to fully inform any third party of Franchisee's lack of authority to bind the Company for any purpose.

## **7. INSPECTIONS**

7.1 In order to maintain the high standards of quality necessary for the mutual success of the Company and Franchisee hereunder, the Company and its authorized representatives shall have the right to investigate the actions of the Franchisee's operation as NAKED COWBOY. The Company's personnel and representatives shall have the right to enter the territory of the Franchisee at any reasonable time, and from time to time, with or without notice, for the purposes of examination, conferences with Franchisee and personnel of Franchisee, observation and evaluation of the operations being conducted, and for all other purposes in connection with a determination that the Franchisee is operating in accordance with the terms of this Agreement, the Specifications and Manual and other applicable laws and regulations.

7.2 In connection with such inspections, the Company and its authorized representatives may deliver to Franchisee an inspection report in such form(s) as may be adopted by the Company from time to time (the "Inspection Report(s)"). The Inspection Report(s) shall indicate the principal items inspected, observed and evaluated.

7.3 In the event that any such Inspection Report indicates a deficiency or unsatisfactory condition with respect to any item listed thereon, Franchisee shall promptly commence to correct or repair such deficiency or unsatisfactory condition and thereafter diligently pursue the same to completion.

## 8. TRAINING

8.1 The Company and Franchisee may agree that it is important to the operation that Franchisee receive one on one training as the Company may require from time to time. In that regard, Franchisee agrees as follows:

- a. Unless Franchisee has purchased a full year each training session must be previously booked through NAKED COWBOY ENTERPRISES 30 days in advance at a cost of \$1000.00 per day.
- b. Franchisee's who have purchased a full year option will receive 2 full day training sessions. Each additional training session will be \$1000.00 per day.

8.2 Franchisee can only receive training during Franchise term. Franchisee understands and agrees that Franchisee is solely responsible for any and all costs incurred by them with respect to training, including the costs for any compensation, wages lodging, travel expenses or any other expenses incurred in connection with any training sessions, refresher courses or optional training programs.

## 9. ASSIGNMENT

Assignment by the Company. The Company shall have the right to assign or transfer any of its rights or delegate any of its obligations under this Agreement in whole or in part to any person, firm or corporation; provided, however, that with respect to any assignment resulting in the subsequent performance by the assignee of the obligations of the Company, the assignee shall expressly assume and agree to perform such obligations of the Company in writing and fulfill the terms of this Agreement.

## 10. DEFAULT AND TERMINATION

10.1 In addition to all other available rights and remedies, Company shall have the right to terminate this Agreement only for "cause". "Cause" is hereby defined as a material breach of this Agreement.

10.2 In addition to all other available rights and remedies, the Company shall have the right upon the occurrence of any of the following events to immediately terminate this Agreement by giving written notice to Franchisee, which termination shall become effective immediately upon the giving of such notice.

- a. Abandonment by Franchisee by failing to operate for thirty (30) consecutive days or any shorter period of time after which the Company reasonably determines that Franchisee does not intend to continue to operate the business, unless such failure is due to a health problem, family or personal issues or other similar cause beyond Franchisee's control, in which case Franchisee shall comply with each of the requirements set forth;
- b. Franchisee is convicted of a felony or any other criminal misconduct that is relevant to the operation;
- c. The failure of Franchisee to reach each milestone and to operate in accordance with and by the time set forth in this Agreement;



- d. Any material misrepresentation is made by Franchisee in connection with the acquisition of the franchise herein;
- e. Franchisee engages in conduct which reflects materially and unfavorably upon the operation, the reputation of NAKED COWBOY ENTERPRISES, or the goodwill associated with THE NAKED COWBOY Marks;
- f. Franchisee repeatedly fails to comply with one (1) or more material standards or requirements of this Agreement (or as specified in the Manual), whether or not corrected after notification thereof. A repetition within a one-month period of any default shall justify the Company in terminating this Agreement upon written notice to the Franchisee without allowance for any curative period;
- g. Failure of Franchisee, for a period of ten (10) days after notification of noncompliance, to comply with any federal, state or local law or regulation applicable to the operation including, but not limited to, public health and safety requirements; or
- h. Reasonable determination on the part of the Company that continued operation will result in an imminent danger to public health or safety; or

10.3 Franchisee shall have 10 days (5 days in the case of any default in the timely payment of sums due to Company or its affiliates), after Company's written notice of a material default within which to remedy any material default under this Agreement, and to provide evidence of such remedy to Company. If any such default is not cured within that time period, or such longer time period as applicable law may require or as Company may specify in the notice of default, this Agreement and all rights granted by it shall thereupon automatically terminate without further notice or opportunity to cure.

Franchisee shall be in material default under this Section for any failure to comply with any of the requirements imposed by this Agreement. Such material defaults shall include, but are not limited to, the occurrence of any one or more of the following events:

- a. Failure of Franchisee to pay to the Company any fees, costs, charges or other amounts due under this Agreement;
- b. The attachment of any involuntary lien in the sum of One Thousand Dollars (\$1,000.00) or more upon any of the business assets or property of Franchisee, which lien is not removed, or for which Franchisee does not post a bond sufficient to satisfy such lien, within thirty (30) days of the filing of such lien;
- c. Franchisee's misuse or unauthorized use of THE NAKED COWBOY Marks; or
- d. Failure of Franchisee to comply with any standard or requirement of this Agreement which is not otherwise covered in this Section.

10.4 Notwithstanding anything to the contrary contained in this Section, in the event any valid, applicable law of a competent governmental authority having jurisdiction over this Agreement and the parties hereto shall limit Company's rights of termination hereunder or shall require longer notice periods than those set forth above, this Agreement shall be deemed amended to conform to the

minimum notice periods or restrictions upon termination required by such laws and regulations. Company shall not, however, be precluded from contesting the validity, enforceability or application of such laws or regulations in any action, hearing or dispute relating to this Agreement or the termination thereof.

10.5 Company shall not, and can not be held in breach of this Agreement until (i) Company has received written notice from Franchisee describing in detail any alleged breach; and (ii) Company has failed to remedy the breach within a reasonable period of time after such notice, which period shall not be less than 60 days plus such additional time as reasonably required by Company if because of the nature of the alleged breach it cannot reasonably be cured within said 60 days, provided Company promptly commences and continues diligently to cure such alleged breach. Except for breach hereof by the Company (subject to the preceding sentence) or as permitted hereof, Franchisee shall have no right to terminate this Agreement.

## **11. RIGHTS AND OBLIGATIONS UPON TERMINATION**

11.1 In the event of expiration or earlier termination of this Agreement:

- a. Franchisee shall promptly cease to use, in any manner and for any purpose, directly or indirectly, THE NAKED COWBOY Marks, the NAKED COWBOY ENTERPRISES System, Company's trade secrets, propriety information, policies, procedures, techniques, methods and materials used by Franchisee in connection with the franchise relationship and shall immediately return to Company any and all tangible (including electronic) copies of any of the foregoing, including, but not limited to:
  - i. Specifications, pictures, designs and descriptions of products;
  - ii. The Manual, memoranda, bulletins, forms, reports, instructions and supplements thereto;
  - iii. Training methods and materials provided by the Company hereunder;
  - iv. Brochures, posters and other advertising materials; and
  - v. All items bearing or containing THE NAKED COWBOY Marks, including without limitation, all trademarks, trade names, service marks, logotypes, designs and other identifying symbols and names pertaining thereto.
- b. Franchisee shall immediately remove, obliterate or destroy all signs and advertisements identifiable in any way with the Company's name as may be necessary, in the Company's judgment, to distinguish it from NAKED COWBOY.
- c. The Company may retain all fees paid pursuant to this Agreement;

11.2 Upon the expiration or termination of this Agreement, Franchisee shall promptly pay all sums owing to the Company and its subsidiaries and affiliates. In the event of termination by reason of default of Franchisee, such sums shall include all damages, costs and expenses, including reasonable attorneys' fees, incurred by the Company as a result of the default, which obligation shall give rise to and remain, until paid in full, a lien in favor of the Company against any and all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Franchisee. Franchisee agrees to pay interest to the Company on any amounts which may become due to the Company from

Franchisee, if such are not paid when due, at the rate of fifteen percent (15%) per annum or the maximum interest rate permitted by law, whichever is less.

11.3 The expiration or termination of this Agreement shall be without prejudice to the rights and remedies of the Company against Franchisee. Furthermore, such expiration or termination shall neither release Franchisee or any of its obligations and liabilities to the Company existing at the time thereof nor terminate those obligations and liabilities of Franchisee which, by their nature, survive the expiration or termination of this Agreement.

11.4 Upon expiration or termination of this Agreement, the Company may remove all references to the Franchise from its website(s).

## 12. EFFECTIVE DATE

12.1 This Agreement shall be effective as of the date it is executed by the Company.

## 13. ACKNOWLEDGMENTS

13.1 Franchisee acknowledges that it has received a copy of the complete **NAKED COWBOY ENTERPRISES Uniform Franchise Offering Circular** at least ten (10) business days prior to the date on which this Agreement was executed by Franchisee or payment of any monies to the Company and that Franchisee received this Agreement in the form actually executed at least five (5) business days prior to the date on which this Agreement was executed by Franchisee.

13.2 Franchisee acknowledges that it has read and understood this Agreement, the attachments hereto and the agreements relating thereto, if any, and that the Company has accorded Franchisee ample opportunity and has encouraged Franchisee to consult with advisors of Franchisee's own choosing about the potential benefits and risks of entering into this Agreement.

## 14. SIGNATURES

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first set forth above.

THE COMPANY:

FRANCHISEE:

**NAKED COWBOY ENTERPRISES**

By: \_\_\_\_\_

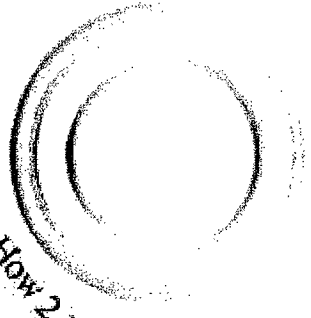
By: \_\_\_\_\_

DATE:

DATE:

Exhibit F

# Sandy Kane The "Naked Cowgirl" in Nashville, TN.



- 1) "He Taught Me How 2 Love"  
Pub. by E.M.I. Music  
Sung by Sandy Kane - The "Naked Cowgirl"  
featuring The "Naked Cowboy"  
Pub. by Sandy Kane Songs Ascap
  - 2) "Naked Cowgirl Song"  
Pub. by Sandy Kane Songs Ascap
  - 3) "I Love Rick!"  
Pub. by Sandy Kane Songs Ascap
- All Songs written by Sandy Kane  
Recorded @ Omni Studio, Nashville, TN.  
Produced by S. Tyeit, S. Kane, B. Mather  
Engineer - "Stocker"

# Exhibit G

Dear Sandy,

It is always a pleasure to speak with you.

I want to reiterate that our intention is to protect your interest in your pursuits as Naked Cowgirl.

Please print the attached agreement and take an afternoon or evening to read every word of it.

You are an excellent candidate to have a huge level of success doing this.

I hope we can work together to make it all happen for you.

All the best!

Sincerely,

**T**<sub>ODD</sub> **M**<sub>ARK</sub> **R**<sub>UBENSTEIN</sub>

**RE: Naked Cowboy(girl) Franchise**

TMR

Todd  
Rubenstei  
n**10/7/2009 3:19 PM****From:** TMR <myspace.com/thetmrrecords>**To:** Sandy Kane (sandykane@myspace.com)

---

Can you print out the the attached franchise agreement and give it to her with my contact numbers or forward it to an email that she checks?

Sandy ...

**10/7/2009 2:22 PM****From:** Sandy Kane <myspace.com/sandykane>**To:** TMR (thetmrrecords@myspace.com)

---

Sandy doesn't check the e-mails on her MySpace page since she doesn't have a computer. I can let her know that you e-mailed her. If you'd like to call Sandy to discuss this matter, her phone number is 212-244-0410 or 212-561-1838.



TMR



Todd  
Rubenstein

**10/7/2009 12:45 PM**

**From:** TMR <myspace.com/thetmrrecords>  
**To:** Sandy Kane (sandykane@myspace.com)

Dear Sandy,

I hope this email finds you doing well.

Perhaps you remember speaking with me about a year ago on the telephone. I am the Executive Director of Naked Cowboy Enterprises and Naked Cowboy's manager.

If you remember our conversation, you were concerned about trademarks, etc. I had told you that as long as you were working in a non-corporate sense, we would allow it without contractual licensing.

It has come to my attention that you have initiated cooperative events with venues performing as The Naked Cowgirl, passing out fliers for the events and doing other promotional circumstances as The Naked Cowgirl at a corporate level. These type of circumstances do, in fact, require an appropriate license from our organization.

The only way to license you as an individual is to make you an official franchisee. Naked Cowboy Franchises run \$5,000.00 per year or \$500.00 per month, depending on how you want to pay for it.

We will be glad to work with you at whatever capacity you can afford, but with all of the trademark infringement circumstances that we are involved in protecting, it is a necessary circumstance for us to appropriate legitimate license for you to act under the Naked Cowboy Trademark legally and with authorization.

I am attaching a copy of our franchise agreement and I'll look forward to your call for any questions you may have.

All The Best!

**T ODD M ARK R UBENSTEIN**

**Executive Director**

**TMR ENTERPRISES**

[www.tmrpro.com](http://www.tmrpro.com)

(O) (615) 865-3002

(C) (615) 306-7316

**NAKED COWBOY ENTERPRISES**

[www.NakedCowboy.com](http://www.NakedCowboy.com)

(866) 99-NAKED

(866) 996-2533

This E-mail message, its contents and/or attachment(s) is privileged, confidential and may be protected from disclosure. Please be aware that any other use, printing, copying, disclosure or dissemination of this communication should be kept confidential and may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender.

Exhibit H

Richard Brill's

TCF.NET



# Exhibit I

June 4<sup>th</sup>, 2010

Sandra Brodsky:

We have been aware of your unauthorized use of the registered Naked Cowboy Trademark for quite some time with your derivative entitled Naked Cowgirl and attempting to commercialize your use of the Naked Cowboy Trademark including fraudulently claiming association with Naked Cowboy. Robert Burck has reserved all rights in the Trademark, first published in 2001, and registered (Registration Number 2560456) in 2002. Your use of Naked Cowgirl is essentially identical to the Naked Cowboy and is clearly in violation as an unauthorized use in many products, websites and commercial pursuits.

We have attempted to provide you authorization/allowance to use the Trademark under the Naked Cowboy Franchise Agreement to which you have repeatedly ignored our requests. You have never been given permission to use the Trademark as the basis for your commerce name nor adhered to the repeated requests to participate as an official franchisee. Because of this, you have willfully infringed Robert Burck's rights under 17 U.S.C. Section 101 et seq. and could be liable for statutory damages as high as \$150,000 as set forth in Section 504(c)(2) therein.

I demand that you do one of the two following things:

1. Immediately cease the use and distribution of all infringing works derived from the Trademark, and all copies, including electronic copies, of same, that you deliver to me, if applicable, all unused, undistributed copies of same, or destroy such copies immediately and that you desist from this or any other infringement of Robert Burck's rights in the future.
2. Execute and secure a Naked Cowboy Franchise Agreement

This is a very serious matter and we have tried very hard for over two years to work with you and resolve this issue.

If we have not received an affirmative response from you by July 1<sup>st</sup>, 2010 indicating that you have fully complied with these requirements, our attorney: Scott Rothman of Halberstadt Curly, LLC shall take further action against you.

Sincerely,



**Todd Mark Rubenstein**  
Executive Director Naked Cowboy Enterprises

cc: Scott Rothman, Robert Burck

# Exhibit J

June 24<sup>th</sup>, 2010

Sandra Brodsky:

Due to recent events where you have publicly denounced the validity of the registered Naked Cowboy Trademark we have chosen to withdraw our previous suggested option to allow you to participate as an official "Naked Cowboy Franchisee". You have had the Franchise documentation which clearly states that actions of this sort are strictly prohibited and are grounds for franchise dismissal.

We have attempted to provide you authorization/allowance to use the Trademark under the Naked Cowboy Franchise Agreement to which you have repeatedly ignored our requests. You have never been given permission to use the Trademark as the basis for your commerce name nor adhered to the repeated requests to participate as an official franchisee. Because of this, you have willfully infringed Robert Burck's rights under 17 U.S.C. Section 101 et seq. and could be liable for statutory damages as high as \$150,000 as set forth in Section 504(c)(2) therein.

I demand that you immediately cease the use and distribution of all infringing works derived from the Trademark, and all copies, including electronic copies, of same, that you deliver to me, if applicable, all unused, undistributed copies of same, or destroy such copies immediately and that you desist from this or any other infringement of Robert Burck's rights in the future including portraying yourself as Naked Cowgirl for the purpose of earning income by any and all of the manners highlighted in the included United States Trademark Registration documentation for the registered Naked Cowboy trademark. This includes any activity that uses the name "Naked Cowgirl" and/or any commercial activity that could be interpreted as being performed in the likeness of Naked Cowboy.

Your misunderstanding of Intellectual Property Laws and assumption that gender makes a difference regarding the name "Naked Cowgirl" are not valid. The rights to "Naked Cowgirl" are also protected under the registered "Naked Cowboy" Trademark. Robert owns, and we control all federally protected international rights to all of the following associated goods and services under the registered "Naked Cowboy" Trademark and we additionally demand that you cease and desist from any and all of the following actions as "Naked Cowgirl":

Educational and entertainment services, namely, providing motivational and educational speakers; Entertainment in the nature of circuses; *Entertainment in the nature of dance performances;* *Entertainment in the nature of live performances by a musical personality/performer;* *Entertainment in the nature of live radio personality performances;* *Entertainment in the nature of on-going television programs in the field of news, comedy, variety;* *Entertainment in the nature of prerecorded sex-oriented, joke-oriented, insult-oriented messages by telephone;* *Entertainment in the nature of television news shows;* *Entertainment in the nature of live musical group, television comedy series, ethnic festival;* *Entertainment services, namely, live, televised and movie appearances by a professional entertainer;* *Entertainment services, namely, personal appearances by a celebrity, radio-TV personality, actor, movie star, model, sports celebrity;* *Entertainment services, namely, providing a radio program in the field of entertainment, comedy, motivational speaking via a global computer network;*

*Entertainment services, namely, providing a television program in the field of entertainment, comedy, motivational speaking via a global computer network; Entertainment services, namely, providing an on-going radio program in the field of news, comedy, variety; Entertainment services, namely, providing an on-line computer game; Entertainment, namely, a continuing comedy, variety show broadcast over television, satellite, audio, and video media; Entertainment, namely, live music concerts; Entertainment, namely, live performances by musical bands; Entertainment, namely, television news shows; Multimedia entertainment software production services; Radio entertainment production; Radio entertainment services, namely, radio programs featuring performances by a person or individual, fictional character, radio personality, TV personality*

You'll notice that you have infringed upon almost every single "Goods And/Or Services" that are currently active and internationally protected under the registered "Naked Cowboy" Trademark and owned by Robert Burck.

Serial Number: 77781761

Registration Number: 3792432

This is a very, very serious matter and I would suggest that you retain an attorney immediately, because you obviously do not understand the legal ramifications associated to your infractions and the seriousness of your upcoming penalties.

We are providing you one final opportunity to comply by July 1<sup>st</sup>, 2010 with notification delivered directly to me in writing that you have and will continue to fully comply with these requirements. Our attorney; Scott Rothman of Halberstadt Curly, LLC shall request a court ordered injunction forcing you to stop portraying the "Naked Cowgirl" and will begin pursuing civil damages to the highest allowable limits of federal trademark and copyright laws if you choose not to comply.

Sincerely,



**TODD MARK RUBENSTEIN**  
Executive Director Naked Cowboy Enterprises  
1431 Finland Drive  
Nashville, TN 37207  
(866) 99-NAKED ext. 705

cc: Scott Rothman, Robert Burck



Exhibit K

# SANDY KANE

is the

## "NAKED COWGIRL"

### The LADY "GAGA" of Country Music

CUMMING SOON:

NEW HIT SINGLE ON METRO RECORDS

E.M.I. MUSIC'S

"HE TOUGHT ME HOW 2 LOVE"  
FEATURING "THE COWBOY"

SANDY KANE  
THE "NAKED  
COWGIRL"  
IS REGULAR  
ON "OPIE &  
ANTHONY  
SHOW" XM &  
SIRIUS  
SATELLITE  
RADIO  
CH. 197

ALSO APPEARING  
WITH PEACHES  
IN DONAU FEST AUSTRIA &  
BERLIN GERMANY

TIMES SQUARE NYC

[WWW.SANDYKANENAKEDCOWGIRL.COM](http://WWW.SANDYKANENAKEDCOWGIRL.COM)

[WWW.MYSPACE.COM/SANDYKANE](http://WWW.MYSPACE.COM/SANDYKANE)

[WWW.FACEBOOK.COM/SANDYKANE](http://WWW.FACEBOOK.COM/SANDYKANE)

EMAIL: [SANDYKANE6969@VERIZON.NET](mailto:SANDYKANE6969@VERIZON.NET)

CALL ME: 212-561-1838

Exhibit L

## Faith Hill On Project Runway Finale

April 21, 2010 – Faith will join host Heidi Klum and judges Michael Kors and Nina Garcia on the season finale of Project Runway this Thursday, April 22nd at 10pm EST (check local listings) on the Lifetime Network. "Faith Hill stepped into the toughest Project Runway guest judging seat of the season -- the finale, which made her a deciding voice in naming the winner," said 'Runway' Executive Producer Sara Rea. "She took on the task with flying colors. Faith was invested and took the job seriously. She gave constructive, relevant criticism and had a strong point of view. We really enjoyed having her."

"What I saw was truly extraordinary and it made judging very difficult," said Faith. "All of the designers were creative and imaginative. But there were some whose craftsmanship was impeccable. Designers by trade, are always capable of sewing their own clothing, but the tailoring that I saw was extremely impressive; a few in particular knocked me out. The passion that these individuals showed, and their eagerness to learn from feedback and criticism, should prove an inspiration for those that follow them."

For more information and news on Faith Hill you can go to [www.faithhill.com](http://www.faithhill.com).

**Sandy Kane**

### "The Naked Cowgirl"

The Lady GaGa of Country Music

New CD

"From Times Square to Nashville"

Single: He Taught Me How 2 Love

Published by E.M.I. Music

Appearing  
at the

CMA

Fan Fest

NASHVILLE

[www.myspace.com/sandykane](http://www.myspace.com/sandykane)

(212) 561-1838