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10 North American Bridal Association, Inc.

11 IN THE UNITED STATES DISTRICT COURT

12 FOR THE DISTRICT OF NEVADA

13 NORTH AMERICAN BRIDAL
14 ASSOCIATION, INC., a Nevada
15 corporation,

Case No.

16 Plaintiff,

17 v.

18 BRIDAL TRAINING AND MARKETING
19 SYSTEMS, LLC, a Utah limited liability
20 company, and JAMES BUTLER, an
21 individual

22 Defendants.

23 **COMPLAINT FOR FEDERAL TRADEMARK INFRINGEMENT, FALSE**
24 **ADVERTISING, AND COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR**
25 **COMPETITION**
26 (Jury Trial Demanded)

27 Plaintiff North American Bridal Association, Inc. (“North American”), for its
28 complaint against Bridal Training and Marketing Systems, LLC (“BTMS”) and James
Butler (“Butler”), by and through its attorneys, alleges as follows:

1. This action includes claims of trademark infringement, false advertising,
and unfair competition under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, as well as
trademark infringement and unfair competition under Nevada state law.

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2. This is an action to recover damages and for injunctive relief arising under the false advertising, trademark and unfair competition laws of the United States and the related laws of the State of Nevada.

JURISDICTION AND VENUE

3. This Court has jurisdiction of the subject matter for each of the following claims:

(A) Trademark infringement in violation of the Lanham Act, 15 U.S.C. §§ 1114 *et seq.*, with jurisdiction vested in this Court by virtue of 15 U.S.C. § 1121, 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).

(B) False advertising in violation of the Lanham Act, 15 U.S.C. §§ 1125(a), with jurisdiction vested in this Court by virtue of 15 U.S.C. § 1121, 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).

(C) Common law trademark infringement and unfair competition, with supplemental jurisdiction vested in this Court by virtue of 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367.

4. This Court has personal jurisdiction over BTMS by virtue of its conduct and activities in the State of Nevada.

5. This Court has personal jurisdiction over Butler by virtue of his conduct and activities in the State of Nevada.

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(1), 1391(b)(2), and 1391(c), because a substantial part of the events or omissions giving rise to North American’s claims occurred in this District.

PARTIES

7. North American is a nationally known organizer of expositions, seminars and conventions relating to the bridal industry.

8. North American is incorporated in the State of Nevada with its principal place of business in Las Vegas, Nevada.

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1 9. Upon information and belief, BTMS is a Utah limited liability company
2 with a principal place of business in Mapleton, Utah. Upon information and belief, BTMS
3 is engaged in the business of producing and promoting seminars and training materials for
4 the bridal industry.

5 10. Upon information and belief, James Butler is a member of BTMS.

6 11. Upon information and belief, James Butler acts in concert with BTMS in
7 producing and promoting seminars and training materials for the bridal industry.

8 **ALLEGATIONS COMMON TO ALL COUNTS**

9 BTMS's Infringement of North American's Federally Registered Trademark

10 12. North American owns United States Trademark Registration No. 2,791,392
11 for the mark "LAS VEGAS THE MARKET" for use in connection with "association
12 services, namely, promoting the interests of independent bridal shops by producing trade
13 shows, seminars, and a sponsored website" in International Class 035. An authentic copy
14 of United States Reg. No. 2,791,392 is attached as **Exhibit A**.

15 13. North American's registration is valid, enforceable, and incontestable.

16 14. North American has used and continues to use this mark in interstate
17 commerce. The first use of this mark was as early as March 31, 1994.

18 15. North American produces a trade show and various seminars in Las Vegas,
19 Nevada using the mark "LAS VEGAS THE MARKET."

20 16. North American will produce a trade show and various seminars beginning
21 on September 8, 2009, at the Rio hotel in Las Vegas, Nevada (hereinafter, "the September
22 Seminars").

23 17. North American has expended extensive resources to advertise and promote
24 the September Seminars using the mark "LAS VEGAS THE MARKET."

25 18. BTMS has distributed advertising materials in interstate commerce
26 promoting a BTMS seminar (hereinafter, "the BTMS Seminar") to be held on September
27 8, 2009, at the Rio hotel in Las Vegas, Nevada using the mark "LAS VEGAS THE
28 MARKET."

1 19. On information and belief, Butler intends to perform at the BTMS Seminar.

2 20. On information and belief, BTMS markets and advertises its seminar
3 through similar channels used by North American to market and advertise the September
4 Seminars to the same consumers.

5 21. On information and belief, Butler has attended previous North American
6 conventions that have used the mark "LAS VEGAS THE MARKET."

7 22. On information and belief, Butler has worked with North American to
8 present seminars during previous North American conventions that have used the mark
9 "LAS VEGAS THE MARKET."

10 23. Use of the mark "LAS VEGAS THE MARKET" by BTMS and/or its
11 affiliates and members is likely to result in consumer confusion or mistake regarding the
12 origin, sponsorship, or approval of BTMS's seminar by North American.

13 24. At no time did BTMS or Butler ever approach North American and ask
14 permission to use North American's trademark, and at no time did North American
15 approve of or endorse BTMS's unauthorized use of North American's trademark.

16 25. North American has suffered and is suffering a loss of consumer confidence,
17 sales, profits and goodwill as a result of BTMS's trademark infringement.

18 26. Unless BTMS and Butler are enjoined by this Court from continuing to use
19 identical marks, and ordered to issue corrective advertising, BTMS's trademark
20 infringement will continue to cause North American to suffer a loss of consumer
21 confidence, sales, profits and goodwill which will irreparably injure North American.

22 **COUNT ONE**

23 **(FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114)**

24 27. North American hereby realleges and incorporates by reference paragraphs
25 1 through 25 above.

26 28. North American's mark "LAS VEGAS THE MARKET" has been used for
27 more than ten years in commerce and as a result of its use, promotion and sales, the mark
28 has become associated with and identifies North American as the source of its association

1 services, namely, promoting the interests of independent bridal shops by producing trade
2 shows, seminars, and a sponsored website.

3 29. North American is well known within the bridal industry. BTMS's use of
4 "LAS VEGAS THE MARKET" to identify its seminars in competition with North
5 American's is likely to cause, and has caused, confusion or mistake regarding a
6 connection or affiliation between BTMS and North American, and thereby has harmed the
7 goodwill and value of North American's mark.

8 30. BTMS's conduct, described above, constitutes an infringement of North
9 American's trademark rights violation of 15 U.S.C. § 1114.

10 31. BTMS's use in commerce of the "LAS VEGAS THE MARKET" mark as
11 described above is likely to cause, and actually has caused, confusion, mistake, or
12 deception as to the origin, sponsorship, or approval of BTMS's services, or the affiliation,
13 connection, or association of BTMS with North American and the "LAS VEGAS THE
14 MARKET" mark.

15 32. BTMS's use of the "LAS VEGAS THE MARKET" mark, constitutes an
16 infringement of North American's trademark rights in violation of Section 32 of the
17 Lanham Act, 15 U.S.C. § 1114.

18 33. BTMS's acts have greatly and irreparably damaged North American and
19 will continue to damage North American unless restrained by this Court. North American
20 has no adequate remedy at law.

21 34. North American is entitled to an injunction under 15 U.S.C. § 1116, as well
22 as to damages, BTMS's profits, and the costs of this action under U.S.C. § 1117.

23 **COUNT TWO**

24 **(FALSE ADVERTISING UNDER 15 U.S.C. §1125(A))**

25 35. North American hereby realleges and incorporates by reference paragraphs
26 1 through 33 above.

27 36. The advertising materials distributed by BTMS are false and misleading,
28 likely to deceive consumers as to an affiliation with North American to North American's

1 detriment, affect interstate commerce, and violate Section 43(a) of the Lanham Act, 15
2 U.S.C. § 1125(a).

3 37. On information and belief, BTMS's actions have been willful.

4 38. Unless BTMS is enjoined by this Court from continuing to make these
5 claims and ordered to retract and correct them, BTMS's false and misleading advertising
6 will continue to cause North American to suffer a loss of consumer confidence, sales,
7 profits and goodwill which will irreparably injure North American.

8 39. BTMS's use of the "LAS VEGAS THE MARKET" mark is likely to cause
9 confusion, or to cause mistake, or to deceive as to the affiliation, connection, or
10 association of BTMS's services with North American's services as to the origin,
11 sponsorship, or approval of BTMS's services.

12 40. North American is informed and believes, and therefore alleges, that
13 BTMS's acts have injured or are likely to injure North American's reputation, business
14 and relations with customers by causing confusion about and/or dissatisfaction with the
15 services of North American and a loss of sales and market share to BTMS.

16 41. BTMS's false or misleading advertising is a deliberate, intentional and
17 willful attempt to confuse and deceive customers, to injure the business of North
18 American, and to interfere with the business relationships of North American.

19 42. BTMS's acts as described above constitute unfair competition and false
20 designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §
21 1125(a).

22 43. BTMS's acts have greatly and irreparably damaged North American and
23 will continue to so damage North American unless restrained by this Court. North
24 American has no adequate remedy at law.

25 44. North American is entitled to an injunction under 15 U.S.C. § 1116, as well
26 as to damages, BTMS's profits, and costs of this action under 15 U.S.C. § 1117.

27 45. BTMS's acts have been willful, making this an "exceptional" case justifying
28 an award of treble damages, treble profits, and attorneys' fees against BTMS.

COUNT THREE

(UNFAIR COMPETITION AND TRADEMARK INFRINGEMENT UNDER NEVADA COMMON LAW)

46. North American hereby realleges and incorporates by reference paragraphs 1 through 43 above.

47. As set forth more fully above, North American’s “LAS VEGAS THE MARKET” is indicative of origin, relationship, sponsorship, and association with North American.

48. BTMS began using the identical mark “LAS VEGAS THE MARKET” well after North American began using its “LAS VEGAS THE MARKET” mark.

49. BTMS’s use of North American’s trademark in connection with BTMS’s services creates a likelihood of confusion or deception of the consuming public as to the source of the services provided by BTMS, and creates a false impression of an affiliation or endorsement by or other connection with North American.

50. BTMS’s actions described above violate North American’s common law rights and constitute unfair competition.

51. BTMS’s acts described above have directly and proximately caused great and irreparable damage to North American and will continue to damage North American unless restrained by this Court. North American is without an adequate remedy at law and is entitled to an injunction as well as damages in an amount to be proved at trial.

COUNT FOUR

(DECEPTIVE TRADE PRACTICES UNDER N.R.S. § 41.600)

52. North American hereby realleges and incorporates by reference paragraphs 1 through 49 above.

53. By using a trademark identical to that of North American’s, BTMS is making a false representation as to the source, sponsorship, approval or certification of BTMS’s services.

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1 54. On information and belief, BTMS is making these false representations
2 knowingly.

3 55. North American is a victim of consumer fraud because North American's
4 goodwill and reputation have been damaged by BTMS's false representations.

5 56. North America is entitled to be awarded any damages sustained under
6 N.R.S. § 41.600(3)(a).

7 57. North America is entitled to be awarded any costs and reasonable attorney's
8 fees under N.R.S. § 41.600(3)(b).

9 **PRAYER FOR RELIEF**

10 WHEREFORE, North American respectfully requests that the Court enter
11 judgment in favor of North American and against BTMS and Butler for the following:

12 1. A permanent injunction barring BTMS, its agents, employees, franchisees,
13 subsidiaries, licensees, successors, and assigns, and all other persons in active concert,
14 privity or participation with it, from doing, abiding, causing or abetting any direct or
15 indirect use of North American's trademarks or any confusingly similar trademarks, in
16 any way, including in advertising, promotion, offers to sell, or sales of association
17 services, namely, promoting the interests of independent bridal shops by producing trade
18 shows, seminars, and a sponsored website, making false or misleading statements in
19 advertising its services, or otherwise infringing North American's rights or competing
20 unfairly with North American.

21 2. A permanent injunction requiring BTMS, its agents, employees, franchisees,
22 subsidiaries, licensees, successors, and assigns, and all other persons in active concert,
23 privity or participation with it, pursuant to 15 U.S.C. § 1118, to deliver up to this Court or
24 to authorized agents of North American, all labels, signs, prints, packages, wrappers,
25 receptacles, advertising and promotional materials, cartons, brochures, business
26 stationery, calling cards, information sheets, posters, signs and any other printed or
27 graphic materials of any type, including the plates, molds or any other means for
28 producing the same which bear or depict North American's trademark or any confusingly

1 similar trademark.

2 3. That BTMS and Butler be directed to account and pay to North American
3 all gains and profits realized from its sale of goods or services in connection with its false
4 advertising and use of North American's trademarks and confusingly similar trademarks
5 under 15 U.S.C. § 1117.

6 4. That North American be awarded damages up to three times its actual
7 damages pursuant to 15 U.S.C. § 1117.

8 5. That BTMS and Butler be directed to account and pay to North American
9 all damages suffered by North American as a result of BTMS's infringement and unfair
10 competition.

11 6. That BTMS be directed to file with this Court and serve upon North
12 American within five (5) days after entry of any order granting injunctive relief a report,
13 in writing and under oath, setting forth in detail the manner and form in which BTMS has
14 complied with the injunction.

15 7. An award of interest at the highest rate allowable by law.

16 8. An award of reasonable attorneys' fees under 15 U.S.C. § 1117 or N.R.S. §
17 41.600(3)(b).

18 9. For such additional relief as the Court deems just under the circumstances.

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, North American hereby demands trial by jury of all issues triable by a jury.

DATED this 25th day of August 2009.

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