

APPROVED

COMMERCIAL DIVISION
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AUG 11 2010

MOTION SEQUENCE # 001

At Commercial Division Part [] of the Supreme Court of the State of New York, County of New York, at the Courthouse, located at 60 Centre Street New York, NY on the _____ day of August, 2010.

NEW YORK COUNTY CLERK'S OFFICE

JUSTICE SHIRLEY WERNER KORNREICH

COTY INC.,

Plaintiff,

v.

HARVEY P. ALSTODT; BRUCE C. KOWALSKY; DIVERSIFIED BEAUTY PRODUCTS (f/k/a MBA BEAUTY, INC.); and HARVEY P. ALSTODT ASSOCIATES, INC,

Defendants.

Index No. 651224/10

Assigned Judge:

ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

ORAL ARGUMENT REQUESTED

Upon the annexed Verified Complaint, together with the exhibits attached thereto, the Emergency Affirmation of Benjamin W. Thorn dated August 10, 2010, the Affirmation of William Boraczek dated August 10, 2010, the exhibits annexed thereto, and the accompanying Memorandum of Law dated August 10, 2010 it is hereby:

ORDERED that the above-named Defendants show cause before this Court, at the Commercial Division Part 54 Court Room 228 of the Supreme Court of the State of New York, located at 60 Centre Street New York, New York on the 11 day of August, 2010 at 11:00 o'clock in the forenoon or as soon thereafter as counsel can be heard why a preliminary injunction should not be entered under CPLR §§ 6301 and 6313:

- i. restraining and enjoining Defendants Alstodt and Kowalsky from breaching obligations under their noncompetition agreements with Coty;
- ii. restraining and enjoining Defendants, and all those acting in concert with them, from unfairly competing with Coty's nail color products, whether by a) marketing, distributing or selling nail color products including but not limited to "Confetti" and "10" or b) other means; and
- iii. restraining and enjoining Defendants from contacting any Coty Customer with whom defendants Alstodt or Kowalsky had contact during the period of their employment with Coty;

~~iv. requiring Defendants to file with the Court and serve upon Plaintiff's counsel, on or before the day before the hearing on the motion for a preliminary injunction, a report, in writing under oath, setting forth in detail the manner and form in which Defendants have complied with the requirements of the temporary restraining order; and~~

v. granting to Plaintiff such other relief as may be just and proper;

and it is therefore

ORDERED that, pending the hearing on this MOTION, ~~Defendants~~, their ~~officers, employees, agents, attorneys, parent companies, subsidiaries, affiliates, branches and all other persons or entities acting in concert with them~~ are restrained and enjoined from:

- a. breaching or inducing the breach of any non-competition agreement between ~~any~~ ^{them} of the ~~Defendants~~ and Coty;

Harvey P. Alstodt, Diversified Beauty Products (A/K/A MABA Beauty, Inc. of Harvey P. Alstodt Cosmetics, Inc.)

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(cont.)

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- b. marketing, distributing or selling nail color products that compete with Coty's products, including but not limited to the "Confetti" and "10" brands; and
- c. contacting any Coty customer with whom defendants Alstodt or Kowalsky had contact during the period of their employment with Coty;

and it is further

ORDERED that personal service of a copy of this Order and the papers upon ~~each~~ ^{on each}, by overnight mail ~~at the place of residence~~ ^{at the place of residence or business} of Defendants or their counsel on or before August 12, 2010 be deemed good and sufficient service of this application; and it is further

ORDERED that Answering papers, if any, are to be ~~personally served on~~ ^{e filed} Plaintiff's counsel on or before ^{noon} the 18 day of ~~Aug~~ ^{Aug} and reply papers be served on Defendants or their counsel by personal service on or before the ~~day of~~ ^{day of} 2010; and it is further, ~~and it is further~~

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ORDERED that oral argument is granted and shall be held on the date of this motion.

J.S.C.
JUSTICE SHIRLEY WERNER KORNREICH

**ORAL ARGUMENT
 DIRECTED**

 J.S.C.