

CAUSE NO. DC-11-10448

MARY KAY INC.,

Plaintiff,

VS.

BENJAMIN THAYER AND
INEZ THAYER

Defendant.

FILED
11 NOV 16 PM 2:52
IN THE DISTRICT COURT OF
DALLAS COUNTY, TEXAS

DALLAS COUNTY, TEXAS

193RD JUDICIAL DISTRICT

**JOINT MOTION FOR ENTRY OF AGREED PERMANENT INJUNCTION AND
DISMISSAL WITH PREJUDICE**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Mary Kay Inc. and Defendants Benjamin Thayer and Inez Thayer announce to the Court that they have settled all matters and things in controversy between them through a Settlement Agreement executed by all of the parties. Having settled their dispute, the parties respectfully request the Court to enter the Agreed Permanent Injunction and Dismissal with Prejudice (attached hereto as Exhibit "A").

Respectfully submitted,



Ears L. Berg

State Bar No. 00787072

Preston R. Mundt

State Bar No. 24058465

KELLY HART & HALLMAN LLP

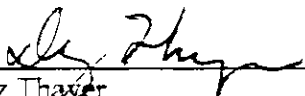
201 Main Street, Suite 2500

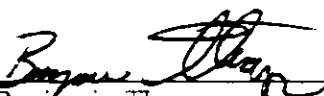
Fort Worth, Texas 76102

Phone: (817) 332-2500

Fax: (817) 878-9280

ATTORNEYS FOR PLAINTIFF

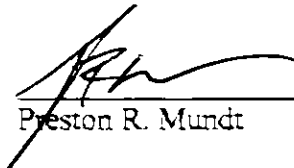

Inez Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048
PRO SE DEFENDANT


Benjamin Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048
PRO SE DEFENDANT

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing document has been sent via First Class Mail, on this 15th day of ~~September~~ November, 2011, to:

Benjamin Thayer
Inez Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048


Preston R. Mundt

| EXHIBIT "A" |

CAUSE NO. DC-11-10448

MARY KAY INC.,

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VS.

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

193RD JUDICIAL DISTRICT

AGREED PERMANENT INJUNCTION AND DISMISSAL WITH PREJUDICE

Before the Court is the parties' Joint Motion for Entry of Agreed Permanent Injunction and Dismissal With Prejudice. Pursuant to Section 65.011 of the Texas Civil Practice and Remedies Code, and the agreement of the parties, the Court enters judgment for Plaintiff Mary Kay Inc. ("Mary Kay") against Defendants Benjamin Thayer and Inez Thayer ("Defendants").

The Court is of the opinion that Defendants have engaged and are engaging in conduct that constitutes breach of contract and tortious interference with its contractual and business relationships. The Court finds that unless the commission of these acts is enjoined, Mary Kay will suffer irreparable damage to its business standing, goodwill, and reputation. Such damages include continued deception and confusion in the marketplace regarding the identity of individuals who are legitimately authorized to market Mary Kay products, as well as irreparable damage to the goodwill associated with Mary Kay's trademarks, the assurance of guarantees provided to purchasers of Mary Kay products, and the maintenance of its existing contractual relationships with Mary Kay Independent Beauty Consultants ("IBCs").

In order to resolve the dispute between them, the parties have moved the Court to enter

this Permanent Injunction.

IT IS THEREFORE ORDERED THAT:

Benjamin Thayer and Inez Thayer, their current and former officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are enjoined from:

- (a) Selling, offering to sell and/or distributing any products manufactured by Mary Kay without the prior written consent of Mary Kay;
- (b) interfering with existing contractual relationships between Mary Kay and its IBCs by buying Mary Kay products from individuals who have or have had an existing contractual relationship with Mary Kay for the purpose of facilitating the marketing and resale of such products in a retail or service establishment environment;
- (c) soliciting Mary Kay IBCs to sell Mary Kay products in breach of the Independent Beauty Consultant Agreements;
- (d) using the May Kay trademark in connection with the sale or resale of Mary Kay products ;
- (e) using the Mary Kay trademark in any advertisements;
- (f) falsely or misleadingly representing themselves and their activities, goods, and services to be sponsored by, approved by, or affiliated with Mary Kay;
- (g) falsely or misleadingly representing any product sold by Defendants as originating from, being sponsored by, or approved by Mary Kay;
- (h) selling and/or distributing of any Mary Kay products; and
- (i) inducing, assisting, or abetting any other person or business entity to engage in or perform any of the activities referred to in subparagraphs (a)-(g) above unless authorized to do so

by Mary Kay Inc.

This Court retains jurisdiction over Benjamin Thayer and Inez Thayer to enforce any and all aspects of this Permanent Injunction. The Court retains further jurisdiction to award Mary Kay amounts for costs, attorneys' fees and such other relief as may be just and proper arising by reason of any future claim of violation of this Agreed Permanent Injunction.

IT IS FURTHER ORDERED that this case be and hereby is DISMISSED WITH PREJUDICE, with each party to bear its own costs, except that this Court shall retain jurisdiction over this matter for the purpose of enforcing this Agreed Permanent Injunction and this cause shall not be considered dismissed to the extent it must remain pending to do so.

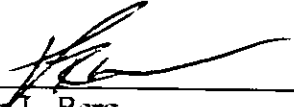
All relief not specifically granted herein is denied. This is a final appealable judgment disposing of all claims and parties.

SO ORDERED.

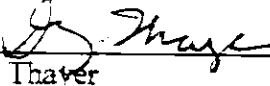
ENTERED and Signed on this _____ day of _____, 2011.

THE HONORABLE JUDGE PRESIDING

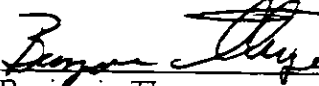
AGREED TO AS TO FORM AND SUBSTANCE:



Lara L. Berg
State Bar No. 00787072
Preston R. Mundt
State Bar No. 24058465
KELLY HART & HALLMAN LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
Phone: (817) 332-2500
Fax: (817) 878-9280
ATTORNEYS FOR PLAINTIFF



Inez Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048
PRO SE DEFENDANT



Benjamin Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048
PRO SE DEFENDANT

KELLY HART & HALLMAN LLP

201 MAIN STREET, SUITE 2500
FORT WORTH, TEXAS 76102

Telephone: (817) 332-2500
Telecopy: (817) 878-9280
Writer's Direct Dial: (817) 878-9379
Email Address: preston.mundt@kellyhart.com

301 Congress, Suite 2000
Austin, Texas 78701

November 15, 2011

Via CMRRR 7007 3020 0000 5100 3859

Carolyn Taylor, Chief Clerk
193rd District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce St., Box 822
Dallas, Texas 75202

Re: Cause No. DC-11-10448
Mary Kay, Inc. v. Benjamin Thayer and Inez Thayer

Dear Ms. Taylor:

Please find enclosed the original and 2 copies of the Joint Motion for Entry of Agreed Permanent Injunction and Dismissal With Prejudice in connection with the above-referenced matter. Please file the original among the papers in this cause and return file-marked copies to me in the self-addressed, stamped envelope enclosed for your convenience. I have also enclosed a separate copy of "Exhibit A" to the Motion, the proposed Agreed Permanent Injunction and Dismissal With Prejudice, for presentment to the Court.

Thank you for your assistance in handling this matter. If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Preston R. Mundt

Enclosures

cc: Benjamin Thayer
Inez Thayer
3580 S Shawnee Avenue
Pahrump, Nevada 89048

FILED
11 NOV 16 PM 2:32
CLERK OF DISTRICT COURT
DALLAS COUNTY, TEXAS
DEPUTY