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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

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AMERICAN RESCUE TEAM INTERNATIONAL,  
a California corporation, and  
DOUGLAS F. COPP,

Plaintiffs,

v.

No.

CIV-02-0224 LLS/LFG

NIKKEN INC., a California  
corporation; SEYCHELLE  
ENVIRONMENTAL TECHNOLOGIES, INC.,  
a Nevada corporation; and CARL  
W. PALMER,

Defendants.

**COMPLAINT FOR VIOLATIONS OF THE LANHAM ACT,  
UNFAIR TRADE PRACTICES, MISAPPROPRIATION OF  
THE RIGHT OF PUBLICITY, UNJUST ENRICHMENT,  
CONSPIRACY, AND BREACH OF CONTRACT**

Plaintiffs American Rescue Team International and Douglas F. Copp, for their complaint against Defendants, allege and state as follows:

Jurisdictional Allegations

1. Plaintiff American Rescue Team International ("American Rescue Team") is a 501(c)(3) corporation organized under the laws of California, whose principal place of business is in New Mexico.
2. Plaintiff Douglas F. Copp ("Copp") is a citizen of the State of New Mexico.
3. Defendant Nikken Inc. ("Nikken"), is a corporation organized under the laws of California, whose principal place of business is in California.
4. Defendant Seychelle Environmental Technologies, Inc. ("Seychelle"), is a corporation organized under the laws of Nevada,

whose principal place of business is in California.

5. Defendant Carl W. Palmer ("Palmer") is a citizen of the State of California.

6. The Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121(a), 28 U.S.C. § 1331, and 28 U.S.C. § 1367(a). Venue is proper in this judicial district under 28 U.S.C. § 1391.

7. The Court has jurisdiction over Defendants because they have transacted business in New Mexico, and because singly and in combination they have committed tortious acts here.

#### General Allegations

8. Plaintiff Copp had a successful career as a demolition specialist when, in 1985, he happened to view television footage of the aftermath of a Mexico City earthquake and was shocked by the apparent carelessness of the clean-up operations. On his own initiative he obtained diplomatic papers from the Mexican ambassador to the United Nations, traveled to Mexico City, and made his way to the scene of the disaster, where he was able to save a few lives by applying his special knowledge of destabilized structures. Realizing that he was cut out for this line of work, he founded Earthquake Preparedness & Rescue of California as a 501(c)(3) corporation shortly after his return to the United States, and he has made lifesaving his life's work ever since. Earthquake Preparedness & Rescue of California has gone by the name of American Rescue Team International since the 1980s.

9. Over the past sixteen years, Copp and his fellow American

Rescue Team volunteers have directed or assisted with rescue operations at the epicenters of hundreds of major disasters around the world, including earthquakes, tornados, hurricanes, floods, landslides, mudslides, avalanches, explosions, firestorms, mining accidents, toxic clouds, airplane crashes, ship sinkings, and similar cataclysms. At great risk to their own safety, they have explored thousands of collapsed buildings; Copp has personally made his way through 894 such buildings, including the twin towers of the World Trade Center in September 2001. In the process they have saved hundreds of lives in this country and in others.

10. But Copp and American Rescue Team have not built their reputations on bravery alone; they have also become known for their logistical expertise and level-headed thinking under pressure. In February 2001, for example, after a major earthquake in India, American Rescue Team persuaded the Indian government to prohibit survivors in the stricken area from using water faucets, and subsequently focused its efforts on transporting temporary water supplies and repairing water pipes. As a result, deaths from water-borne disease - one of the most common and unfortunate sequelae of earthquakes - were completely avoided.

11. Between catastrophes, using knowledge he has gained on the job, Copp has also devised a number of tools for facilitating rescue operations. Several of these inventions, including devices designed to locate survivors and dead bodies in collapsed buildings, are the subjects of pending patent applications.

12. In addition to conducting their own relief operations,

Copp and American Rescue Team have established sister organizations, and have trained thousands of rescue workers, in Asia, Africa, Europe, and South America.

13. Having found that politics is often the principal impediment to saving lives, Copp and American Rescue Team have worked hard to win the trust of governments and government agencies, both in the United States and abroad. Gaining and maintaining the confidence of national intelligence agencies, for example, has enabled American Rescue Team volunteers to move across borders with relative ease and to get to disaster scenes quickly. Once they arrive there, officials usually entrust them with control of entire relief operations.

14. The frequently dramatic nature of their work has made Copp and American Rescue Team a favorite subject of news reports and television documentaries. Copp, for instance, has been interviewed six times by BBC World Service Radio, which reaches an audience of more than 100,000,000. Other interviews, as well as footage of Copp's rescue maneuvers, have appeared on Good Morning America, World News Tonight, Inside Edition, Real TV, CNN, MSNBC, the Learning Channel, and the History Channel, to name a few. Six Discovery Channel specials have featured Copp. Thousands of newspapers have run stories profiling Copp and American Rescue Team, reporting on their work, or identifying them as leading authorities on rescue operations, disaster mitigation, and disaster management. In Peru and certain other parts of Latin America, Copp can hardly go out in public without being recognized.

15. American Rescue Team is a not-for-profit concern, and its members are volunteers. Aside from a smattering of charitable contributions, American Rescue Team's sole sources of funding - and the principal sources of Copp's livelihood - have been contracts with the producers of television documentaries and, to a lesser extent, contracts with the manufacturers of products that Copp and American Rescue Team have agreed to endorse. In the past, for example, American Rescue Team has received payment in cash and in kind for endorsing a Casio watch, and the organization has recently undertaken to promote an earthquake alarm in exchange for a percentage of the gross sales worldwide. Although Copp and American Rescue Team welcome the opportunity to earn income through product endorsements, they have confined such activities as a matter of principle to products that they themselves have tried out and come to trust.

16. Defendant Palmer is the president of Defendant Seychelle, which he incorporated in 1998. Copp met Palmer at a trade show in mid-1998, and Palmer asked Copp and American Rescue Team to endorse a portable water filtration system consisting of a container - either a plastic bottle labeled "IODINE TREATMENT," or a canteen - that was capped with a filter. After taking the canteen and the water bottle on several overseas journeys and testing them in various locales, Copp entered into an oral agreement with Palmer - and/or with Palmer's principal, Seychelle - to endorse the product in exchange for payment to American Rescue Team of 6% of the gross sales everywhere except Latin America. For sales in Latin America,

Palmer and/or Seychelle agreed to pay American Rescue Team a 16% royalty in view of Copp's high public profile there. A separate understanding between the parties concerned sales in Turkey, where Copp took a more active role in promoting the product.

17. Pursuant to the parties' contract, Copp delivered a written endorsement to Palmer. In addition, at Palmer's request, Copp spent substantial time investigating a potential market for Palmer's water bottles in Venezuela. Palmer paid for Copp's airline ticket to Venezuela. Otherwise, however, Copp and American Rescue Team have never received any of the promised consideration for Copp's endorsement of the Palmer/Seychelle canteens and water bottles.

18. As Copp and American Rescue Team discovered in November 2001, Seychelle maintains - and, for a length of time unknown to Plaintiffs, has maintained - an Internet web site, [www.seychelle.com](http://www.seychelle.com), that is accessible day and night to Internet users in New Mexico and throughout the world. Apparently designed to solicit both customers and investors, the site features a photograph of, and a paragraph about, Palmer; it discusses Palmer's "latest innovation," a "patented Ionic Adsorption Micro Filtration system"; it observes that "[t]his new technology is incorporated into Seychelle's brand name and private label products as an array of sales venues including retail outlets, network marketing, at-home shopping, infomercials and radio spots promote their features and benefits"; and it identifies Pat Boone as "Seychelle's official spokesperson." Under the heading "Portable Filters & Technology,"

the site pictures and describes the "Bottom's Up" water bottle, and it proclaims that the bottle is "[t]rusted by" American Rescue Team, among others. The "Contact Us" portion of the site supplies Seychelle's address, phone number, and fax number; it invites the Internet user to type in the user's own name, street address, phone number, fax number, and e-mail address; and it provides a "button" that the user can click next to the words "Please have a representative contact me by phone. I am interested in finding out more information."

19. As Seychelle's own web site declares, the "Bottom's Up" water bottle is marketed through "an array of sales venues," many of them involving the Internet. Yahoo!Shopping's theWaterSite.com, for example, republishes most of the text and the photographs of Seychelle's web site - including the photograph of Palmer - and it asserts that the water bottle is "used and trusted by" American Rescue Team. Other web sites that were using American Rescue Team's name to sell the water bottle as of November 2001 included [www.travel-pure.com](http://www.travel-pure.com), [www.safehomeproducts.com](http://www.safehomeproducts.com), [www.outdoorgearplus.com](http://www.outdoorgearplus.com), and [www.sorbentsystems.com](http://www.sorbentsystems.com). American Rescue Team's seal of approval, as well as the full text of Copp's endorsement, appears at [www.neatitems.com](http://www.neatitems.com). All of these sites have been accessible to Internet users in New Mexico and throughout the world. None of the sales effectuated through them have resulted in the promised payment of royalties to Copp and American Rescue Team.

20. Defendant Nikken is, by its own account, "[o]ne of the fastest-growing network-marketing / direct-sales companies in the

world, with hundreds of thousands of active distributors and more than 30 million satisfied customers." Nikken "has become a global enterprise," with "[o]ver \$1.5 billion in annual sales." Sales in North America account for more than one-third of that total. Nikken markets its products both directly and through a network of "independent" distributors. At least two such distributors are located in New Mexico, and at least one lists her phone number under Nikken's name in the business and yellow pages of the Albuquerque phone directory.

21. Nikken sells "the most highly advanced products in the world for promoting greater health and wellness," according to its distributors. "Far-Infrared Technology," "Bio-Directed Nutri-Technology," and especially "Magnetic Technology" are its stock in trade. Harnessing the supposed health benefits of magnets, Nikken has incorporated them into products ranging from headbands to gold necklaces to insoles to "sleep systems."

22. Unbeknownst to Plaintiffs, Nikken became one of Defendant Palmer's leading customers. In early 2001 - also unbeknownst to Plaintiffs - Nikken and Palmer produced a booklet, entitled "You Are What You Drink," to promote the "Nikken PiMag Ionic Filtration Bottle." The cover and inside cover page of the first edition of this booklet featured a photograph and a purported message from Pat Boone - though the booklet identified Boone as "Goodwill Ambassador" rather than as "Seychelle's official spokesperson" - while page 10, copied in large part from Seychelle's web site, contained a photograph of Palmer and proclaimed him "the principal



force behind the development and market production of ionic adsorption microfiltration."

23. Page 12 of the booklet - after echoing the explanation of Palmer's "ionic adsorption microfiltration" technology found on Seychelle's web site - went on to state:

Nikken added pi ceramic components - the same type of material that is featured in the Nikken PiMag Water System countertop unit. Pi water was discovered over 30 years ago in Asia, during research on plant growth cycles. Scientists called it "the water of life."

The PiMag Water Bottle combines advanced filtration and pi water technologies.

24. The very next page of the booklet - under the heading "Letters from Around the World" - began with this "letter":

"As the Rescue Chief of the American Rescue Team International, I wholeheartedly endorse your portable water filtration system. It is the most practical, simple, functional, reliable and useful system available anywhere, at any price.... We have tested your system in the field in Turkey, Northern Iraq, Central Asia and are now taking it on our missions to Macedonia and Kosovo. I consider its design to be as close to perfection as possible."

*Douglas F. Copp,  
Rescue Chief,  
American Rescue  
Team International*

25. The "letter" was an excerpt from Copp's endorsement of Palmer's canteens and water bottles. As Nikken, Palmer, and Seychelle all knew when they recycled the endorsement in "You Are What You Drink" to stimulate sales of Nikken's PiMag Ionic Filtration Bottle, Copp had never "tested" that product, had never "tak[en] it on ... missions," had never had an opportunity to judge

the "perfection" of "its design," and had never pronounced it "the most practical, simple, functional, reliable and useful system available anywhere, at any price," because Defendants had never sent him the product. They knew that Copp had never endorsed the product, because they had never asked him to. They knew that, without Copp's authorization or even knowledge, they had manipulated his words to serve a purpose for which those words were never intended, to promote a product of which he had never heard. They knew that they were portraying him as a true believer in "pi water technolog[y]," thereby placing him in the company of Nikken distributors who rhapsodize about

[o]ur unique patented system [that] features[] ceramic balls which release minerals and nutrients like calcium into the water, ceramic chips and stones which not only further filtrate, but also reflect Far Infrared energy (also known as the "wave length of life") into the water ... [and] a magnetic field that charges the water with further energy.

Defendants knew that they had exploited the names of Copp and American Rescue Team without asking permission or paying compensation. And they knew that they had induced Copp and American Rescue Team to give the original endorsement - of a different product - by promising a royalty that they had never begun to pay.

26. On information and belief, Nikken printed tens of thousands of copies of "You Are What You Drink" and disseminated them to Nikken's "independent" distributors around the globe, including its distributors in New Mexico. In addition, Nikken made "You Are What You Drink" available for downloading from its web

site from early 2001 through at least November 2001. An April 2001 edition of the booklet - which deleted all mention of Pat Boone, but which added references to A Civil Action and Erin Brockovich - was still available from Nikken distributors as late as January 2002, at web sites with names like "www.shamanicastrology.com." All such web sites have been continuously accessible to Internet users in New Mexico and around the world. Through all such web sites, including Nikken's, Internet users can also purchase - and, on information and belief, have purchased, including for shipment to New Mexico - the PiMag water bottle that is the subject of Copp's purported endorsement.

27. Copp and American Rescue Team remained wholly ignorant of Defendants' misuse of Copp's endorsement to promote the PiMag water bottle until May 2001, when a State of California purchasing agent - who was considering placing an order for the product - contacted Copp to verify his endorsement of it. At Copp's request, the purchasing agent sent him a copy of "You Are What You Drink," which Copp had never previously seen.

28. By letter dated May 25, 2001, an attorney representing Copp and American Rescue Team informed Nikken's president

that no such endorsement was ever given to Nikken or to anyone else for your Nikken ionic adsorption microfiltration system. [Copp and American Rescue Team] have never seen or field tested the product and they have never given permission for Nikken to use their names for the endorsement....

Accordingly, it appears that Nikken has distributed its water filtration product all over the world based on an endorsement it never had authority to use and which is false.

Demand is made for Nikken to forthwith cease using the subject endorsement and for a representative of Nikken to contact me immediately.

29. In response to this letter, an attorney representing Nikken apologized for a "misunderstanding" concerning the endorsement, and asserted that Nikken had promptly stopped using it. In fact, however, Nikken continued to make the endorsement available on Nikken's web site through at least November 2001, and subsequently continued to permit its "independent" distributors to use the endorsement on their web sites.

30. Around the time of the communication from Nikken's attorney, Palmer telephoned Copp and claimed, among other things, that Seychelle's water bottle and Nikken's were one and the same (contrary to Nikken's claim that it had "added ... pi water technolog[y]" to Palmer's design); that Nikken had decided to get out of the water filtration business (though Nikken appears fully committed to that business some seven months later); that he had sold Seychelle to Nikken; and that California law enforcement officials were conducting a fraud investigation.

31. On information and belief, Palmer and Seychelle have sold thousands of water bottles in New Mexico and around the world by exploiting an endorsement for which they promised to pay Copp and American Rescue Team but have never paid a cent; Nikken has sold tens or hundreds of thousands of water bottles in New Mexico and around the world by appropriating the same endorsement and falsely claiming that it concerned Nikken's product; Defendants have thereby converted to their own use the property of Copp and

American Rescue Team, without compensating Copp and American Rescue Team for the taking; and the commercial value of Copp's and American Rescue Team's names has been diluted, and the credibility of Copp and American Rescue Team has been undermined, and the reputations of Copp and American Rescue Team have been tarnished, by involuntary association with a product and a company in the vanguard of medical pseudo-science.

Count I - Violations of the Lanham Act

32. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

33. By employing Plaintiffs' endorsement of a different product to promote sales of Defendant Nikken's PiMag Ionic Filtration Bottle, and by doing so without seeking or obtaining Plaintiffs' authorization, Defendants have used words, terms, or names, or a false designation of origin, or false or misleading descriptions of fact, or false or misleading representations of fact, which are likely to cause confusion, or to cause mistake, or to deceive as to Nikken's affiliation, connection, or association with Plaintiffs, or as to the origin of the PiMag Ionic Filtration Bottle, or as to Plaintiffs' approval of Nikken's goods or commercial activities, or which misrepresent the nature, characteristics, or qualities of the PiMag Ionic Filtration Bottle, all in violation of 15 U.S.C. § 1125(a).

34. As a result of these violations of the Lanham Act, Plaintiffs have suffered - or are likely to suffer - the damages described above.

35. In violating the Act, Defendants have acted maliciously, recklessly, wantonly, oppressively, and fraudulently.

WHEREFORE, Plaintiffs ask the Court (1) to enjoin Defendants and their "independent" distributors and their various "sales venues" from any further use of Plaintiffs' identities or endorsement, and to require Defendants to render a written report under oath setting forth in detail the manner and form in which Defendants and their distributors have complied with the injunction, pursuant to 15 U.S.C. § 1116(a); (2) to order the destruction of all extant copies of "You Are What You Drink" that are in the possession of Defendants or its distributors, or that can be recovered by Defendants or its distributors through reasonable diligence, pursuant to 15 U.S.C. § 1118; and (3) to enter judgment against Defendants in an amount equal to Defendants' profits from sales of the PiMag Ionic Filtration Bottle and closely related products, plus the damages sustained by Plaintiffs (including but not limited to any difference between Defendants' profits and the percentage of gross sales that Defendants Palmer and Seychelle agreed to pay to Plaintiffs), plus three times these amounts, plus costs of this exceptional action and attorneys' fees, all pursuant to 15 U.S.C. § 1117(a), as well as prejudgment interest.

Count II - Unfair Trade Practices

36. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

37. By employing Plaintiffs' endorsement of a different

product to promote sales of Defendant Nikken's PiMag Ionic Filtration Bottle, and by doing so without seeking or obtaining Plaintiffs' authorization, Defendants have committed unfair or deceptive trade practices within the meaning of the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-2(D) (1999). Specifically, Defendants have knowingly made false or misleading written statements in connection with the sale of goods in the regular course of Defendants' trade or commerce, which may, tend to, or do deceive or mislead, including but not limited to causing confusion or misunderstanding as to the source, sponsorship, approval or certification of Nikken's PiMag Ionic Filtration Bottle; causing confusion or misunderstanding as to Nikken's affiliation, connection, or association with, or certification by, Plaintiffs; representing that Nikken's PiMag Ionic Filtration Bottle has sponsorship, approval, characteristics, or ingredients that it does not have, or that Nikken has a sponsorship, approval, status, affiliation, or connection that it does not have; and using exaggeration, innuendo, or ambiguity as to a material fact, or failing to state a material fact, in a way that deceives or tends to deceive.

38. As a result of these unfair trade practices, Plaintiffs have suffered - or are likely to suffer - the damages described above.

39. Defendants have willfully engaged in the unfair trade practices.

WHEREFORE, Plaintiffs ask the Court (1) to enjoin Defendants

and their "independent" distributors and their various "sales venues" from any further use of Plaintiffs' identities or endorsement, pursuant to NMSA 1978, § 57-12-10(A) (1999); (2) to enter judgment against Defendants for three times the actual damages suffered by Plaintiffs, pursuant to id. § 57-12-10(B); and (3) to award Plaintiffs their attorneys' fees and costs, pursuant to id. § 57-12-10(C), as well as prejudgment interest.

Count III - Misappropriation of the Right of Publicity

40. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

41. By employing Plaintiffs' endorsement of a different product to promote sales of Defendant Nikken's PiMag Ionic Filtration Bottle, and by doing so without seeking or obtaining Plaintiffs' authorization, Defendants have exploited Plaintiffs' names for commercial gain, thereby invading Plaintiffs' right of publicity.

42. As a result of this misappropriation of Plaintiffs' right of publicity, Plaintiffs have suffered the damages described above.

43. In misappropriating Plaintiffs' right of publicity, Defendants have acted maliciously, recklessly, wantonly, oppressively, and fraudulently.

WHEREFORE, Plaintiffs ask the Court to enter judgment against Defendants in an amount sufficient not only to compensate Plaintiffs for the damages described above, but also to punish Defendants' wrongful conduct and to deter others from the commission of similar offenses; and Plaintiffs further ask the



Court to award them their costs and prejudgment interest.

Count IV - Unjust Enrichment

44. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

45. As a result of Defendants' wrongful acts described above, Defendants have been unjustly enriched at Plaintiffs' expense.

WHEREFORE, Plaintiffs ask the Court to enter judgment against Defendants not only in the amount by which Defendants have been unjustly enriched, but also to punish Defendants' wrongful conduct and to deter others from the commission of similar offenses; and Plaintiffs further ask the Court to award them their costs and prejudgment interest.

Count V - Conspiracy

46. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

47. Defendants conspired to commit the wrongful acts described in Counts I through IV above.

48. As a result of the conspiracy and the wrongful acts done pursuant to it, Plaintiffs have suffered the damages described above.

49. In entering into the conspiracy and committing wrongful acts pursuant to it, Defendants have acted maliciously, recklessly, wantonly, oppressively, and fraudulently.

WHEREFORE, Plaintiffs ask the Court to enter judgment jointly against Defendants in an amount sufficient not only to compensate Plaintiffs for the damages described above, but also to punish

Defendants' wrongful conduct and to deter others from the commission of similar offenses; and Plaintiffs further ask the Court to award them their costs and prejudgment interest.

Count VI - Breach of Contract

50. Plaintiffs incorporate the foregoing allegations of the complaint as if the same were fully set forth herein.

51. Defendants Palmer and Seychelle have breached their agreement to pay Plaintiffs a royalty equal to 16% of the gross sales of Defendants' portable water filtration systems in Latin America and 6% of the gross sales elsewhere. All such royalties remain entirely unpaid.

52. Defendants Palmer and Seychelle have further breached the agreement by using Plaintiffs' endorsement of Seychelle's products to promote sales of a completely different product, without seeking or obtaining Plaintiffs' authorization or paying any royalty.

53. In breaching the agreement, Defendants Palmer and Seychelle have acted maliciously, recklessly, wantonly, oppressively, and fraudulently.

WHEREFORE, Plaintiffs ask the Court to enter judgment against Defendants Palmer and Seychelle in an amount sufficient not only to compensate Plaintiffs for the damages described above, but also to punish Defendants' wrongful conduct and to deter others from the commission of similar offenses; and Plaintiffs further ask the Court to award them their costs and prejudgment interest.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By Charles K. Purcell

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**CONFIDENTIAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Agreement is entered into on January 29, 2003 by and between NIKKEN, a California corporation, of Irvine, California ("Nikken"), on the one hand, and AMERICAN RESCUE TEAM INTERNATIONAL, a California corporation, and DOUGLAS F. COPP, an individual (collectively, "Plaintiffs"), now domiciled in greater Albuquerque, New Mexico, on the other hand.

WITNESSETH:

- A. Whereas, Nikken is a company in the business of providing "wellness" products to promote physical well-being, its products being sold through independent distributors having specialized knowledge of the products and their use, and its products generally falling into categories of rest and relaxation, fitness, environmental and nutritional with selected Nikken products having magnetic components or ceramic elements to impart far infrared (FIR) energy;
- B. Whereas, Nikken's environmental products for several years have included, all under the brand name PiMag™, a water system, shower system, magna-tube, magna-tote, pi water concentrate and optimizer, and in recent years Nikken has also begun selling several portable water bottles, including the PiMag™ Flip Top Ionic Filtration Water Bottle and the PiMag™ Sports Ionic Filtration Water Bottle;
- C. Whereas, Nikken engaged Seychelle Environmental Technologies, Inc. ("Seychelle") as a vendor including a written agreement requiring Seychelle and Carl W. Palmer ("Palmer") to indemnify Nikken, and on or about April 2, 2001 Nikken directed an initial purchase order to Seychelle calling for 4500 4-pack water bottles and also stating: "Nikken will have the right to unlimited use of all endorsements found on any Seychelle support materials or product;"
- D. Whereas, Plaintiffs initiated a lawsuit in the District Court of New Mexico, Civil Action no. CIV-02-0224 ("the dispute"), against Nikken, and Nikken answered and cross claimed against Seychelle and Palmer;

E. Whereas, Plaintiffs and Nikken would like to avoid the expense and uncertainty associated with the dispute, and resolve all their differences;

Now, Therefore, in consideration of the mutual covenants and promises stated herein, and for other good and valuable consideration the receipt and sufficiency of which is expressly acknowledged, Plaintiffs and Nikken agree as follows:

1. Denial of Liability, Settlement Payment

Without admitting any liability whatsoever, Nikken shall pay American Rescue Team International ("American Rescue") the sum of \$30,000 (thirty thousand U.S. dollars), and Douglas F. Copp the sum of \$270,000 (two-hundred seventy thousand U.S. dollars), all by way of a check for \$300,000 (three hundred-thousand U.S. dollars) payable to Douglas F. Copp and his attorney, Charles K. Purcell, and delivered to Mr. Purcell by March 1, 2003, or within five (5) days after execution of this Agreement by Plaintiffs and their attorney, whichever is later.

2. Dismissal of Lawsuit

Concurrent with execution of this Agreement, the parties shall stipulate to dismissal with prejudice of Nikken from the civil action, in the form of attached Exhibit A. Plaintiffs shall file said dismissal with the Court upon delivery of the settlement check described above. Each party shall bear all costs and expenses incurred in the dispute or to be incurred by it in negotiating and preparing this Agreement as well as those costs and expenses incurred to date in the dispute, including any attorneys' fees expended in discovery and discovery motion practice.

3. Confidentiality

The parties agree that the terms and conditions of this Agreement shall be and remain confidential as between the parties and shall not be disclosed to any other person, with the sole and exclusive exceptions of members of Douglas F. Copp's immediate family; the accountants,

economists, legal and financial advisors, and tax preparers for the respective parties so long as they are advised to keep the matter confidential; such other representatives of the respective parties as have a need to know in order to effectuate the terms of this Agreement; and as required by law and/or regulation or as may be required by any prospective purchaser of American Rescue or by any court or other tribunal attempting to determine Douglas F. Copp's income history.

4. Mutual Releases

Nikken, on the one hand, and Plaintiffs, on the other hand, hereby release each other and their respective predecessors, successors, assigns, officers, directors, shareholders, employees and attorneys from any and all past or present claims, actions, suits, proceedings, loss, costs, damage, liability, deficiency, fine or expense, whether now known or unknown, suspected or unsuspected, contingent or certain arising out of any claims related to the dispute and the prosecution of the dispute or which could be raised in the dispute, hereinafter referred to as the "Claims," save and except for those obligations arising under or rights preserved by this Agreement. Nothing herein shall be construed to release Plaintiffs' claims against Seychelle and Palmer, or to conflict with the obligations set forth in section 8 below.

In conjunction with the releases contained in the above paragraph, it is the intention of the parties, and each of them, that in addition to the other covenants and agreements contained herein, this Release shall be effective as a full release of and from all Claims, whether now known or unknown, suspected or unsuspected, contingent or certain, which any party hereto may have against any other party hereto for any reason whatsoever, including obligations or rights which may have arisen by reason of any prior agreements between or among any of the parties hereto. Each party acknowledges that it is familiar with § 1542 of the Civil Code of the State of California which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release,

which if known by him must have materially affected his settlement with the debtor.

Each of the parties hereby waives and relinquishes every right or benefit which it may have under § 1542 of the Civil Code of the State of California to the fullest extent that it may lawfully waive such right or benefit pertaining to the subject of this Release. In connection with such waiver and relinquishment, each party hereto acknowledges that it is aware that it may hereafter discover facts in addition to or different from those facts which it now knows or believes to be true with respect to the subject matter of this Release, but that it is its intention hereby to fully, finally and forever settle and release all matters, disputes and differences, whether known or unknown, suspected or unsuspected, contingent or certain, which may now or hereafter have existed or which may in the future arise between and among the parties with respect to the subject matter of this Agreement, except as provided in section 8 below. The Release given herein shall be, and remain, in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different facts, except as provided in section 8 below.

5. Entire Agreement; Modifications

This Agreement contains the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof.

No modification, amendment or waiver of any provisions of this Agreement nor consent to any departure therefrom shall in any event be effective unless the same shall be in writing and signed by all of the parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6. Attorney Fees

In the event of any action at law or in equity between the parties hereto to enforce any of the provisions hereof, the unsuccessful party or parties to such litigation shall pay to the successful party or parties all costs and expenses, including reasonable attorneys' fees, incurred therein by such successful party or parties, and if such successful party or parties shall recover judgment in any such action or proceeding, such costs, expenses and attorneys' fees may be included in and as part of such judgment. The successful party shall be the party who is entitled to recover his costs of suit; whether or not the suit proceeds to final judgment. A party not entitled to recover his costs shall not recover attorneys' fees.

7. Applicable Law; Forum

This Agreement shall be construed in accordance with the internal laws, and not the law of conflicts, of the State of New Mexico, applicable to agreements made and to be performed in such State.

8. Abandonment of Endorsement and Cure

To the parties' knowledge, Plaintiffs' endorsement is no longer in use by Nikken and/or its agents over which it has control. Nikken should not use American Rescue or Douglas F. Copp's name in any advertising. If Plaintiffs find the endorsement or any use of the name of American Rescue or Douglas F. Copp still in use by Nikken and/or its agents over which it has control, American Rescue may notify Nikken and Nikken shall have thirty (30) days to stop any such use of the endorsement before incurring any liability. In addition, if Plaintiffs find the endorsement or any use of the name of American Rescue or Douglas F. Copp still in use by Nikken's independent distributors, Nikken shall ask all such independent distributors to discontinue such use immediately, and shall cooperate with Plaintiffs in taking all steps reasonably necessary to achieve compliance with that request.



9. Notices

Any notices made or required pursuant to this Agreement shall be by certified mail and facsimile as follows:

To Nikken:

52 Discovery Way  
Irvine, California 92618  
Attn: Kendall Cho, President  
Facsimile: (949) 789-2064

With a copy to:

CISLO & THOMAS LLP  
233 Wilshire Boulevard  
Santa Monica, California 90401  
Attn: Daniel M. Ciso, Esq.  
Facsimile: (310) 394-4477

To Plaintiffs:

P. O. Box 534  
Sandia Park, New Mexico 87047  
Attn: Douglas F. Copp  
Facsimile: (505) 281-7877

With a copy to:

RODEY DICKASON SLOAN AKIN & ROBB PA  
201 Third Street, N.W.  
P. O. Box 1888  
Albuquerque, New Mexico 87103-1888  
Attn: Charles K. Purcell, Esq.  
Facsimile: (505) 768-7395

In Witness Whereof, the parties have caused this Agreement to be executed as of the dates written below:

NIKKEN

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name/Title

Date: \_\_\_\_\_

AMERICAN RESCUE TEAM  
INTERNATIONAL

Douglas F. Copp  
Signature

DOUGLAS F. COPP / RESCUE CURVE  
Printed Name and Title

Date: FEB 19 / 2003

DOUGLAS F. COPP

Douglas F. Copp  
Signature

Date: Feb 19 / 2003

*original*

9. Notices

Any notices made or required pursuant to this Agreement shall be by certified mail and facsimile as follows:

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52 Discovery Way  
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Facsimile: (949) 789-2064

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233 Wilshire Boulevard  
Santa Monica, California 90401  
Attn: Daniel M. Cislo, Esq.  
Facsimile: (310) 394-4477

To Plaintiffs:

P. O. Box 534  
Sandia Park, New Mexico 87047  
Attn: Douglas F. Copp  
Facsimile: (505) 281-7877

With a copy to:

RODEY DICKASON SLOAN AKIN & ROBB PA  
201 Third Street, N.W.  
P. O. Box 1888  
Albuquerque, New Mexico 87103-1888  
Attn: Charles K. Purcell, Esq.  
Facsimile: (505) 768-7395

In Witness Whereof, the parties have caused this Agreement to be executed as of the dates written below:

NIKKEN

  
Signature

KENDALL Cho  
Printed Name/Title PRESIDENT/COO

Date: 2/17/03

AMERICAN RESCUE TEAM  
INTERNATIONAL

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

DOUGLAS F. COPP

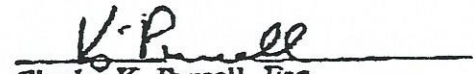
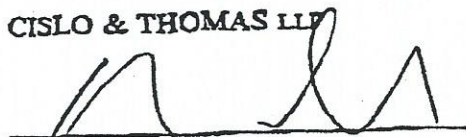
\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

APPROVED AS TO FORM AND CONTENT:

CISLO & THOMAS LLP

RODEY DICKASON SLOAN AKIN & ROB PA



Daniel M. Cislo, Esq.  
Robert J. Lawson, Esq.  
Attorneys for NIKKEN

Charles K. Purcell, Esq.  
Attorneys for PLAINTIFFS

Date: 2/19/03

Date: 2/19/03