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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EDWARD MAKARON, on behalf of) Case No. 2:15-cv-05145-DDP-E
himself and all others similarly)
situated,) **CLASS ACTION**
)
Plaintiff,) **FIRST AMENDED COMPLAINT**
) **FOR VIOLATIONS OF:**
vs.)
) 1. NEGLIGENT VIOLATIONS OF
) THE TELEPHONE CONSUMER
) PROTECTION ACT [47 U.S.C.
ENAGIC USA, INC.,) §227 ET SEQ.]
) 2. WILLFUL VIOLATIONS OF THE
) TELEPHONE CONSUMER
Defendant.) PROTECTION ACT [47 U.S.C.
) §227 ET SEQ.]
)
) **DEMAND FOR JURY TRIAL**
)
)
)

Plaintiff, Edward Makaron (“Plaintiff”), on behalf of himself and all others
similarly situated, alleges the following upon information and belief based upon
personal knowledge:

PARTIES

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2 4. Plaintiff, EDWARD MAKARON (“Plaintiff”), is a natural person
3 residing in Chatsworth, California and is a “person” as defined by 47 U.S.C. § 153
4 (10).
5

6 5. Defendant, ENAGIC USA, INC. (“Defendant”), is a nationwide
7 distributor of alkaline water filtration systems and is a “person” as defined by 47
8 U.S.C. § 153 (10).
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11 **FACTUAL ALLEGATIONS**

12 **I. Defendant’s Business Model, Employee Status of Distributor-**
13 **Agents, and Vicarious Liability**

14 6. Defendant is in the business of selling Kangen Water brand alkaline
15 water ionization devices, the stated purpose of which is to balance the PH level of
16 the water we drink, for numerous health benefits. These health benefits are largely
17 overstated, and have been subject to scrutiny and criticism by the medical
18 community. In order to avoid liability for outlandish and false claims made by its
19 sales staff, Defendant employs a pyramid model, by which it contracts with third
20 party Distributors (hereinafter “Distributor-Agents”) who are directly tasked with
21 marketing and selling Defendant’s Kangen Water machines to consumers. Like
22 most pyramid schemes, Distributor-Agents must first purchase a Kangen Water
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1 device, before being allowed to become a Distributor-Agent themselves.¹ For
2 years, claims made by Defendant's Distributor-Agents regarding the medical
3 benefits of utilizing Enagic's Kangen Water machines have raised eyebrows among
4 the scientific community.²

5
6 7. Enagic's Distributor-Agents have exclusive access to a vast array of
7 marketing materials via Defendant's web portals. These web portals can be
8 accessed at the following URLs: <https://www.enagic.com/distributor/>, and
9 <https://www.enagicwebsystem.com/>. Further, materials published by Defendant
10 online, including the following promotional YouTube video, indicate that these
11 Distributor-Agents in fact should be properly classified as employees, not
12 independent contractors: <https://www.youtube.com/watch?v=CVBfSAsyPg4>
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18 ¹ See <https://www.youtube.com/watch?v=9ZP7En6nlqM>, last visited March 20,
19 2016. A hyperlink to this video was also present in the email sent to Plaintiff by
20 Defendant's Distributor-Agent, which is described below.

21 ² See <http://www.chem1.com/CQ/ionbunk.html> (referring to Kangen Water as
22 "Snake oil on tap"); and <http://skeptoid.com/episodes/4139> ("Make no mistake
23 about it: Ionizing and alkalizing water machines are a textbook example of
24 inventing an imaginary problem that needs to be solved with expensive
25 pseudoscientific hardware. It should come as no surprise that the most expensive
26 of these machines are usually sold through multilevel marketing: A one-two punch
27 that first takes advantage of a layperson's lack of scientific expertise to interest them
28 in the product, and then takes advantage of their lack of business or mathematical
expertise to convince them that they're virtually guaranteed to become a millionaire
through a pyramid model."); [http://www.alkalinewaterionizers.org/consumer-
reports-why-are-kangen-water-ionizers-so-expensive/](http://www.alkalinewaterionizers.org/consumer-reports-why-are-kangen-water-ionizers-so-expensive/);
[http://www.bbb.org/losangelessiliconvalley/business-reviews/water-filtration-
and-purification-equipment/enagic-usa-in-torrance-ca-13212508/complaints](http://www.bbb.org/losangelessiliconvalley/business-reviews/water-filtration-and-purification-equipment/enagic-usa-in-torrance-ca-13212508/complaints)

1 #t=43.³ This video strongly suggests that Defendant’s business model is devised
2 much like a pyramid scheme.

3
4 8. Enagic’s Distributor-Agents are paid via a top-down pyramid model,
5 and are encouraged to recruit additional Distributor-Agents to work under them, in
6 order to receive commissions from the sales of their teams of Distributors. All
7 policies and procedures which Distributor-Agents are required to follow are set by
8 Enagic, including marketing policies, approval of any dialing systems used by
9 Distributor-Agents, and proper sales and marketing techniques.
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12 9. Enagic’s classifies the Distributor-Agents as Independent Contractors,
13 however, they are correctly classified as employees of Enagic, pursuant to
14 applicable standards under the Fair Labor Standards Act, as interpreted by the
15 Department of Labor in Administrator’s Interpretation No. 2015-1, July 15, 2015.
16 Enagic controls the working conditions of Distributor-Agents, including, but not
17 limited to, by and through the following means:
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- 20 • Setting policies and procedures by which they are permitted to market
21 Kangen Water devices;
- 22 • Requiring approval by Enagic of all marketing materials and use of
23 intellectual property;
- 24 • Setting a standard compensation rate (i.e. controlling wages);
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³ Last visited March 20, 2016.

- 1 • Instituting training programs, including training videos;
- 2 • Monitoring and updating the marketing materials it disseminates to
- 3 Distributor-Agents to use to sell Kangen Water devices;
- 4
- 5 • Holding contests by which Distributor-Agents may receive additional
- 6 bonus compensation;
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- 8 • Communicating regularly with Distributor-Agents via email
- 9 regarding job performance;
- 10
- 11 • Maintaining the right to hire and/or terminate a Distributor-Agent
- 12 within Enagic's sole discretion;
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- 14 • Instructing Distributor-Agents on what technologies are permissible
- 15 for dialing consumers to solicit products;
- 16
- 17 • Disseminating and approving of all marketing scripts used during
- 18 solicitation and recruitment phone calls;
- 19
- 20 • Among others.

21 10. As employees, Enagic is directly responsible for the actions of its
22 Distributor-Agents, including any and all improper telephone calls placed by
23 Distributor-Agents, in marketing/soliciting Enagic products.
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25 11. On information and belief, Enagic exercised control over its
26 Distributor-Agents by reviewing, editing, and approving scripts and content used
27 in automated calls, reviewing website content, authorizing certain permitted use of
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1 the Enagic and Kangen Water brand names and Trademarks, as well as retaining
2 the power to cancel distributorships, effectively firing Distributor-Agents who
3 violated Enagic’s policies and practices, as well as retaining the power to hire
4 Distributor-Agents through its distributor application. Enagic’s Distributor-Agents
5 were hired to perform sales and marketing on behalf of Enagic, according to
6 company training videos in the sole possession of Enagic and available through its
7 web portal, and Enagic exercised control over Distributor-Agents’ sales and
8 marketing efforts, thus making these individuals employees. These Distributor-
9 Agents carried out a core-business function of Enagic, by replacing/outsourcing its
10 sales force to sell its Kangen Water devices.

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15 13. As employees of Enagic, Defendant is directly liable for the conduct
16 of its Distributor-Agents, who acted within the scope of their employment in
17 marketing services to Plaintiff and putative class members.

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19 14. Alternatively, Plaintiff alleges, on information and belief, that Enagic
20 is vicariously liable for the actions of Distributor-Agents. Distributor-Agents are
21 required to seek approval of any marketing materials or methods from Enagic
22 before putting those materials or methods into practice, pursuant to the terms of
23 their contractual agreements. Enagic’s standard policies and procedures, provided
24 to all Distributor-agents of Enagic, state as follows: “Company distributors shall
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1 not advertise Company products and services and/or marketing plans except as
2 specifically approved by the Company.”

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4 15. Enagic’s standard policies and procedures, provided to all Distributor-
5 agents of Enagic, state as follows:

6 The name of the Company and other names as may be adopted by
7 the Company are proprietary trade names and trademarks of the
8 Company. As such, these marks are of great value to the Company
9 and are supplied to distributors for distributor use only in an
10 expressly authorized manner. Distributors agree not to advertise
11 Company products or services in any way other than the advertising
12 or promotional materials made available to distributors by the
13 Company. Distributors agree not to use any written, printed, recorded
14 or any other material in advertising, promoting or describing the
15 products or services or the Company marketing program, or in any
16 other manner, any material which has not been copyrighted and
17 supplied by the Company, unless such material has been submitted
18 to the Company and approved in writing by the Company before
19 being disseminated, published or displayed.

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21 16. Enagic’s standard policies and procedures, provided to all Distributor-
22 agents of Enagic, state as follows:

23 Internet and Website Policy. Distributors are prohibited from
24 creating any independently-designed website relating to the Enagic
25 business, or using any non-EWS current websites. All distributors
26 must receive prior authorization from Enagic USA, Inc. by
27 submitting all promotional products such as DVDs, CDs, Brochures,
28 Flyers etc prior to their use. Distributors who violate any of these
new Enagic regulations will be subject to commission suspension
and/or termination of distributor status without prior notice.
Distributors are allowed to advertise on the internet through an
approved Enagic Web Systems (www.enagicwebsystem.com). All
distributors who are newly subscribing to the Enagic Web System
will be offered a free 21 day trial. Company program which allows
distributors to choose from among Company home page designs that

1 can be personalized with the distributor's message and the
2 distributor's contact information. These websites link directly to the
3 Company website giving the distributor a professional and
4 Company-approved presence on the internet. Only these approved
5 websites may be used by distributors. No distributor may
6 independently design a website that uses the names, logos, product
7 or service descriptions of the Company, nor may a distributor use
8 "blind" ads on the internet making product or income claims which
9 are ultimately associated with Company products, services or the
10 Company's compensation plan. Any person using Company names,
11 logos, trademarks, etc. on the internet or any other advertising
12 medium, except as permitted by Company Rules and Regulations,
13 shall be subject to immediate discipline, including termination of
14 distributor status.

15 17. Further, Enagic's standard policies and procedures, provided to all
16 Distributor-agents of Enagic, do not prohibit the use of autodialers, for the purposes
17 of placing solicitation calls. Instead, Enagic craftily writes its policies to prohibit
18 only the use of the Enagic brand name in such instances where a Distributor uses
19 an autodialer with a prerecorded voice, as demonstrated by the following language
20 pulled from one of its Policies and Procedures for Enagic Distributors:

21 "54. Telephone Solicitation. The use of the Company's name or
22 copyrighted materials may not be made with automatic calling
23 devices or "boiler room" operations either to solicit distributors or
24 retail customers. The use of these methods in ways that are legal and
25 are the equivalent of the "blind ads" alluded to above cannot be
26 regulated by the Company"

27 18. A true and correct copy of Enagic's full 2012 policies and procedures
28 is attached hereto as Exhibit A.

19 In reality, Enagic actively encourages the use of autodialers by its
20 Distributor agents, in order to place automated calls of a similar nature as those

1 placed to Plaintiff's cellular phone. Defendant provides training materials to
2 Distributor-Agents, including instructional videos, written materials, and a
3 Distributor support team, which provides advise, guidance, and approval to
4 Distributor-Agents, in effectuating a marketing strategy for selling Kangen Water
5 devices. Defendant then washes its hands of Distributor-Agents' conduct,
6 regardless of whether it is misleading, or otherwise unlawful, relying on the fact
7 that it classifies these Distributor-Agents as independent contractors. Defendant's
8 only strictly-enforced rule is that Distributor Agents do not use the Kangen Water
9 or Enagic trade names in carrying out an illegal marketing strategy, including a
10 strategy that violates the TCPA.
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15 20. Defendant, as a "Seller"⁴ and Telemarketer"⁵ under applicable
16 regulations and statutory language governing the implementation of the TCPA, is
17 in the best position to monitor and police the compliance by its Distributor-Agents,
18 pursuant to its standard policies and procedures, as well as pursuant to its
19 contractual relations with its Distributor-Agents. As a Seller and Telemarketer,
20 Defendant is vicariously liable for the actions of its Distributor-Agents.
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23 21. In addition, Defendant provided actual authority to its Distributor-
24 Agents to place illegal telemarketing calls to Plaintiff and putative class members.
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28 ⁴ As defined by 47 CFR 64.1200(f)(9).

⁵ As defined by 47 CFR 64.1200(f)(11)

1 Enagic Distributor-Agents were acting on behalf of Defendant in marketing the
2 Kangen Water systems, pursuant to the terms of their standard policies and
3 procedures (as described above and incorporated by reference in Exhibit A),
4 general instructions of Enagic to Distributor-Agents, and the terms of their
5 independent contractor agreements.
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8 22. On information and belief, Plaintiff alleges that following the filing of
9 the instant class action complaint, Enagic instructed its Distributor-Agents to
10 transition away from automated and prerecorded voice messaging systems to other
11 telemarketing systems,⁶ and instructed its Distributor-Agents that if they chose to
12 continue utilizing voice broadcasting systems, it would jeopardize their
13 distributorship relationships with Enagic. Enagic thereafter provided a list of new
14 systems that were approved by Enagic.
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18 23. Distributor-Agents had actual authority to market and advertise on
19 behalf of Enagic, pursuant to their contracts, policies and procedures, and regular
20 instructions from Defendant to Distributor-Agents.
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22 24. Defendant is also vicariously liable for the conduct of Distributor-
23 Agents under a theory of apparent authority. Distributor-Agents possess access to
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25 _____
26 ⁶ Oddly, Defendant did not instruct Distributor Agents to no longer use automated
27 telephone dialing systems, just to stop using patently obvious automated dialing
28 systems that utilized prerecorded voice technology. Plaintiff alleges on
information and belief that the technology used at this time and approved by Enagic
is still an ATDS.

1 Enagic marketing materials, and other non-public information relating to Enagic's
2 Kangen Water machines, and use Enagic's trade name during their marketing
3 presentations to consumers. During recruitment conference calls, which are held
4 weekly between top level Distributor-Agents and lower tier Distributor Agents, the
5 Enagic brand name is routinely used and referenced. These training calls are
6 condoned by Enagic, who provides instructions to its top-level Distributor-Agents
7 on what areas to discuss, what materials to present. These topics include extensive
8 discussions pertaining to the use of autodialer technology approved by Enagic.
9 Plaintiff is in possession of several recordings of these weekly conference calls.
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13 25. Enagic knew or should have known that Distributor-Agents were
14 violating the TCPA by placing illegal telemarketing calls to sell Kangen Water
15 devices and recruit new Distributor-Agents under the pyramid business model.
16 Yet, Enagic refused to discipline, control, or terminate any Distributor-Agents until
17 after served with a copy of this lawsuit. By policy, as described above, Enagic
18 authorized the use of automated telephone dialing systems to sell Enagic products
19 just so long as the trademarks/names of Enagic were not used during the
20 automated/prerecorded messages.
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25 26. Enagic ratified the conduct of its Distributor-Agents, by rewarding the
26 conduct of those Distributor-Agents who brought in more sales. The use of
27 automated telephone dialing systems provides a competitive advantage over law
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1 abiding methods of cold-calling consumers to solicit products, as it provides the
2 ability to reach more consumers, in less time, with the expenditure of fewer
3 resources. Enagic created sales contests for Distributor-Agents, and, on
4 information and belief, profited by way of millions of dollars in revenues from the
5 illegal marketing efforts of its Distributor-Agents. A true and correct copy of an
6 email from Enagic's Orlando Branch Manager Shoko Johnson to top USA
7 Distributor-Agent Rick Freeman is attached hereto as Exhibit C. Defendant carried
8 out monthly global contests with its Distributor-Agents to reward those who sold
9 more of its Kangen Water devices, despite knowledge that these top agents and
10 their sales teams used ATDS technology to solicit consumers without prior express
11 consent. In so doing, Defendant ratified the actions of its Distributor-Agents.
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16 27. Defendant also approved scripts to be used by Distributor-Agents in
17 speaking with consumers who responded to the aforementioned prerecorded dialer
18 calls. One such script, which bears several similarities to the call Plaintiff received
19 from Mr. Nixon described below, used by top Distributor-Agent Rick Freeman and
20 his sales team states as follows:
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22
23 Hi _____, this is _____, you just listened to a business
24 opportunity phone call and you asked me to call you back.
25 Is this a good time to talk? Ok, great
26 Well, let me tell you a little bit about the company, the name of the
27 company is called Enagic, it is a 40 year old company based out of
28 Japan, and what they've done is they have developed a medical
grade device called Kangen Water that hooks directly up to your tap
water and changes the tap water into alkaline water.

1 Have you heard of the benefits of alkaline water? Ok great, so you
2 know that Alkaline water is considered a “free radical” and flushes
3 all the toxins out of your system and it will help to repair damaged
4 cells in your body and reduce inflammation. Because the company
5 has been around for so many years they have seen it help people
6 with cancer, diabetes and many other diseases, including weight
7 loss.

8 We are looking for people to join our team and become a distributor
9 for Kangen Water. The business model is that it can only be bought
10 from a distributor and you cannot buy this machine on line, or in a
11 store. We provide the platform for you to do this business out of
12 your home, and provide all the training that you need. We also
13 provide you with all the leads and the automated phone system just
14 like the one you listened to. Also when you join our team we
15 provide you with 50,000 free leads. We are currently the fastest
16 growing team in America because of our marketing techniques.
17 I would like to send you some really great video links on the
18 company so you can do your due diligence on the company and the
19 product.

20 Can I get your email address? Ok, great.

21 I will also send you a text to your cell phone at _____,
22 to let you know that I have sent you the email.

23 I want to follow up with you, so can I call you back tomorrow about
24 this same time?⁷

25 In so permitting Distributor-Agents to use its trade name in this fashion, and in
26 approving telemarketing scripts of this nature, Defendant ratified the actions of its
27 Distributor-Agents.

28 28. As described herein, Defendant is directly, and vicariously liable for
the actions of its Distributor-Agents.

II. Defendant’s Illegal Calls To Plaintiff Violated the TCPA

29. Beginning in or around May of 2015, Defendant contacted Plaintiff

⁷ Plaintiff is in possession of and is aware of further telemarketing scripts used by
Distributor-Agents and approved by Enagic.

1 on his cellular telephone, (310) 210-3272, in an effort to sell or solicit its services.

2 30. On May 18, 2015, Plaintiff received a call from Defendant from
3 telephone number 469-340-4080. Defendant utilized an “artificial or prerecorded
4 voice” as prohibited by 47 U.S.C. § 227(b)(1)(A), and played a prerecorded
5 message for Plaintiff that lasted 22 minutes, which appears to be part of a
6 standardized and widespread advertising campaign. Plaintiff recorded this 22
7 minute pre-recorded message in full, and is in possession of the full recording.
8 During this call, Defendant’s agents sought to enlist Plaintiff as an agent-sales
9 representative for Enagic-Kangen alkaline water filtration systems. During this
10 recording, the Enagic representative informs the new potential recruit that as part
11 of their enlistment package, they will receive access to the robo-dialing tool used
12 to contact Plaintiff and access to a “list” of potential customers⁸ towards whom
13 they can place such calls.
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19 31. On May 20, 2015, Plaintiff received a call from one of Defendant’s
20 representatives (Gary Nixon living at 15*** ** Ln., Roanoke Texas, 76262, cell
21 phone number (469) 223-***), who tried to recruit Plaintiff as a salesperson for
22 Defendant, sell Plaintiff an Enagic Kangen Water device, and suggested Plaintiff
23 watch a video about Defendant’s products. Mr. Nixon followed up several days
24 later by sending an email to Plaintiff, referring Plaintiff to Defendant’s website and
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⁸ Enagic’s standard procedure is to provide new Distributor-Agents

1 providing other materials. A true and correct copy of the email sent to Plaintiff is
 2 attached hereto as Exhibit B. Hyperlinks in the email sent to Plaintiff direct one to
 3 the following website, which contains a 23 minute solicitation video all about
 4 Enagic's Kangen Water devices: <http://kangendemo.com/>.⁹ Defendant Enagic
 5 created this instructional video and provided it to its Distributor-Agents, in order
 6 to solicit its products and services. Mr. Nixon's email to Plaintiff uses the company
 7 name "Enagic" four times, and uses the trademarked "Kangen Water" name
 8 thirteen times. The email also contains the following Enagic logos:
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32. Plaintiff alleges, on information and belief, that Defendant and/or its

⁹ Last visited March 20, 2016. The video makes such wild claims as saying Kangen Water kills 99.9% of all bacteria, that hospitals in Japan use it for psoriasis, bedsores, or infections, that produce will last a week longer if briefly rinsed in Kangen Water, and says that Kangen Water will immediately stop bleeding for a wound where one will stick a knife right through one's thumb.

¹⁰ This same Enagic Logo is available on Defendant's website, including here: http://www.enagic.com/technology_products.php, last visited March 20, 2016.

1 agent distributors, contract with PhoneBurner, Inc. in order to utilize the “Big
2 Ticket Prospector” platform to mass-dial consumers using an artificial or
3 prerecorded voice, in order to solicit Enagic water systems, as well as recruit new
4 distributors to Enagic’s network of distributor sales representatives.¹¹ The Big
5 Ticket Prospector website boasts the following:
6

7 “Start with a FREE trial of our phone dialer”

8 “Time is Money - Stop Wasting It. It's true, answering machines,
9 busy signals and disconnected numbers steal away the most valuable
10 commodity you have. Time.”

11 “Increased Contact Rates. Not just an auto dialer. Expect Big Ticket
12 Prospector to triple your dials, triple the number of voicemails left
and quadruple the number live answers reached.”¹²

13 Big Ticket Prospector also describes these four easy steps to mass-autodialing:

14 1. Load your leads

15 You can import a list of prospects you already have. Big Ticket
16 Prospector includes a built-in Contact Manager that allows you to
sort and search through your contacts in useful and efficient ways.

17 2. Record your voicemail message

18 Record a voicemail message that Big Ticket Prospector will leave for
19 you when reaching an answering machine. You can record several
20 different messages and choose the one you want.\

21 ¹¹ Defendant and its Distributor-Agents have used numerous autodialer
22 technologies during the putative class period, including PhoneBurner, Phone
23 Blaster Pro, Phone Prospector, 800Link, VoiceBroadcasting, Multiplex and dozens
24 of others, as approved by Enagic. These technologies are explained on multiple
25 third party websites. One of which is www.noupfrontmoney.com. The website is
26 no longer in use and was shut down within the last week, after this lawsuit was in
27 effect. However, with web-archiving tools, a true and correct copy of the website
from the date of February 12, 2016, was pulled from the internet, and is attached
hereto as Exhibit D. The website can be viewed in full here:
<http://web.archive.org/web/20160212080808/http://www.noupfrontmoney.com/>.

28 ¹² <https://www.bigticketprospector.com/homepage/index>, last visited March 20,
2016.

1 3. Choose the prospects you want to call

2 Pick as few as 1 - or as many as 500 - contacts from your built-in
3 Contact Manager. If you only want to call people from a certain area
4 code or zip code, Big Ticket Prospector has you covered.

4 4. Start your auto dial session

5 It's as simple as picking up your phone, dialing into Big Ticket
6 Prospector, and clicking a button. You're ready to start calling
7 contacts at a rate of about one per minute!"¹³

7 33. Big Ticket Prospector is an "automatic telephone dialing system", as
8 defined by *47 U.S.C. § 227(a)(1)*. Big Ticket Prospector also permits a user to
9 utilize an "artificial or prerecorded voice" as prohibited by *47 U.S.C. §*
10 *227(b)(1)(A)*, when placing calls to individuals' phones. Big Ticket Platform offers
11 its customers an all-in-one marketing platform, which includes the ability to send
12 automated messages to mass lists of consumers all at once, with the click of a
13 button, or even automatically without human intervention at all, as demonstrated
14 by its website.

18 34. Defendant's standard contract with its Distributors grants it the
19 authority to approve all dialing systems used by Distributor-agents, in soliciting
20 consumers to purchase Enagic water systems. In fact, Defendant approved Big
21 Ticket Prospector and several other similar systems, used by Distributor agents, to
22 sell Enagic-brand products.

25 35. Defendant's high level Distributor-Agents are instructed by Enagic to
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28 ¹³ <https://www.bigticketprospector.com/homepage/howitworks?PHPSESSID=b21df6164a1d6a164c50eb03db52b0c>, last visited March 20, 2016.

1 inform lower-tier Distributor Agents within their sales teams to utilize ATDS
2 technology to autodial consumers. However, after the filing of this lawsuit, Enagic
3 began to inform its Distributor-Agents to exercise caution about the technology
4 they use to call new leads. Distributor-Agents thereafter began posting videos and
5 holding conference calls with their sales teams, in which they acknowledge that the
6 previous marketing methods were illegal and violated the TCPA.¹⁴ One example
7 could be found (as of November 2015) on the following URL:
8 <https://www.youtube.com/watch?v=8OfptcRHA5E>. This video has since been
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14 ¹⁴ Conference calls for Enagic Distributor-Agents can be viewed at many locations.
15 One set of Distributor-Agent training materials for how to access these weekly
16 conference calls can be viewed at the following url: <https://mastermindmentor.wistia.com/medias/g4iuqzwb50>. The video is not accessible to anybody without a
17 valid user ID as an Enagic Distributor. However, the website states as follows:
18 “Setting up 800Link to Forward Prospects to Live (or Recorded) Opportunity
19 Conference Call + Setting up Voice Broadcast to Prospects Inviting Them to
20 Attend or Listen to the Recording.”
21 “This is a roughly 30 minute video explaining exactly how I set up 800Link to
22 forward my prospects to our **live Enagic Opportunity Call on Tuesday**
23 **nights**...using Phone Prospector to voice broadcast the invitation to the call, and
24 then setting up another campaign to broadcast to prospects offering them the
25 opportunity to listen to the recording the next day. This is a great feature of 800Link
26 and once you've set it up, you can just flip back and forth on a week to week basis
27 to continue to offer the live call to prospects. IMPORTANT: This is NOT for cold
28 prospects using voice broadcasting, this is for people who have already Pressed 1
and left a message for additional information. It's simply a way to getting
information out quickly about the live or recorded call.” (emphasis added) last
visited March 20, 2016. Importantly, this website makes it clear that Defendant’s
Distributor-Agents “cold” calls “prospects” using an automated or prerecorded
voice (voice broadcasting that asks prospects to press 1), just as was done to
Plaintiff.

1 taken off YouTube and is no longer publically available.

2 36. Plaintiff alleges, on information and belief, that the calls placed to
3 Plaintiff's cellular phone, by Defendant and/or its distributor agents, were placed
4 using Big Ticket Prospector, and/or a similar automated dialing system with similar
5 characteristics as those described above. Defendant used an "automatic telephone
6 dialing system", as defined by *47 U.S.C. § 227(a)(1)* to place its calls to Plaintiff
7 seeking to sell or solicit its business services . The automated/prerecorded message
8 played during the call received by Plaintiff was, on its face, a standard form
9 message, generated automatically, and for purposes of mass marketing and
10 distribution. The message informed Plaintiff of Defendant's business, thus the
11 phone call constituted a mass-spam advertisement. Both of these characteristics
12 are indicative of Defendant utilizing an "automatic telephone dialing system" to
13 place the aforementioned phone call.
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19 37. Defendant's calls constituted calls that were not for emergency
20 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.
21

22 38. Defendant's calls were placed to telephone number assigned to a
23 cellular telephone service for which Plaintiff incurs a charge for incoming calls
24 pursuant to *47 U.S.C. § 227(b)(1)*.
25

26 39. Plaintiff is not a customer of Defendant's services and has never
27 provided any personal information, including his cellular telephone number, to
28

1 Defendant for any purpose whatsoever. Accordingly, Defendant never received
2 Plaintiff's "prior express consent" to receive calls using an automatic telephone
3 dialing system or an artificial or prerecorded voice on his cellular telephone
4 pursuant to 47 U.S.C. § 227(b)(1)(A).

6 40. Plaintiff alleges, on information and belief, that Enagic's Distributor-
7 Agents employ the services of lead generation businesses (including but not limited
8 to voicebroadcasting.com¹⁵ and www.mydataguys.com¹⁶) in order to acquire lists
9 of phone numbers, rather than calling consumers who have provided Defendant or
10 its Distributor-Agents with prior express consent.
11
12

13
14 **CLASS ALLEGATIONS**

15 41. Plaintiff brings this action on behalf of himself and all others similarly
16 situated, as a member of the proposed class (hereafter "The Class") defined as
17 follows:
18

19
20 All persons within the United States who received any

21
22 ¹⁵ www.voicebroadcasting.com states: "Your company wants more leads or you
23 would not be here. I have a simple proposal for you. We will furnish a targeted
24 phone list for free, and create a lead generation campaign for you. Then, instead
25 of cold calling, your phones will ring off the hook with calls from interested leads"
26 Last visited March 20, 2016.

27 ¹⁶ www.mydataguys.com states "If you are doing a marketing campaign for any
28 reason it helps to target your market with the right data. From white or yellow page
data to modeled data with filters we can get you the names, addresses, phone
numbers, and so much more info on the right businesses, consumers, or voters to
make your marketing or political campaign a success!" Last visited March 20,
2016.

1 telephone calls from Defendant or one of its Distributor-
2 Agents to said person's cellular telephone made through
3 the use of any automatic telephone dialing system or an
4 artificial or prerecorded voice and such person had not
5 previously consented to receiving such calls within the
6 four years prior to the filing of this Complaint.

7 42. Plaintiff represents, and is a member of, The Class, consisting of All
8 persons within the United States who received any telephone calls from Defendant
9 or one of its Distributor-Agents to said person's cellular telephone made through
10 the use of any automatic telephone dialing system or an artificial or prerecorded
11 voice and such person had not previously not provided their cellular telephone
12 number to Defendant within the four years prior to the filing of this Complaint.

13 43. Defendant, its employees and agents are excluded from The Class.
14 Plaintiff does not know the number of members in The Class, but believes the Class
15 members number in the thousands, if not more. Thus, this matter should be
16 certified as a Class Action to assist in the expeditious litigation of the matter.
17
18

19 44. The Class is so numerous that the individual joinder of all of its
20 members is impractical. While the exact number and identities of The Class
21 members are unknown to Plaintiff at this time and can only be ascertained through
22 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
23 The Class includes thousands of members. Plaintiff alleges that The Class
24 members may be ascertained by the records maintained by Defendant.
25
26
27

28 44. Plaintiff and members of The Class were harmed by the acts of

1 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
2 and Class members via their cellular telephones thereby causing Plaintiff and Class
3 members to incur certain charges or reduced telephone time for which Plaintiff and
4 Class members had previously paid by having to retrieve or administer messages
5 left by Defendant during those illegal calls, and invading the privacy of said
6 Plaintiff and Class members.
7
8

9 45. Common questions of fact and law exist as to all members of The
10 Class which predominate over any questions affecting only individual members of
11 The Class. These common legal and factual questions, which do not vary between
12 Class members, and which may be determined without reference to the individual
13 circumstances of any Class members, include, but are not limited to, the following:
14
15

- 16 a. Whether, within the four years prior to the filing of this
17 Complaint, Defendant made any call (other than a call made for
18 emergency purposes or made with the prior express consent of
19 the called party) to a Class member using any automatic
20 telephone dialing system or any artificial or prerecorded voice
21 to any telephone number assigned to a cellular telephone
22 service;
- 23 b. Whether Plaintiff and the Class members were damages
24 thereby, and the extent of damages for such violation; and
- 25 c. Whether Defendant should be enjoined from engaging in such
26 conduct in the future.
- 27 d. Whether Defendant is liable for the acts of its Distributor-
28 Agents.

46. As a person that received numerous calls from Defendant using an
automatic telephone dialing system or an artificial or prerecorded voice, without

1 Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of The
2 Class.

3
4 47. Plaintiff will fairly and adequately protect the interests of the members
5 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
6 class actions.

7
8 48. A class action is superior to other available methods of fair and
9 efficient adjudication of this controversy, since individual litigation of the claims
10 of all Class members is impracticable. Even if every Class member could afford
11 individual litigation, the court system could not. It would be unduly burdensome
12 to the courts in which individual litigation of numerous issues would proceed.
13 Individualized litigation would also present the potential for varying, inconsistent,
14 or contradictory judgments and would magnify the delay and expense to all parties
15 and to the court system resulting from multiple trials of the same complex factual
16 issues. By contrast, the conduct of this action as a class action presents fewer
17 management difficulties, conserves the resources of the parties and of the court
18 system, and protects the rights of each Class member.
19
20
21
22

23 49. The prosecution of separate actions by individual Class members
24 would create a risk of adjudications with respect to them that would, as a practical
25 matter, be dispositive of the interests of the other Class members not parties to such
26 adjudications or that would substantially impair or impede the ability of such non-
27
28

1 party Class members to protect their interests.

2 50. Defendant has acted or refused to act in respects generally applicable
3 to The Class, thereby making appropriate final and injunctive relief with regard to
4 the members of the California Class as a whole.
5

6 **FIRST CAUSE OF ACTION**

7 **Negligent Violations of the Telephone Consumer Protection Act**
8 **47 U.S.C. §227 et seq.**

9 51. Plaintiff repeats and incorporates by reference into this cause of
10 action the allegations set forth above at Paragraphs 1-25.
11

12 52. The foregoing acts and omissions of Defendant constitute numerous
13 and multiple negligent violations of the TCPA, including but not limited to each
14 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*
15

16 53. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
17 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
18 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.
19

20 54. Plaintiff and the Class members are also entitled to and seek
21 injunctive relief prohibiting such conduct in the future.
22

23 **SECOND CAUSE OF ACTION**

24 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
25 **Act**
26 **47 U.S.C. §227 et seq.**

27 55. Plaintiff repeats and incorporates by reference into this cause of
28 action the allegations set forth above at Paragraphs 1-29.

1 56. The foregoing acts and omissions of Defendant constitute numerous
2 and multiple knowing and/or willful violations of the TCPA, including but not
3 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
4 *seq.*

5
6 57. As a result of Defendant’s knowing and/or willful violations of *47*
7 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
8 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
9 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.
10
11

12 58. Plaintiff and the Class members are also entitled to and seek
13 injunctive relief prohibiting such conduct in the future.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

17
18 **FIRST CAUSE OF ACTION**

19 **Negligent Violations of the Telephone Consumer Protection Act**
20 **47 U.S.C. §227 et seq.**

- 21 • As a result of Defendant’s negligent violations of *47 U.S.C.*
22 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
23 request \$500 in statutory damages, for each and every violation,
24 pursuant to *47 U.S.C. 227(b)(3)(B)*; and
25 • Any and all other relief that the Court deems just and proper.
26

27 **SECOND CAUSE OF ACTION**

28 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

- As a result of Defendant’s willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
- Any and all other relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of each and every claim so triable.
Respectfully Submitted this 20th day of March, 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Adrian R. Bacon
Todd M. Friedman
Adrian R. Bacon
Law Offices of Todd M. Friedman
Attorney for Plaintiff

1
2 **CERTIFICATE OF SERVICE**

3 Filed electronically on this 20th day of March, 2016, with:

4 United States District Court CM/ECF system

5
6 Notification sent electronically on this 20th day of March, 2016, to:

7 Honorable Judge Dean D. Pregerson
8 United States District Court
9 Central District of California

10 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
11 FRED R. PUGLISI
12 JAY T. RAMSEY

13 GARDERE WYNNE SEWELL
14 DWIGHT M. FRANCIS

15 Attorneys for Defendant
16 ENAGIC USA, INC.

17 s/Adrian R. Bacon
18 Adrian R. Bacon

EXHIBIT A

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ENAGIC GLOBAL



Policies and Procedures

For Global Enagic Distributors

Effective March 29, 2012

This document supersedes all previous editions.

A Clarification From Enagic

39. Awards and Incentives vs. Commissions – Shoreikin

When Distributors make exceptional contributions to the Company, they become eligible for Shoreikin Awards. Factors demonstrating exceptional contributions include, but are not limited to, outstanding sales efforts and remarkable sales group organization. Shoreikin Awards may differ in name in order to limit the eligible group (eg. 6A 8-Level Award and 6A2-3 and Above New Incentive Award) but they are all awarded at the sole discretion of the Company. Shoreikin Awards are not paid automatically and will differ based on the overall efforts of our Distributors. Any Distributor subject to an Administrative Hold and/or Disciplinary Action will be ineligible for any Shoreikin Award.

Addition and Supplemental Changes to Article#3 on October 13, 2011

All Enagic Credit System (ECS) financed machines must be shipped to the buyer's home address. Alternate shipping will no longer be accepted. For pick up of ECS financed machines, there will be an ID check. ECS machines must be picked up by the buyer or an existing distributor.

Addition to Article #38 on September 27, 2011

Foreign Distributorships. A foreign person living outside of the United States and Canada may become a distributor by providing Enagic with a signed W-8BEN form, in addition to completion of the Product Order Form and Distributor Application, the Return Policy, and any other documentation required by the Company. A foreign distributor must never sell Enagic products within the United States and Canada, and the foreign distributor's downline must only consist of other foreign distributors living and selling Enagic products outside of the United States and Canada.

A foreign distributor will be solely responsible for all applicable taxes, duties, and other fees associated with his/her distributorship. The foreign distributorship is subject to all applicable laws and regulations of his/her country of residence. The Company is not responsible for any failure by the foreign distributor to abide by the laws of his/her country of residence or other controlling jurisdiction. While the Company does attempt to provide notice whenever possible, it may not always be possible to do so. Change in Company Policy or other actions such as termination may occur without notice to the distributor.

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Policies & Procedures For Global Enagic Distributors

1. The Company, Policies & Procedures, Distributor Handbook. Enagic USA, Inc., hereinafter the "Company," is a direct selling company marketing health products and other consumer products and services to the consumer through independent distributors. The Policies and Procedures herein are applicable to all independent distributors of the Company. Further, the published Enagic Distributor Handbook, as amended and published from time to time, is incorporated as a part of these Policies and the Enagic Distributor Agreement.

2. Distributor Qualifications. A distributor is one who has completed a Company application and agreement and has been accepted by the Company as a distributor. The Company reserves the right to accept or reject anyone as a distributor.

All distributors must be of legal age in the state in which they reside. Unless waived in writing by the Company upon application, the Company will consider each married couple as a single distributor. Husbands and wives may sponsor each other directly, but may not be sponsored in different lines. If the Company finds that the second spouse was sponsored in a different line by any reasons after the initial spouse was sponsored, the Company reserves the right to change the status of a spouse from a distributor into a user, or transfer the distributorship of a spouse into his or her upline distributor. If a spouse is already a distributor, the nonparticipating spouse may elect to become a distributor, but must join the same distributorship as his or her spouse, or be directly sponsored by his or her spouse. The Company reserves the right to reject any applications for new distributorships. Should a husband/wife distributor divorce, they should notify the Company as to how the distributorship is to be managed thereafter. Otherwise, the Company will recognize the final judicial or adjudicatory disposition of the distributorship.

When an existing distributor is willing to open the second or third distributorship, this account has to be opened under his/her existing account or under his/her sponsor's account.

Distributors are independent marketing representatives of the Company and are not to be considered purchasers of a franchise or a distributorship. The agreement between the Company and its distributors does not create an employer/employee relationship, agency, partnership, or joint venture between the Company and the distributors. Each distributor shall hold harmless the Company from any claims, damages or liabilities arising out of distributor's business practices. Company distributors have no authority to bind the Company to any obligation. Each distributor is encouraged to set up his/her own hours and to determine his/her own method of sale, so long as he/she complies with the policies and procedures of the Company.

Independent distributors are fully responsible for properly paying all applicable taxes and fees as per the laws of the United States. Enagic USA does not perform any withholding services nor is the firm responsible for unpaid taxes on behalf of independent distributors.

The company's program is built upon retail sales to the ultimate consumer. The company also recognizes that distributors may wish to purchase product or service in reasonable amounts for their own personal or family use. For this reason, a retail sale for bonus purposes shall include sales to non-participants, as well as sales to distributors for personal or family use which are not made for purposes of qualification or advancement. It is company policy, however, to strictly prohibit the purchase of product or large quantities of inventory in unreasonable amounts solely for the purpose of qualifying for bonuses or advancement in the marketing program. Distributors may not inventory load nor encourage others in the program to load up on inventory. Distributors must fulfill published personal and downline retail sales requirements, including requisite retail sales to non-participants, as well as supervisory responsibilities, to qualify for bonuses, overrides or advancements.

Distributors may not make statements or representations regarding the Company other than those approved and provided in writing by the Company; such as its Policies and Procedures and/or any other official printed literature and publications.

3. Transaction Submission Integrity. It is essential to the success of the Company, its distributors and customers that submissions of transactions to the Company maintain integrity of communication. It is to be expected that all transactions submissions to the Company, including, but not limited to, distributor applications, distributor communication, distributor financial transactions and consumer transactions, be submitted by the individual or entity involved in the transaction. Third party submission of any and all transactions submissions is prohibited. A distributor should not communicate any transactions submissions on behalf of another distributor, distributor applicant or customer. A distributor may not use his or her credit card or bank account on behalf of another individual or distributor, except as allowed for as an alternate payer. This rule is applicable to any and all forms of transactions submissions, including, but not limited to, online, telephone, fax, email, etc.

4. Business Conduct. In the conduct of business, the distributor shall safeguard and promote the reputation of the products and services of the Company and shall refrain from all conduct which might be harmful to such reputation of the Company or to the marketing of such products and services or inconsistent with the public interest, and shall avoid all discourteous, deceptive, misleading, unethical or immoral conduct or practices. A distributor shall not interfere with, harass or undermine other distributors and, at all times,

shall respect the privacy of other distributors. A distributor must not disparage the Company, other Company distributors, Company products and/or services, the marketing and compensation plans, or Company employees. Violation of the above is grounds for termination.

5. Providing Sponsor Support. Any distributor, who sponsors other distributors, must fulfill the obligation of performing a bona fide supervisory, distributing and selling function in the sale and/or delivery of product to the ultimate consumer and in the training of those sponsored. Distributors must have ongoing contact, communication and management supervision with their sales organization. Examples of such supervision may include, but are not limited to: written correspondence, personal meetings, telephone contact, voice mail, electronic mail, training sessions, accompanying individuals to company training, etc. Distributors should be able to provide to the Company annually proof of ongoing fulfillment of their sponsor responsibilities.

6. Responsibility for Paying Taxes. All distributors are personally responsible for paying local, state and federal taxes due on earnings from commissions or any other earnings generated as a seller of Company products and services.

7. Advertising Correct Information. Company distributors shall not advertise Company products and services and/or marketing plans except as specifically approved by the Company. Company distributors agree to make no false or fraudulent representations about the Company, the products, the Company compensation plan, or income potentials.

a) Enagic distributors do not buy Enagic water treatment systems for resale. An Enagic distributor acts as an order taker to retail customers, or, orders an Enagic water treatment system for personal use in the capacity as a customer who is also a distributor. Enagic water treatment systems purchased by Enagic distributors are not for resale. All Enagic water treatment systems are sold at Enagic specified prices. A distributor may not advertise for sale or sale an Enagic water treatment system that deviates from Enagic pricing. An Enagic distributor may not advertise, offer or provide a customer with a rebate or other consideration to facilitate a lower customer price for an Enagic water treatment system.

8. Trademarks, Trade Names, Advertising.

a) The name of the Company and other names as may be adopted by the Company are proprietary trade names and trademarks of the Company. As such, these marks are of great value to the Company and are supplied to distributors for distributor use only in an expressly authorized manner. Distributors agree not to advertise Company products or services in any way other than the advertising or promotional materials made available to distributors by the Company. Distributors agree not to use any written, printed, recorded or

any other material in advertising, promoting or describing the products or services or the Company marketing program, or in any other manner, any material which has not been copyrighted and supplied by the Company, unless such material has been submitted to the Company and approved in writing by the Company before being disseminated, published or displayed.

b) The distributor, as an independent contractor, is fully responsible for all of his/her verbal and written statements made regarding the products, services and/or marketing programs which are not expressly contained in writing in the current distributor agreement, advertising or promotional materials supplied directly by the Company. Distributor agrees to indemnify the Company and hold it harmless from any and all liability including judgments, civil penalties, refunds, attorney fees, court costs, lost business or claims incurred by the Company as a result of distributor's unauthorized representations.

c) The Company will not permit the use of its copyrights, designs, logos, trade names, trademarks, etc. without its prior written permission. Distributors may not use the Company logo in marketing or sales materials, except upon approved business cards. The trademarked term Kangen Water™ should be appropriately annotated. In addition to general prohibitions on use of the Company trademarks or logos, the Company specifically prohibits the use of Company trademarks or logos in conjunction with the sale of any other non-Company products.

d) All Company materials, whether printed, on film, produced by sound recording, or on the internet, are copyrighted and may not be reproduced in whole or in part by distributors or any other person except as authorized by the Company. Permission to reproduce any materials will be considered only in extreme circumstances. Therefore, a distributor should not anticipate that approval will be granted.

e) A Company distributor may not produce, use or distribute any information relative to the contents, characteristics or properties of Company product or service which has not been provided directly by the Company. This prohibition includes but is not limited to print, audio or video media.

f) A Company distributor may not produce, sell or distribute literature, films or sound recordings which are deceptively similar in nature to those produced, published and provided by the Company for its distributors. Nor may a distributor purchase, sell or distribute non-company materials which imply or suggest that said materials originate from the Company.

g) Any display ads or institutional or trademark advertising copy, other than covered in the foregoing rules, must be submitted to the Company and approved in writing by the Company prior to publication.

h) All advertising, direct mailing, and display must be approved in writing before being disseminated, published or displayed. Advertising on radio, TV, newspaper, magazine, and website except distributor's own EWS website is strictly prohibited.

i) No claims as to the therapeutic or curative properties about the products may be made. In particular, no distributor may make any claim that the Company products are intended to diagnose, treat, cure or prevent any disease. Such statements can be perceived as medical claims. Not only is this against Company policy, but it is also against the laws governed by the United States Food and Drug Administration, and the United States Federal Trade Commission. Pursuant to the policy of prohibition of medical, curative or treatment claims, Enagic enumerates specific implementation of these policies which shall include, but not be limited to:

- 1) Distributors are prohibited from making medical, curative or treatment claims, whether expressed or implied;
- 2) Distributors are prohibited from using in all of their marketing materials and promotion any descriptions that are regarded as health or medical claims stating that; Kangen Water™ may alleviate, cure, diagnose, prevent, relieve, or treat any medical condition, disease, ailment or malady.
- 3) Any violation of these guidelines will constitute grounds for discipline, commission suspension and/or termination of distributor status.

j) Sales of Marketing Materials and Trademark License Agreement: All distributors who plan to sell any additional products, including health and beauty related products, other than electrolysis water generator devices must receive prior approval from the Compliance Department at Enagic. Each approved item must be specified on the contract called Sales of Marketing Materials and Trademark License Agreement. All distributors who have signed the contract must pay a 5% royalty fee based on the total monthly gross sales to Enagic. Productions and sales of any marketing materials including DVDs recorded at any seminars without prior authorization from the Company are strictly prohibited in any circumstances. Distributors who violate this article are subject to suspension and/or termination without warning.

9. Internet and Website Policy. Distributors are prohibited from creating any independently-designed website relating to the Enagic business, or using any non-EWS current websites. All distributors must receive prior authorization from Enagic USA, Inc. by submitting all promotional products such as DVDs, CDs, Brochures, Flyers etc prior to their use. Distributors who violate any of these new Enagic regulations will be subject to commission suspension and/or termination of distributor status without prior notice. Distributors are allowed to advertise on the internet through an approved Enagic Web

Systems (www.enagicwebsystem.com). All distributors who are newly subscribing to the Enagic Web System will be offered a free 21 day trial. Company program which allows distributors to choose from among Company home page designs that can be personalized with the distributor's message and the distributor's contact information. These websites link directly to the Company website giving the distributor a professional and Company-approved presence on the internet. Only these approved websites may be used by distributors. No distributor may independently design a website that uses the names, logos, product or service descriptions of the Company, nor may a distributor use "blind" ads on the internet making product or income claims which are ultimately associated with Company products, services or the Company's compensation plan. Any person using Company names, logos, trademarks, etc. on the internet or any other advertising medium, except as permitted by Company Rules and Regulations, shall be subject to immediate discipline, including termination of distributor status.

10. Prohibition of Sales on Unauthorized Internet Sites.

A distributor is prohibited from selling or promoting Company products on internet shopping sites, internet auction sites, and internet classified listings including, but not limited to, eBay, amazon.com, and craigslist.com. Any violation of this article will constitute grounds for commission suspension and/or termination of distributor status.

a) All Warranties on Enagic Products are limited and non-transferable.

Enagic disclaims all statutory and implied warranties to the extent permitted by law. Warranty benefits shall extend only to the original purchaser unless express written permission has been provided by Enagic for a transfer of warranty.

The product warranty is limited to the express terms of the Consumer Limited Warranty and the Extended Consumer Limited Warranty.

11. No Spam Policy. It is specific Company policy to prohibit unsolicited email (spamming) or information by facsimile relating to the Company's opportunity and products and services. The Company has a zero tolerance policy of spamming practices. Distributors who violate the Company's "no spam policy" are subject to termination, suspension or disciplinary action.

12. Retail Establishments. Company products or services may only be displayed and sold in retail establishments where the nature of the business is to make appointments with customers (such as salons, doctor's offices, and health clubs where appointments are made for personal training or classes are scheduled) the sale of such products or services within such retail facilities must be conducted by a distributor and must be preceded by a discussion where the distributor introduces the prospect to the products or services and opportunity just as they would if they had met outside of the retail facility. Company

produced literature, banners, or signage only may be displayed on a shelf, counter, or wall and must be displayed by itself. Products or services may not be sold from a shelf or taken from a display for purchase by a customer. Company products or services may not be sold in any retail establishment, even by appointment, if competitive products or services are sold in the establishment. From time to time, the Company may announce policies and rules that expand or contract restrictions on sales in retail establishments.

13. Prohibition on Affiliation with Other Water Treatment Marketing Companies.

a) It would undermine the basic distributor relationship if Enagic distributors marketed competing water treatment, water filtration or alkaline water conversion products. Therefore, so long as an Enagic distributor desires to maintain distributor status, he or she may not sell or market any water treatment, water filtration or alkaline water conversion products that are similar to the products sold by Enagic.

b) 6A2-3 bonus is available only to distributors who are exclusive to Enagic in direct selling/mlm business.

14. Prohibition of Sales of Kangen Water. Sales of bottled Kangen Water® or any other water in any form produced from an Enagic machine is strictly prohibited, to include all sales of Kangen Water® in which a person receives water, bottled or otherwise from an Enagic machine. No "donations" or other sums may be collected for the distribution of Kangen Water®. Charging customers due to the use of electricity or the general usage of the machine is prohibited. These are considered to be business expenses, and therefore should be paid by the distributor, and not by the customer. Any violation of this section will constitute grounds for termination of distributor status.

Providing bottled Kangen Water® to a prospective buyer is authorized; However, any labeling on the bottle or attached to the bottle is strictly prohibited, as it may create a confusion that the sample water is "bottle" or "for sale", rather than a mere sampling provided person to person at no charge, in violation of state or local regulations regarding the "bottling" and sale of "bottled water".

15. Trade Shows. With written authorization from the Company, Company products or services and opportunity may be displayed at trade shows by distributors. Request for participation in trade shows must be received in writing by the Company at least two weeks prior to the show. Written authorization from the Company must be received before participating in the trade show. Unless written authorization is secured from the Company, Company products or services and opportunity are the only products or services and/or opportunity that may be offered in the trade show booth. Only Company produced marketing materials may be displayed or distributed. No distributor may sell or promote the

Company products or services or business opportunity at flea markets, swap meets, or garage sales.

16. Assigned Territory. Distributors are not assigned exclusive territories for marketing purposes, nor shall any distributors imply or state that he/she does have an exclusive territory. There are no geographic limitations on sponsoring distributors or selling product within the United States or its possessions or territories and any approved countries in which the Company is registered to do business.

17. International Sales. No independent distributor may export or sell directly or indirectly to others who export the Company's products, literature, sales aids or promotional material relating to the Company, its products or services or the Company's program from the United States or its possessions or territories to any other country. Independent distributors who choose to sponsor internationally may do so only in countries in which the Company or its parent company has registered to operate its business and must comply fully with the Rules of Operation of a Company distributorship in that country. Any violation of this rule constitutes a material breach of this contract and is grounds for immediate termination of the distributorship.

18. Change of Business Name. The Company reserves the right to approve or disapprove distributor's change of business names, formation of partnership, corporations, and trusts for tax, estate planning, and limited liability purposes. If the Company approves such a change by distributor, the organization's name and the names of the principals of the organization must appear on the distributor application agreement along with a social security number or federal identification number. It is prohibited to make change to attempt to circumvent or violate Company rules on raiding, solicitation, targeting, cross- sponsoring or interference.

19. Cancellation of Distributorship. The independent distributor agreement may be canceled at any time and for any reason by a distributor notifying the Company in writing of the election to cancel. All cancellations are accepted and effective as stated. As of the effective cancellation date, the independent distributor loses all privileges of leadership and down line organization, and is no longer eligible for any commissions, bonuses or prizes. He/she cannot advertise, sell or promote the Company products or purchase product from the Company.

The canceling distributor's down line organization automatically transfers to his/her immediate up line. The resigning distributor must wait six (6) months to be eligible to be sponsored again as a Company distributor, either as an individual or a corporation.

The Company will consider an application to reinstate a "resigned distributor" one year after the resignation date. As part of the application, the former distributor must

pledge to adhere to the existing requirements of the Distributor Agreement and Policies and Procedures. Acceptance of the application is at the discretion of the Company and the Company shall also have the discretion to reinstate the former distributor in the sales organization at his or her former position or to require a lesser placement as a condition to reinstatement. The Company reserves the right to, at its sole discretion, accept or reject such application.

20. Change to Product of Service Prices. The Company shall be entitled to change product or service prices at any time and without notice, and to make changes in the statement of policy and procedures.

21. Taxes and Regulations. Each distributor shall comply with all state and local taxes and regulations governing the sale of Company products or services.

22. Cooling Off. Notwithstanding the Company's longer retail customer guarantee policy, all retail sales must comply with the FTC Three-Day Cooling Off Rule which requires statutory language and notice of cancellation on the retail sales receipt. The three-day right of cancellation must be orally explained to the customer and customer must receive a copy of the notice of cancellation form.

23. Company's Signature Products. The signature product of the Company is one which involves water treatment relating to purification and adjustment of alkaline content. This signature product is fundamental to the branding and image of Enagic. Therefore, although distributors are free to sell, within the guidelines of the Company's policies, products of third party vendors, a Company distributor shall not, during the term of the distributorship, sell products which involve the Company's signature products, namely, products that involve water treatment relating to purification and adjustment of alkaline content. Violation of this provision may result in termination of the distributorship.

24. Prohibition on Raiding and Cross-Solicitation of Products or Other MLM and/or Business Opportunities. The Company takes seriously its responsibility to protect the livelihood of its sales forces and the hard work invested to build a sales organization. Raiding and solicitation actions in which distributors seek to raid and solicit other distributors in the sales organization to non-company products and services and to other MLM/business opportunities, severely undermines the marketing program of the Company, interferes with the relationship between the Company and its sales force and destroys the livelihood of other distributors who have worked hard to build their own business, the business of their sales and benefits they have earned by helping to build a sales organization. Therefore, distributors shall not directly or indirectly sell to, nor solicit from, other Company distributors non-company products or services, or in any way promote to other Company distributors business opportunities in marketing programs of other MLM or business opportunity

companies at any time. A Company distributor shall not engage in any recruiting or promotion activity that targets Company distributors for opportunities or products of other direct selling companies or business opportunities, either directly or indirectly, by themselves or in conjunction with others, nor shall a distributor participate, directly or indirectly, in interference, raiding or solicitation activity of Company distributor for other direct selling companies or business opportunities. Unless approved in writing by the Company, this prohibition includes sales or solicitation of non-company products or services at meetings organized for Company sales, promotion, training recruitment, demonstration, etc. This prohibition on targeting, interference, soliciting and raiding shall be in effect during the term of the distributor agreement and for a period of three (3) years after the termination of the distributor agreement. For the term of this agreement and for three (3) years after termination hereof, a distributor shall not, directly or indirectly, recruit any of Company's distributors to join other direct sales or network marketing companies nor solicit, directly or indirectly, Company's distributors to purchase services or products, or in any other way interfere with the contractual relationships between Company and its distributors.

Because of the unique nature and signature characteristic and association with the field of water treatment with Enagic, and because of the inherent confusion and conflict that may occur, Enagic distributors may not engage in the representation or sale of water treatment systems offered by any company other than Enagic.

25. Purchases for Inventory of Mandatory Sales Aids. If the distributor has purchased products for inventory purposes or mandatory sales aids while the distributor agreement was in effect, all products in a resalable condition then in possession of the distributor, which have been purchased within 90 days of cancellation, shall be repurchased. The repurchase shall be at a price of not less than ninety percent (90%) of the original net cost to the participant returning such goods, taking into account any sales made by or through such participant prior to notification to the Company of the election to cancel. Buyback is 12 months in Massachusetts, Maryland, Montana, Georgia, Louisiana, Wyoming, Texas, Oklahoma, Idaho, Utah, Washington and Puerto Rico. In addition, the Company will honor statutory mandated buyback requirements of every jurisdiction.

26. Vendor Confidentiality. The Company's business relationship with its vendors, manufacturers and suppliers is confidential. A distributor shall not contact directly or indirectly, or speak to or communicate with any representative of any supplier or manufacturers of the Company except at a company sponsored event at which the representative is present at the request of the Company. Violation of this regulation may result in termination and possible claims for damages if the vendor/manufacturer's association is compromised by the distributor contact.

27. Commission Recuperation. The Company shall be entitled to repayment of any commission previously paid on a sale of product/service if the product/service purchase is cancelled or reversed or a refund paid for a terminated purchase. The Company shall recover the commission by adjustment on the distributor's next check payment. In the event that no commission is available for adjustment, the distributor who has received the commission shall repay the commission paid on the "reversed sale" within 30 days of the Company's notice to repay.

28. Downline Information Confidentiality. On a periodic basis, the Company will supply data processing information and reports to the distributor, which will provide information concerning the distributor's downline sales organization, product purchases and product mix. The distributor agrees that such information is proprietary and confidential to the Company and is transmitted to the distributor in confidence. The distributor agrees that he or she will not disclose such information to any third party directly or indirectly, nor use the information to compete with the Company directly or indirectly during or after the term of the agreement. The distributor and the Company agree that, but for this agreement of confidentiality and nondisclosure, the Company would not provide the above confidential information to the distributor. A distributor seeking to sell his/her distributorship must acknowledge and agree to this provision prior to the finalization of the sale of their distributorship

29. Change in Status. Marriage: Two Company distributors who marry after having established their own individual distributorships may continue to operate their existing distributorships.

Divorce: Should a married couple become divorced, they agree to notify the Company as to who will assume responsibility for the distributorship in one of the following manners:

a) Written notarized agreement signed by both parties indicating who will retain the distributorship.

b) A court order delineating who receives custody over the distributorship

c) Both parties may choose to retain their joint distributorship and operate it as a partnership.

The divorced distributor may apply for a new distributorship without having to wait 6 months.

Death: Upon the death of a distributor, the rights and responsibilities of the distributorship may be passed on to the rightful, legally-documented heir as long as that person has filled out a new distributor application, together with a copy of death certificate.

Disability: Should a distributor become disabled to the extent that he/she can no

longer fulfill the required duties of the Company distributor, such disabled consultant's legal representative or conservator shall:

a) Contact the Company within thirty (30) days of the disability and advise the Company of the distributor's status and the plans for future management or cancellation of the distributorship.

b) Provide a notarized or court-confirmed copy of appointment as legal representative or conservator.

c) Provide a notarized or court-confirmed copy of document establishing right to administer the Company business.

Should the legal representative or conservator plan to continue the business of the distributorship, then he/she shall fill out a new distributor application, return policy and W-9, and receive the required training consistent with the disabled distributor's level at the time of disability. These requirements shall be satisfied within a deadline of six months.

30. Upgrades of Machines. All upgrades on machines need to be authorized by the regional sales manager in charge of the respective sales area. The Company reserves the right to refuse machine upgrades at its discretion.

a) Upgrades of unused, new machines are allowed within one (1) year of purchase. All requests must be accompanied by a \$50 upgrade fee.

b) Upgrades on used machines are allowed within thirty (30) days of purchase. All requests must be accompanied by a \$50 upgrade fee and a processing fee.

31. Sale or Transfer. All merchandise sold to third parties do not qualify to be Enagic USA distributors. Distributors agree to inform all third parties of the facts above and further agree not to promise any possibility of transferring distributor rights.

A distributor may not sell, assign or otherwise transfer his or her distributorship, marketing position or other distributor rights without written application and approval by the Company. This paragraph is also applicable to transfer of any interest in an entity that owns a distributorship, including but not limited to a corporation, partnership, trust or other non-individual entity. The potential buyer must be at the higher rank as the selling distributor. The distributorship must be offered in writing first to the distributor's sponsor. If the sponsor declines the offer, the distributor may offer the distributor for sale to up line distributor of the sponsor within the same group. A distributor who sells his or her distributorship shall not be eligible to requalify as a distributor for a period of at least six months after the sale. The Company reserves the right to review the sale agreement and to verify waiver from the up line sponsor in the event the up line sponsor declines to purchase the distributorship.

A distributor may not add a co-applicant to their distributorship and thereafter,

remove their name from the distributorship, as an effort to circumvent the Company's sale, assignment, delegation or merger procedures. The primary distributor must wait twelve (12) months after adding a co-applicant to the distributorship before they are allowed to remove their name from the distributorship. It is prohibited to use a sale or transfer to attempt to circumvent Company policy on raiding, soliciting, cross-sponsoring or interference.

For the term of three (3) years after sale or transfer, a distributor agrees that he/she shall not, directly or indirectly, disrupt, damage, impair or interfere with the business of the Company, whether by way of interfering with, or raiding its employees or distributors, disrupting its relationship with customers, agents, representatives, distributors, suppliers, vendors or manufacturers or otherwise. "Disrupting" or "interfering" shall include, but not be limited to, direct or indirect solicitation or recruitment for other direct selling business opportunities or products or services of other direct selling companies. A distributor seeking to sell or transfer his/her distributorship must acknowledge and agree to this provision prior to the finalization of the sale or transfer of their distributorship.

32. Rights of the Company. The Company expressly reserves the right to alter or amend prices, Rules and Regulations, Policies and Procedures, product availability and the compensation plan. Upon notification, in writing, such amendments are automatically incorporated as part of the agreement between the Company and distributor. Company communication of changes may include, but shall not be limited to mail, email, fax, posting on the Company website, publication in company newsletters or magazines, etc.

a) Enagic reserves the right to make all final decisions as to the interpretation of the articles stated in the Company Policies and Procedures. The final company decision based on the interpretation of the articles stated in the Company Policies and Procedures is effective immediately as well as the contents stated in article 36. All distributors are obligated to follow the company's decision as to the interpretation of the articles of the Company Policies and Procedures.

33. Non-Individual Ownership. A partnership or corporation may be a distributor. However, no individual may participate in more than three (3) distributorships in any form without express written permission from the Company. Only in the most extreme and extraordinary circumstances will this be considered.

a) A distributorship may change status under the same sponsor from individual to partnership or corporation or from partnership to corporation with proper and complete documentation.

b) To form a new distributorship as a partnership or corporation or to change status to one of these forms of business, a distributor must request a change request form

from the corporate headquarters office. This form must be submitted detailing all partners, stockholders, officers or directors in the partnership or corporation. The partner or officer who submits the form must be authorized to enter into binding contracts on behalf of the partnership or corporation. In addition, by submitting the partnership/corporation form, said individual certifies that no person with an interest in the business has had an interest in a distributorship within three (3) months of the submission of the form (unless it is the continuation of an existing distributorship that is changing its form of doing business).

34. Individual Distributorship. An individual can have up to three (3) distributorships in the Company. He/she may not own any other distributorship, either individually or jointly, nor may he/she participate as a partner, owner, stockholder, trustee, director, or association member, outside his/her sponsorship. An individual shall provide the Company with a W-9 Form with Social Security Number.

35. Entity Distributorship. An entity (corporate) owner can have up to five (5) distributorships in the Company, as long as they are within the same distributorship.

a) Proprietorship: A copy of fictitious name filing must be submitted, plus a W-9 form.

b) Corporation: Copies of articles of incorporation with state seal and notarization, list of officers, a copy of Federal ID number (EIN) and a W-9 Form are required, including the page with state seals and notarization. These articles will show who the principals are and prove validation of Federal ID Number/Business Number/E.I.N., plus a W-9 form.

c) LLC: IRS acceptance only. The name on the IRS acceptance is required to state the LLC in order to use it as an LLC, plus a W-9 form.

a) Trust: An affidavit of trust with the notarized copy of the power of attorney is necessary. If Federal ID Number is to be used and is not noted in the affidavit, an IRS acceptance will be required, plus a W-9 form.

e) Partnership: To register as a partner, complete the partnership portion of the Entity Information form, along with all signatures that apply, plus a W-9 form.

36. Entity Guarantee for Owners. Although the Company has offered distributors the opportunity to conduct their distributorship as a corporate, LLC, trust or partnership entity, those entities are under the control of its owners and principals, the actions of individual owners or beneficiaries as they may affect Company's business. Therefore, it is agreed that the actions of individual owners or beneficiaries as they may affect the Company and the distributorship are also critical to the Company's business. Therefore it is agreed that actions of the ownership entity's shareholders, officers, directors, trustees, beneficiaries, agents, employees or other related or interested parties and the actions of such parties, which are in contrast to Company's policies shall be attributable to the corporate, LLC, trust

or partnership entity.

In the event that any of the ownership entity shareholders, officers, directors, trustees, beneficiaries, agents, employees or other related parties shall terminate ownership interests in the distributorship, any breaching actions by such parties that continue to have a beneficial financial interest, directly or indirectly, in the distributorship shall be attributable to the distributorship

37. Members of Same Household; Responsibility. Members of distributor's household may operate together as one Company distributorship, but may not become separate Company distributors. Household is defined as husband, wife, and dependents. Note: Children of legal age to contract and at least 18 years of age are not considered a part of their parent's household.

The Company recognizes that members of the same household may belong to competing direct selling opportunities. Although the actions of the parties are normally in good faith, in some circumstances, there is an abuse of relationships in which the non-company household member is engaged in recruitment, solicitation or raiding of the Company sales organization. Since the household member that has an ownership interest in the Company distributorship is in the best position to be responsible to prevent raiding or cross-sponsoring activity by their co-household member, the cross recruiting activity of the non-company household member shall be attributed to the Company distributorship, subjecting the distributorship to discipline or termination.

38. Foreign Distributorships. A foreign person living outside of the United States and Canada may become a distributor by providing Enagic with a signed W-8BEN form, in addition to completion of the Product Order Form and Distributor Application, the Return Policy, and any other documentation required by the Company. A foreign distributor must never sell Enagic products within the United States and Canada, and the foreign distributor's downline must only consist of other foreign distributors living and selling Enagic products outside of the United States and Canada.

A foreign distributor will be solely responsible for all applicable taxes, duties, and other fees associated with his/her distributorship. The foreign distributorship is subject to all applicable laws and regulations of his/her country of residence. The Company is not responsible for any failure by the foreign distributor to abide by the laws of his/her country of residence or other controlling jurisdiction. While the Company does attempt to provide notice whenever possible, it may not always be possible to do so. Change in Company Policy or other actions such as termination may occur without notice to the distributor.

39. Awards and Incentives vs. Commissions – Shoreikin When Distributors make

exceptional contributions to the Company, they become eligible for Shoreikin Awards. Factors demonstrating exceptional contributions include, but are not limited to, outstanding sales efforts and remarkable sales group organization. Shoreikin Awards may differ in name in order to limit the eligible group (eg. 6A 8-Level Award and 6A2-3 and Above New Incentive Award) but they are all awarded at the sole discretion of the Company. Shoreikin Awards are not paid automatically and will differ based on the overall efforts of our Distributors. Any Distributor subject to an Administrative Hold and/or Disciplinary Action will be ineligible for any Shoreikin Award.

40. Commission, 6A Educational Allowance and/or Incentive for Inactive Distributors (D1, D0, FA0). If you have a direct sale within six (6) months, you are qualified to receive full commission, 6A educational allowance and/or incentive. This status is called "D1". If you do not have a direct sale within six (6) months, but you have at least one sale within two (2) years, you are qualified to receive fifty percent (50%) of the full commission, 6A educational allowance and/or incentive. This status is called "D0". If you do not have a direct sale within two (2) years, you are not qualified to receive any commission, 6A educational allowance and/or incentive. This status is called "FA0". Any distributor with FA0 status will be able to reregister as a distributor within the same 6A2-3 group.

Payment of commission, 6A educational allowance and/or incentive will be made based on the distributor status on the date of sale. In the case of an Enagic Payment System (ECS) customer, the distributor status will be decided based on the payoff list issued on the 8th and 22nd each month. If such a day is Saturday, Sunday and/or holiday, the following business day will be applied. Payment of commission, 6A educational allowance and/or incentive will be made based on the distributor status as of the date such commission is processed.

Effective January 2012, 6A23 and above distributors Monthly Incentive will change. Your basic achievement rate vs. the previous month will be the deciding factor on the payment.

Achievement rate

121% over	120% of Basic calculation
111~120%	110% of " "
101~110%	100% of " "
91~100%	90% of " "
81~90%	80% of " "
~80%	70% of " "

For example, in December Joe sells 1,000 machines within his 8-levels (not 8 points). As he is a 6A2-3, he earns $(1,000 \times \$23)$ \$23,000.

In January, he sells 900 machines. $(900/1,000 = 90\%)$. As he sold 90% as compared to December, he will receive 80% of his expected bonus:

Expected bonus $900 \times \$23 = \$20,700$

Modified for 80% $\$20,700 \times .8 = \$16,560$

41. Default in Payment. A distributorship will be terminated if a distributor defaults in payment of product purchases from the Company. In the event a distributor purchases product, either in the capacity as a consumer or distributor from the Company, and subsequently defaults on payment, the distributorship is subject to immediate termination. The preceding rule is applicable to a distributor in an individual capacity that defaults, a corporate or partnership distributor where one of the principal owners defaults or any other default in payment where the defaulting party has an ownership interest in the distributorship.

42. Disciplinary Actions. Distributor's violation of any policies and procedures, the agreement, terms and conditions or any illegal, fraudulent, deceptive, or unethical business conduct may result, at the Company discretion, in one or more of the following disciplinary actions:

a) Issuance of a written warning or admonition.

b) Imposition of a fine, which may be imposed immediately or withheld from future commission checks.

c) Reassignment of all or part of a distributor's organization.

d) Freezing of commissions for an indefinite period.

e) Suspension, which may result in termination or reinstatement with conditions or restrictions.

f) Termination of the distributorship.

43. Right to Terminate. The Company reserves the right to terminate any distributorship at any time for cause when it is determined that the distributor has violated the provisions of the distributor agreement, including the provisions of these policies and procedures as they may be amended or the provisions of applicable laws and standards of fair dealing. Such involuntary termination shall be made by the Company at its discretion. Upon an involuntary termination, the Company shall notify the distributor by mail at the latest address listed with the Company for the distributor. In the event of a termination, the terminated distributor agrees to immediately cease representing him/herself as a distributor.

44. Termination

a) When a decision is made to terminate a distributorship, the Company will inform the distributor in writing that the distributorship is terminated immediately, effective as of the date of the written notification. The termination notice will be sent by certified mail to distributor's address on file with the Company.

b) The distributor will have 15 days from the date of mailing of the certified letter in which to appeal the termination in writing, and provide written response to the finding of violations of Company agreement, policies and/or rules. The distributor's appeal and/or response correspondence must be received by the Company within 20 days of the Company's termination letter. If the appeal is not received within 20-day period, the termination will be automatically deemed final.

c) If a distributor files a timely appeal of termination, the Company will review and consider the termination, consider any other appropriate action, and notify the distributor of its decision. The decision of the Company will be final and subject to no further review. In the event the termination is not rescinded, the termination will be effective as of the date of the Company's original termination notice. The terminated distributor may not be sponsored as a Company distributor again.

d) Upon termination of a distributorship, all rights cease. He/she is no longer eligible for any commission, bonuses or prizes. He/she cannot advertise, sell or promote the Company products or purchase products from the Company.

e) The terminated distributor's down line organization automatically transfers to his/her immediate up line.

45. Sponsorship. All distributors have the right to sponsor others. In addition, every person has the ultimate right to choose his/her own sponsor. If two distributors should claim to be the sponsors of the same new distributor, the Company shall regard the first application received by the corporate home office as controlling.

a) As a general rule, it is good practice to regard the first distributor to meaningfully work with a prospective distributor as having first claim to sponsorship, but this is not necessarily controlling. Basic tenets of common sense and consideration should govern.

b) As a convenience to its distributors, the Company may provide various method of registering or informing the Company of newly sponsored distributors, including facsimile registration and online registration. Until such time as the Company receives an application, either as hard copy, facsimile or digital data, containing all appropriate information, as well as the signature of the proposed new distributor, the Company will only consider the incomplete facsimile or online registration in the category of "intended" registration. Thus, although the Company is attempting to create some convenience for its sponsoring

distributors, it is the responsibility of the sponsoring distributor to cause delivery to the Company of a completed and signed distributor agreement and completed W-9 if the sponsor is to expect recognition as the official sponsoring distributor.

c) There is no "magic" involved in the Company or in any business. Those who sponsor widely but who do not help new distributors develop their business meet with limited success. Therefore, it is the distributor's responsibility to follow through and make sure the new distributor is properly informed and trained in the areas of the product, the compensation plan, the policies and procedures and the professional guidelines of the network marketing industry.

d) When soliciting a prospective distributor to join the Company's network program, the distributor must clearly explain the following

- (1) Products: type, performance and quality of each product.
- (2) Compensation plan
- (3) Policies and Procedures.
- (4) Distributor's rights and duties.
- (5) Other important items that will affect the judgment of the prospective distributor.

e) Distributors should never provide false information in order to encourage the conclusion of a sales agreement or to prevent the buyer from canceling the agreement.

f) Retail sales are a requirement of the Company's network program.

g) Each distributor must identify himself or herself by name and Company ID number to the prospective buyer.

h) The Company offers no sales discounts or other concessions and the distributor may not offer either. Any discounts offered by distributors may be grounds for termination.

46. Transfer of Sponsorship. Transfer is rarely permitted and is actively discouraged. Maintaining the integrity of sponsorship is absolutely mandatory for the success of the overall organization.

a) Transfers will generally be approved in two (2) circumstances:

(1) In the case of unethical sponsoring by the original sponsor. In such cases, the Company will be the final authority.

(2) Resigning from the Company entirely and waiting six (6) months to reapply under the new sponsor.

b) In cases of unethical sponsoring, the individual may be transferred with any down lines intact; in all other events, the individual alone is transferred without any down line distributors being removed from the original line of sponsorship.

47. Income Claims. No income claims, income projections nor income

representation, nor showing of commission checks ("check waving") may be made to prospective distributors. Any false, deceptive or misleading claims regarding the opportunity or product/service are prohibited. In their enthusiasm, distributors are occasionally tempted to represent hypothetical income figures based upon the inherent power of network marketing as actual income projections. This is counter-productive, since new distributors may be quickly disappointed if their results are not as extensive or as rapid as a hypothetical model would suggest. The Company believes firmly that the income potential is great enough to be highly attractive in reality without resorting to artificial and unrealistic projections.

48. Representation of Status. In all cases, any reference the distributor makes to him/herself must clearly set forth the distributor's independent status. For example, if the distributor has a business telephone, the telephone may not be listed under the Company's name or in any other manner which does not disclose the independent contractor status of the distributor.

49. Judgment and Tax Lien. The Company will comply fully with any court order or instruction/demand by any government taxing authorities within the United States and Canada that orders, instructs or demands the withholding of a distributor's earnings from his/her distributorship with the Company.

50. Subpoenas Duces Tecum (Demands for Records). Assuming proper jurisdiction, the Company will comply with all subpoenas duces tecum demanding financial compensation records of a distributor in his/her capacity as an independent contractor with the Company.

51. Request for Records. The Company will comply fully with all requests for records accompanied by a properly prepared and signed Authorization by the person whose records are being sought. The Company will comply fully with all requests for records by government agencies with the authority to request such records and accompanied by the requisite legal documentation.

52. Newspaper Advertisement. Some Independent Representatives use classified advertising in the newspapers to find prospects. The following rules apply:

No advertisement may imply that a "job" or "position" is available.

No specific income can be promised.

Advertisements must contain no misleading facts or distortions of the Company opportunity or product line.

53. Business Cards and Stationery. Any printed materials, including business Cards and stationery, must be approved by Enagic in advance. Criteria for approving these materials will include a judgment regarding the quality of the materials as well as properly

setting forth the independent status of the distributor.

54. Telephone Solicitation. The use of the Company's name or copyrighted materials may not be made with automatic calling devices or "boiler room" operations either to solicit distributors or retail customers. The use of these methods in ways that are legal and are the equivalent of the "blind ads" alluded to above cannot be regulated by the Company.

55. Press Inquiries. Any inquiries by the media are to be referred immediately to the Company. This policy is to assure accuracy and a consistent public image.

56. Endorsement. Federal and state regulatory agencies rarely approve or endorse direct selling programs. Therefore, distributors may not represent that the Company's program has been approved or endorsed by any government agency.

57. Indemnification and Hold Harmless. The independent Distributor hereby indemnifies and releases the Company, its officers, directors, agents and assigns and holds harmless from and against the full amount of any and all claims, causes of action, judicial and administrative proceedings suits, charges, liabilities, losses, damages, costs and expenses, including without limitation court costs and reasonable fees and expenses of attorneys and consultants, which are or may be made, filed or assessed against Company at any time arising out of distributor's business operations and representations made by distributor in the operation of his/her business, arising from the following:

a) Violation and/or lack of compliance with terms of the distributor agreement, policies and procedures, rules and regulations, marketing program manual or guidelines or any other directive from the Company as to method and manner of operation of the independent distributor business;

b) Engaging in any conduct not authorized by the Company in the Company market program;

c) Any fraud, negligence or willful misconduct in the operation of the independent distributor business;

d) Misrepresentation or unauthorized representation regarding the Company's product or service, marketing opportunity or potential or the Company's marketing program;

e) Failure to adhere to any federal, state, or local law, regulation, ordinance and/or any order or rule issue by any court of appropriate jurisdiction;

f) Engaging in any action which exceeds the scope of authority to the distributor as granted by the Company.

g) Engaging in any activity over which Company has no effective control as to the actions of the distributor.

58. Waiver. The Company never gives up its right to insist on compliance with

these rules or with the applicable laws governing the conduct of a business. This is true in all cases, both specifically expressed and implied, unless an officer of the Company who is authorized to bind the Company in contracts or agreements specifies in writing that the Company waives any of these provisions. In addition, any time the Company gives permission for a breach of the rules, that permission does not extend to future breaches. This provision deals with the concept of "waiver," and the parties agree that the Company does not waive any of its rights under any circumstances short of the written confirmation alluded to above.

59. Governing Law. These rules are reasonably related to the laws of the state of California and shall be governed in all respects thereby. The parties agree that jurisdiction and venue shall lie with the place of acceptance of the distributor application, the state of California.

60. Partial Validity. Should any portion of these Rules and Regulations, of the distributor's application and agreement, or of any other instruments referred to herein or issued by Enagic be declared invalid by a court of competent jurisdiction, the balance of such rules, applications, or instruments shall remain in full force and effect.

Product Information and Others

SunUs	Continuous electrolysis water generator which produces three types of water including clean water, Kangen Water, and acidic water.
Leveluk Jr II	Continuous electrolysis water generator which produces five types of water including clean water, Kangen Water, acidic water, strong kangen water, and strong acidic water.
Leveluk DX	Continuous electrolysis water generator which produces five types of water including clean water, Kangen Water, acidic water, strong Kangen Water, and strong acidic water.
Leveluk DX II	Continuous electrolysis water generator which produces five types of water including clean water, Kangen Water, acidic water, strong kangen water, and strong acidic water.
Leveluk SD501	Continuous electrolysis water generator which produces five types of water including clean water, Kangen Water, acidic water, strong kangen water, and strong acidic water.
Leveluk Super 501	Continuous electrolysis water generator which produces five

	types of water including clean water, Kangen Water, acidic water, strong Kangen Water, and strong acidic water.
Anespa	Shower machine which removes chlorine from tap water and produces mineral ion water continuously.
Ukon	Food supplement which contains turmeric, squalene, rice oil Oil extract, alpinia speciosa leaf extract, vitamin C, DHA, and Kangen Water.

Product Handling and Distributor's responsibility:

1. The prospective distributor shall fulfill stated personal sales volume requirements to be recognized and registered as an active Enagic distributor.
2. Special favorable payment plans are available to distributors who wish to purchase company products.
3. The distributor may sell products through the credit companies that sign contract with Enagic.
4. The distributor shall take full responsibility for any of the following issues arising in connection with his/her own customer.
 - (1) The distributor shall take the following actions without delay in case of cancellation of a sales agreement during the cooling-off period.
 - (a) Return the commission and other applicable fees/charges to Enagic.
 - (b) Substitute the cancelled account with another account.
 - (c) Any actions other than (a) and (b) above will be taken after discussion among the distributor, Enagic and referrer.
 - (2) Providing such information as the Company may request from time to time in connection with the Company's collection of money payable for the products.
 - (3) Providing such information as the Company may request from time to time in connection with the Company's handling of sales-related claims other than the above.

The Sales Commission shall be paid by check issued by Enagic in favor of the distributor promptly after the expiration of the cooling-off period, and otherwise based on the distributor's instruction.

Selling Price and Sales Commission of Product (excluding tax)

PRODUCTS	UNIT PRICE	COMMISSION 1P	
SUN US	\$1,280.00	\$55 \$25	D1 *SP
		\$80	
LEVELUK Jr II	\$2,380.00	\$135 \$25	D1 SP
		\$160	
LEVELUK DX	\$2,980.00	\$225 \$0	D1 SP
		\$225	
LEVELUK DX II	\$3,280.00	\$205 \$30	D1 SP
		\$235	
*SD 501	\$3,980.00	\$235 \$50	D1 SP
		\$285	
SUPER 501	\$5,980.00	\$400 \$0	D1 SP
Anespa	\$2,390.00	\$180 \$0	D1 SP

*** SP (Special Point) point is a bonus commission paid when the next sale occurs within 3 months**

RETURN POLICY EFFECTIVE MAY 2011

1. A full refund minus shipping fees will be granted only if a machine is returned both unused and within 7 days of receipt*.
2. A restocking fee (see below) will be charged when:
 - A machine is returned used (water runs through the machine even once) within 7 days of receipt.
 - A new machine is returned after 7 days but before 1 month after receipt.
3. A used machine returned after 7 days but before 1 month of receipt will be charged a processing fee (in lieu of a restocking fee) as follows:

Model	SD50 1	SD501- U	SD501- P	DXI I	JRII	ANESP A	SUN US	SUPER 501
Restocking Fee	\$100	\$200	\$100	\$100	\$100	\$100	\$100	\$100
Processing Fee	\$380	\$660	\$480	\$310	\$310	\$320	\$200	\$700

4. A machine in any condition may NOT be returned for a refund after 1 month following receipt.
 - In the event of financing, the buyer is accepting the responsibility to fulfill their monthly payment obligations in totality if the machine is not returned within the 1 month return period.
5. Shipping fees are never subject to a refund. Installment charges (number of payments multiplied by \$10) are refunded on a prorated basis.
6. All machines must be securely packaged and returned to the California Headquarters.

* *Receipt refers to the date of pickup or date of signed delivery of the machine. Days are counted from that date (day of receipt), not the purchase date of the machine.*

Cautionary Notes for the SD501-U

- Installation is borne by the client. Enagic does not provide any installations. We strongly recommend hiring a carpenter and/or plumber to install your machine.

- Drilling a hole in the countertop for the faucet and another hole in the wall for the control panel is required. Enagic is not responsible for any installation or drilling repairs even if the product is returned.
 - Enagic does not accept any machine changes after the SD 501-U has been installed.
-

I have read and fully understand all of the stipulations stated above.

Name:

Applicant

Signature:

Date: _____

EXHIBIT B

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From: edwardmakaron@yahoo.com 
Subject: Fwd: Enagic-Kangen Tools
Date: May 22, 2015 at 4:00 PM
To: flyhighone1@me.com



Sent from [Outlook](#)

From: Gary Nixon <contactgarynixon@gmail.com>
Sent: Wednesday, May 20, 2015 5:36 PM
Subject: Enagic-Kangen Tools
To: <edwardmakaron@yahoo.com>

Hi Edward,

You will find there is a lot of info in this email about Kangen Water and Enagic opportunity. I look forward to working with you and changing a lot of peoples lives...

1. [Recorded Information Call](#) (You can skip if you've already heard it or feel free to listen again)

" We Finance Your Business"

[469-340-4080](tel:469-340-4080)

2. [The Opportunity of a Lifetime](#) (Click On Link or Banner)

Image result for video banners for enagic



3. [Patented Compensation Plan](#) (Click On Link or Banner)



4. [Call me with any other questions you have and/or to get started](#)

Best Regards,

Gary Nixon
[469-272-0688](tel:469-272-0688)

~~703-223-0000~~

ContactGaryNixon@gmail.com

To be removed from my list, simply click reply, erase what you see in the subject line, write the word REMOVE and click send. Thanks!

Why Kangen Water In 20 Minutes

<http://vimeo.com/78497736>

Full DVD for Restaurants

Restaurant owners and Chef's about Kangen water.

<http://youtu.be/n1qw34V9FNq>

Dr. Corrine Allen's is a therapist and has her own clinic for brain research, in this video Dr. Allen speaks about her research, results from drinking ionized micro-clustered water with her clients.

Super info for everyone especially expecting mom's...

Video is loaded with excellent info! <http://youtu.be/a0gv4jApEu4>

Dr Horst Dr Horst world-renowned [Harvard Medical MD and Vascular Surgeon on Cancer Kangen Water](#)

<http://youtu.be/pyjkq7EbUy8>

Physical Therapist and Nutritionists on Kangen Water*

<http://vimeo.com/40970670>

Veterinarians Love It & Pets Love It

<http://youtu.be/w3g4hNw5uL8>

Chiropractor Dr. Tim explains about Kangen water

<http://youtu.be/lwJpW-ere-M>

Dr. Tim McKnight and what doctors are saying about Kangen water

<http://youtu.be/bnKRzfrBdFY>

Excellent testimony from this dentist about Kangen Water*

https://www.youtube.com/watch?feature=player_embedded&v=Qcfc3SVv3no

Kangen water and diabetes*

https://www.youtube.com/watch?feature=player_embedded&v=kp5zsb8PJ5M

Kangen Water Demo English* w/Daniel Demacali

<http://youtu.be/o6K3KmQshEQ>

Enagic Kangen Water Revolutionary Direct Sales Business Model

<http://youtu.be/lbNf4IHc0s4>

The advertisement is divided into two main sections. The top section features a blue background with the text "Alkaline" on the left, "Micro-Clustered" in the center, and "Antioxidant" on the right. Below this is the "KANGEN WATER" logo in large, bold, blue letters, with "ADVANCED JAPANESE WATER TECHNOLOGY" underneath. A pH scale is shown with numbers 2 through 11, each in a colored box. The scale is labeled "ACIDIC" (2-6), "NEUTRAL" (7), and "ALKALINE" (8-11). The bottom section has a dark blue background. On the left is a circular logo with "ENAGIC" repeated around the perimeter and "THE GOLD STANDARD" on a banner. To the right of the logo, the text reads "Become an Enagic® Independent Distributor!". Below this is a button that says "Click to play" with a "NEW!" tag, and "The Compensation Video" underneath. A small video player icon with a question mark is positioned to the right of the distributor text, with the filename "Gary Nixon.vcf" below it.

Alkaline Micro-Clustered Antioxidant

KANGEN WATER
ADVANCED JAPANESE WATER TECHNOLOGY

ACIDIC NEUTRAL ALKALINE

2 4 6 7 8 9 10 11

Become an Enagic® Independent Distributor!

Click to play NEW!
The Compensation Video

Gary Nixon.vcf

EXHIBIT C

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Hello =)

Per our recent phone conversation, attached please find the global contest result from 6/01 - 6/28.

He is the TOP USA distributor in 8P Machine Sales !! (Please see attached)

We are very proud of you !!

Keep up the good work, Rick !!

Best regards,

Shoko Johnson | Orlando Branch Manager

Tel (407) 601-5963 FAX (407) 730-3335

johnson.s@enagic.com

www.enagic.com

Enagic USA, Inc.

8803 Futures Drive, Unit 01 Orlando, FL 32819



Enagic 2012: LET'S UNIFY!



Global Contest 6/1 ~ 6/28

World Ranking

8P. Machine units

2015/6/1~6/28 Interim Rank Table

8P.UkonDD

No.	worldranking	units	ID	Name	RANK	Country·Area
1	1	43		DD]SAIFOL MUALIM BIN AHMAD YAH	6A2	Malaysia
2	2	36		NAZIRAH BINTI BUGAL	6A	Malaysia
3	3	27		SARAH BINTI AB GHAFAR	5A	Malaysia
4	4	26		DD]NOR LAILATUL SAIDAH BINTI MD	6A32	Malaysia
5	5	25		ABDUL AZIZ BIN HAJI JAAFAR	5A	Malaysia
6	5	25		SAMUEL GUILHERME DA SILVA	5A	Brazil
7	7	24		MOHD ZAIDI BIN OTHMAN	5A	Malaysia
8	8	20		GILMAR RIBEIRO	5A	Brazil
9	9	19		FAUZIAH BINTI ABD JALAL	6A63	Malaysia
10	10	18		ISAIAS SOARES BARBALHO	4A	Brazil
11	10	18	1600192	HELIO ISHIYAMA CORREA	5A	Brazil
12	12	17	6808802	DD]RICK FREEMAN	4A	USA
13	12	17		KAZUO SAKITA JUNIOR	6A2	EU
14	12	17		DD]#KANGEN HSI	6A2	EU
15	12	17		SYED MOHAMAD HAFIZ AL-IDRUS	6A	Malaysia
16	12	17		DD]PREMIER WATER CO.	6A	HongKong
17	17	16		DD]WAFDI BIN HURZAID	6A	Malaysia
18	17	16		DD]YAP WEE JIE	5A	Malaysia
19	17	16		RICARDO SANTOS SILVA	4A	Brazil
20	17	16		HUNG SIU MAN	4A	HongKong
21	17	16		DD]#THE ACTS WATER INC	6A75	USA
22	22	15		DD]ELMER PALMARES/PARTNERS FC	6A	EU
23	22	15		DD]HIEU THI PHAM	6A	Australia
24	22	15		FUNG LOK SZE	2A	HongKong
25	22	15		HUNG SIU MAN	5A	HongKong
26	22	15		DD]PLATINUM WATER CLUB	6A22	HongKong
27	27	14		DD]THOMAS A. SLOAN	4A	USA
28	27	14		RICK A FREEMAN #2	3A	USA
29	27	14		DD]#MGR NETWORKING INC	1A	USA
30	27	14		DD]BENEDETTA LUPO	6A	EU

No.	worldranking	units	ID	Name	RANK	Country·Area
1	1	23		DD]THOMAS A. SLOAN	4A	USA
2	2	18		DD]#THE ACTS WATER INC	6A75	USA
3	3	14		DD]ROBERT N. ULLMAN	1A	USA
4	4	11		DD]MARIA VERONICA L RIVERA	4A	USA
5	5	10		DDX]#WHITE-CROSS WATER CORP	6A85	USA
6	5	10		DD]ERDIEMAY ATKINSON	6A	USA
7	7	9		DD]BETH AMONETTE	4A	USA
8	7	9		DD]JACOB E. WRIGHT	5A	USA
9	7	9		DD]CHRISTOPHER G. GRAHAM	6A	USA
10	10	8		DD]AURORA M MULCHAHD	3A	USA
11	10	8		DD]LISANA LOCKE	6A	USA
12	12	7		DD]BRYAN LEE STRAND	6A	USA
13	12	7		DD]JOSEPH H PHAM #2	6A	USA
14	12	7		DD]U]ROSANDHY WITIASANI	3A	Indonesia
15	12	7		U]MARIA MAGDALENA	4A	Indonesia
16	12	7		DD]KRAIG QUINAIN	2A	Philippines
17	12	7		DD]MA. VERONICA QUINAIN # 2	6A2	Philippines
18	12	7		ARLENE O MEADE	4A	USA
19	19	6		DD]FREDERICK PAMPO	5A	USA
20	19	6		DD]VAN THU THI PHAM	1A	USA
21	19	6		DD]KRISTI A VAUGHAN	4A	USA
22	19	6		DD]MAGIC DRINKING WATER LLC #3	6A	USA
23	19	6		DD]ASHLEY BROOKE MOORE	6A2	USA
24	19	6		DD]JOHN MARTIN GERENA	4A	USA
25	19	6		DDX]LORI VALENTINE	6A	USA
26	19	6		DD]MICHAEL DIAMOND LTD	2A	USA
27	19	6		U]ROSANDHY WITIASANI #2	2A	Indonesia
28	19	6		DD]CANDELARIA DEQUITO#1	3A	Philippines
29	19	6		ROBERT N. ULLMAN (A)	1A	USA
30	19	6		GAIL T TOWEY	4A	USA

EXHIBIT D

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http://www.nouppfrontmoney.com/

Go

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(/web/20080215000000/http://www.nouppfrontmoney.com/)

2015 2016

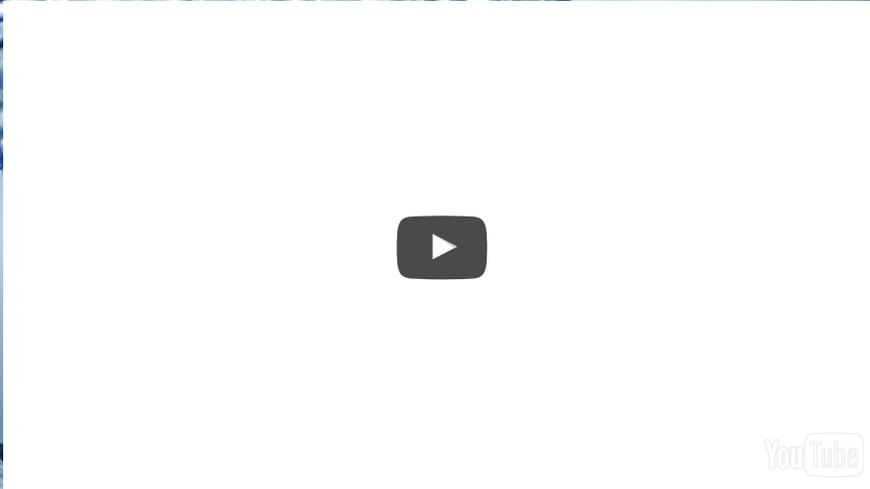


About the Kangen Water Product/Business

00:19

00:47

STEP 1: Our product will transform your health and explode your finances. Watch the video below to find out how:



YouTube

STEP 2: Now that you've seen the incredible BENEFITS of our product, its time for you to see it's FEATURES in action.

Watch this incredible demo:

Saving page now...

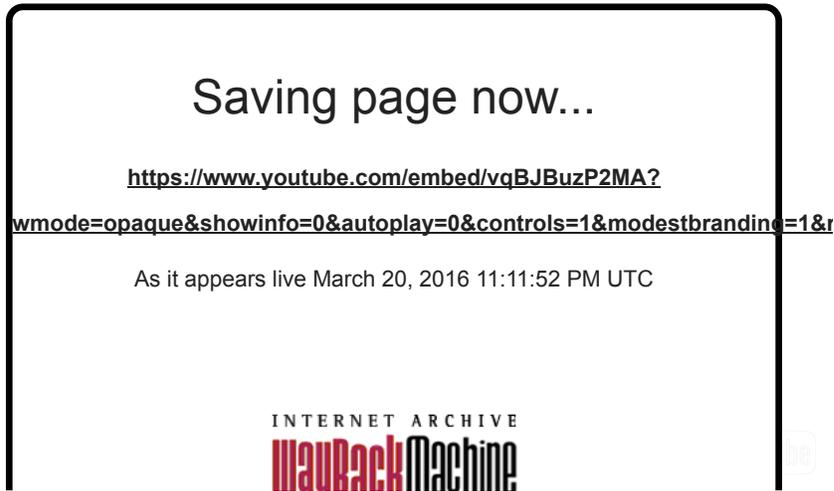
[https://www.youtube.com/embed/Mc_DxnLK2Jw?
wmode=opaque&showinfo=0&autoplay=0&controls=1&modestbranding=1&...](https://www.youtube.com/embed/Mc_DxnLK2Jw?wmode=opaque&showinfo=0&autoplay=0&controls=1&modestbranding=1&...)

As it appears live March 20, 2016 11:11:51 PM UTC

INTERNET ARCHIVE
Wayback Machine

STEP 3: Do not be scammed or fooled by copycat products or dishonest competitors. Our product has been the gold standard of its industry for the past 40 years, and is the pioneer of this revolutionary health technology. Be sure to watch this video of a product comparison given by a physician who saved his daughter's life using our one of a kind

Kangen Water Machine:



STEP 4: "Click here to find out how we are averaging over \$2,200 per sale with our incredibly lucrative and patented compensation plan! (/web/20160212080808/http://2200perday.com/)

[Click Here to Get Your FREE Credit Score \(/web/20160212080808/https://www.creditkarm.com\)](/web/20160212080808/https://www.creditkarm.com)

(To See if You Qualify for Financing)

Kangen Water Product Demo and Business Opportunity

PLEASE CONTACT THE PERSON WHO INVITED YOU TO THIS VIDEO FOR MORE INFORMATION AND TO SEE IF YOU QUALIFY.

REMEMBER:

- NO MONEY OUT OF POCKET/UP FRONT COST
- COMPLETE TRAINING PROVIDED, WORK WITH PROFESSIONAL MENTOR
- UNLIMITED LEAD SOURCE OF TARGETED NETWORK MARKETING PROFESSIONALS
- AUTOMATED MARKETING SYSTEM AVAILABLE TO OUR TEAM ONLY
- OUR TEAM HAS DONE OVER \$15 MILLION IN SALES
- 40+ YEAR, DEBT FREE COMPANY - SINCE 1974
- LONG STANDING MEMBER OF THE DIRECT SELLING ASSOCIATION - DSA
- PRODUCT IS KNOWN WORLD WIDE AS THE BEST IN IT'S INDUSTRY
- LUCRATIVE AND PATENTED COMPENSATION PLAN

[Click Here to Get Your FREE Credit Score \(/web/20160212080808/https://www.creditkarm.com\)](/web/20160212080808/https://www.creditkarm.com)

(To see if you qualify for financing.)

What did you think so far? Are you excited? Are you serious? Ok, now

you have some questions after going through this intro, so first, click on the following link and check out this awesome product in more detail:



Click Here (pdf/144210701.pdf) (PDF File)



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