

GUILFORD COUNTY, C.S.C.

STEVE SAWYER,

BY ASB )

Plaintiff, )

v. )

MARKET AMERICA, INC., )

Defendant. )

**COMPLAINT**

THE PLAINTIFF, complaining of the defendant, avers:

**GENERAL ALLEGATIONS**

1. The plaintiff Steve Sawyer ("Sawyer") is a citizen and resident of Aloha, Oregon.

2. Upon information and belief, Market America, Inc. ("Market America") is a corporation, organized and existing under the laws of the State of North Carolina, with a principal place of business in Greensboro, Guilford County, North Carolina.

3. During the period December 1, 2004 through January, 2006, Sawyer worked as Internet Sales Manager for Market America. Pursuant to agreement, Market America provided written notice of termination of Sawyer's employment, effective as of the end of February, 2006, and waived work by Sawyer during February, 2006.

4. Market America agreed to compensate Sawyer for his services at the rate of \$4,166.67 per month, plus an honorarium fee for specific speaking engagements mutually agreed upon by the parties, and certain expense reimbursements. Additionally, Market America agreed to pay Sawyer a \$10,000 bonus for causing Market America Internet sales to reach an approved

Conservative Goal of \$4,687,732 and an additional \$15,000 bonus for causing Market America Internet sales to reach an approved Aggressive Goal of \$5,231,844 for calendar year 2005.

5. Sawyer remained under contract and performed work for Market America as Internet Sales Manager for the entire year for calendar year 2005.

6. Market America's Internet sales for 2005 exceeded the approved Aggressive Goal of \$5,231,844.

7. Sawyer met prescribed performance objectives and is entitled to bonuses totaling \$25,000 (\$10,000 for achieving Conservative Goal and \$15,000 for achieving Aggressive Goal) for work he performed in calendar year 2005.

8. Although Sawyer worked for and provided services to Market America in January, 2006, Market America has not made payment to Sawyer in the sum of \$4,166.67 for these services.

9. Although Sawyer was ready, willing and able to work for Market America through February, 2006, Market America gave notice and waived that obligation, in writing. Sawyer has invoiced Market America for February, 2006, in the agreed upon sum for \$4,166.67. Upon information and belief, Sawyer believes that Market America will not honor its obligation to pay Sawyer for work performed in February, 2006.

**FIRST CLAIM FOR RELIEF**  
(Breach of Contract)

10. The plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 1 through 9 of this Complaint as if herein fully repeated by reference thereto.

11. Market America's failure and refusal to pay Sawyer his earned bonuses for Internet sales goals achieved for calendar year 2005 constitutes a breach of contract, entitling Sawyer to have and recover from Market America \$25,000, plus interest from January 10, 2006 until paid.

12. Market America's failure and refusal to pay Sawyer the agreed upon figure of \$4,166.67 for work performed during January, 2006 constitutes a breach of contract, entitling Sawyer to have and recover from Market America the sum of \$4,166.67, together with interest from February 10, 2006 until paid.

13. In the event Market America does not pay to Sawyer the agreed upon sum of \$4,166.67 for February, 2006, such failure will constitute a breach of contract, entitling Sawyer to have and recover from Market America the sum of \$4,166.67, together with interest from March 10, 2006 until paid.

### **SECOND CLAIM FOR RELIEF**

(Violation of the Wage Payment Provisions of the North Carolina Wage and Hour Act)

14. The plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 1 through 13 of this Complaint as if herein fully repeated by reference thereto.

15. Market America "suffered or permitted" Sawyer to work during the period December 1, 2004 through January, 2006, as that phrase is used in § 95-25.2(3) of the North Carolina General Statutes. Market America waived, in writing, work by Sawyer during February, 2006.

16. Market America employed Sawyer during the period December 1, 2004 through January, 2006, within the meaning of "employ" as that term is defined in § 95-25.2(3) of the North Carolina General Statutes.

17. During the period December 1, 2004 through February, 2006, Sawyer was an “employee” of Market America within the meaning of that term as defined in § 95-25.2(4) of the North Carolina General Statutes.

18. Market America was the “employer” of Sawyer during the period December 1, 2004 through February, 2006 within the meaning of that term as defined in § 95-25.2(5) of the North Carolina General Statutes.

19. The aforesaid bonuses of \$25,000 and monthly compensation of \$4,166.67 owed by Market America to Sawyer constitute “wages” within the meaning that term as defined in § 95-25.2(16) of the North Carolina General Statutes.

20. Market America’s failure and refusal to pay to Sawyer the aforesaid bonuses of \$25,000 and monthly compensation of \$4,166.67 constitutes a violation of § 95-25.7 of the North Carolina General Statutes.

21. Pursuant to the provisions of § 95-25.22 of the North Carolina General Statutes, Sawyer is entitled to have and recover from the defendant unpaid but accrued bonuses in the amount of \$25,000, plus \$4,166.67 for work performed during January, 2006, and \$4,166.67 for February, together with interest, liquidated damages, and attorneys’ fees.

WHEREFORE, plaintiff prays to have and recover of the defendant the sum of \$25,000 in earned but unpaid bonuses together with interest at the legal rate from January 10, 2006 until paid, \$4,166.67 for work performed in January, 2006, together with interest at the legal rate from February 10, 2006 until paid, and \$4,166.67 for February, 2006, together with interest at the legal rate from March 10, 2006 until paid; that the plaintiff have and recover from the defendant liquidated damages equal to the aforesaid principal amounts; that the costs of this action, including

a reasonable attorney's fee for counsel for the plaintiff, be taxed against the defendant; and that the Court grant to the plaintiff such other and further relief as to the Court may seem just and proper.

This the 3 day of March, 2006.



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Kenneth R. Keller  
Attorney for Plaintiff

OF COUNSEL:

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**DEMAND FOR JURY TRIAL**

The plaintiff hereby demands a trial by jury on all of the issues raised by the pleadings in this action.



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Kenneth R. Keller  
Attorney for Plaintiff