

By FAX

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FILED

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SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SONOMA
BY [Signature] DEPUTY CLERK

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 FOR THE COUNTY OF SONOMA

16 ADVANCED NUTRIENTS LTD, a Canadian)
17 Corporation; ADVANCED NUTRIENTS US)
18 LLC, a Washington Limited Liability Company)

19 Plaintiffs,)

20 vs.)

21 3 G GREEN GARDEN GROUP, LLC;)
22 ROBERT HIGGINS, an individual; SHARON)
23 HIGGINS, an individual; DAVID PRATT, an)
24 individual; DIMITAR DIMITROV, an)
25 individual; and DOES 1-50, inclusive)

26 Defendants.)

CASE NO. 256825

SCV

COMPLAINT FOR:

1. Misappropriation of Trade Secrets (California Civil Code §3426 et seq.);
2. Unfair Competition (California Business and Professions Code §17200);
3. Intentional Interference with Economic Advantage
4. Breach of Fiduciary Duty; and
5. Breach of Contract

27 Plaintiffs, Advanced Nutrients Ltd. and Advanced Nutrients US LLC, alleges as follows:

28 **PARTIES**

1. Plaintiff Advanced Nutrients Ltd is a Canadian corporation with its principal place of business in British Columbia.

1 2. Plaintiff Advanced Nutrients US LLC is a Washington limited liability company,
2 qualified to do business in California. Together Advanced Nutrients Ltd and Advanced Nutrients
3 US LLC are referred to herein as "Advanced Nutrients."

4 3. Defendant 3 G Green Garden Group, LLC is a California limited liability
5 company with its principal place of business in Sebastopol, California.

6 4. Defendant Robert Higgins in an individual. Robert Higgins is a one-third
7 shareholder in Advanced Nutrients, Ltd and a one-third member in Advanced Nutrients US LLC.
8 Robert Higgins also was the sole director and president of Advanced Nutrients Ltd and sole
9 director of Advanced Nutrients US LLC. Robert Higgins is currently the chief executive officer
10 of 3 G Green Garden Group LLC. Plaintiffs are informed and believe and thereon allege that
11 defendant Robert Higgins resides in British Columbia, Canada.

12 5. Defendant Sharon Higgins is an individual, and Robert Higgins' spouse. Sharon
13 Higgins was employed with Advanced Nutrients Ltd as AR& Costing Manager until she was
14 terminated in January 2014. Sharon Higgins is currently a member of 3 G Green Garden Group,
15 LLC. Plaintiffs are informed and believe and thereon allege that defendant Sharon Higgins
16 resides in British Columbia, Canada.

17 6. Defendant David Pratt is an individual. David Pratt was employed with
18 Advanced Nutrients US LLC as a Regional Sale Manger until he was terminated in January
19 2014. David Pratt is currently a member of 3 G Green Garden Group, LLC. Plaintiffs are
20 informed and believe and thereon allege that defendant David Pratt resides in Sebastopol,
21 California.

22 7. Defendant Dimitar Dimitrov is an individual. Plaintiffs are informed and believe
23 and thereupon allege that Dimitrov is an employee of 3 G Green Garden Group, LLC. Plaintiffs
24 are informed and believe and thereon allege that defendant David Pratt resides in California.

25 8. The true names and capacities, whether individual, corporate, associate or
26 otherwise of respondents Does 1 through 50, inclusive, are unknown to plaintiffs, who therefore
27 sues said defendants by such fictitious names. Plaintiffs are informed and believe and thereon
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1 alleges that each of the fictitiously named defendants is responsible for and caused the damages
2 herein alleged. Plaintiffs will seek leave to amend this complaint, or otherwise amend, to show
3 the true names and capacities of such defendants when same have been ascertained.

4 **COMMON FACTUAL BACKGROUND**

5 9. Advanced Nutrients is in the business of selling specialty fertilizers for
6 hydroponics gardening and agricultural applications. Over many years of exhaustive research
7 and testing, at great expense and through the efforts of highly credentialed staff, these fertilizers
8 have been developed to contain the correct levels, ratios, and the types of quality components
9 most useful for hydroponics plants. They contain proprietary blends of quality micro- and
10 macro-nutrients, amino acids, hormones, expensive chelates, vitamins, enzymes, yeast, yeast
11 extracts, organics, carbohydrates, microbes, beneficial bacteria, and beneficial fungi.

12 10. These formulas have independent economic value from not being generally
13 known to the public or to other persons who can obtain economic value from their disclosure or
14 use.

15 11. At all times Advanced Nutrients makes reasonable efforts to maintain the secrecy
16 of its formulas by, among other methods, encrypting the data on the company's computers,
17 limiting access to the formulas, and requiring employees to sign a Non Competition and
18 Confidentiality Agreements protecting the formulas from disclosure to the public and
19 competitors. Other than the Advanced Nutrients' co-founders, Sharon Higgins, while an
20 employee, was one of the few selected employees to have had full access to the product formulas,
21 and the only person who maintained them to keep current.

22 12. Advanced Nutrients' products outperform the competition and are highly sought
23 after in the marketplace. In an innovative test conducted in 2003, a grower compared Advanced
24 Nutrients to fertilizers made by five other leading nutrients companies in a side-by-side grow
25 room comparison on identical clones taken from the same mother plant. Advanced Nutrients'
26 plants substantially outperformed other plants.

27 13. Advanced Nutrients' products are now available across North America, including
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1 California, and in Australia, the United Kingdom, Holland, Germany, and Spain. In 2014
2 Advanced Nutrients, through Advanced Nutrients US LLC, sold 51% of its global product sales
3 in California.

4 14. Robert Higgins was one of the co-founders of Advanced Nutrients, and since
5 inception, has held and continues to hold a one-third interest in the companies. The other two co-
6 founders, Michael Straumietis and Eugene Yordanov, also hold one-third interests. Robert
7 Higgins also was president and sole director of Advanced Nutrients Ltd., sole manager of
8 Advanced Nutrients US LLC, and sole director of Applied Plant Science, Inc., until removed as
9 alleged below.

10 15. Advanced Nutrients Ltd. hired Sharon Higgins in 2007 and she eventually held
11 the position of AR & Costing Manager, which position she retained until terminated in January
12 2014.

13 16. As part of their functions, Robert and Sharon Higgins had access to the
14 companies' proprietary formulas.

15 17. Starting in early 2014, Robert Higgins neglected and failed to carry out certain
16 critical management functions. He delayed or refused to sign company checks and bank
17 documents, and refused to enable others to do so in his place. In response to this conduct,
18 Advanced Nutrients, in July 2014, removed Robert Higgins from his position as director and
19 president of the companies

20 18. Unbeknownst to Advanced Nutrients, Robert Higgins, along with other current
21 and former Advanced Nutrients employees, including his wife, Sharon Higgins, started 3 G
22 Green Garden Group LLC ("Green Garden"). Robert Higgins is CEO of Green Garden. His
23 wife, Sharon Higgins, and former Advanced Nutrients' employee, David Pratt, are members.
24 While still employed by and/or having an ownership interest in Advanced Nutrients, Robert and
25 Sharon Higgins and Pratt conspired to start the competing Green Garden business, and
26 formulated an aggressive plan to poach Advanced Nutrients' customers and employees knowing
27 that those employees had invaluable knowledge necessary to be successful in a competing
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1 business, and that Advanced Nutrients' customers were a lucrative target for poaching.

2 19. Green Garden is in the same business as Advanced Nutrients, and has applied to
3 the State of California to become an authorized retailer of fertilizer-nutrient products under the
4 name of Emerald Harvest.

5 20. Green Garden has trademarked seventeen products and has submitted ten of those
6 products to the California Department of Food and Agriculture ("CDFA") Fertilizing Materials
7 Program for review. As part of the registration process, Green Garden submitted to the CDFA the
8 general formulas for its products.

9 21. Of the ten products submitted by Green Garden to the CDFA for review, each of
10 those products are identical to or are extremely close to Advanced Nutrients' product
11 formulations.

12 22. Green Garden obtained those formulas from Robert and Sharon Higgins who stole
13 the formulas from Advanced Nutrients. Robert and Sharon Higgins downloaded the formulas
14 from Advanced Nutrients computers, and then printed them out.

15 23. In addition, Green Garden, through Robert and Sharon Higgins and David Pratt,
16 has been soliciting Advanced Nutrients' suppliers, customers, and current and former employees.
17 At least seven (7) former employees of Advanced Nutrients are now employed by Green Garden
18 including defendants Sharon Higgins, Pratt, and Dimitar Dimitrov (former warehouse manager),
19 and Richard Wong (former Financial Director of North America), Dal Banwait (former Vice
20 President of Signing Authority for Plant Genome Sciences), Holle Wark (former inside sales
21 representative), and Mark Mazitelli, each of whom signed written Non-Competition and
22 Confidentiality Agreements at the time of their hires. These former employees have confidential
23 knowledge of Advanced Nutrients' customer base, suppliers, cost and pricing.

24 24. Defendants have been using Advanced Nutrients' confidential information and
25 other company assets to solicit the competing business from Advanced Nutrients' customers,
26 including without limitation, Advanced Nutrients' customer lists, product formulations,
27 marketing knowledge, phones and phone numbers.

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1 paragraphs 1 through 42, inclusive, as though fully set forth herein.

2 44. As Advanced Nutrients' one-third shareholder, president and director, defendant
3 Robert Higgins owed Advanced Nutrients fiduciary duties, including a duty of due care and
4 loyalty.

5 45. Defendant Robert Higgins breached those duties and obligations owing to
6 Advanced Nutrients as alleged above, specifically by (a) stealing Advanced Nutrients' product
7 formulas and using said formulas to form and operating a competing business; and (b) soliciting
8 Advanced Nutrients' suppliers, customers, and current and former employees to compete with
9 Advanced Nutrients' business.

10 46. Green Garden conspired with Robert Higgins and aided and abetted his breaches
11 of fiduciary duty.

12 47. Advanced Nutrients has been irreparably injured and damaged as a result of this
13 breach of fiduciary duty in an amount to be determined by the trier of fact at trial, which exceeds
14 the general jurisdictional amount for this court of \$25,000.00 and which is estimated as being
15 \$500,000.00 or more, subject to proof. Advanced Nutrients will continue to be irreparably
16 injured and damaged so long as Green Garden has use of the formulas, continues with the CDFA
17 application process, and continues to solicit Advanced Nutrients' customers and employees.

18 48. In doing the acts alleged herein, defendant acted with fraud, oppression, and
19 malice. Plaintiffs are thus entitled to punitive and exemplary damages against defendant in an
20 amount sufficient to serve as an appropriate punishment in light of the defendant's financial
21 condition and the degree of misconduct.

22 **COUNT V**

23 (Fifth Cause of Action for Breach of Contract Against Defendants 3 G Green Garden LLC,
24 Robert Higgins, Sharon Higgins, David Pratt, Dimitar Dimitrov, and Does 12-34 and 45-50)

25 49. Plaintiffs hereby reallege and incorporate by reference the allegations contained in
26 paragraphs 1 through 48, inclusive, as though fully set forth herein.

27 50. Defendants Sharon Higgins, David Pratt, and Dimitar Dimitrov each signed
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1 written Non-Competition and Confidentiality Agreements.

2 51. Each of said defendants, acting in conspiracy with and aided and abetted by
3 defendants Green Garden and Robert Higgins, breached those agreements by disclosing Secret
4 and Confidential Information, soliciting business for Green Garden from Advanced Nutrients'
5 current or prospective customers, and/or by recruiting for Green Garden current Advanced
6 Nutrients' employees.

7 52. The agreements also include an implied promise of good faith and fair dealing,
8 and specifically that members would not do anything to destroy or injure the right of Advanced
9 Nutrients' to receive the benefits of the agreement.

10 53. Plaintiffs have fulfilled all the duties, conditions, and terms required of it by the
11 agreement, or have been excused from doing so as a result of defendants' actions.

12 54. Advanced Nutrients has been irreparably injured and damaged as a result of this
13 breach of fiduciary duty in an amount to be determined by the trier of fact at trial, but which
14 exceeds the general jurisdictional amount for this court of \$25,000.00 and which is estimated as
15 being \$500,000.00 or more, subject to proof. Advanced Nutrients will continue to be irreparably
16 injured and damaged so long as Green Garden has use of the formulas, continues with the CDFA
17 application process, and continues to solicit Advanced Nutrients' customers and employees.

18 WHEREFORE, plaintiffs ADVANCED NUTRIENTS LTD and ADVANCED
19 NUTRIENTS US LLC, pray for judgment as follows:

20 1. For an order enjoining defendants from further using or disclosing Advanced
21 Nutrients' trade secrets and enjoining defendants from soliciting business for Green Garden from
22 Advanced Nutrients' current or prospective customers, and /or from recruiting for Green Garden
23 current Advanced Nutrients' employees;

24 2. For compensatory damages in an amount to be determined by the trier of fact, in
25 an amount of \$500,000.00, subject to proof;

26 3. For punitive damages;

27 4. For prejudgment interest, attorney's fees, court costs, investigative costs and other
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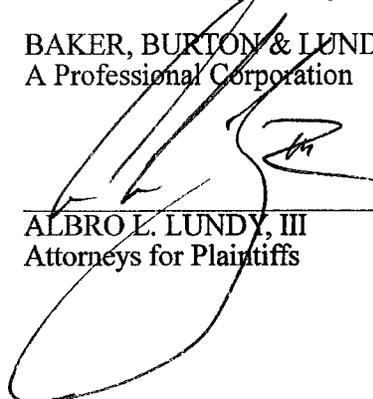
1 expenses incurred in the prosecution of the complaint according to proof; and

2 5. For such other and further relief as the court may deem just and proper.

3 DATED: March 5, 2015

BAKER, BURTON & LUNDY
A Professional Corporation

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6 By:


ALBROY L. LUNDY, III
Attorneys for Plaintiffs

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