

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

<p>_____, Individually and On Behalf of All Others Similarly Situated,  Plaintiff,  v.  USANA HEALTH SCIENCES, INC., DAVID A. WENTZ, and PAUL A. JONES,  Defendants.</p>	}	<p><b>Case No.</b></p> <p><b><u>CLASS ACTION COMPLAINT</u></b></p> <p><b><u>JURY TRIAL DEMANDED</u></b></p>
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**CLASS ACTION COMPLAINT**

Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by her undersigned attorneys, for her complaint against Defendants, alleges the following based upon personal knowledge as to herself and her own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through her attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, U.S. Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding USANA Health Sciences. Inc, (“USANA” or the “Company”), analysts’ reports and advisories about the

Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

## **NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of a class consisting of all persons other than defendants who purchased or otherwise acquired USANA securities between March 14, 2014 and February 7, 2017, both dates inclusive (the “Class Period”), seeking to recover damages caused by defendants’ violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. USANA Health Sciences, Inc. develops, manufactures, and sells science-based nutritional and personal care products primarily to reduce the risk of chronic degenerative disease. The Company was founded in 1992 and is headquartered in Salt Lake City, Utah. USANA’s stock trades on the New York Stock Exchange (“NYSE”) under the ticker symbol “USNA.”

3. On August 16, 2010, USANA announced that it had acquired BabyCare Ltd. (“BabyCare”), a China-based manufacturing company that develops and sells nutritional products primarily for infants. Over the next six years, USANA steadily expanded BabyCare’s market presence in China. In February 2013, the Company announced that it had received official government approval from the Ministry of Commerce People’s Republic of China (“MOFCOM”) for direct selling activities in the provinces of Jiangsu and Shaanxi, and the municipality of Tianjin. In May 2016, USANA announced MOFCOM approval for direct selling activities in the provinces of Liaoning, Shandong, Shanxi, Sichuan, and Guangdong, as well as the municipalities of Dalian, Qingdao, and Shenzhen.

4. Throughout the Class Period, Defendants made materially false and misleading statements regarding the Company’s business, operational and compliance policies. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) the Company’s BabyCare subsidiary had engaged in improper reimbursement practices in China; (ii)

these practices constituted violations of the Foreign Corrupt Practices Act (“FCPA”); (iii) as such, the Company’s China revenues were in part the product of unlawful conduct and unlikely to be sustainable; (iv) the foregoing conduct, when it became known, was likely to subject the Company to significant regulatory scrutiny; and (v) as a result of the foregoing, USANA’s public statements were materially false and misleading at all relevant times.

5. On February 7, 2017, post-market, USANA disclosed that “[t]he Company is voluntarily conducting an internal investigation of its China operations, BabyCare Ltd. . . . focus[ing] on the compliance with the Foreign Corrupt Practices Act . . . and certain conduct and policies at BabyCare, including BabyCare’s expense reimbursement policies.” USANA advised investors that the company had retained outside counsel to conduct the investigation and had notified both the SEC and the U.S. Department of Justice (“Justice Department”) of the investigation.

6. On this news, USANA’s share price fell \$7.25, or 11.57%, to close at \$55.40 on February 8, 2017.

7. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

### **JURISDICTION AND VENUE**

8. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Exchange Act (15 U.S.C. §§78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5).

9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

10. Venue is properly laid in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b). USANA is headquartered within this District.

11. In connection with the acts, conduct and other wrongs alleged in this Complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of the national securities exchange.

### **PARTIES**

12. Plaintiff, as set forth in the attached Certification, acquired USANA securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

13. Defendant USANA is incorporated in Utah, with its executive offices located at 3838 West Parkway Boulevard, Salt Lake City, Utah 84120. USANA's shares trade on the NYSE under the ticker symbol "USNA."

14. Defendant David A. Wentz ("Wentz") served at all relevant times as the Company's Chief Executive Officer.

15. Defendant Paul A. Jones ("Jones") has served at all relevant times as the Company's Chief Financial Officer and Chief Leadership Development Officer.

16. The defendants referenced above in ¶¶ 14-15 are sometimes referred to herein as the "Individual Defendants."

### **SUBSTANTIVE ALLEGATIONS**

#### **Background**

17. USANA Health Sciences, Inc. develops, manufactures, and sells science-based nutritional and personal care products primarily to reduce the risk of chronic degenerative disease. The Company offers its products directly in the Asia Pacific, the Americas, and Europe.

18. On August 16, 2010, USANA announced that it had acquired BabyCare, a China-based manufacturing company that develops and sells nutritional products primarily for infants. Over the next six years, USANA steadily expanded BabyCare's market presence in China. In February 2013, the Company announced that it had received official government approval from MOFCOM for direct selling activities in the provinces of Jiangsu and Shaanxi, and the municipality of Tianjin.

**Materially False and Misleading Statements Issued During the Class Period**

19. The Class Period begins on March 14, 2014, the day after USANA filed an Annual Report on Form 10-K with the SEC, announcing the Company's financial and operating results for the quarter and year ended December 28, 2013 (the "2013 10-K"). For the quarter, USANA reported net income of \$20.28 million, or \$0.71 per diluted share, on revenue of \$186.27 million, compared to net income of \$18.45 million, or \$0.64 per diluted share, on revenue of \$168.53 million for the same period in the prior year. For 2013, USANA announced net income of \$79.02 million, or \$2.78 per diluted share, on revenue of \$718.18 million, compared to net income of \$66.43 million, or \$2.23 per diluted share, on revenue of \$648.73 million for 2012.

20. In the 2013 10-K, USANA stated, in relevant part:

In 2013, we also announced our receipt of direct selling licenses in three additional provinces in Mainland China, and we announced plans to build a new, state-of-the-art manufacturing and production facility in Beijing, which we anticipate will become operational during the latter part of 2015. As part of our ongoing strategy in Greater China, we also continued registering USANA products in China, educating our customers on our product offerings and business model in China, and improving our information systems and infrastructure in China to make it easier for our customers to do business with us there.

...

Our most recent market expansions in [the Asia Pacific] region include our entry into Thailand in 2012 and our entry into Mainland China in 2010 (through our acquisition of BabyCare). Over the last several years, growth in this region had been led by Hong Kong and the Philippines. Since our acquisition of BabyCare, however, our strategy in Asia Pacific has been centered on generating growth in Mainland China. Consequently, our growth in Asia Pacific during 2013 was led by Mainland China, and our results in Hong Kong have declined. Additionally, our growth in the Philippines was disrupted during 2013 due to the challenging operating conditions in that market, which included natural disasters and political unrest. Going forward, we anticipate that Mainland China will continue to drive our growth in this region, but we also expect our business to grow in most of our other markets in this region as a result of the initiatives we introduced in 2013.

### **Growth Strategy**

...

*Successfully Grow our Greater China and our Americas and Europe Regions.* In light of the strength of our Asia Pacific region and our growing Associate base in Asia, we believe that Greater China is the most significant and imminent growth opportunity for us. Our strategy in this region is focused on generating customer growth in each market, with an emphasis on China. We operate in China through our wholly-owned subsidiary, BabyCare. BabyCare has been granted licenses to engage in direct selling in the municipalities of Beijing, Jiangsu, Shaanxi and Tianjin and is working to obtain similar licenses in other provinces. We have spent the last few years registering a portfolio of USANA products for sale by BabyCare in China, educating our customers on our product offering and business model in China, and improving our information systems, technology and infrastructure in China. During 2014, we will continue to execute these strategies, with a focus on improving our systems and infrastructure in China to make it easier and more enjoyable for customers to do business with us there. We have announced our investment of approximately \$40 million in a new, state-of-the-art manufacturing and production facility in China, and we anticipate that this facility will become operational during the latter-half of 2015. In 2014, we will also renovate several of our branch locations in China to make them more modern and customer-friendly.

21. The 2013 10-K contained signed certifications pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) by the Individual Defendants, stating that the financial information contained in the 2013 10-K was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

22. On April 29, 2014, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended March 29, 2014 (the "Q1 2014 8-K"). For the quarter, USANA announced net income of \$16.54 million, or \$0.58 per diluted share, on revenue of \$182.4 million, compared to net income of \$17.78 million, or \$0.64 per diluted share, on revenue of \$169.08 million for the same period in the prior year.

23. In the Q1 2014 8-K, USANA stated, in part:

### **Regional Results**

Net sales in the Asia Pacific region increased by 13.0% to \$118.6 million, compared with \$104.9 million for the first quarter of the prior year. This improvement was due primarily to sales growth in the Greater China and Southeast Asia Pacific regions with China, Singapore and the Philippines experiencing the most meaningful growth. The Greater China region generated net sales growth in excess of 12% on a year-over-year basis. However, quarterly sequential sales for this region declined 1.1% due to the normal seasonality of the Chinese New Year, as well as the negative media and regulatory focus on businesses in the Company's industry during the quarter.

...

"As we anticipated, our business in several markets experienced the customary seasonal pressure of the Chinese New Year," continued Mr. Wentz. "Additionally, the challenging environment that emerged in China during the quarter impacted our sales and customer growth in that market. Although we believe that the environment in China will continue to impact our short-term performance in that market, we remain confident in our growth opportunity in China and will continue to invest and build a sustainable business there. We also remain confident in the underlying strength of our world-wide business, and we expect the initiatives we put in place during 2013 will continue to drive long-term growth for the Company," concluded Mr. Wentz.

...

### **Outlook**

...



Chief Financial Officer, Paul Jones, commented, “Although our first quarter results were impacted by a number of factors, we continue to expect our financial performance to accelerate as the year progresses. The pricing and Associate compensation plan initiatives we implemented in 2013, however, will continue to create a challenging year-over-year comparable for our financial performance. Additionally, we anticipate that the environment in China will continue to impact our growth in 2014 and have adjusted our outlook accordingly. We remain committed to growing our business in China and will continue to invest in this important market as part of our growth strategy. We will also continue to advance our personalization strategy around the world and leverage the initiatives we implemented during 2013 to drive long-term growth for the Company.”

24. On May 7, 2014, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q1 2014 8-K and reporting in full the Company’s financial and operating results for the quarter ended March 29, 2014 (the “Q1 2014 10-Q”).

25. The Q1 2014 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q1 2014 10-Q was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

26. On July 29, 2014, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company’s financial and operating results for the quarter ended July 4, 2014 (the “Q2 2014 8-K”). For the quarter, USANA announced net income of \$19.3 million, or \$0.68 per diluted share, on revenue of \$188.26 million, compared to net income of \$24.21 million, or \$0.86 per diluted share, on revenue of \$189.14 million for the same period in the prior year.

27. In the Q2 2014 8-K, USANA stated, in part:

**Regional Results**

Net sales in the Asia Pacific region increased by 1.8% to \$124.6 million, compared with \$122.4 million for the second quarter of the prior year. This improvement was due to nearly 14% sales growth in the Southeast Asia Pacific region, which was driven by sales and customer growth in every market in the region. Net sales in the

Greater China region decreased 4.3% on a year-over-year basis, due to nearly \$7.0 million in incremental sales during the second quarter of 2013 that occurred ahead of policy changes, which included restricting Associate purchases to their country of residence. Sequentially, net sales in the Greater China region increased 4.6% due to double-digit sales and customer growth in China. The number of active Associates in the Asia Pacific region increased by 16.9% year-over-year, due to double-digit Associate growth in the Greater China and Southeast Asia Pacific regions.

...

“Our business continues to produce strong results in Asia Pacific, as nearly every market in this region delivered sales and customer growth during the quarter. As we anticipated, our performance in China accelerated during the quarter and produced double-digit sales and customer growth compared to the prior quarter. We expect our results in China to continue to accelerate as the year progresses and remain confident in our long-term growth potential in this important market. We also have initiatives planned for the second-half of 2014 that are designed to drive sales and customer growth in each of our regions, with an emphasis on North America and the United States in particular. We look forward to hosting our 22nd Annual International Convention in August, where we will make several exciting announcements,” concluded Mr. Wentz.

28. On August 5, 2014, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q2 2014 8-K and reporting in full the Company’s financial and operating results for the quarter ended July 4, 2014 (the “Q2 2014 10-Q”).

29. The Q2 2014 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q2 2014 10-Q was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

30. On October 28, 2014, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company’s financial and operating results for the quarter ended September 27, 2014 (the “Q3 2014 8-K”). For the quarter, USANA announced net income of \$19.5 million, or \$0.74 per diluted share, on revenue of \$191.94 million, compared

to net income of \$16.75 million, or \$0.58 per diluted share, on revenue of \$173.69 million for the same period in the prior year.

31. In the Q3 2014 8-K, USANA stated, in part:

**Regional Results**

Net sales in the Asia Pacific region increased by 21.3% to \$130.2 million, compared with \$107.4 million for the third quarter of the prior year, and increased 4.5% sequentially. The year-over-year increase was due to 29.2% sales growth in the Greater China region and 10.6% sales growth in the Southeast Asia Pacific region. Sales growth in Greater China was driven by double-digit sales and customer growth in Mainland China, while sales growth in Southeast Asia Pacific resulted from strong sales and customer growth in Australia/New Zealand, the Philippines and Thailand. The number of active Associates in the Asia Pacific region increased by 28.2% year-over-year, due primarily to double-digit Associate growth in the Greater China and Southeast Asia Pacific regions.

32. On November 6, 2014, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q3 2014 8-K and reporting in full the Company's financial and operating results for the quarter ended September 27, 2014 (the "Q3 2014 10-Q").

33. The Q3 2014 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q3 2014 10-Q was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

34. On February 10, 2015, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter and year ended January 3, 2015 (the "2014 8-K"). For the quarter, USANA announced net income of \$21.3 million, or \$0.83 per diluted share, on revenue of \$227.87 million, compared to net income of \$20.28 million, or \$0.71 per diluted share, on revenue of \$186.27 million for the same period in the prior year. For 2014, USANA announced net income of \$76.64

million, or \$2.80 per diluted share, on revenue of \$790.47 million, compared to net income of \$79.02 million, or \$2.78 per diluted share, on revenue of \$718.18 million for 2013.

35. In the 2014 8-K, USANA stated, in part:

### **Regional Results**

Net sales in the Asia Pacific region increased by 34.1% to \$163.3 million, compared with \$121.8 million for the fourth quarter of the prior year. Net sales also increased by 25.4% on a sequential quarter basis. The year-over-year increase was due to 45.1% sales growth in the Greater China region, 18.8% sales growth in the Southeast Asia Pacific region, and 16.1% sales growth in the North Asia region. Sales growth in Greater China was driven by double-digit sales and customer growth in Mainland China, while sales growth in Southeast Asia Pacific resulted from double-digit sales and customer growth in the Philippines, Australia/New Zealand, Malaysia and Thailand. Sales growth in North Asia was driven by double-digit sales and customer growth in South Korea. The number of active Associates in the Asia Pacific region increased by 44.3% year-over-year, and increased 26.3% sequentially.

36. On March 17, 2015, USANA filed an Annual Report on Form 10-K with the SEC, reiterating the financial and operating results previously announced in the 2014 8-K and reporting in full the Company's financial and operating results for the quarter and year ended January 3, 2015 (the "2014 10-K").

37. In the 2014 10-K, USANA stated, in part:

Asia Pacific is our most strongly growing region. Our most recent market expansions in this region include our entry into Thailand in 2012 and our entry into China in 2010 (through our acquisition of BabyCare). Historically, our growth in this region was led by Hong Kong and the Philippines. Since our acquisition of BabyCare, however, our strategy in Asia Pacific has been centered on generating growth in China. Consequently, our growth in Asia Pacific over the last couple of years has been led by China, and our results in Hong Kong have declined. Going forward, we anticipate that China and the Philippines will continue to drive our growth in this region, but we also expect our business to grow in most of our other markets in this region. Additionally, we plan to open a new market in our Southeast Asia Pacific region during 2015.

...

### **Growth Strategy**

... .

*Successfully Grow our Greater China and our Americas and Europe Regions.* In light of the strength of our Asia Pacific region and our growing Associate base in Asia, ***we believe that Greater China is the most significant and imminent growth opportunity for us.*** Our strategy in this region is focused on generating customer growth in each market, with an emphasis on China. We operate in China through our wholly-owned subsidiary, BabyCare. BabyCare has been granted licenses to engage in direct selling in the municipalities of Beijing, Jiangsu, Shaanxi and Tianjin and is working to obtain similar licenses in other provinces. We have spent the last few years registering a portfolio of USANA products for sale by BabyCare in China, educating our customers on our product offering and business model in China, and improving our information systems, technology and infrastructure in China. In 2015, we will continue to execute these strategies, with a focus on the construction of our new state-of-the-art manufacturing and production facility, which we anticipate will become operational during the first half of 2016. We will also continue re-finishing our China branch facilities to make them more modern and customer-friendly, and we will open several new branch locations.

(Emphasis added.)

38. The 2014 10-K contained signed certifications pursuant to SOX by the Individual Defendants, stating that the financial information contained in the 2014 10-K was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

39. On May 5, 2015, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended April 4, 2015 (the "Q1 2015 8-K"). For the quarter, USANA announced net income of \$19.68 million, or \$0.75 per diluted share, on revenue of \$219.38 million, compared to net income of \$16.54 million, or \$0.58 per diluted share, on revenue of \$182.4 million for the same period in the prior year.

40. In the Q1 2015 8-K, USANA stated, in part:

**Financial Performance**

For the first quarter of 2015, net sales increased by 20.3% to \$219.4 million, compared with \$182.4 million in the prior-year period. The increase in net sales was driven by 41.9% growth in the number of active Associates, largely as a result of strong Associate growth in the Company's Asia Pacific region. Net sales, on a comparative basis, were positively impacted by: (i) continued momentum from the

incentive program that the Company offered during the fourth quarter of 2014, which carried over for several weeks into the first quarter of 2015 in China, (ii) incremental sales that occurred ahead of price increases announced in China during the quarter, and (iii) a more favorable operating environment in China compared to the prior-year period. The Company estimates that the incremental sales ahead of the price increases in China contributed approximately \$12 million to net sales for the quarter. Net sales, on a comparative basis, were negatively impacted by \$9.2 million due to a strengthening U.S. dollar.

...

“The first quarter was an excellent start to another promising year for USANA,” said Kevin Guest, USANA’s President. “Our results for the quarter were better than expected, notwithstanding the typical pressure from the Chinese New Year and continued headwinds from a strengthening U.S. dollar. As reported, our double-digit sales, earnings and customer growth during the quarter were driven by the strong momentum *we continue to see across our business and higher-than-expected sales in China.*”

...

### **Regional Results**

Net sales in the Asia Pacific region increased by 31.4% to \$155.9 million, compared with \$118.6 million for the first quarter of the prior year. This year-over-year increase can be attributed to 43.0% sales growth in the Greater China region, 12.1% sales growth in the Southeast Asia Pacific region, and 26.6% sales growth in the North Asia region. Sales growth in Greater China was driven by triple-digit sales and customer growth in Mainland China, while growth in Southeast Asia Pacific resulted from double-digit sales and customer growth in most markets in that region. Finally, sales growth in North Asia was driven by double-digit sales and customer growth in South Korea. The number of active Associates in the Asia Pacific region increased by 58.5% year-over-year, and increased 9.8% sequentially. Net sales in the Asia Pacific region were negatively impacted by \$5.5 million, on a year-over-year comparative basis, due to a strengthening U.S. dollar.

...

We continue to see strong sales and customer growth in most of our markets worldwide and expect this momentum to continue during 2015,” continued Mr. Guest. “While *China continued to lead the way*, it is noteworthy that we generated double-digit growth in many of our markets around the world. Customer growth continues to be our primary objective, as we focus on improving the overall health and nutrition of individuals and families around the world.”

(Emphases added.)

41. On May 13, 2015, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q1 2015 8-K and reporting in full the Company's financial and operating results for the quarter ended April 4, 2015 (the "Q1 2015 10-Q").

42. The Q1 2015 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q1 2015 10-Q was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

43. On August 4, 2015, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended July 4, 2015 (the "Q2 2015 8-K"). For the quarter, USANA announced net income of \$25.42 million, or \$0.96 per diluted share, on revenue of \$233.24 million, compared to net income of \$19.3 million, or \$0.68 per diluted share, on revenue of \$188.26 million for the same period in the prior year.

44. In the Q2 2015 8-K, USANA stated, in part:

#### **Financial Performance**

For the second quarter of 2015, net sales increased to \$233.2 million, up 23.9% compared with \$188.3 million in the prior-year period. The increase in net sales was driven by 40.3% growth in the number of active Associates and 15.2% growth in the number of Preferred Customers. Also included in net sales for the quarter is \$5 million in revenue that was deferred during the previous quarter in connection with price increases in China. Fluctuations in currency exchange rates negatively impacted net sales by \$9.7 million due to the strengthening of the U.S. dollar.

...

#### **Regional Results**

Net sales in the Asia Pacific region increased by 35.4% to \$168.7 million, compared with \$124.6 million for the second quarter of the prior year. Sales grew 51.6% in the Greater China region, 7.8% in the Southeast Asia Pacific region and 32.4% in the North Asia region. Sales growth in Greater China was driven by strong

customer growth in Mainland China, while growth in Southeast Asia Pacific resulted from customer growth within each market in the region. Finally, sales growth in North Asia was driven by double-digit customer growth in South Korea.

...

“Although currency remains a headwind, our business continues to generate solid worldwide growth,” continued Guest. “While *Mainland China continues to lead the way*, it is noteworthy that USANA generated both sales and customer growth in nearly every market around the world, which reflects the demand for our best-in-class products and business opportunity. During the quarter, we held our annual Asia Pacific convention in Singapore, where thousands of our Associates celebrated their success and received additional training. Later this month, we will hold our annual International Convention in Salt Lake City, where we also expect record attendance and another amazing event.”

(Emphasis added.)

45. On August 12, 2015, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q2 2015 8-K and reporting in full the Company’s financial and operating results for the quarter ended July 4, 2015 (the “Q2 2015 10-Q”).

46. The Q2 2015 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q2 2015 10-Q was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

47. On November 3, 2015, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company’s financial and operating results for the quarter ended October 3, 2015 (the “Q3 2015 8-K”). For the quarter, USANA announced net income of \$25.61 million, or \$0.96 per diluted share, on revenue of \$233.29 million, compared to net income of \$19.5 million, or \$0.74 per diluted share, on revenue of \$191.94 million for the same period in the prior year.

48. In the Q3 2015 8-K, USANA stated, in part:

### **Regional Results**



Net sales in the Asia Pacific region increased by 29.1% to \$168.2 million, despite a negative impact of \$11.8 million due to the strengthening of the U.S. dollar. Southeast Asia Pacific incurred 65% of the total impact of currency fluctuations. Sales increased 45.5% in the Greater China region, 3.3% in the Southeast Asia Pacific region, and 16.3% in the North Asia region.

Sales growth in Greater China was driven by strong customer growth in Mainland China, while growth in Southeast Asia Pacific resulted from double-digit customer growth in nearly every market in the region. Finally, sales growth in North Asia was driven by 50% customer growth in South Korea. The number of active Associates in the Asia Pacific region increased by 51.2% year-over-year, and 2.6% sequentially.

...

“Our consistent growth reflects the demand for USANA’s best-in-class products and rewarding business opportunity,” said Kevin Guest, USANA’s Co-CEO. “During the quarter, we held our annual International Convention in Salt Lake City where we celebrated the achievements of our Associates with a record number of attendees. During the fourth quarter, we will officially open Indonesia, our 20th market, and hold our China National Meeting. Mainland China continues to be a key driver of our growth and we anticipate another amazing event with record attendance.”

49. On November 12, 2015, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q3 2015 8-K and reporting in full the Company’s financial and operating results for the quarter ended October 3, 2015 (the “Q3 2015 10-Q”).

50. The Q3 2015 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q3 2015 10-Q was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

51. On February 9, 2016, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company’s financial and operating results for the quarter and year ended January 2, 2016 (the “2015 8-K”). For the quarter, USANA announced net income of \$23.97 million, or \$0.92 per diluted share, on revenue of \$232.59 million, compared

to net income of \$21.3 million, or \$0.83 per diluted share, on revenue of \$227.87 million for the same period in the prior year. For 2015, USANA announced net income of \$94.67 million, or \$3.59 per diluted share, on revenue of \$918.5 million, compared to net income of \$76.64 million, or \$2.80 per diluted share, on revenue of \$790.47 million for 2014.

52. In the 2015 8-K, USANA stated, in part:

### **Regional Results**

Net sales in the Asia Pacific region increased by 5.4% to \$172.1 million, despite a negative \$11.2 million impact from the strengthening U.S. dollar, and an extra week of sales in the prior year quarter. Within Asia Pacific, net sales:

- Increased by 10.9% in Greater China (15.1% on a constant currency basis);
- Increased by 13.5% in the North Asia region (20.7% on a constant currency basis); and
- Decreased by 7.5% in the Southeast Asia Pacific region (increased by 4.8% on a constant currency basis).

Sales growth in Greater China was driven by 46.6% Associate growth in Mainland China, while sales growth in North Asia resulted from 33.3% Associate growth in South Korea. Finally, customer growth in Southeast Asia Pacific was primarily due to 30.8% Associate growth in Malaysia. The total number of active Associates in the Asia Pacific region increased by 26.1% year-over-year and 5.4% sequentially.

...

***“Our growth continues to be driven by momentum in our Asia Pacific region, particularly in Mainland China,”*** continued Mr. Wentz. “During the quarter, we held our annual China National Meeting in Qingdao, where a record number of Associates were recognized for their achievements. In addition, we officially launched our 20th market in Indonesia during the quarter. We are optimistic about this market for the future. We’re also encouraged by the Associate growth that we are experiencing worldwide, and we expect this to continue during 2016.”  
(Emphasis added.)

53. On March 1, 2016, USANA filed an Annual Report on Form 10-K with the SEC, reiterating the financial and operating results previously announced in the 2015 8-K and reporting

in full the Company's financial and operating results for the quarter and year ended January 2, 2016 (the "2015 10-K").

54. In the 2015 10-K, USANA stated, in part:

Asia Pacific has driven our growth the last several years. Our most recent market expansions in this region include our entry into Indonesia in late 2015, Thailand in 2012 and our entry into China in 2010 through our acquisition of BabyCare. Historically, our growth in this region was led by Hong Kong and the Philippines. Since our acquisition of BabyCare, however, our strategy in Asia Pacific has been centered on generating growth in China. Consequently, our growth in Asia Pacific over the last few years has been led by China, and our results in Hong Kong have declined. Our Hong Kong market has now reached our projected size, in terms of customers and sales, and we anticipate modest organic growth for this market going forward. We also anticipate that China and the Philippines will continue to drive our growth in this region going forward, but expect our business to grow in most of our other markets in this region.

...

#### **Growth Strategy**

...

*Successfully Grow each of our Regions through Market Specific Strategies and Incentives.* In light of the strength of our Asia Pacific region and our growing Associate base in Asia, ***we believe that Greater China continues to be the most significant and imminent growth opportunity for us.*** Our strategy in this region is focused on generating customer growth in each market, with an emphasis on China. Our wholly-owned subsidiary, BabyCare, is our operating entity in China. BabyCare has been granted licenses to engage in direct selling in the municipalities of Beijing, Jiangsu, Shaanxi and Tianjin and is working to obtain similar licenses in other provinces. We have spent the last few years registering a portfolio of USANA products for sale by BabyCare in China, educating our customers on our product offering and business model in China, and improving our information systems, technology and infrastructure in China. In 2016, we will continue to execute these strategies and finalize our new state-of-the-art manufacturing and production facility, which we anticipate will become operational during the first half of 2016.

(Emphasis added.)

55. The 2015 10-K contained signed certifications pursuant to SOX by the Individual Defendants, stating that the financial information contained in the 2015 10-K was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

56. On May 3, 2016, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended April 2, 2016 (the "Q1 2016 8-K"). For the quarter, USANA announced net income of \$22.3 million, or \$0.89 per diluted share, on revenue of \$240.45 million, compared to net income of \$19.68 million, or \$0.75 per diluted share, on revenue of \$219.38 million for the same period in the prior year.

57. In the Q1 2016 8-K, USANA stated, in part:

#### **Regional Results**

Net sales in the Asia Pacific region increased by 13.2% to \$176.4 million, despite a negative \$10.3 million impact from a stronger U.S. dollar. Within Asia Pacific, net sales:

- Increased by 15.5% in Greater China (20.8% on a constant currency basis);
- Increased by 14.4% in the North Asia region (23.2% on a constant currency basis); and
- Increased by 7.8% in the Southeast Asia Pacific region (16.9% on a constant currency basis).

Sales growth in Greater China was driven by 23.6% Associate growth in Mainland China, while sales growth in North Asia resulted from 30.0% Associate growth in South Korea. Sales growth in Southeast Asia Pacific was due to strong Associate growth in several markets in the region. Indonesia also provided a solid contribution of new Associates to the region for its first full quarter of operations. The total number of active Associates in the Asia Pacific region increased by 20.0% year-over-year and 3.8% sequentially.

58. On May 11, 2016, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q1 2016 8-K and

reporting in full the Company's financial and operating results for the quarter ended April 2, 2016 (the "Q1 2016 10-Q").

59. The Q1 2016 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q1 2016 10-Q was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

60. On May 12, 2016, USANA announced that the Company had received MOFCOM approval for direct selling activities in the provinces of Liaoning, Shandong, Shanxi, Sichuan, and Guangdong, as well as the municipalities of Dalian, Qingdao, and Shenzhen. In a press release, Defendant Wentz stated: "We are pleased to have received these additional licenses in China, where we continue to expand the reach of our world-class products. . . . We remain committed to working with the Chinese government as we continue growing our business in this promising market."

61. On July 26, 2016, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended July 2, 2016 (the "Q2 2016 8-K"). For the quarter, USANA announced net income of \$25.76 million, or \$1.04 per diluted share, on revenue of \$258.51 million, compared to net income of \$25.42 million, or \$0.96 per diluted share, on revenue of \$233.24 million for the same period in the prior year.

62. In the Q2 2016 8-K, USANA stated, in part:

**Regional Results**

Net sales in the Asia Pacific region increased 15.1% to \$194.2 million, despite a negative \$9.5 million impact from a stronger U.S. dollar. Within Asia Pacific, net sales:

- Increased by 17.4% in Greater China (23.3% on a constant currency basis);

- Increased by 11.1% in the Southeast Asia Pacific region (16.2% on a constant currency basis); and
- Increased by 8.8% in the North Asia region (13.7% on a constant currency basis).

63. On August 9, 2016, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q2 2016 8-K and reporting in full the Company's financial and operating results for the quarter ended July 2, 2016 (the "Q2 2016 10-Q").

64. The Q2 2016 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q2 2016 10-Q was accurate and disclosed any material changes to the Company's internal controls over financial reporting.

65. On October 25, 2016, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter ended October 1, 2016 (the "Q3 2016 8-K"). For the quarter, USANA announced net income of \$30.1 million, or \$1.20 per diluted share, on revenue of \$254.22 million, compared to net income of \$25.61 million, or \$0.96 per diluted share, on revenue of \$233.29 million for the same period in the prior year.

66. In the Q3 2016 8-K, USANA stated, in part:

"While USANA posted another quarter of solid growth and achievements, our topline results in the Greater China region came in below our expectations and impacted our overall results," said Dave Wentz, USANA's Co-CEO. "Our top priorities for 2016 continue to be completing the transition to our state-of-the-art production facility in Beijing and enhancing our information technology infrastructure around the world. These improvements are essential to allow USANA to continue providing the highest level of customer service and to provide the foundation for future growth. Our focus on these objectives, however, has taken precedence over short-term initiatives to drive sales growth around the world in 2016 and also affected our momentum in China during the quarter. I am pleased to report, however, that during the quarter we received all of the necessary permits to begin production in our new China facility and we now anticipate that the facility

will be fully operational by the end of the year. With this facility coming online, we are making preparations to begin offering growth initiatives in China in early 2017, but continue to believe that we will be in a better position to fully drive growth in China and our other markets when the improvements to our IT infrastructure are complete.”

...

### **Regional Results**

Net sales in the Asia Pacific region increased 13.2% to \$190.4 million year-over-year, despite a negative \$4.5 million impact from a stronger U.S. dollar. Within Asia Pacific, net sales increased by 10.8% in Greater China and 16.2% in constant currency. Net sales growth in Greater China resulted from a 22.2% increase in the number of active Associates in mainland China.

67. On November 9, 2016, USANA filed a Quarterly Report on Form 10-Q with the SEC, reiterating the financial and operating results previously announced in the Q3 2016 8-K and reporting in full the Company’s financial and operating results for the quarter ended October 1, 2016 (the “Q3 2016 10-Q”).

68. The Q3 2016 10-Q contained signed statements pursuant to SOX by the Individual Defendants, stating that the financial information contained in the Q3 2016 10-Q was accurate and disclosed any material changes to the Company’s internal controls over financial reporting.

69. The statements referenced in ¶¶ 19-68 were materially false and misleading because defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company’s business, operational and compliance policies. Specifically, defendants made false and/or misleading statements and/or failed to disclose that: (i) the Company’s BabyCare subsidiary had engaged in improper reimbursement practices in China; (ii) these practices constituted violations of the FCPA; (iii) as such, the Company’s China revenues were in part the product of unlawful conduct and unlikely to be sustainable; (iv) the foregoing conduct, when it became known, was likely to subject the Company to significant regulatory scrutiny; and

(v) as a result of the foregoing, USANA's public statements were materially false and misleading at all relevant times.

### **The Truth Emerges**

70. On February 7, 2017, post-market, USANA issued a press release and filed a Current Report on Form 8-K with the SEC, announcing certain of the Company's financial and operating results for the quarter and year ended December 31, 2016 (the "2016 8-K"). In the 2016 8-K, USANA stated, in relevant part:

#### **Internal Investigation of China Operations**

The Company is voluntarily conducting an internal investigation of its China operations, BabyCare Ltd. The investigation focuses on compliance with the Foreign Corrupt Practices Act ("FCPA") and certain conduct and policies at BabyCare, including BabyCare's expense reimbursement policies. The Audit Committee of the Board of Directors has assumed direct responsibility for reviewing these matters and has hired experienced counsel to conduct the investigation. While the Company does not believe that the subject amounts are quantitatively material or will materially affect its financial statements, it cannot currently predict the outcome of the investigation on its business, results of operations or financial condition. The Company has voluntarily contacted the Securities and Exchange Commission and the United States Department of Justice to advise both agencies that an internal investigation is underway and intends to provide additional information to both agencies as the investigation progresses. Because the internal investigation is in its early stage, the Company cannot predict the duration, scope, or result of the investigation.

71. On this news, USANA's share price fell \$7.25, or 11.57%, to close at \$55.40 on February 8, 2017.

72. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.



## **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

73. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired USANA securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

74. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, USANA securities were actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by USANA or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

75. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is complained of herein.

76. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

77. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- whether the federal securities laws were violated by defendants' acts as alleged herein;
- whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of USANA;
- whether the Individual Defendants caused USANA to issue false and misleading financial statements during the Class Period;
- whether defendants acted knowingly or recklessly in issuing false and misleading financial statements;
- whether the prices of USANA securities during the Class Period were artificially inflated because of the defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

78. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

79. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;
- USANA securities are traded in an efficient market;

- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NYSE and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold USANA securities between the time the defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

80. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

81. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

## **COUNT I**

### **(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)**

82. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

83. This Count is asserted against defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

84. During the Class Period, defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state

material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of USANA securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire USANA securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

85. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for USANA securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about USANA's finances and business prospects.

86. By virtue of their positions at USANA, defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to defendants. Said acts and omissions of defendants were committed willfully or with reckless disregard for the truth. In addition, each defendant knew

or recklessly disregarded that material facts were being misrepresented or omitted as described above.

87. Information showing that defendants acted knowingly or with reckless disregard for the truth is peculiarly within defendants' knowledge and control. As the senior managers and/or directors of USANA, the Individual Defendants had knowledge of the details of USANA's internal affairs.

88. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of USANA. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to USANA's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of USANA securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning USANA's business and financial condition which were concealed by defendants, Plaintiff and the other members of the Class purchased or otherwise acquired USANA securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by defendants, and were damaged thereby.

89. During the Class Period, USANA securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of USANA

securities at prices artificially inflated by defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of USANA securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of USANA securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

90. By reason of the conduct alleged herein, defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

91. As a direct and proximate result of defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

## **COUNT II**

### **(Violations of Section 20(a) of the Exchange Act Against The Individual Defendants**

92. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

93. During the Class Period, the Individual Defendants participated in the operation and management of USANA, and conducted and participated, directly and indirectly, in the conduct of USANA's business affairs. Because of their senior positions, they knew the adverse

non-public information about USANA's misstatement of income and expenses and false financial statements.

94. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to USANA's financial condition and results of operations, and to correct promptly any public statements issued by USANA which had become materially false or misleading.

95. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which USANA disseminated in the marketplace during the Class Period concerning USANA's results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause USANA to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of USANA within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of USANA securities.

96. Each of the Individual Defendants, therefore, acted as a controlling person of USANA. By reason of their senior management positions and/or being directors of USANA, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, USANA to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of USANA and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

97. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by USANA.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;
- B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;
- C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and
- D. Awarding such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury.

Dated: February 13, 2017