

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT BURCK d/b/a THE NAKED
COWBOY,

Plaintiff,

-against-

MARS, INCORPORATED

and

CHUTE GERDEMAN, INC.,

Defendants.

C.A. No. 08 Civ. 1330-DC

**DEFENDANT CHUTE GERDEMAN,
INC.'S NOTICE OF MOTION TO
DISMISS AND DEFENDANT MARS,
INCORPORATED'S NOTICE OF
MOTION FOR JUDGMENT ON THE
PLEADINGS**

Filed Electronically

PLEASE TAKE NOTICE that upon the Notice of Motion, together with the accompanying memorandum of law in support of the motion to dismiss, Defendants Mars, Incorporated and Chute Gerdeman, Inc. hereby moves this Court, before the Honorable Denny Chin, U.S.D.J., Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 1020, New York, New York 10007-1312, on behalf of Defendant Chute Gerdeman, Inc. for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Complaint for failure to state a claim upon which relief may be granted, and on behalf of Defendant Mars, Incorporated for an order pursuant to Fed. R. Civ. P. 12(c) for judgment on the pleadings on the ground the Plaintiff has failed to state claim upon which relief may be granted.

Dated: April 25, 2008

Respectfully submitted,

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s/

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Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Defendant Chute Gerdeman, Inc.'s Notice of Motion to Dismiss and Defendant Mars, Incorporated's Notice of Motion for Judgment on the Pleadings was served this 25th day of April, 2008 via first-class mail, postage prepaid upon:

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