

NO. CV-12-6018984

LBI INCORPORATED

VS

JARED SPARKS, ET AL

SUPERIOR COURT

JUDICIAL DISTRICT OF NEW LONDON

AT NEW LONDON

FEBRUARY 23, 2016

MEMORANDUM OF DECISION

RE: DEFENDANT CHARLES RIVER ANALYTIC'S MOTION TO CLARIFY OR REARGUE

The defendant Charles Rivers Analytics (CRA) seeks clarification as to whether electronic documents sent or received after November 23, 2012, the expiration date of Jay William's non-competition agreement, must be produced pursuant to the court order of January 4, 2016. In the alternative, the defendant seeks to reargue.

The defendant states in its request that it is willing to produce documents after that date which relate to possible damages that might have been incurred by the plaintiff, LBI, Inc., but asserts it should not be required to produce all documents relating to the subject of the non-competition agreement after the termination date of that agreement.

Specifically, CRA asks the court to reconsider the following ruling in the court order: "...the request of the defendant that discovery of the documents should be limited to documents created prior to the expiration of the individual defendants' non-competition clauses is denied. If the individual defendants violated their non-competition agreements, the damages relating to such violations could well extend beyond the expiration date of the contract and are legitimate grounds for discovery."

FILED

FEB 24 2016

SUPERIOR
New London Judicial District

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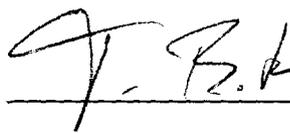
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The defendant argues that if the reason for the denial is to allow the calculation of damages, the disclosure should be limited to documents related to damage claims only, as opposed to violation of the non-compete agreement. However, the court, in making the ruling in question, did not mean to limit disclosure to monetary losses, but rather to allow discovery regarding the effect of the alleged violation of the agreement. That effect can only be understood by examining documents relating to how the protected information was used and before, during and after the term of the non-compete, whether or not that information was monetized. CRA cites J.P.Morgan Chase Bank, N.A. v. Ionescu 2011 WL 2177094 (2011) to support its position that it may withhold documents generated after the termination of the non-compete. However, in that case, the court ordered the release of documents relating to a banking transaction, solely on the grounds that they "...would be of assistance...in determining whether to challenge the plaintiff's standing and the request appears reasonably calculated to lead to the discovery of admissible evidence." In the case at hand, discovery regarding the documents generated after the termination of the non-compete could be relevant in establishing how the alleged breach of the agreement benefitted the defendant and could very well lead to admissible evidence.

The defendant also argues that the cost of production of the information is disproportionate to the damages at issue, pointing out that the Plaintiff's Damage Analysis claimed only \$250,000 in lost profits. However, in making this argument, the defendant ignores the plaintiff's claims for equitable disgorgement, punitive damages, enrichment

damages, fines, treble damages, etc., all of which could, if established, well exceed the lost profit claim.

Accordingly, the request to reargue is denied, and the court order for the production of documents following the expiration of the non-compete agreement is affirmed.

A handwritten signature in black ink, appearing to read "J. Bates", is written above a solid horizontal line.

Bates, J.