

CONFIRMED FILE DATE: 1/30/2012

RECORDER'S MEMORANDUM
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NO. 2012 05733

FILED
Chris Daniel
District Clerk
JAN 30 2012
9:20am
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Time: _____
By: _____
Harris County, Texas
Deputy

SHRADER & ASSOCIATES, LLP,

Plaintiff,

v.

**SAVVAS H. STEFANIDES, STEFANIDES
AND ASSOCIATES, LLP, and
TARA ROBERTSON STEVENS,**

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

15th JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

Plaintiff Shrader & Associates, LLP files this Original Petition and Application for Temporary Restraining Order and Temporary Injunction against Defendants Savvas H. Stefanides, Stefanides and Associates, LLP, and Tara Robertson Stevens.

Parties

1. Plaintiff Shrader & Associates, LLP ("Shrader") is a Texas limited liability partnership with its principal place of business in Houston, Texas.
2. Defendant Savvas H. Stefanides is an individual and a resident of Harris County, Texas. Savvas H. Stefanides may be served with process at 4212 San Felipe St., Ste. 520, Houston, Texas 77027.
3. Defendant Stefanides and Associates, LLP is an expired Texas limited liability partnership that continues to operate as a general partnership with its principal place of business in Harris County, Texas. Stefanides and Associates, LLP may be served with process by serving its general partner, Savvas H. Stefanides, at 4212 San Felipe St., Ste. 520, Houston, Texas

77027. Defendants Savvas H. Stefanides and Stefanides and Associates, LLP, are referenced herein collectively as “Stefanides.”

4. Defendant Tara Robertson Stevens (“Stevens”) is an individual and a resident of Fort Bend County, Texas. Stevens may be served with process at 4410 Innsbrook Place, Sugarland, Texas 77479.

Jurisdiction and Venue

5. This Court has personal jurisdiction over Defendants because they all reside in and do business in Texas.

6. Venue is proper in this Court because (1) Defendants reside in and/or have their principal places of business in Harris County and/or (2) all or a substantial portion of the events giving rise to Plaintiff’s claims occurred in Harris County.

Facts

7. Shrader is a law firm engaged in a national toxic tort practice. From 2005 until August 2011, Stevens served as Shrader’s office manager.

8. In August 2011, Shrader discovered that Stevens had embezzled substantial funds from Shrader. Subsequent investigation indicates the total amount Stevens misappropriated exceeds \$200,000. Stevens is currently under indictment for felony theft based upon her embezzlement activities.

9. While serving as Shrader’s office manager, Stevens had routine access to Shrader’s computer server, which contained confidential, proprietary, and privileged information regarding Shrader’s law practice and clients. Stevens secretly obtained and retained copies of some or all of the contents of Shrader’s computer server.

10. Stevens provided confidential, proprietary, and privileged information from Shrader's computer server to Stefanides. On information and belief, Stevens has attempted to sell and disclose the information to other lawyers.

11. Stefanides and Stevens are presently making use of Shrader's confidential, proprietary, and privileged information to establish a competing toxic tort law practice.

12. Shrader learned of Stevens' improper disclosures in January 2012. Neither Shrader nor Shrader's clients consented to Stevens' retention of information from Shrader's computer server or the disclosure of such information to, and use by, Stefanides.

First Claim for Relief – Misappropriation of Trade Secrets and Confidential and Privileged Information

13. Shrader incorporates paragraphs 1-12 as if stated verbatim herein.

14. Defendants have misappropriated Shrader's confidential and proprietary information, including privileged information of Shrader's clients. In addition to constituting information that Shrader's clients are privileged not to disclose, the information on Shrader's computer server includes detailed information regarding case and trial strategy created by Shrader through the expenditure of significant time, labor, skill, and money. Defendants' use of this information is unfair and improper and further causes damage to Shrader and Shrader's clients.

Second Claim for Relief –Unfair Competition by Misappropriation

15. Shrader incorporates paragraphs 1-14 as if stated verbatim herein.

16. Defendants' misappropriation and use of Shrader's confidential work product without having first invested the time and money necessary to develop such work product provides Stefanides an unfair advantage that damages Shrader.

Third Claim for Relief – Breach of Computer Security

17. Shrader incorporates paragraphs 1-16 as if stated verbatim herein.

18. Defendants knowingly and/or intentionally obtained unauthorized access to Shrader’s computer server and to confidential and proprietary information stored on the server in violation of Chapter 33 of the Texas Penal Code.

19. Shrader brings this claim under Tex. Civ. Prac. & Rem. Code §§ 143.001-143.002 for recovery of the damages and attorneys’ fees caused by Defendants’ violation and breach of computer security.

Fourth Claim for Relief – Conspiracy

20. Shrader incorporates paragraphs 1-19 as if stated verbatim herein.

21. Stefanides and Stevens conspired with the agreed-upon objective of misappropriating Shrader’s confidential and proprietary work product and client data for the purpose of soliciting Shrader’s clients and making use of Shrader’s business in connection with a competing law practice. These acts were unlawful, and have caused Shrader to sustain damages within the jurisdictional limits of the Court.

Fifth Claim for Relief - Breach of Fiduciary Duty

22. Shrader incorporates paragraphs 1-21 as if stated verbatim herein.

23. As a result of her employment as Shrader’s office manager, Stevens owed Shrader a fiduciary duty of loyalty, candor, and care. Stevens willfully breached her fiduciary duties by embezzling funds from Shrader and misappropriating Shrader’s confidential and proprietary information. As a result, Shrader has sustained damages within the jurisdictional limits of this Court.

Exemplary Damages

24. Shrader incorporates paragraphs 1-23 as if stated verbatim herein.

25. On information and belief, Defendants' conduct described herein was intentional and malicious. Accordingly, Shrader seeks recovery of exemplary damages as provided by applicable law. Moreover, Defendants' conduct constitutes theft as defined by § 31.05 of the Texas Penal Code. Accordingly, the amount of exemplary damages for which Defendants may be liable is not subject to the limitations imposed by § 41.008(b) of the Texas Civil Practice & Remedies Code. *See* Tex. Civ. Prac. & Rem. Code § 41.008(c).

Application for Temporary Restraining Order

26. Shrader incorporates paragraphs 1-25 as if stated verbatim herein.

27. Shrader asks the Court to enter a temporary restraining order prohibiting and enjoining Defendants from (1) making any use or disclosure of any information obtained, directly or indirectly, from Shrader's computer server or offices, including but not limited to any client files, document data bases, or work product, (2) contacting any present or former client of Shrader, or (3) altering, modifying, or destroying any information, whether in hard copy or electronic form, that any of Defendants obtained, directly or indirectly, from Shrader's computer server or offices.

28. It is probable that Shrader will prevail on its claims against Defendants after a trial on the merits because Defendants have breached their common law and statutory duties to Shrader by misappropriating confidential and proprietary information of Shrader and Shrader's clients. If Shrader's application is not granted, harm is imminent because Defendants are breaching ongoing legal obligations not to misuse any of Shrader's confidential and proprietary information. Shrader has no adequate remedy at law because it is difficult or impossible to quantify in monetary damages the injury that Shrader will sustain as a result of Defendants' improper conduct. The loss of goodwill and competitive advantage that could potentially result from Defendants' improper conduct cannot be adequately quantified. Nor can the potential

damage to Shrader and Shrader's clients from disclosure of attorney-client privileged communications and work product that could result from Defendants' improper conduct. Additionally, Shrader is statutorily entitled to injunctive relief under § 65.011(1), (3), and (5) of the Texas Civil Practice & Remedies Code.

29. There is not enough time to serve formal notice on Defendants and hold a hearing. Given the nature of the wrongful conduct at issue in this case, pre-suit notice carries a substantial risk that Defendants may delete data or destroy evidence of their wrongdoing and warrants the granting of an ex parte restraining order. Shrader is willing to post a bond. Given the clear impropriety of Defendants' conduct and the lack of any potential damage to Defendants from the injunctive relief herein requested, Shrader submits that a nominal bond is sufficient. Shrader submits herewith, and incorporates by reference, the affidavit of Justin Shrader in support of its request for a temporary restraining order.

Request for Temporary Injunction

30. Shrader incorporates paragraphs 1-29 as if stated verbatim herein.

31. Shrader requests that the Court set its application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against Defendants prohibiting the same conduct requested in Shrader's application for temporary restraining order, pending trial on the merits.

Permanent Injunction

32. Shrader incorporates paragraphs 1-31 as if stated verbatim herein.

33. Shrader requests that, after trial on the merits, the Court enter permanent injunctive relief compelling full compliance with Defendants' common law and statutory duties not to misuse Shrader's trade secrets and confidential information. Specifically, Shrader requests that the Court order that Defendants, and anyone acting in conjunction with them, be enjoined

and prohibited from making any use or disclosure of any information secured, directly or indirectly, from Shrader's offices or computer server, in whatever form, whether hard copy or electronic. Shrader further requests that Defendants be compelled to return to Shrader any and all copies of any information, whether hard copy or electronic, including any work product derived therefrom, to Shrader.

Conditions Precedent

34. All conditions precedent have been performed or have occurred.

Jury Demand

35. Shrader demands a jury trial and has tendered the appropriate fee.

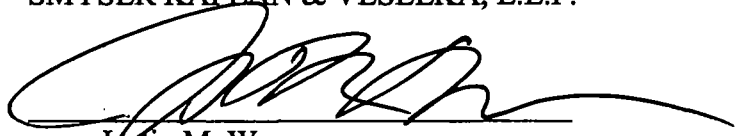
Prayer

For the foregoing reasons, Shrader prays that Defendants be cited to appear and answer and, on final trial, that Shrader have judgment against Defendants for:

1. temporary restraining order;
2. temporary injunction;
3. permanent injunction;
4. actual damages within the jurisdictional limit of this Court;
5. exemplary damages;
6. reasonable and necessary attorneys' fees and expenses;
7. pre- and post-judgment interest as allowed by law;
8. costs of suit; and
9. such other and further relief to which Shrader may be entitled at law or in equity.

Respectfully submitted,

SMYSER KAPLAN & VESELKA, L.L.P.

A handwritten signature in black ink, appearing to read "Justin M. Waggoner", written over a horizontal line.

Justin M. Waggoner

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Jarod Stewart

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