

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

MILLIONAIRE GALLERY, INC.,

CIVIL DIVISION

Plaintiff,

vs.

CASE NO.: 14-008718 CA 23

**INVESTMENT INK, LLC d/b/a
SIGNATUREROYALE.COM, RICHARD
FORBES, ROBERTO GIL, and ROGER
GILCHRIST,**

Defendants.

_____ /

PERMANENT INJUNCTION AGAINST DEFENDANTS

THIS CAUSE came before the Court for hearing on Monday, February 25, 2019, on Plaintiff's Motion for Permanent Injunctive Relief (the "Motion"). The Court, with knowledge of the evidence presented at the trial of this cause and the findings of the jury, as set forth in the jury's Verdict rendered on March 2, 2018, having carefully considered the Motion, having reviewed applicable legal authority and having heard the argument of counsel and the unrepresented Defendants, finds as follows:

1. Factual Background

Plaintiff, Millionaire Gallery, Inc. ("Millionaire Gallery"), is in the business of producing, marketing and selling sports, historical and entertainment memorabilia. Defendant, Richard Forbes ("Forbes"), formerly was Millionaire Gallery's accountant. Defendants, Roberto Gil ("Gil") and Roger Gilchrist ("Gilchrist"), formerly were employed by Millionaire Gallery in sales. Because of the functions they performed for Millionaire Gallery, Forbes, Gil and Gilchrist each had access to Millionaire Gallery's confidential customer data base, which contains information as to Millionaire Gallery's customers (including customer identity, contact information and purchasing

history) as well as Millionaire Gallery's pricing. In addition, each of the Defendants had access to Millionaire Gallery's photo archive, which contains one-of-a-kind historical, entertainment and sports celebrity photographs and autographs, as well as one-of-a-kind components used in Millionaire Gallery's memorabilia pieces, such as historical event tickets, event programs and the like.

On March 9, 2012, while still performing accounting services for Millionaire Gallery, Forbes formed Defendant, Investment Ink, LLC d/b/a/ Signature Royale ("Signature Royale"). Gil, who was still employed by Millionaire Gallery at the time, was named a managing member of Signature Royale, a memorabilia business that directly competes with Millionaire Gallery. Following the formation of Signature Royale, Forbes, Gilchrist and Gil all left Millionaire Gallery and began working for Signature Royale. In connection with their departure from Millionaire Gallery, Forbes, Gilchrist and Gil all gave false reasons for their departure and false explanations of their future plans, not revealing that a competing memorabilia business had been formed and that they were going to work for that competing business.

Forbes created a Facebook page for Signature Royale to market its products, and he populated that page with photographs of Millionaire Gallery's products that he had taken before departing from Millionaire Gallery, passing off Millionaire Gallery's memorabilia pieces as Signature Royale's own. Armed with information about the identity of Millionaire Gallery's customers, each customer's purchasing history and Millionaire Gallery's pricing, Forbes, Gilchrist and Gil began to solicit Millionaire Gallery's customers on behalf of Signature Royale. In its first year of business, 82% of Signature Royale's sales were to Millionaire Gallery's customers and, in its second year of business, 71% of Signature Royale's sales were to Millionaire Gallery's customers.

II. Pertinent Procedural Background

Millionaire Gallery initiated this action on April 2, 2014. Millionaire Gallery brought claims against Signature Royale, Forbes, Gilchrist and Gil for, *inter alia*, violation of Florida's Uniform Trade Secret Act, Fla. Stat. § 688.001, *et seq.*, as well as for Unfair Competition. In connection with both of these claims, Millionaire Gallery sought permanent injunctive relief. Millionaire Gallery also sought exemplary damages and an award of attorneys' fees pursuant to Fla. Stat. §§ 688.004 and 688.005 based on Defendants' willful and malicious misappropriation.

A jury trial commenced on February 20, 2018, and the jury rendered its verdict on March 2, 2018. The jury found that Millionaire Gallery's customer data base constitutes a trade secret and that Signature Royale, Forbes, Gilchrist and Gil each had misappropriated Millionaire Gallery's trade secrets. The jury also found that Signature Royale, Forbes, Gilchrist and Gil had engaged in unfair competition. The jury awarded damages to compensate Millionaire Gallery based on Defendants' ill-gotten gains from the start of their misappropriation of trade secrets and unfair competition to a date prior to trial. Millionaire Gallery now seeks permanent injunctive relief prohibiting Defendants from continuing with their unlawful activities.

On Monday, February 25, 2019, the Court held a hearing on Millionaire Gallery's post-trial motions. The Court confirmed that the evidence presented at trial established that willful and malicious misappropriation exists, and it granted Millionaire Gallery's motion for an award of exemplary damages and attorneys' fees against each of the Defendants - - Signature Royale, Forbes, Gilchrist and Gil. In addition, the Court granted Millionaire Gallery's motion for permanent injunctive relief, with a Permanent Injunction to follow.

III. Basis for Permanent Injunctive Relief

Florida's Uniform Trade Secret Act provides that "[a]ctual or threatened misappropriation may be enjoined." Fla. Stat. § 688.103(a). "Generally, in order to be entitled to a permanent injunction, a plaintiff must show: (1) success on the merits; (2) a substantial threat that the plaintiff will suffer irreparable injury if the injunction is not granted; (3) that the threatened injury to the plaintiff will outweigh any threatened harm the injunction may do to defendant; and (4) granting the permanent injunction will not disserve the public interest." *Fla. Key Deer v. Brown*, 386 F. Supp. 2d 1281, 1284 (S.D. Fla. 2005). Success on the merits of Millionaire Gallery's claims has been achieved. A Miami-Dade County jury has determined that Defendants have engaged in unfair competition, the jury found that Defendants misappropriated Millionaire Gallery's trade secrets, and the Court has confirmed that such misappropriation by each Defendant was willful and malicious.

The other elements of permanent injunctive relief are met here as well. Under Florida law, "irreparable harm and inadequate remedy at law should be presumed in an action for injunctive relief with respect to the misappropriation of a trade secret." *Dotolo v. Shouten*, 426 So. 2d 1013, 1015 (Fla. 2d DCA 1983) (citing *Silvers v. Dis-Com Securities, Inc.*, 403 So. 2d 1133 (Fla 4th DCA 1981)). Moreover, a permanent injunction prohibiting Defendants from unfairly competing with Millionaire Gallery and from utilizing trade secrets that Defendants unlawfully, willfully and maliciously misappropriated from Millionaire Gallery - - in other words, prohibiting Defendants from continuing to engage in unlawful conduct - - will cause Defendants no discernable harm. On the other hand, "[a]n injunction with respect to stolen business secrets is authorized where it will eliminate commercial advantage derived from the misappropriation." *Hatfield v. AutoNation, Inc.*, 939 So. 2d 155, 157 (Fla. 4th DCA 2006). Finally, an injunction "would affirmatively serve the

public interest by protecting businesses from employees who misappropriate their trade secrets.” *VAS Aero Servs., LLC v. Arroyo*, 860 F. Supp. 2d 1349, 1363 (S.D. Fla. 2012). Having met all the elements for permanent injunctive relief, it is hereby

ORDERED and ADJUDGED as follows:

1. This Permanent Injunction shall remain in full force and effect from the effective date of this Order unless terminated in accordance with Fla. Stat. § 688.003(1).

2. For purposes of this Permanent Injunction, the following terms apply:

- a. “Millionaire Gallery” shall mean Plaintiff, Millionaire Gallery, Inc.
- b. “Trade Secret” shall mean Millionaire Gallery’s confidential customer data base, which includes Millionaire Gallery’s customer list, customer purchasing histories and pricing.
- c. “Confidential Information” shall mean all photographs, autographs and other items contained in Millionaire Gallery’s computer photo archives.

3. Defendants, Investment Ink, LLC, Richard Forbes, Roger Gilchrist and Roberto Gil, and all of their successors, assigns, officers, agents, servants, employers, employees, contractors and attorneys, and any and all other persons who are in active concert or participation with any of them, are permanently enjoined from the following:

- a. Using, directly or indirectly, any Millionaire Gallery Trade Secret or Confidential Information for any reason including, but not limited to, (i) marketing to or soliciting any customer contained on Millionaire Gallery’s customer list and (ii) including Millionaire Gallery’s photographs and/or components in any memorabilia sold or offered for sale; and

b. Possessing or retaining any Millionaire Gallery Trade Secret or Confidential Information in any form, including on any servers, other electronic computer systems or any other electronic or hard-copy media.

4. Defendants shall return to Millionaire Gallery all Trade Secret and Confidential Information in their possession, custody and/or control (including any Trade Secret and/or Confidential Information that any Defendant has transferred to a third party) within thirty (30) days of the date of this Order and, within that time, shall file and serve a report in writing and under oath setting forth in detail the manner and form with which Defendants have complied with this directive.

5. Violation of this Permanent Injunction shall be subject to all applicable penalties, including contempt of Court.

6. This Court shall retain continuing jurisdiction over Defendants and the action for purposes of enforcing this Permanent Injunction.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 03/01/19.



BARBARA ARECES
CIRCUIT COURT JUDGE

**No Further Judicial Action Required on THIS MOTION
CLERK TO RECLOSE CASE IF POST JUDGMENT**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.

Conformed copies to all counsel and parties of record

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

MILLIONAIRE GALLERY, INC.,

CIVIL DIVISION

Plaintiff,

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INVESTMENT INK, LLC d/b/a
SIGNATUREROYALE.COM, RICHARD
FORBES, ROBERTO GIL, and ROGER
GILCHRIST,

Defendants.

ORDER ON PLAINTIFF'S MOTION FOR AWARD OF EXEMPLARY DAMAGES
AND DETERMINATION OF ENTITLEMENT TO AWARD OF ATTORNEYS' FEES

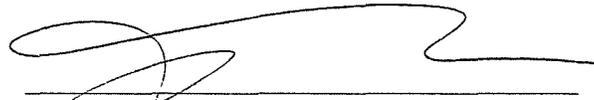
THIS CAUSE came before the Court for hearing on February 25, 2019, upon the Motion for Award of Exemplary Damages and Determination of Entitlement to Award of Attorneys' Fees under Florida's Uniform Trade Secrets Act (the "Motion") filed by Plaintiff, Millionaire Gallery, Inc. ("Millionaire Gallery"). The Court has reviewed the Motion and the Response in Opposition filed by Defendant, Richard Forbes ("Forbes"); has heard argument; and is otherwise fully-advised in the premises. Accordingly, it is hereby

ORDERED and ADJUDGED that the Motion is

Granted

Amount to be determined

DONE and ORDERED in Chambers in Miami-Dade County, Florida this 25 day of
Feb, 2019.



HONORABLE BARBARA ARECES
CIRCUIT COURT JUDGE

Barbara Areces
Circuit Court Judge

Conformed copies to all counsel and parties of record

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION
CASE NO. 14-8718 CA 23

MILLIONAIRE GALLERY, INC.,

Plaintiff,

vs.

INVESTMENT INK, LLC d/b/a
SIGNATURE ROYALE.COM, RICHARD
FORBES, ROBERT GIL, and ROGER
GILCHRIST,

Defendants.

VERDICT FORM

We the jury return the following verdict:

1. Did Millionaire Gallery and Roberto Gil enter into a confidentiality agreement?

YES NO

If your answer to question number 1 is "No," your verdict on Millionaire Gallery's claim for breach of contract is for Roberto Gil and you should proceed to question 5.

If your answer to question number 1 is "Yes," answer question number 2.

2. Did Roberto Gil breach the confidentiality agreement?

YES NO

If your answer to question number 2 is "No," your verdict on Millionaire Gallery's claim for breach of contract is for Roberto Gil and you should proceed to question number 5.

If your answer to question number 2 is "Yes," answer question number 3.

3. Is Millionaire Gallery entitled to an award of damages as a result of Roberto Gil's breach?

YES NO

4. If your answer to question number 3 is "Yes," what is the amount of damages to which Millionaire Gallery is entitled?

\$ 101,464

5. Does Millionaire Gallery's customer data base constitute a trade secret?

YES NO

If your answer to question number 5 is "No," your verdict on Millionaire Gallery's claim for misappropriation of trade secrets is for Defendants and you should proceed to question number 12.

If your answer to question number 5 is "Yes," answer questions number 6, 7, 8 and 9.

6. Did Investment Ink, LLC d/b/a Signature Royale misappropriate Millionaire Gallery's trade secrets?

YES NO

7. Did Richard Forbes misappropriate Millionaire Gallery's trade secrets?

YES NO

8. Did Roberto Gil misappropriate Millionaire Gallery's trade secrets?

YES NO

9. Did Roger Gilchrist misappropriate Millionaire Gallery's trade secrets?

YES NO

If your answers to questions 6, 7, 8 and 9 are all "No," your verdict on Millionaire Gallery's claim for misappropriation of trade secrets is for Defendants and you should proceed to question number 12.

If your answer to question 6, 7, 8 or 9 is "Yes," answer question 10.

10. Is Millionaire Gallery entitled to an award of damages as a result of the misappropriation of its trade secrets?

YES NO

11. If your answer to question number 10 is "Yes," what is the amount of damages to which Millionaire Gallery is entitled?

\$ 492,492

12. Did Investment Ink, LLC d/b/a Signature Royale engage in unfair competition?

YES NO

13. Did Richard Forbes engage in unfair competition?

YES NO

14. Did Roberto Gil engage in unfair competition?

YES NO

15. Did Roger Gilchrist engage in unfair competition?

YES NO

If your answers to question number 12, 13, 14 and 15 are all "No," your verdict on Millionaire Gallery's claim for unfair competition is for Defendants and you should proceed to question number 18.

If your answer to question number 12, 13, 14 or 15 is "Yes," answer question 16.

16. Is Millionaire Gallery entitled to an award of damages as a result of unfair competition?

YES NO

17. If your answer to question number 16 is "Yes," what is the amount of damages to which Millionaire Gallery is entitled?

\$ 492,492

18. Did Richard Forbes owe a fiduciary duty to Millionaire Gallery?

YES NO

If your answer to question number 18 is "No," then your verdict on Millionaire Gallery's claim for breach of fiduciary duty is for Richard Forbes and you should proceed to sign and date this Verdict Form.

If your answer to question number 18 is "Yes," you should proceed to question number 19.

19. Did Richard Forbes breach his fiduciary duty?

YES X NO _____

If your answer to question number 19 is "No," then your verdict on Millionaire Gallery's claim for breach of fiduciary duty is for Richard Forbes and you should proceed to sign and date this Verdict Form.

If your answer to question number 19 is "Yes," you should proceed to question number 20.

20. Is Millionaire Gallery entitled to an award of damages as a result of Richard Forbes' breach of fiduciary duty?

YES X NO _____

21. If your answer to question number 20 is "Yes," what is the amount of damages to which Millionaire Gallery is entitled?

\$ 492,492

Please sign and date this Verdict below and return it to the Courtroom.

SO SAY WE ALL, this 2 day of March, 2018.

Wayne Mitchell

Foreperson (Print Name)

[Signature]

Foreperson (Sign Name)