

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

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CIVIL ACTION NO. 08-00000

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-----X
BEAR, STEARNS & CO. INC.,
Plaintiff,

-against-

DOUGLAS A. SHARON,
Defendant.
-----X

08 CA 10505 NMG

COMPLAINT
(INJUNCTIVE RELIEF SOUGHT)

Plaintiff Bear, Stearns & Co. Inc. ("Bear Stearns," "the Firm" or "Plaintiff"),
by its attorneys, submits the following as its complaint:

Introduction

1. This action is brought to obtain a temporary restraining order and a preliminary injunction to maintain the status quo pending resolution of an arbitration proceeding between the parties. As required by FINRA rules, Bear Stearns is filing an arbitration concurrently with FINRA Dispute Resolution.¹ This dispute arises from the

¹ In July 2007, the National Association of Securities Dealers, Inc. and the member regulation, enforcement and arbitration functions of the New York Stock Exchange, Inc. were consolidated to form the Financial Industry Regulatory Authority ("FINRA"). FINRA Dispute Resolution, a wholly owned subsidiary of FINRA, handles all arbitration proceedings. For convenience, FINRA Dispute Resolution and FINRA collectively are referred to herein as "FINRA." Edwards has the express right to seek temporary injunctive relief before a court of competent jurisdiction pending the outcome of arbitration before a full panel of duly-appointed arbitrators pursuant to Rule 13804 of the NASD Code of Arbitration Procedure for Industry Disputes. A true and correct copy of Rule 13804 is annexed as Exhibit A to the accompanying affidavit of Ricardo S. Penafiel, sworn to March 26, 2008 (the "Penafiel Affidavit").

resignation of Defendant Douglas A. Sharon ("Sharon" or "Defendant"), a Senior Managing Director, Account Executive, and the Executive Director of Bear Stearns' Private Client Services Group in its Boston, Massachusetts office. Sharon has accepted an offer to join a competitor, Morgan Stanley DW, Inc. ("Morgan Stanley") on March 17, 2008, in violation of the requisite 90-day written notice specified in the terms of the agreement he signed on December 12, 2005 (the "Terms of Employment Memorandum"). Since resigning, the Defendant has violated the terms of the Terms of Employment Memorandum by soliciting Bear Stearns' clients and Bear Stearns' employees. Defendant's conduct violates Massachusetts law and Bear Stearns has claims against Defendant consisting of breach of contract, the misappropriation of trade secrets and confidential information, and conversion.

2. To prevent continued irreparable harm arising from the misconduct described herein, Bear Stearns seeks an order in aid of arbitration temporarily and preliminarily restraining Defendant from violating his agreements with Bear Stearns.

Jurisdiction and Venue

3. The Court has jurisdiction in this action pursuant to 28 U.S.C. §1332(a) in that, as alleged below, plaintiff Bear Stearns, on the one hand, and defendant Sharon, on the other hand, are citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(a), in that a substantial part of the events giving rise to the claims occurred in Suffolk County, Massachusetts.

Parties

5. Plaintiff Bear Stearns is a Delaware corporation engaged in the business of selling investment products and providing financial services to its customers. Bear Stearns maintains an office located at 1 Federal Street, 29th Floor, Boston, Suffolk County, Massachusetts. Bear Stearns is a member of the Financial Industry Regulatory Authority.

6. Defendant Douglas A. Sharon ("Sharon" or "Defendant") is an individual residing at 101 Fernwood Road, Chestnut Hill, Massachusetts. Sharon is a FINRA registered representative. On March 17, 2008, Sharon resigned from Bear Stearns and joined Morgan Stanley, a direct competitor of Bear Stearns, in its office at 125 High Street, Boston, Massachusetts.

Factual Allegations

7. Sharon was Branch Office Manager in Bear Stearns' Boston Office from July 1, 1998 until mid-2004 when he was promoted to Executive Director. He was the leader of the office. Sharon was a Senior Managing Director since July 15, 1992. Altogether, Bear Stearns had employed Sharon for the last twenty years. He was the most senior employee in the Boston office. Prior to his resignation, Sharon generated approximately \$5,124,000 in gross commissions on an annualized basis, and managed in excess of \$867 million in assets for Bear Stearns' clients.

8. Defendant was responsible for developing and maintaining private client relationships with high net worth individuals and their related businesses, corporations, institutions, trusts and other entities. As such, Defendant served as the principal contact between these clients and Bear Stearns. In performing his job,

Defendant was given access on a daily basis to very sensitive information concerning Bear Stearns' clients.

9. In addition, as Branch Office Manager for six years and then Executive Director of the Boston Office for almost four years, Sharon was responsible for business development and for recruiting, hiring, and training brokers in the Boston office. Accordingly, he was privy to extremely sensitive broker information including without limitation the commissions, production and revenue generated by each broker in the office, as well as their client bases.

10. On March 17, 2008, Sharon tendered his resignation to Bear Stearns and immediately began work at a competitor, Morgan Stanley. This was a direct and clear violation of a 90-day "garden leave" agreement that Sharon had entered into with Bear Stearns. However, that was not all that Sharon did to damage Bear Stearns. Our investigation has uncovered malicious acts performed by Sharon and others working at his direction both before and after his improper resignation. Since his resignation, Sharon has used the confidential and private information that he learned as a former Branch Office Manager and Executive Director of Bear Stearns' Boston Office to assist Morgan Stanley in recruiting Bear Stearns employees to leave the firm. Further, prior to leaving, Sharon and his assistants came into Bear Stearns' offices and copied hundreds of pages of confidential client and business information and, on information and belief, have removed them from the office to use to solicit clients to leave Bear Stearns. We therefore request that the Court issue an injunction to prevent Sharon from continuing his wrongful and malevolent conduct.

Defendant's Obligations to Bear Stearns

11. Bear Stearns hired Sharon on or about December 8, 1987. Throughout, Defendant worked in Bear Stearns' Private Client Services Group in the firm's Boston office and became a Senior Managing Director in 1992. On July 1, 1998, Sharon became the Boston's office's Branch Office Manager, and in 2004 he was promoted to Executive Director.

12. During his tenure at Bear Stearns, Defendant agreed to be bound by numerous agreements setting forth Defendant's obligations to Bear Stearns.

13. In connection with an increase in base pay and other consideration, on December 12, 2005, Sharon signed the Terms of Employment at Bear Stearns-United States Memorandum (the "Terms of Employment Memorandum") which: (i) obligates Sharon to provide 90-days written notice of his intention to leave (failure to provide which Sharon acknowledged would result in entitling Bear Stearns to injunctive relief); (ii) obligates Sharon to preserve the confidentiality of customer and Firm information; and (iii) renews Sharon's commitment to the confidentiality provisions implicit in Bear Stearns' Code of Business Conduct and Ethics. A true and correct copy of the Terms of Employment Memorandum is attached to the Penafiel Affidavit as Exhibit B.

A. Defendant's Garden Leave Provision

14. The Terms of Employment Memorandum contains what is commonly known as a "garden leave" provision, which obliges Sharon to provide 90-days written notice prior to his resignation (the "Notice Period") and acknowledges Bear Stearns' entitlement to injunctive relief for Sharon's failure to comply with the Notice Period.

15. The Notice Period provision provides as follows:

A notice provision of not less than 90 days - which means that although you remain an employee at will, if you decide to leave Bear Stearns you must give prior written notice of your intention to leave. Once notice is given, for the ensuing 90 days (or longer if you have a longer provision in a current agreement, such as an offer letter, memorandum of understanding or guarantee), Bear Stearns will pay your base salary, during which time you may be asked to perform all, some or none of your work duties in Bear Stearns' sole discretion. The notice period is enforceable by a temporary restraining order which Bear Stearns can enforce in court. (Penafiel Affidavit Exhibit B, page 1)

16. Sharon expressly agreed that Bear Stearns can enforce abrogation of the Notice Period requirement via injunctive relief as the instant suit requests.

17. The Notice Period provision in the Terms of Employment Memorandum is an essential tool for Bear Stearns because it protects the firm from the disruption caused by the departure of senior executives like Sharon. Sharon's long tenure as Branch Office Manager and Executive Director has given him access to confidential information relating to the brokers, including without limitation, their compensation, their clients, their production and their agreements with Bear Stearns. Absent enforcement of the Notice Period, key high-level employees such as Defendant can cause significant harm by immediately joining a competitor and using this information to unfairly compete with Bear Stearns, as Sharon, upon information and belief, has done. The Notice Period reduces the likelihood of the departing employee misappropriating confidential and proprietary documents and information and soliciting Bear Stearns employees and clients and provides Bear Stearns with a short "cooling off period" in which it can take steps to retain its employees without competition. As discussed above, pursuant to the Notice Period, in exchange for the protections this

provision provides, Bear Stearns would continue to pay Defendant his salary for the entire 90-day period.

18. On March 17, 2008, without any prior notice, Sharon advised Bear Stearns of his intent to resign his employment with Bear Stearns. Furthermore, in violation of the 90-day written notice period provided for in the Terms of Employment Memorandum, Sharon's resignation letter informed Bear Stearns he had accepted an offer to join its competitor, Morgan Stanley DW Inc. ("Morgan Stanley"). A true and correct copy of Sharon's resignation letter is attached to the Penafiel Affidavit as Exhibit C.

19. On March 24, 2008, Bear Stearns sent a letter to Sharon demanding that he comply with the Notice Period. However, Sharon has failed to reply to this letter and, on information and belief, he continues to work for Morgan Stanley. A copy of this letter is annexed to the Penafiel Affidavit as Exhibit D.

B. Defendant's Confidentiality Obligation

20. Sharon also is violating the Terms of Employment Memorandum's confidentiality provision and should be immediately enjoined from such conduct. Through the Terms of Employment Memorandum's confidentiality clause, Sharon agreed, as follows, to:

A renewed commitment to maintain the confidentiality of customer and Firm information during and after the period of your employment at Bear Stearns, and a renewed commitment not to use, at any time, any such information to the detriment of Bear Stearns. Penafiel Affidavit Exhibit B

21. Defendant has been a Bear Stearns' employee for the last 20 years. And, as the Boston Office's Executive Director, should have led by example and

abided by the highest standards of personal and professional conduct. Instead, Sharon has flagrantly dishonored his contractual and fiduciary obligations.

22. During his employment with Bear Stearns, Defendant was assigned to service significant account relationships from leads generated both by the Defendant and other Bear Stearns employees, from referrals from PCS management and other Bear Stearns departments, such as the Investment Banking Department. Bear Stearns serves a highly-select segment of public investors and Respondents traded heavily on Bear Stearns' contacts and information to attract and maintain clients

23. By virtue of Defendant's positions at Bear Stearns, Defendant had access to Bear Stearns' confidential information related to the Bear Stearns' clients that he was assigned to serve. This information included names, addresses, telephone numbers, social security numbers, tax data, income sources and amounts, asset holdings, investment preferences, risk tolerances and financial goals. This information was developed only through Bear Stearns' substantial investment in on-going communications with these clients and the retention of that information over time. By Firm policy and federal law, Bear Stearns is obligated to always maintain that information as confidential and, absent prior express approval, not share it with any person outside of Bear Stearns.

24. While he was employed by Bear Stearns, the Firm invested heavily in Defendant and the clients he was assigned to service. Bear Stearns has built the loyalty of its customer base through many years of effort. Bear Stearns spends substantial resources in terms of time, effort and money annually to provide programs

and support to its registered representatives, including Defendant, for him to use to obtain and build relationships with its customers.

25. Bear Stearns' customer lists and other records are not available from other sources and have been created and updated for a period of years based on Bear Stearns' relationship with its clients. Bear Stearns has invested substantial corporate resources to develop and maintain its customer information. These resources include legal support, supplies, equipment, personnel and postage, personnel and equipment for solicitation and servicing, television advertising, print advertising, and other miscellaneous marketing activities.

26. Bear Stearns has also expended significant resources to service the customers that were assigned to Defendant. These resources include execution costs for securities transactions, costs for staff and equipment to perform securities research and analysis, and other services.

27. The trade secret information that Defendant misappropriated was entrusted to Bear Stearns by its customers with the expectation that it would remain confidential and would not be disclosed to third parties. Defendant had access to this information solely by virtue of his employment by Bear Stearns. Bear Stearns, and Defendant, are obliged to maintain the confidentiality of this information. For its part, Bear Stearns took numerous steps to protect the confidentiality of this information. Defendant was fully aware of, and responsible for, complying with Bear Stearns' internal policies regarding confidentiality. Moreover, every year Bear Stearns conducts an annual compliance interview to ensure, among other things, that the confidentiality of Bear Stearns' records is maintained. As a condition of his employment with Bear

Stearns, Defendant -- like all other Bear Stearns registered representatives -- acknowledged that he was familiar with Bear Stearns' internal policies regarding confidentiality of customer records. Bear Stearns has implemented numerous other policies to ensure the confidentiality of its customer information. For example, access to the Bear Stearns computer network by registered representatives is password-protected. Maintaining the confidences of its clients is critical to Bear Stearns' business. Employees such as Defendant are instructed to maintain customer information as confidential. These instructions are confirmed in the Terms of Employment Memorandum and policy manual provisions referenced above.

28. Recently, because of the extremely tumultuous financial markets, Bear Stearns found itself in difficult financial circumstances. Accordingly, on March 16, 2008, Bear Stearns' parent entity entered into a merger agreement with JP Morgan Chase & Co. Bear Stearns' competitors, such as Morgan Stanley, have taken advantage of the uncertainty caused by these events to lure away our brokers with lucrative financial packages, without regard to the contractual and other obligations that they have to Bear Stearns. Bloomberg News, in an article titled "Hunting Season Opens for Bear Stearns Brokers" (a copy of which is annexed to the Penafiel Affidavit as Exhibit E), has reported on this

[s]ome of the 550 brokers at the company who handle individual investors' accounts are receiving job offers from competitors promising bonuses of \$2 million or more.

These competitors, Merrill Lynch, Morgan Stanley, UBS and the Smith Barney unit of Citigroup, are offering Bear Stearns brokers packages that include signing bonuses two times as large as the annual revenue they bring in.

29. If the Bloomberg article is correct and, if Morgan Stanley offered Defendant twice his annual revenue in compensation to leave Bear Stearns, then Morgan Stanley would have offered Sharon approximately \$10 million in transition compensation.

Sharon's Wrongdoing

30. Sharon's resignation on March 17, 2008, without any prior notice, and his immediate commencement of employment by Morgan Stanley violated the Notice Period Provision in the Terms of Employment Memorandum. Sharon, therefore, has violated this legal obligation to Bear Stearns.

31. On information and belief, Defendant also has violated the confidentiality provision contained in the Terms of Employment Memorandum, as well as Bear Stearns' Code of Business Conduct and Ethics, by using Bear Stearns' confidential and proprietary information to solicit both Bear Stearns' clients and Bear Stearns' employees.

32. Further, on information and belief, Sharon has been aggressively recruiting Bear Stearns employees to leave Bear Stearns and join Morgan Stanley, by using the knowledge that he obtained concerning the brokers' production and client base due to his senior management position. For example, another Senior Managing Director of Bear Stearns has told Bear Stearns management that Sharon called him and attempted to recruit him to come to Morgan Stanley. Sharon described the Morgan Stanley interview process and urged him to contact Morgan Stanley. When the Bear Stearns employee admitted that he was considering another firm, Sharon explained why he believed that Morgan Stanley would be a better company to work for.

33. On information and belief, Morgan Stanley offered Defendant substantial financial guarantees totaling millions of dollars to induce Sharon to leave Bear Stearns and join Morgan Stanley and to bring to Morgan Stanley Bear Stearns clients and employees.

34. On information and belief, since his resignation, Defendant has contacted numerous Bear Stearns clients by telephone in order to convince such clients to transfer their accounts from Bear Stearns to Morgan Stanley. Additionally, on information and belief, the same day Defendant resigned from Bear Stearns, he sent a mass-mailing to all (or virtually all) of the Bear Stearns clients for whom he managed assets, informing such clients of his change of employment and asking them to transfer their accounts to Morgan Stanley. Bear Stearns is actively attempting to obtain a copy of such mass solicitation, and will furnish a copy to the Court as soon as it obtains one. Defendant would have been unable to accomplish his mass solicitation mailing on the day of his resignation from Bear Stearns but for his use of Bear Stearns proprietary and confidential trade secret information: customer names, addresses, phone numbers, account numbers, and related information.

35. Since Defendant tendered his resignation, Bear Stearns commenced an investigation into what documents and information Defendant may have improperly taken. Although Bear Stearns' investigation is not yet complete, such investigation has revealed that Defendant was in the office the weekend of March 15, 2008, just two days prior to his resignation, while other Bear Stearns' Account Executives purloined confidential information related to Bear Stearns, including, among

other proprietary material, account statements, in order to assist him in inducing Bear Stearns' clients to transfer his accounts from Bear Stearns to Morgan Stanley.

36. Further, Bear Stearns has reviewed the computer records for Sharon and his two dedicated sales assistants – Frederic Debaets (“Debaets”) and Jane Hardman (“Hardman”) (both of whom worked exclusively for Sharon, and resigned with him on March 17, 2008, presumably to follow him to Morgan Stanley). A true and correct copy of the computer records showing all documents printed from Sharon's, Debaets' and Hardman's computers for the period March 10 -18, 2008 are annexed to the Penafiel Affidavit as Exhibits F, G and H, respectively.

37. The computer printout for Sharon (Penafiel Affidavit Exhibit F) shows that he was printing out computer screens from Bear Stearns' Client Management System, which indicates Bear Stearns clients' assets, account activity, performance, gains and losses, and other client-specific confidential information (reflected by the entries that start with “DataWindow” in Field K)

38. The computer print-out for Debaets (Penafiel Affidavit Exhibit G) indicates that between March 10-17, Debaets sent 131 print requests to the printer. This is a large number of print requests, and is more than would be done in the ordinary course of business at Bear Stearns. Specifically, on March 17 and 18, Debaets printed numerous documents from Microsoft Office Outlook, consisting of more than 166 pages. On information and belief, this information consisted of contact and other information for Bear Stearns' clients Sharon serviced. Additionally, during that week, Debaets printed out Bear Stearns monthly client statements (reflected by the entries that start with

“docdigger” in Field K) and computer screens from Bear Stearns’ Client Management System and other client-specific confidential information.

39. The computer print-out for Hardman (Penafiel Affidavit Exhibit H) indicates that between March 10-17, Leung sent 69 print requests to the printer, including Bear Stearns monthly client statements, computer screens from Bear Stearns’ Client Management System, client contact information and other client-specific confidential information (reflected by the entries that start with “DataWindow” in Field K).

40. These documents that Sharon, Debaets and Hardman printed are confidential and proprietary to Bear Stearns, and were not printed or taken with Bear Stearns’ permission.

41. Bear Stearns has searched Sharon’s office, and the work areas for Debaets and Hardman, and none of the documents that they printed are there. On information and belief, Sharon took such documents with him to Morgan Stanley, and is now using such documents to contact Bear Stearns’ clients to solicit their business.

42. Further, Bear Stearns has reviewed surveillance tapes which show Sharon’s presence in the office during the weekend of March 15, 2008, two days immediately prior to Sharon’s resignation. The surveillance tapes show that Defendant met with numerous Bear Stearns Account Executives in the Boston office. Moreover, between Friday and Sunday nights, the Boston office printed out so many thousands of client account statements that the office exhausted its entire storehouse of paper.

43. The surveillance tapes further show Sharon leaving the office along with his sales assistant carrying a large box, which upon information and belief contained Bear Stearns documents and information.

44. Defendant could have had no legitimate reason for being present in the office while thousands of client account statements readily available electronically, via computer, were printed. Obviously, Defendant ordered or condoned the printing of such a voluminous number of client account statement to enable him, or those acting in concert with him, (i) to remove Bear Stearns confidential and proprietary information upon his departure a few days later; (ii) to assist him in disseminating a mass solicitation letter, (iii) to circumvent his contractual and legal restrictions against exploiting Bear Stearns' confidential and proprietary information to solicit Bear Stearns' clients and employees; and (iv) to facilitate the transfer of Bear Stearns' clients to Morgan Stanley in violation of his legal and contractual duties.

45. By soliciting Bear Stearns employees and clients, Defendant, accordingly, has breached the notice and confidentiality provision of the Terms of Employment Memorandum, Bear Stearns Code of Business Conduct and Ethics, his fiduciary duty and duty of loyalty to Bear Stearns, and his confidentiality obligations to Bear Stearns.

46. Sharon's misconduct, as described above, constitutes at a minimum, breach of contract, breach of fiduciary duty and duty of loyalty, misappropriation of trade secrets, tortious interference, conversion, and unfair competition. Unless Sharon's conduct is immediately enjoined, other account executives of Bear Stearns will be encouraged to engage in the same misconduct. This misconduct is highly disruptive to Bear Stearns' ability to conduct business in a stable manner, to maintain Bear Stearns' goodwill with its customers and employees.

Harm to Plaintiff and Ineffectiveness of an Arbitration Award if No Injunction

47. Defendant's wrongdoing has caused and will continue to cause irreparable harm to Bear Stearns by causing:

- (a) Loss of personnel and damage to office stability;
- (b) Present economic loss, which is unascertainable at this time, and future economic loss, which is now incalculable;
- (c) Disclosure of trade secrets, customer and employee lists, and other proprietary and confidential business and customer information; and
- (d) Loss of clients' and employees' confidence and trust, loss of goodwill, and loss of business reputation.

48. Bear Stearns has made no prior application for this or similar relief

49. Accordingly, Bear Stearns respectfully requests that this Court maintain the status quo, and enjoin Defendant from continuing to violate the Notice Provision of the Terms of Employment Memorandum until such time as an arbitration panel appointed by FINRA can address Bear Stearns' claims for permanent injunctive relief against him.

50. Bear Stearns will suffer irreparable harm if Defendant is not enjoined because Bear Stearns has built a substantial Private Client Service business over many years, which cannot be rebuilt overnight. Thus, Plaintiff can only be protected by an Order from this Court: (i) enjoining Defendant from using Bear Stearns confidential and trade secret information to solicit clients; (ii) continuing to solicit employees of Bear Stearns Private Client Services and (iii) requiring him to return all Bear Stearns confidential information, in whatever form.

51. Bear Stearns does not yet know the financial damage caused to Bear Stearns by Defendant's wrongdoing. His conduct has disrupted and injured Bear Stearns' relationships with its clients and employees, a number of whom may well succumb to Defendant's urging and as such, sever their relationships with Bear

Stearns. Bear Stearns cannot begin at this time to estimate those figures, but based on Defendant's conduct, it is likely that substantial losses will occur unless this Court enjoins his wrongdoing. Further, Defendant's brazen departure and his breach of his obligations owed to Bear Stearns, if unaddressed, suggests to other Bear Stearns' employees subject to the same obligations and conditions that they can violate those legal obligations with total impunity.

COUNT I
(Breach of Contract)

52. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 50 of this Complaint.

53. By failing to comply with the terms and obligations of the Terms of Employment Memorandum, which prohibits Defendant from joining any other employer, including Morgan Stanley, during the Notice Period, Defendant has breached his contractual obligations to Bear Stearns. Further, Defendant has breached the Terms of Employment Memorandum's confidentiality provision by soliciting Firm employees and the Firm clients he served at Bear Stearns and by inducing them to terminate their relationships with Bear Stearns.

54. Bear Stearns has performed all of its duties under all such contracts.

55. Bear Stearns has been injured and will continue to be injured by Defendant's breaches of their contracts in an amount which cannot readily be ascertained or compensated by money damages.

56. Unless Defendant is enjoined from further breaches of their contractual duties, Bear Stearns will suffer irreparable injury.

COUNT II
(Misappropriation of Trade Secrets and Confidential Information)

57. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 through 55 of this Complaint.

58. Information regarding Bear Stearns' business, and the other information described above, are trade secrets entitled to protection.

59. Bear Stearns' trade secrets and confidential information are known only to certain persons at Bear Stearns, and are sufficiently secret and difficult to obtain that this information has economic value.

60. Bear Stearns' confidential and proprietary business information and documents are not known to Bear Stearns' competitors.

61. Bear Stearns' confidential and proprietary business information and documents cannot be duplicated by any of Bear Stearns' competitors without a significant expenditure of time, effort and expense.

62. Bear Stearns goes to great lengths and expense to maintain the confidentiality of its trade secrets and confidential information.

63. Defendant has misappropriated Bear Stearns' confidential and proprietary business information and documents which constitute protectable trade secrets and protectable confidential information. Such misappropriation by Defendant is in direct breach of their contractual and common-law obligations to Bear Stearns.

64. Defendant's ongoing acts of misappropriation and use of Bear Stearns' trade secrets and confidential information are transgressions of a continuing nature for which Bear Stearns has no adequate remedy at law.

65. Unless Defendant is enjoined from further acts of misappropriation and use of Bear Stearns' trade secrets and confidential information, Bear Stearns will suffer irreparable injury.

66. By virtue of the foregoing improper conduct by Defendant, Plaintiff is, and continues to be, irreparably harmed.

COUNT III
(Conversion)

67. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 65 of this Complaint.

68. Plaintiff further alleges that Defendant's acts of conversion was done with a willful disregard for what he knew to be his legal duty and was performed with malice.

69. By reason of the conduct alleged above, Defendant has converted Bear Stearns' property.

70. Bear Stearns has been and will continue to be injured by Defendant' conduct.

COUNT IV
(Breach of Fiduciary Duty)

71. Plaintiff re-alleges and reincorporates herein by reference the allegations set forth in paragraphs 1 through 69 of this Complaint.

72. Defendant owed Bear Stearns a fiduciary duty of trust and loyalty.

73. Defendant's fiduciary duties required him at all times to, among other things, act in Bear Stearns' best interests and maintain the confidentiality of Bear Stearns' trade secrets and other confidential and proprietary business and customer

information. Defendant's fiduciary duties required him at all times to refrain from, among other things, soliciting Bear Stearns' employees who worked with him to join Defendant at a competing company, or suggesting that they do so.

74. Defendant has breached his fiduciary duties to Bear Stearns by engaging in the conduct alleged above. Defendant engaged in such wrongdoing while still an employee of Bear Stearns and after he agreed to join Bear Stearns' direct competitor, Morgan Stanley.

75. As a direct and proximate result of Defendant's breach of fiduciary duty, Bear Stearns has sustained and will continue to sustain irreparable injury, the damages from which cannot now be calculated. Accordingly, Bear Stearns is entitled to a temporary restraining order and a preliminary injunction.

Count V
**(Intentional Interference with Actual
and Prospective Economic Advantages)**

76. Plaintiff re-alleges and reincorporates herein by reference the allegations set forth in paragraphs 1 through 74 of this Complaint.

77. Bear Stearns has developed and maintains advantageous actual and prospective business relationships with its clients that promise a continuing probability of future economic benefit to Bear Stearns.

78. Bear Stearns is informed and believes, and on that basis alleges, that Defendant knew or reasonably should have known about Bear Stearns' advantageous actual and prospective business relationships with its clients.

79. Bear Stearns is informed and believes, and on that basis alleges, that Defendant has intentionally, maliciously and improperly interfered with and

continues to interfere with Bear Stearns' relationships with its clients by, among other things, directly and/or indirectly attempting to induce Bear Stearns clients to sever their relationships with Bear Stearns and to induce them to do business with Morgan Stanley by using Bear Stearns' confidential documents and information.

80. There was no privilege and justification for Defendant's conduct. Moreover, Defendant's actions also constitute wrongful conduct above and beyond the act of interference itself, including misappropriation of trade secrets, breach of contract, and breach of Defendant' fiduciary duty.

81. Defendant's conduct was willful and malicious.

82. As a direct and proximate result of the Defendant's tortious interference with actual and prospective business relationships, Bear Stearns has sustained and will continue to sustain irreparable injury, the damages from which cannot now be calculated. Accordingly, Bear Stearns is entitled to a temporary restraining order and a preliminary injunction.

WHEREFORE, Plaintiff Bear Stearns respectfully requests that this Court:

A. Grant Bear Stearns a temporary restraining order and preliminary injunction in aid of arbitration enjoining and restraining Defendant, and all others acting in concert with him, from: (a) violating any of the terms and obligations of Defendant's agreements with Bear Stearns, which prohibits Defendant from joining any other employer, including Morgan Stanley, during the Notice Period, and the confidentiality provision signed by Defendant; (b) using Bear Stearns' confidential information to solicit, contact or communicate with any client whom Defendant served while he was employed at Bear Stearns for the purpose of inviting, encouraging, persuading or requesting any

such client to do business with Defendant at Morgan Stanley or seeking to have any such client discontinue or diminish any business relationship with Bear Stearns; (c) soliciting or inducing for hire or hiring any employee of Bear Stearns to leave the employ of Bear Stearns and to join Morgan Stanley, or taking any action to assist Morgan Stanley from soliciting, inducing or hiring any employee of Bear Stearns to leave Bear Stearns; and (d) directly or indirectly using, disclosing or transmitting for any purpose Bear Stearns' books, records, documents and/or information pertaining to Bear Stearns clients;


B. Grant Bear Stearns a temporary restraining order and preliminary injunction in aid of arbitration ordering Defendant, and all those acting in concert with him, to return to Bear Stearns (through its attorneys herein) within 24 hours from the entry of the Order, Bear Stearns' records, documents and/or information in whatever form (whether original, copied, computerized, electronic or handwritten) pertaining to Bear Stearns, its clients and its employees;

C. Grant the parties leave to conduct expedited discovery in aid of this application;

D. Order that as long as this Order is in effect and Defendant is enjoined from joining another competitor during from the 90-day Notice Period, Bear Stearns shall continue to pay to Defendant his base salary under the terms of their agreements; and

E. Grant all other relief that this Court deems just.

Dated: March 26, 2008

By 
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