UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X
GENERAL SECURITY, INC.,

Plaintiff,

-against-

COMMERCIAL FIRE & SECURITY, INC., WAYNE WAHRSAGER, STEVEN MORAN, and JOHN DOES 1-10.

Defendants.
---X

Docket No. ___________

COMPLAINT

Plaintiff GENERAL SECURITY, INC. ("General"), as and for its complaint against defendants COMMERCIAL FIRE & SECURITY, INC. ("Commercial"), WAYNE WAHRSAGER ("Wahrsager"), and STEVEN MORAN ("Moran"), alleges:

INTRODUCTION

1. Plaintiff, a security system installation, servicing, and monitoring company, brings this action against defendants for violation of the Defend Trade Secrets Act of 2016, 18 U.S.C. §1836, violation of the Lanham Act, 15 U.S.C. § 1125(a), violation of NY General Business Law § 349, tortious interference with contractual relations, tortious interference with prospective economic advantage, misappropriation of trade secrets, unjust enrichment, and for injunctive relief.

2. In short, defendants improperly obtained, maintained, and/or utilized plaintiff's trade secrets and intellectual property to induce plaintiff's customers to breach security monitoring contracts. Defendants have targeted plaintiff's customers and made false and

misleading statements about plaintiff and/or its assets, misleading plaintiff's customers and inducing the breach of security monitoring contracts.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 because the action arises under the laws of the United States, with 28 U.S.C. § 1367 granting this Court jurisdiction to adjudicate the state law claims asserted.

4. Venue is proper in the United States District Court for the Eastern District of New York under 28 U.S.C. § 1391(b)(1) and (c) because one or more defendants reside in this judicial district and all defendants are residents of the State of New York.

5. Venue is proper in the United States District Court for the Eastern District of New York under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims alleged occurred in this judicial district.

JURY TRIAL DEMANDED

6. Plaintiff demands a trial by jury.

PARTIES

7. Plaintiff General was, and still is, at all relevant times, a New York domestic limited liability company in good standing in the State of New York, with its principal place of business at 100 Fairchild Avenue, Plainview, New York.

8. At all relevant times, General was, and still is, in the business of security system installation, servicing, and monitoring.

9. Upon information and belief, defendant Commercial is a New York corporation formed on or about April 19, 2011, a competitor to General, doing business within the State of New York, with its principal place of business at 75 W. Merrick Road, Freeport, NY 11520.

10. Upon information and belief, Commercial was, and still is, in the business of security system installation, servicing, and monitoring.

11. Upon information and belief, since 2011, defendant Wahrsager has been employed by Commercial as its Executive Director of Operations.

12. Upon information and belief, Wahrsager is an officer of Commercial.

13. Upon information and belief, Wahrsager is an owner of Commercial.

14. Upon information and belief, Wahrsager is an authorized agent and/or representative of Commercial.

15. Upon information and belief, Commercial has authorized Wahrsager to solicit customers and/or attempt to sell Commercial's services to potential customers.

16. Defendant Moran formerly worked as a salesperson for plaintiff General.

17. Upon information and belief, Moran is employed as a salesperson by Commercial.

18. Upon information and belief, Moran is an authorized agent and/or representative of Commercial.

19. Upon information and belief, Commercial has authorized Moran to solicit customers and/or attempt to sell Commercial's services to potential customers.

20. Upon information and belief, John Does "1" through "10," representing currently unknown salespersons who improperly solicited General's customers, at all relevant times were sales representatives of Commercial who conducted sales for Commercial within the State of New York.

FACTUAL ALLEGATIONS

Background

21. General is a full service security systems company headquartered in Plainview, NY.

22. General has both residential and commercial customers.

23. General installs security systems for customers.

24. General also enters monitoring service contracts with its customers. The customers pay General a monthly or quarterly fee for General's security monitoring services.

25. General's monitoring service contracts are typically for a term of several years and renewed upon expiration.

26. Commercial is a Long Island-based security systems company that has, upon information and belief, through its officers, employees, agents, and/or representatives, engaged in a pattern and practice of deceptive and improper sales practices targeting General's existing customers.

27. Upon information and belief, Commercial through its officers, employees, agents, and/or representatives, has wrongfully induced General's existing customers to breach and/or terminate their monitoring service agreements with General, and sold new installation and/or monitoring service contracts to those customers.

The November 2016 Asset Purchase

28. On or about November 1, 2016, General Alarm, LLC entered an asset purchase agreement with NYMP Acquisition LLC and Professional Security Broadband, Inc. (collectively referred to as "NYMP") (the agreement is hereinafter referred to as the "2016 Asset Purchase Agreement"). General is the managing agent for General Alarm, LLC.

29. Under the 2016 Asset Purchase Agreement, General purchased, *inter alia*, customer accounts and related contracts from NYMP, as well as the exclusive right to use the trade name "New York Merchants Protective Company" and telephone numbers used by NYMP for customer service.

30. Under the 2016 Asset Purchase Agreement, General contracted to pay NYMP a seven figure amount, the final total of which is subject to hold back and revenue adjustment provisions.

31. Under the 2016 Asset Purchase Agreement, NYMP represented it had the full right and authority as sole owner to sell and convey the assets part of the transaction.

32. NYMP obtained those assets following events where Wahrsager lost any ownership interest in them.

Bank of America Action No. 1

33. As of November 2010, defendant Wahrsager was an owner and Chief Executive Officer of New York Merchants Protective Co., Inc., which operated under the trade name "New York Merchants Protective Company."

34. On November 18, 2010, Bank of America, N.A. ("Bank of America") sued Wahrsager to recover approximately $19 million owed with a revolving loan to New York Merchants Protective Co., Inc. and a check-kiting scheme (hereinafter referred to as "Bank of America Action No. 1").

35. The complaint in Bank of America Action No. 1 also named Mark Fischer ("Fischer") as a defendant, alleging Fischer was the Executive Vice President, Chief Technology Officer for New York Merchants Protective Co., Inc. and also an owner of the company. A copy of the Complaint is attached as Exhibit A.

36. Wahrsager and Fischer as owners of New York Merchants Protective Co., Inc. signed personal guarantees on the revolving loan with Bank of America. Wahrsager was also alleged to have perpetrated the check-kiting scheme to create an artificial source of funding and inflate the company's bank accounts. *See* Ex. A.

37. Bank of America Action No. 1 was filed in the United States District Court for the Northern District of Illinois. In April 2011, the action was transferred to the United States District Court for the Eastern District of New York and assigned Docket Number 11-CV-02044.

38. In March 2013, the Honorable Denis R. Hurley granted Bank of America's motion for summary judgment against Wahrsager and Fischer and the Clerk of the Court entered judgment against them in the amount of $24,452,835.35, plus interest, fees, and costs. A copy of the Judgment is attached as Exhibit B.

Bank of America Action No. 2

39. In January 2011, Bank of America brought a separate lawsuit against New York Merchants Protective Co., Inc., New York Merchants Alarm Response Inc., and NY Merch Prot Co., Inc. (collectively referred to as "New York Merchants Protective Co. Inc."). The case was filed in the United States District Court for the Eastern District of New York and assigned Docket Number 11-CV-00038 (hereinafter referred to as "Bank of America Action No. 2"). A copy of the Complaint is attached as Exhibit C.

40. In Bank of America Action No. 2, Bank of America sought to recover under the promissory note and loan agreement with New York Merchants Protective Co. Inc. and to obtain the appointment of a receiver to take possession, control, manage, and operate New York Merchants Protective Co. Inc. based upon the principals' "fraudulent, harmful and uncooperative conduct." *See* Ex. C.

41. On January 19, 2011, the Honorable Denis R. Hurley appointed the firm of Silverman Acampora LLP (hereinafter the "Receiver") as a receiver for New York Merchants Protective Co. Inc. A copy of the Order is attached as Exhibit D.

42. On May 2, 2011, Judge Hurley issued an Order in which he directed defendant Wahrsager not to interfere, directly or indirectly, in the Receiver's operation of the business of New York Merchants Protective Co. Inc. A copy of the Order is attached as Exhibit E.

43. Judge Hurley's May 2, 2011 Order also upheld the Receiver's termination of Wahrsager's employment with New York Merchants Protective Co. Inc. and the direction for Wahrsager to vacate the premises and turn over his keys and access card to the company's office. *See* Ex. E.

44. On July 14, 2011, the Receiver moved to seek permission NYMP's assets to Professional Security Technologies LLC. The proposed asset purchase agreement included all of NYMP's alarm accounts, inventory, contractual rights, and all documents of NYMP. A copy of the Receiver's Declaration in Support of the Motion is attached as Exhibit F.

45. Defendant Wahrsager opposed the Receiver's motion and indicated he was no longer an officer or owner of New York Merchants Protective Co. Inc. Yet Wahrsager claimed an interest in the sale as Bank of America would seek to hold him personally liable for any shortfall from the sale of New York Merchants Protective Co. Inc.'s assets.

46. On October 19, 2011, Judge Hurley issued an Order authorizing the proposed terms and conditions of the sale between the Receiver and NYMP. The proposed sale included New York Merchants Protective Co. Inc.'s accounts, customer lists, contracts, and proprietary information. A copy of the Order is attached as Exhibit G.

47. Wahrsager maintained no rights in New York Merchants Protective Co. Inc.'s accounts, customer lists, contracts, and proprietary information.

The Improper Procurement of General's Customers

48. Shortly after the execution of the 2016 Asset Purchase Agreement, General received unusual customer contract cancellations and communication.

49. General learned that representatives of Commercial, including defendants Wahrsager, Moran, and John Does "1" through "10," misused General's trade secrets and/or made false and misleading sales pitches to General's customers, inducing General's customers to terminate and/or breach contracts with General and causing economic loss to General.

Customer R.A.

50. R.A. has been a New York Merchants Protective Company customer since at least 2006. R.A. resides in Nassau County.

51. In May 2012, R.A. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a five year term and would then renew monthly absent written notice of cancellation. (the "R.A. Contract")

52. The R.A. Contract was in effect in November 2016 and was part of the 2016 Asset Purchase Agreement.

53. In November 2016, there were approximately 7 months remaining on the R.A. Contract.

54. On or about November 18, 2016, General contacted R.A. to schedule a routine service call. R.A. advised General she now had another security company.

55. When asked if R.A. had ever contacted anyone to cancel the R.A. Contract, R.A. responded that the owner of the new security company said he would take care of everything. R.A. identified the owner of the new company as Wayne Wahrsager.

56. The General representative advised R.A. she was still under contract with General, to which R.A. responded that Wahrsager told her he would take care of everything for her and that she would not be paying for anything. Wahrsager was aware of the existing contract with General.

57. General learned that at another customer, M.P., left to go with Wahrsager that same month under what is believed to be similar circumstances.

Customer G.C.

58. G.C. has been a New York Merchants Protective Company customer since at least 2002. G.C. resides in Kings County.

59. In December 2012, G.C. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a five year term and would then renew monthly absent written notice of cancellation. (the "G.C. Contract")

60. The G.C. Contract was in effect in February 2017 and was part of the 2016 Asset Purchase Agreement.

61. On or about February 2, 2017, Moran called G.C. to solicit her business.

62. Moran told G.C. "New York Merchants" had merged with General, he used to work for General, that General was a bad company that had tried to steal the New York Merchants accounts, and "we want them back."

63. Moran advised G.C. that “New York Merchants” had gone out of business and that Commercial had taken over their accounts. Moran made an appointment to come to G.C.’s home.

64. G.C. had no prior contact with Moran and had not contacted Commercial or anyone else about changing her security company or any security services.

65. G.C. had been a New York Merchants Protective Company customer for approximately 15 years.

66. Moran arrived at G.C.’s home and gave G.C. a business card that identified him as an agent of Commercial.

67. Moran held a clipboard believed to contain a list of names, addresses, and phone numbers. G.C.’s information was on that list. Moran possessed G.C.’s information regarding her account with New York Merchants Protective Company.

68. There were approximately 10 months remaining on G.C.’s existing contract with General.

69. Moran told G.C. she did not have a contract anymore with New York Merchants and that “we want to give you an upgrade.”

70. Based on Moran’s representations, G.C. signed a contract with Commercial and Moran indicated someone would come by to install the new security system.

71. Moran asked G.C. for a credit card number, which G.C. refused to provide. Moran then took $100 cash from G.C. as a deposit on the new equipment.

72. G.C. requested a copy of the contract, but Moran refused to give her a copy. He permitted her to take a photograph of the contract, which she did.

73. The contract with Commercial is for an annual amount higher than the G.C. Contract.

74. G.C. asked Moran for new signs as the ones outside of her home were old. Moran gave G.C. four Commercial window stickers.

75. Moran also gave G.C. two lawn signs that said "United States Merchants Protective Co., Inc."

76. Moran was not an authorized representative of General when he issued the lawn signs to G.C.

77. Commercial sent a second representative to G.C.'s home to install a new alarm system.

78. Shortly thereafter, G.C. received a quarterly invoice from General with a notice about the merger with New York Merchants Protective Company.

79. On February 17, 2017, G.C. contacted General and informed a General representative about her contacts with Moran and Commercial.

Customer I.A.T.

80. I.A.T. has been a New York Merchants Protective Company customer since at least 1998. I.A.T. is located in Queens County.

81. In February 2014, I.A.T. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a one year term and renewed monthly absent written notice of cancellation. (the "E.M.S. Contract")

82. The I.A.T. Contract was in effect in February 2017 and was part of the 2016 Asset Purchase Agreement.

83. In or about February 2017, a representative of I.A.T. contacted General using a NYMP customer service phone number. In connection with the November 2016 Asset Purchase Agreement, several longtime NYMP employees came to work for General and continued to handle New York Merchants Protective Company accounts. The I.A.T. representative spoke to a longtime NYMP customer service representative who had assisted this customer in the past.

84. The I.A.T. representative asked had the company's name been changed to General. The customer service representative responded by explaining there had been a merger.

85. The I.A.T. representative advised General that a man named Wayne had come to I.A.T.'s office to solicit I.A.T.'s business. The man attempted to have I.A.T. switch to Commercial indicating they previously serviced the account and that I.A.T. should come back to them.

<u>Customer R.B.</u>

86. R.B. has been a New York Merchants Protective Company customer since at least 2003. R.B. resides in Nassau County.

87. In April 2013, R.B. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a five year term and would then renew monthly absent written notice of cancellation. (the "R.B. Contract")

88. The R.B. Contract was in effect in February 2017 and was part of the 2016 Asset Purchase Agreement.

89. In February 2017, there were approximately 14 months remaining on the R.B. Contract.

90. In February 2017, R.B. contacted General to cancel the R.B. Contract. R.B. advised a General representative that the "old company" contacted her and said they were "starting up the business again."

91. The General representative advised R.B. she was still under contract, to which R.B. said she received a better price and already signed with the other company.

92. Upon information and belief, R.B. signed a contract with Commercial based on improper procurement methods such as those described in this Complaint.

Customer E.M.S.

93. E.M.S. became a New York Merchants Protective Company customer in or about 2003. E.M.S. is located in Queens County.

94. In December 2012, E.M.S. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a five year term and would then renew monthly absent written notice of cancellation. (the "E.M.S. Contract")

95. The E.M.S. Contract was in effect in February 2017 and was part of the 2016 Asset Purchase Agreement.

96. In February 2017, there were approximately 10 months remaining on the E.M.S. Contract.

97. In February 2017, E.M.S. contacted General to terminate the E.M.S. contract to go with Commercial. Upon information and belief, this was based on improper procurement methods such as those described in this Complaint.

Customer H.H.

98. H.H. became a New York Merchants Protective Company customer in or about 2016. H.H. is located in Nassau County.

99. In January 2016, H.H. signed an alarm monitoring contract with NYMP d/b/a New York Merchants Protective Company. The contract was for a five year term and would then renew monthly absent written notice of cancellation. (the "H.H. Contract")

100. The H.H. Contract was in effect in February 2017 and was part of the 2016 Asset Purchase Agreement.

101. In February 2017, there were approximately 4 years remaining on the H.H. Contract.

102. In or about February 2017, Moran arrived at H.H.'s place of business and identified himself as Project Engineer for Commercial. H.H. had no prior contact with defendants or anyone else about changing its security company or any security services.

103. Moran advised H.H. he had a list of all New York Merchants accounts and that many customers were coming over to his company.

104. Moran advised H.H. was not under contract with New York Merchants and even if it was his company would buy out the contract.

105. He instructed H.H. not to call New York Merchants yet to cancel and instructed it to wait until he could have a new security system installed first.

106. Moran said the existing system was inferior and did not adequately cover H.H. Based on Moran's representations, H.H. signed a security monitoring contract with Commercial Fire & Security. Commercial installed a new security system for H.H.

107. Upon information and belief, other New York Merchants Protective Company accounts have been improperly solicited and procured by defendants.

108. The contacts received by General, as detailed in the above paragraphs, are likely only a fraction of the total of General's customers subjected to the deceptive and illegal business practices of defendants and/or their agents and representatives.

109. Upon information and belief, defendants instruct General customers to cancel their accounts in a manner that would either not require a telephone call or would not reveal that the customers had been solicited by defendants under false pretenses.

110. Defendants' use of these false and misleading sales practices has had a significant impact on General's customers purchasing decisions, has directly interfered with General's contractual relationships with its customers, deceived General's existing and potential customers, caused General's customers to cancel their General contracts and contract with General's competitors, and created confusion regarding General's trade name, services, and operations.

111. Upon information and belief, defendants continue to make false and misleading representations about General, including misuse of its name and trademark, to solicit General's customers into breaching or terminating their agreements with General and contract with Commercial.

112. Defendants have benefitted, and continue to benefit, from their false and misleading statements to General's existing and potential customers in the form monitoring agreements procured through unlawful means.

113. The customer accounts were improperly procured utilizing information not available to the public. Defendants improperly identified these customers by the improper use of General's confidential customer information and pricing. Upon information and belief, defendants maintained records of New York Merchants Protective Company accounts and

defendants individually and/or collectively have been misusing them as described in this complaint.

114. Customers set forth above and others have sought to terminate their contracts and relationships with General due to defendants' false and malicious statements.

115. By targeting General's customers for defendants' commercial, financial, and competitive gain, defendants and their agents or employees acted as agents of Commercial.

116. General has suffered, and continues to suffer, irreparable harm and injury and economic damages as a direct and proximate result of defendants' actions.

AS AND FOR A FIRST CAUSE OF ACTION

VIOLATION OF 18 U.S.C. § 1836,
THE DEFEND TRADE SECRETS ACT OF 2016

117. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

118. Plaintiff is a multistate company that monitors customers' security systems through phone lines, radio, and the internet, and the provider purchased components of its security systems from several states of the United States.

119. Plaintiff's confidential customer records include, *inter alia*, information such as names, addresses, phone numbers, sales history, customer needs and preferences, and pricing information, all of which constitute trade secrets.

120. Plaintiff's trade secrets are not accessible to the public and plaintiff has taken substantial measures to insure that its customer information remains confidential. Plaintiff maintains the information on a secure computer server accessible only by its employees who must enter a company-assigned username and password.

121. If the trade secrets were publically accessible, General's competitors could easily poach General's customers and accounts by pricing their services just below General and unfairly undercutting General.

122. The trade secrets are not readily ascertainable by any individual not employed by General.

123. Plaintiff did not consent to the disclosure or use of its trade secrets by any of the defendants.

124. Moran, who was previously employed by General, knew or should have known the confidential nature of the trade secrets and the measures in place to preserve confidentiality.

125. Wahrsager, who previously owned New York Merchants Protective Company, and has been in the security business for many years, knew or should have known that he had no right to maintain or utilize confidential trade secrets.

126. The customer information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

127. Defendants have used improper means to acquire the trade secrets and/or knew or had reason to know that the trade secrets were acquired through improper means, under circumstances giving rise to a duty to maintain the secrecy of the trade secret, or derived from or through a person who owed such a duty.

128. Defendants were aware, or should have been aware, that appropriation of the trade secrets would give rise to significant financial and business opportunities which they would otherwise not be privy to.

129. Defendants' actions alleged occurred after May 11, 2016 and fall within the reach of the Defend Trade Secrets Act of 2016 ("DTSA"), 18 U.S.C. § 1836.

130. Defendants' misappropriation of the plaintiff's trade has caused plaintiff harm because defendants were able to identify and poach plaintiff's customers.

131. Defendants' conduct constitutes a violation of the DTSA under which plaintiff should be afforded an injunction under 18 U.S.C. § 1836 (b)(3)(A) barring defendants from further misappropriating plaintiff's trade secrets.

132. Plaintiff's confidential customer lists, pricing information, and other account information are a formula, pattern, device or compilation of information which provide plaintiff an opportunity to obtain an advantage over its competitors.

133. Defendants used plaintiff's confidential customer lists, pricing information, and other account information to improperly solicit and broker customers to Commercial.

134. Defendants' use of plaintiff's confidential customer lists, pricing information, and other account information for the benefit of themselves constitute a misappropriation of trade secrets.

135. Defendants have directly and proximately diverted plaintiff's business, or otherwise caused plaintiff actual economic harm through the misappropriation of its trade secrets, for which plaintiff is entitled under 18 U.S.C. §1836(b)(3)(B) to compensatory damages and for any unjust enrichment in an amount to be determined at trial.

136. Because defendants' misappropriation of plaintiff's trade secrets was intentional and deliberate and made in wanton and willful disregard of plaintiff's rights and interests, plaintiff is entitled under 18 U.S.C. §1836(b)(3)(C) to recover exemplary damages in an amount

of double the amount of compensatory damages and for unjust enrichment in an amount to be determined at trial, as well as to recover attorneys' fees under 18 U.S.C. §1836(b)(3)(D).

AS AND FOR A SECOND CAUSE OF ACTION

VIOLATION OF THE LANHAM ACT, 15 U.S.C. § 1125(a)

137. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

138. Defendants made false and misleading statements to General's customers claiming General does not have the legal rights to their existing contracts or using other false or misleading statements and actions intended to mislead the customer as to General's trademark, trade name, and defendants' true affiliation.

139. Defendants' false and misleading statements have confused, are likely to confuse, and will continue to confuse General's existing and potential customers regarding General's ownership of the New York Merchants Protective Company intellectual property and contract rights.

140. General has been damaged, and will continue to be damaged, as a result of (i) defendants' false and misleading statements, (ii) the confusion of the market for General's goods and services, (iii) the disruption of General's contractual relationships with existing customers, (iv) the interference in General's prospective relationship with new customers, (v) the diversion of General's customers to Commercial, and (vi) damage to General's commercial goodwill and reputation as a provider of security system monitoring, installation, and servicing caused by false statements regarding its capabilities and services.

141. Defendants' above-described conduct constitutes violations of the prohibitions of 15 U.S.C. § 1125(a) on (i) false or misleading descriptions or representations of fact in connection with goods, services, commercial activities; and (ii) false or misleading descriptions or representations of fact in advertising or promotion.

142. General is entitled to an award of compensatory damages, defendants' profits resulting from the violations, and attorneys' fees and costs under 15 U.S.C. § 1117(a).

143. General is entitled to treble damages under the Lanham Act to compensate General for its losses.

144. General is entitled to an injunction under 15 U.S.C. § 1116(a) barring defendants from further violations of 15 U.S.C. § 1125(a). Defendants are likely to continue to engage in such practices unless they are enjoined by this Court from further violations.

AS AND FOR A THIRD CAUSE OF ACTION

VIOLATION OF N.Y. GENERAL BUSINESS LAW § 349
FOR DECEPTIVE ACTS AND PRACTICES

145. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

146. Defendants' deceptive trade practices were directly aimed at General's customers, who defendants personally solicited.

147. To persuade General's customers to terminate and/or breach their contracts with General, and contract with Commercial, defendants intentionally misrepresented how General's relationship with New York Merchants Protective Company, misused General's trademark and/or trade name.

148. Defendants' deceptive tactics caused General direct financial harm as General customers sought to terminate and/or breach contracts with General, causing General to be unable to collect expected revenue.

149. Under N.Y. General Business Law § 349, plaintiff is entitled to an award for the actual damages suffered because of defendants' deceptive practices.

150. Defendants willfully and knowingly violated § 349 and plaintiff should receive treble damages in the maximum amount permitted under the statute.

151. Plaintiff should also be awarded reasonable attorneys' fees under the statute.

AS AND FOR A FOURTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

152. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

153. General had existing contractual relationships, monitoring and service agreements with customers solicited by defendants.

154. General had a reasonable expectancy those contractual relationships would continue throughout the contract term and be extended for subsequent terms.

155. Defendants, in improperly soliciting General's customers and making false and misleading statements about General, knew of General's relationships with their customers.

156. Defendants or their agents and representatives intentionally interfered in General's contractual relationships with its customers by using false and misleading statements regarding General and its services and capabilities to induce a termination or breach of the contract between General's customers and General.

157. Defendants' above-described false and misleading statements regarding General constitute improper methods.

158. Because of defendants' improper methods, General has suffered significant economic loss and reputational harm and is entitled to compensatory damages.

159. General is entitled to punitive damages for defendants' malicious and wanton conduct.

AS AND FOR A FIFTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

160. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

161. General had existing contractual relationships, monitoring and service agreements, with its customers solicited by defendants. These contracts are frequently, if not usually, extended and constitute a prospective economic advantage to General, at the very least through the term of the existing contract.

162. Defendants, in soliciting General's customers and making false and misleading statements about General and its services and capabilities, knew of General's relationships with their customers and the prospective economic advantage those relationships are to General.

163. Defendants or their agents and employees intentionally interfered in General's contractual relationships and prospective business relationships with its existing and potential future customers by using false and misleading statements regarding General to induce a termination or breach of the contract between General's customers and General.

164. Defendants' above-described false and misleading statements regarding General and its services and capabilities constitute improper methods.

165. Because of defendants' improper methods, General has suffered significant economic loss and reputational harm and is entitled to compensatory damages.

166. General is entitled to punitive damages for defendants' malicious and wanton conduct.

AS AND FOR A SIXTH CAUSE OF ACTION

MISAPPROPRIATION OF TRADE SECRETS

167. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

168. Plaintiff's confidential customer lists, pricing information, and other account information are a formula, pattern, device or compilation of information which provide plaintiff an opportunity to obtain an advantage over its competitors.

169. Defendants obtained plaintiff's confidential customer lists, pricing information, and other account information in breach of the asset purchase agreements, confidential relationships, and/or because of discovery by improper means.

170. Defendants used plaintiff's confidential customer lists, pricing information, and other account information, to improper solicit and broker clients to Commercial.

171. Defendant's use of plaintiff's confidential customer lists, pricing information, and other account information for the benefit of themselves constitute a misappropriation of plaintiff's trade secrets.

172. Defendant has directly and proximately diverted plaintiff's business, or otherwise caused plaintiff actual economic harm through the misappropriation of its trade secrets, for which plaintiff is entitled to compensatory damages in an amount to be determined at trial.

173. Because defendant's misappropriation of trade secrets was intentional and deliberate and made in wanton and willful disregard of plaintiff's rights and interests, plaintiff may recover punitive damages in an amount to be determined at trial

AS AND FOR A SEVENTH CAUSE OF ACTION

UNJUST ENRICHMENT

174. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

175. As described above, defendants used misappropriated trade secrets and deceptive business practices to induce General's customers to breach their contract with General and contract with Commercial.

176. In each instance, defendants were enriched at plaintiff's expense.

177. Defendants provided no services or goods to plaintiff.

178. Given the circumstances, principles of equity and good conscience, require defendants to return the taken funds.

AS AND FOR AN EIGHTH CAUSE OF ACTION

PERMANENT INJUNCTION

179. Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

180. General is entitled to injunctive relief under 15 U.S.C. § 1116(a), 18 U.S.C. § 1836, and common law of the State of New York.

181. Based upon the ongoing nature of defendants' conduct, defendants are likely to continue to make false, misleading, and damaging statements regarding General and continue to misuse trade secrets and trade names unless this Court takes measures to enjoin future violations.

182. General respectfully requests that the Court enter a judgment in its favor against defendants on all of the above causes of action and issue an order enjoining defendants and their agents or employees from:

i) Contacting any New York Merchants Protective Company customers

ii) Relying upon any New York Merchants Protective Company materials or proprietary information, such as lawn signs, customer lists, customer contact information, pricing history, or other account information.

iii) Making any statements on General's acquisition of New York Merchants Protective Company or the propriety of such acquisition;

iv) Making any representations on General's ownership of New York Merchants Protective Company accounts;

v) Returning any New York Merchants Protective Company proprietary information and/or trade secret and/or trade name protected information and materials.

WHEREFORE, plaintiff demands judgment be entered in its favor and that the Court order and award it the following relief:

A. An award of compensatory damages against defendants in amount yet to be determined;

B. An award of exemplary, punitive, and treble damages against defendants in amount yet to be determined;

C. An award of attorneys' fees incurred in the prosecution of this action;

D. An award of costs and disbursements incurred in the prosecution of this action;

E. A permanent injunction as described above;

F. An Order requiring defendants to return all New York Merchants Protective Company proprietary information and materials; and

G. Such other and further relief as this Court may deem just, equitable, and proper.

Dated: Carle Place, New York
March 2, 2017

SOKOLOFF STERN LLP
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By:______________________

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