IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young, Circuit Court Judge

Case No. 2013-CP-10-5579

Appellate Case No. 2014-001828

JOSHUA FAY.....Appellant-Respondent,

vs.

TOTAL QUALITY LOGISTICS, LLC.....Respondent-Appellant.

RESPONDENT'S FINAL BRIEF OF THE RESPONDENT-APPELLANT

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STATEMENT OF THE CASE

Appellant-Respondent Joshua Fay (hereinafter "Fay") was previously employed by Respondent-Appellant Total Quality Logistics, LLC (hereinafter "TQL") as a Logistics Sales Account Executive in Training. Following his termination on June 17, 2013, he immediately began competing with TQL unfairly and in violation of his Employee Non-Compete, Confidentiality and Non-Solicitation Agreement (the "Agreement"), by providing to a TQL customer, the Brandt Companies ("Brandt"), the same services that he had provided to Brandt while employed by TQL. Fay established and competed through his brokerage own company, JF Progressions, which had its own broker authority with the U.S. Department of Transportation.

Fay filed this lawsuit on September 23, 2013, alleging violations of the Fair Labor Standards Act and seeking a declaratory judgment that the Agreement is invalid and unenforceable. Fay amended his Complaint on November 12, 2013, to add a claim for interference with contract, after Brandt ceased its dealings with him as the result of litigation TQL filed against Brandt to enforce its rights under the Agreement.

The parties filed cross motions for summary judgment. Fay filed his motion for judgment on the pleadings, or for summary judgment in the alternative, to ask the lower court to rule that his Agreement is unenforceable. Fay has also asked the court—prematurely, without the benefit of any discovery—to rule against TQL on its

counterclaim for conversion and misappropriation of confidential information and trade secrets, arguing that he had not in fact violated the Agreement.

By order dated April 14, 2014, the lower court correctly held that the Agreement is enforceable under Ohio law and could be enforced in South Carolina because it does not violate the public policy of South Carolina. The court also correctly denied Fay's motion for summary judgment on TQL's claims for breaches of contract, and in so doing, implicitly found that he had violated his Agreement. However, in response to Fay's motion for partial reconsideration, by order dated August 4, 2014, the lower court revoked its finding that Fay had breached the Agreement, upheld its ruling that the Agreement is enforceable, and certified the issue for an immediate appeal.

Fay appealed those orders August 21, 2014. TQL filed and served its Notice of Cross-Appeal September 2, 2014.

FACTS

A. TQL'S offer of employment to Fay.

TQL is an Ohio corporation providing logistics services, including third-party logistic services, motor freight brokerage services and supply chain management services throughout the continental United States, Mexico, and Canada. (R. p. 34) ¶51; (R. p. 187) ¶3.

TQL offered Fay employment as a Logistics Sales Account Executive in Training ("LAET") by email dated November 20, 2012. (R. p. 190) ¶4. The offer of employment specifically informed Fay that: "You are also required to complete, sign, and return a TQL non-compete/non-disclosure agreement on your first day of employment. Failure to meet these requirements will result in the retraction of this offer." (R. p. 191) ¶6.

Thereafter, TQL employed Fay on December 10, 2012. (R. p. 34) ¶52; (R. p. 187) ¶4. At the inception of his employment, and as an inducement to TQL's employing him, Fay entered into the subject Employee Non-Compete, Confidentiality and Non-Solicitation Agreement (the "Agreement"). (R. pp. 35-39) ¶53; (R. p.187) ¶5. Fay admits he signed the Agreement on his first day of employment. (R. pp. 181-182) ¶¶3-5.

B. The Agreement contains reasonable covenants against competition.

1. The Agreement restricts competition and solicitation in Section 9.

In Section 9, Fay agreed that, for a period of one year after his employment terminated, he would not "become employed by or engaged in a Competing Business ..., in a capacity similar to that in which Employee is engaged by TQL or in a capacity in which Employee is in a position to use or benefit from the use of TQL's Confidential Information." (R. p. 49) ¶9(b), ¶9(b)(ii). The parties agreed that a "Competing Business" is "any person, firm, corporation, or entity that is engaged in the Business anywhere in the Continental United States." (R. pp.50-51) Agreement, ¶9(d). The parties agreed that "the Business" is "providing motor carrier transport and related services, including third-party logistic services, motor freight brokerage services and supply chain management services throughout the Continental United States." (R. p. 46) First Recital.[1]

Fay also agreed that for a period of one year after his employment terminated, he would not "directly or indirectly, solicit any Customer... for any business purpose in competition with or in conflict with the Business of TQL." (R. pp. 49-50) ¶9(b), ¶9(b)(iii). He also agreed that for a period of one year after his employment terminated,

[1] Thus, Fay's arguments on pages 13, and 15 of his initial brief, that the restriction lacks a geographic limit and that it would prohibit Fay from working in Europe, are specious.

he would not "directly or indirectly, interfere with, tamper with, disrupt, or attempt to interfere with, tamper with or disrupt any contractual relationship, or prospective contractual relationship, between TQL and any Customer[2] ..., or otherwise take any action to divert Business from TQL." (R. pp. 49-50) ¶9(b), ¶9(b)(iv).

2. The Agreement restricts the use of Confidential Information and Trade Secrets in Sections 3, 4, 5, 6, and 7.

The Agreement addresses confidential information and trade secrets in a number of provisions. The parties agreed that "All Confidential Information as described herein is proprietary and the sole property of TQL." (R. p. 48) ¶3. The Agreement prohibits Fay from "us[ing] for any purpose or publish[ing], copy[ing], disclos[ing], or communicat[ing] to any Individual, firm, corporation, or other business entity other than TQL any Confidential Information." (R. p. 48) ¶4.

Fay agreed that "engaging in an employment relationship with a Competing Business ... in a position similar to Employee's position at TQL or in any other position in which the knowledge or use of TQL's Confidential Information would be beneficial, would necessarily and inevitably result in Employee revealing, basing judgments and

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[2] "Customer" is any customer or prospective customer: (A) with whom Employee had contact in connection with Employee's employment with TQL during the twelve (12) month period prior to termination or cessation of Employee's employment with TQL for any reason; or (B) about whom Employee had access to proprietary, confidential or commercially advantageous information through Employee's employment by TQL during the twelve (12) month period prior to termination or cessation of Employee's employment with TQL for any reason.

decisions upon, or otherwise using TQL's Confidential Information to unfairly compete with TQL." (R. p. 48) ¶6.

Contrary to the position he takes now, Fay agreed that "TQL's trade secrets, Customer lists, Motor Carrier lists, Load Management System, private processes, and other Confidential Information as they may exist from time to time are valuable, special, and unique assets of TQL's Business and operations, access to and knowledge of which are essential to performance of Employee's duties hereunder... ." (R. pp. 48-49) ¶7. The parties agreed that the term Confidential Information was defined in the Third Recital of the Agreement.

C. Fay's extensive training provided him with a breadth of trade secrets.

As a Logistics Sales Account Executive, Fay's job included developing his own book of business through the pursuit of new customers and by selling to existing TQL customers. (R. pp. 187-188) ¶6. Through this process, he would obtain freight orders from these customers and arrange transportation of the freight. Id. His job also required that he negotiate freight rates with customers and the motor carriers who physically hauled the freight, schedule pick-ups and deliveries, and resolve any issues that arose. Id.

Fay underwent a six month, intensive training program and was entrusted with a range of confidential information and materials, detailed expense information, pricing, profitability and margin information, as well as non-public information about the individualized needs and requirements of TQL's customers, as well as their contact information. (R. p. 188) ¶7. As part of his training and employment, Plaintiff had access to TQL's proprietary software system—Load Manager—which contained much of

TQL's Confidential Information as well as marketing and business strategy for TQL's sales employees. Id.

Before he was employed by TQL, Fay had no knowledge of and did not understand TQL's methods to develop leads or how to "build" loads, nor did he know what TQL's pricing, profitability and margin information was. (R. p. 188) ¶8. Before he was hired, Fay did not have any of the non-public information about the individualized needs and requirements of TQL's customers, or their contact information. Id. In fact, at the time of his hire Fay had previously worked for his parent's company, T. Mark Fay Consulting which was not in the transportation or logistics industry. Id.

D. Fay establishes JF Progressions and begins competing.

Although he now seeks to re-characterize his work through his competing brokerage company, JF Progressions, Incorporated, as not competition that violates the Agreement, it plainly is, because Fay did through JF Progressions exactly what he did with TQL. And he did so for a former TQL customer, Brandt. (R. pp. 181-184). In his affidavit, Fay admits that he created JF Progressions and entered into a contract with Brandt "to provide qualified carriers, manage logistics, provide support, and handle claims and documentation." (R. p. 183) ¶10. This violates his Agreement, and Fay initiated the declaratory judgment action in hopes of having it declared invalid, so that he could continue competing.

ARGUMENT

I. IN PARTIALLY GRANTING TQL'S MOTION FOR SUMMARY JUDGMENT, THE LOWER COURT DECIDED CORRECTLY THAT THE NONCOMPETE PROVISIONS ARE ENFORCEABLE AS A MATTER OF LAW AND COMPORT FULLY WITH THE PUBLIC POLICY OF THE STATE OF SOUTH CAROLINA.

A. The Agreement is valid under Ohio law and does not offend the public policy of South Carolina.

Terms in a non-compete agreement may be construed according to the law of another state. Stonhard, Inc. v. Carolina Flooring Specialists, Inc., 366 S.C. 156, 159, 621 S.E.2d 352, 353 (2005), citing Standard Register Co. v. Kerrigan, 238 S.C. 54, 70-71, 119 S.E.2d 533, 541-42 (1961). So long as the resulting agreement is valid as a matter of law and comports with public policy in South Carolina, our courts will enforce the agreement. Id.

Here, the restrictive covenants in the Agreement are valid under Ohio law, and they comport fully with South Carolina's public policy which generally requires the enforcement of contracts entered into freely. Oxman v. Profitt, 241 S.C. 28, 126 S.E.2d 852 (1962) (applying this principle to a covenant not to compete). Under Ohio law, they are no greater than is required for the protection of TQL; they do not impose undue hardship on Fay; and they are not injurious to the public. Raimonde v. Van Vlerah, 42 Ohio St.2d 21, 325 N.E.2d 544, 547 (1975).

Under Ohio law, the Court must examine a non-competition covenant to determine the reasonableness of the restrictions. Id. To make that determination, the court should consider the absence or presence of a long list of factors: whether the covenant imposes temporal and spatial limitations, whether the employee had contact with customers, whether the employee possesses confidential information or trade secrets, whether the covenant bars only unfair competition, whether the covenant stifles the employee's inherent skill and experience, whether the benefit to the employer is disproportionate to the employee's detriment, whether the covenant destroys the employee's sole means of support, whether the employee's talent was developed during

the employment, and whether the forbidden employment is merely incidental to the main employment. Id.

The Agreement imposes time and geographic limits; the restrictive covenants run for one year after Fay's employment terminates and are limited to the Continental United States. (R. 49 pp. 50-51) ¶9(b), ¶9(d). Fay's argument that the geographic scope either is lacking altogether or is somehow overbroad ignores the reach of TQL's business and its need for a nationwide noncompete. Moreover, Fay was able to establish contact with TQL's customers and prospects across the United States and Canada. (R. pp. 193-197) ¶4. For example, TQL's records show that Fay contacted customers and prospects located in thirty-one (31) cities in five (5) Canadian provinces, and four hundred forty (440) cities in the Continental *United States located in forty-four (44) states, the District of Columbia, Hawaii, and Puerto Rico.* (R. p. 197) ¶5. Clearly, the geographic scope of the Agreement is enforceable. Indeed, it is drawn more narrowly than the actual areas within which Fay was able to establish contacts, which included Hawaii and Puerto Rico. Obviously, Fay had contact with many customers—and he admits for example that he had contact with The Brandt Companies ("Brandt"). (R. pp. 182-183) ¶¶7-12. In any case, his argument that the covenant would prevent him from working in Europe is nonsense.

Fay possesses TQL's confidential information and trade secrets. Fay underwent a six month, intensive training program and was entrusted with a range of confidential information and materials, detailed expense information, pricing, profitability and margin information, as well as non-public information about the individualized needs and requirements of TQL's customers, as well as their contact information. (R. p. 188) ¶7. As

part of his training and employment, Fay had access to TQL's proprietary software system—Load Manager—which contained much of TQL's Confidential Information as well as marketing and business strategy for TQL's sales employees. Id.

TQL's Agreement only bars unfair competition. Before he was employed by TQL, Fay had no knowledge of and did not understand TQL's methods to develop leads or how to "build" loads, nor did he know what TQL's pricing, profitability and margin information was. (R. p. 188) ¶8. Before he was hired, Fay did not have any of the non-public information about the individualized needs and requirements of TQL's customers, or their contact information. Id. In fact, at the time of his hire Fay had previously worked for his parents' company, T. Mark Fay Consulting which was not in the transportation or logistics industry. Id. As a result, there is nothing unfair about preventing Fay from competing in this business, from soliciting TQL's clients, or from diverting business of TQL's clients away from TQL to Fay's competing business, JF Progressions, Incorporated.

Finally, by its terms, the restrictions were not intended and shall not be construed to prohibit Employee from disclosing or using the general skills and knowledge acquired as an employee of TQL. (R. p. 48) ¶4. Fay's argument that his noncompete prevents him from working in any capacity in the intermodal transportation industry is overstated: his noncompete permits him to hold several positions, including, by way of example, the following jobs: dispatcher for a trucking company, driver for a trucking company, carrier compliance coordinator, safety compliance officer with a motor carrier, carrier coordinator with a motor carrier, logistics planner for any company other than a freight broker, freight broker for an ocean or air freight company, freight broker for a non-vessel

operating common carrier, barge or intermodal freight company, customs broker or international freight broker, produce broker, lumber broker, and an alloy broker. (R. pp. 198-199) ¶4.

The covenants do not stifle the Fay's inherent skill and experience, because at the time of his hire Plaintiff had previously worked for his parents' company, T. Mark Fay Consulting which was not in the transportation or logistics industry. The benefit to TQL in enforcing the Agreement is not disproportionate to the Plaintiff's detriment. At oral argument, Fay's counsel represented to the Court that Plaintiff was earning as much as $100,000 annually from his work with Brandt alone. (R. p. 231) These are substantial damages to TQL.

Fay also argues that under the covenant restricting the disclosure of trade secrets and confidential information, any information that Fay received during his employment with TQL would be considered a proprietary trade secret, even if it were information otherwise in the public domain or had been obtained by TQL from another competitive business. This again overstates the effect of the Agreement. Although the definition of Confidential Information in the Agreement is certainly a robust expression of the information protected, a close reading shows that it genuinely focuses on secret and/or proprietary information concerning TQL and/or its customers:

> **WHEREAS**, TQL develops and maintains confidential proprietary Information (hereinafter referred to as, "Confidential Information"), including but not limited to, its operating policies and procedures; computer databases; computer software; methods of computer software development and utilization; computer source codes; financial records, including but not limited to, credit history and information about Customers, potential Customers, Motor Carriers, and suppliers; Information about transactions, pricing, the manner and mode of doing business, and the terms of business dealings and relationships with Customers and Motor Carriers, and financial and operating controls and

> procedures; contracts and agreements of all kinds, including those with Customers, Motor Carriers, and vendors; pricing, marketing and sales lists and strategies; Customer lists and Motor Carrier lists including contact names, addresses, telephone numbers, and other information about them; trade secrets; correspondence; accounts; business policies; purchasing information; functions and records; logistics management; and data, processes, and procedures. Confidential Information also includes any information described above which TQL obtains from another company and which TQL treats as proprietary or designates as Confidential Information, whether or not owned or developed by TQL. This Information may be in tangible written form, computer databases, or it may be represented and communicated solely by oral expressions or business activities which are not reduced to written form. Confidential Information may be protected by patents, copyrights, or other means of protection; ...

Agreement, Third Recital. (R. 46-47)

Thus, as an employee of TQL, Fay learned the following general transportation concepts, methods, and information that he is freely permitted to use in the intermodal transportation industry, consistent with the definition of Confidential Information: how to price loads for customers and to the motor carriers; how to price multiple loads in different lanes depending on the commodity; how to know what to tell a carrier when they are hauling high value cargo, produce, metals, etc.; how to know what type of trailer is needed depending on the product and how to make sure the product is properly secured before leaving; how to make appointments at shipping points and receivers and how long it should take to unload each; how to talk to a carrier about sealing the doors to their trailers; how to handle mechanical problems with a trailer or truck and how to get the product off the vehicle either at the point where the vehicle is broken down or at a cross-dock; how to calculate how long it should take for the carrier to haul a load and communicate that to the customer; how to tell a carrier how to run its refrigerated unit during transit; how to locate flag cars and permits for a motor carrier hauling a wide or

unusual load; what is required to move cargo across international lines; how to read and analyze all types of bills of lading; how to approach carriers and convince them to take a load and haul it and still earn a profit margin; pricing to haul certain products during certain periods of the year (e.g., produce, landscaping, building materials); where products originate (i.e., produce out of Laredo, TX in March, etc.) and where they are headed–this will help brokers understand when truck costs and availability will "tighten up" because of increased demand and how to obtain backhauls for motor carriers and how to price them. (R. pp. 199-200) ¶5.

The Agreement has always been upheld as valid under Ohio law; in fact, no court has ever held otherwise. Moreover, courts in Ohio that have considered whether TQL's Agreement should be enforced with a preliminary injunction or temporary restraining order, both drastic remedies, have held that it is enforceable and granted the preliminary relief. See Jeffrey A. Dangelo vs. Total Quality Logistics, LLC, Case No. 1:09cv512 (S.D. Ohio 2009); and Total Quality Logistics, LLC vs. Michael Siano, Case No. 2010-CV-2731 (Court of Common Pleas, Clermont County, Ohio January 4, 2011). (R. pp. 101-115).

B. The Agreement is also enforceable under South Carolina law.

In South Carolina, a non-compete agreement will be upheld if it is: (1) necessary for the protection of the legitimate interests of the employer; (2) reasonably limited in its operation with respect to time and place; (3) not unduly harsh and oppressive in curtailing the legitimate efforts of the employee to earn a livelihood; (4) reasonable from the standpoint of public policy; and (5) supported by a valuable consideration. Rental

Uniform Serv. Of Florence, Inc. v. Dudley, 278 S.C. 674, 301 S.E.2d 142 (1983); Stringer v. Herron, 309 S.C. 529, 424 S.E.2d 547 (Ct.App.1992).

Here, Fay makes the frankly inexplicable argument that the Agreement does not protect a legitimate business interest of TQL because Brandt is not a competitor of TQL. The point is that Brandt is, or was, a *customer* of TQL, one Fay serviced as a TQL employee, and one that Fay admits he diverted business from through his new company, JF Progressions, Incorporated, which is the *competitor* in this situation. (R. pp. 182-183) ¶¶7-12. Moreover, in seeking to have the Agreement declared unenforceable, Fay presumably hoped to compete by diverting business from other TQL customers, not just Brandt. Thus, as the *Dangelo* Court wrote, "For him to use the knowledge and experience he gained while working at TQL to divert business from TQL is a legitimate business interests [sic] and no greater than required to protect those interests, especially given that the restriction is only limited to one year." Jeffrey A. Dangelo vs. Total Quality Logistics, LLC, Case No. 1:09cv512, p.8 (S.D. Ohio 2009); see also Wolf v. Colonial Life and Accident Ins. Co., 309 S.C. 100, 420 S.E.2d 217 (Ct.App.1992) (holding that protecting existing business contacts, accounts and customers from pirating by a former employee is a legitimate business interest).

The Agreement is reasonably limited as to time and place. It restricts unfair competition throughout the Continental United States. South Carolina will enforce a nationwide protection when a company does business nationwide. Wolf v. Colonial Life and Accident Ins. Co., 309 S.C. 100, 420 S.E.2d 217 (S.C. Ct.App.1992) ("The fact that Colonial does business nationwide shows that it needs nationwide protection."). Fay's argument, that the covenant not to compete lacks a geographic scope altogether evinces

either a complete misunderstanding how contract provisions work together, or it is just specious. In any case, Fay cites to no case law supporting his argument that the geographic scope expressed in paragraph 9(d) cannot be incorporated by paragraph 9(b). Moreover, he did not argue this to the lower court. Rather, he argued that the nationwide scope was overbroad. Hoffman v. Powell, 298 S.C. 338, 380 S.E.2d 821 (1989) (an appellate court will not consider issues raised for the first time on appeal).

The duration of the non-compete is for one year following termination. South Carolina courts have upheld time restrictions from two to five years as reasonable. Rental Uniform Serv. Of Florence, Inc. v. Dudley, 278 S.C. 674, 301 S.E.2d 142 (1983) (three years valid).

The Agreement is not unduly harsh or oppressive; it only prohibits unfair competition for one year, and Fay has worked in other fields before he joined TQL[3]. To suggest that it is unduly harsh to prevent Fay from working in a field in which he was employed for a mere six months is untenable. He has other work experience and employment skills. The Agreement is also reasonable from the standpoint of sound public policy, which generally requires the enforcement of contracts entered into freely. Oxman v. Profitt, 241 S.C. 28, 126 S.E.2d 852 (1962) (applying this principle to a covenant not to compete). Moreover, the prohibitions reasonably protect TQL's legitimate interest in protecting its business contacts and trade secrets, an interest shared by all businesses. See Wolf v. Colonial Life and Accident Ins. Co., 309 S.C. 100, 108, 420 S.E.2d 217, 221 (S.C. Ct. App. 1992).

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[3] At the second hearing, Fay's counsel indicated that he no longer worked in transportation and had in fact moved on to other pursuits. (R. p. 256, p. 258)

Finally, there is no doubt that the Agreement is supported by valuable consideration. Fay admits he signed the Agreement on his first day of employment. (R. pp. 181-182) ¶¶3-5. Under South Carolina law, at-will employment is sufficient consideration to support a noncompete that is entered into at the inception of employment, and the rationale behind the rule is fairly straightforward:

> ...[O]rdinarily employment is a sufficient consideration to support a restrictive negative covenant, but where the employment contract is supported by the purported consideration of continued employment, there is no consideration when the contract containing the covenant is exacted after several years employment and the employee's duties and position are left unchanged. *Kadis v. Britt,* 224 N.C. 154, 29 S.E.2d 543 (1944). Therefore, we adopt the rule that when a covenant is entered into after the inception of employment, separate consideration, in addition to continued at-will employment, is necessary in order for the covenant to be enforceable.

Poole v. Incentives Unlimited, Inc., 345 S.C. 378, 382, 548 S.E.2d 207, 209 (2001) (covenant entered into three and a half years after inception of employment not supported by consideration) (emphasis added).

C. Fay's Argument that the Courts of Ohio would apply South Carolina is irrelevant and was neither argued below nor ruled on by the lower court.

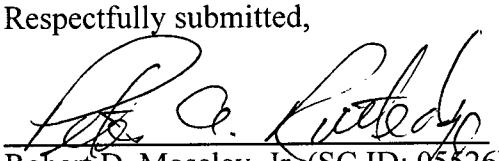
Fay argues, for the first time, that were this matter being decided by the courts in Ohio, they would apply South Carolina law, and he relies on an opinion involving the interpretation of a covenant not to compete that would have been enforced in California, which has generally outlawed noncompetes altogether. This argument is irrelevant, because the Agreement here fully satisfies South Carolina law, as the lower court already so held. It ignores and is flatly contradicted by the opinions from Ohio that apply Ohio law to the Agreement. See Jeffrey A. Dangelo vs. Total Quality Logistics, LLC, Case No. 1:09cv512 (S.D. Ohio 2009); and Total Quality Logistics, LLC vs. Michael Siano, Case

No. 2010-CV-2731 (Court of Common Pleas, Clermont County, Ohio January 4, 2011). Finally, because it was not argued or ruled upon below, it cannot be considered here for the first time. Rives v. Bulsa, 325 S.C. 287, 291, 478 S.E.2d 878, 880 (Ct. App. 1996) citing, Mims v. Alston, 312 S.C. 311, 440 S.E.2d 357 (1994); Noisette v. Ismail, 304 S.C. 56, 403 S.E.2d 122 (1991) (where a trial court does not explicitly rule on an argument raised, and appellant makes no Rule 59 motion to obtain a ruling, the appellate court may not address the issue); Hoffman v. Powell, 298 S.C. 338, 380 S.E.2d 821 (1989) (an appellate court will not consider issues raised for the first time on appeal).

CONCLUSION

For the foregoing reasons, TQL respectfully requests that the order of the lower court, holding that the Agreement is valid and enforceable under Ohio law and comports fully with the public policy of South Carolina be affirmed.

Respectfully submitted,



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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Respondent's Final Brief of the Respondent-Appellant complies with Rule 211(b), SCACR.

March 26, 2015

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PROOF OF SERVICE

The undersigned employee of the law offices of Smith Moore Leatherwood LLP, attorneys for Respondent-Appellant, does hereby certify that service of the **Respondent's Final Brief of the Respondent-Appellant** was made on all counsel of record, specified below, by mailing a copy of the same by United States Mail, postage prepaid, on **March 30, 2015**, to the following address:

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