

CAUSE NO. _____

BAKER HUGHES INCORPORATED and
BAKER PETROLITE CORPORATION,

Plaintiffs,

V.

JUN TIAN,

Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

**PLAINTIFFS' VERIFIED ORIGINAL PETITION, APPLICATION FOR
TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, AND
PERMANENT INJUNCTION**

Plaintiffs Baker Hughes Incorporated and Baker Petrolite Corporation (collectively “Plaintiffs” “BHI” or “the Company”) seek a temporary restraining order, temporary injunction, permanent injunction, attorneys’ fees, and damages against Defendant Jun Tian (“Tian” or “Defendant”), showing as follows:

SUMMARY

Tian was a Ph.D level scientist employed in a highly sensitive Research and Development role at BHI. Tian misappropriated BHI’s confidential information and trade secrets, resigned from BHI, and went to work for a direct competitor, Multi-Chem Group LLC (“Multi-Chem”). Tian then refused BHI’s request to return its confidential information and trade secrets, thus forcing the Company to file this lawsuit. Tian should be ordered to return BHI’s confidential information and trade secrets, and enjoined from ever using or disclosing such information. *See, e.g., T-N-T Motorsports, Inc. v. Hennessey Motorsports, Inc.*, 965 S.W.2d 18, 21-22 (Tex. App.–Houston [1st Dist.] 1998, pet. dism’d) (affirming grant of temporary injunction against former employees who took off with their former employer’s confidential information and trade secrets); *Rugen v. Interactive Bus. Sys., Inc.*, 864 S.W.2d 548 (Tex. App.–

Dallas 1993, no writ) (grant of temporary injunction against former employee prohibiting employee from using any confidential information obtained from former employer to solicit or transact business with employer's consultants or customers was not an abuse of discretion).

DISCOVERY PLAN AND PARTIES

1. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.

2. Plaintiffs Baker Hughes Incorporated and Baker Petrolite Corporation are Delaware Corporations with their principal places of business in Houston, Texas, and Sugar Land, Texas, respectively. Baker Petrolite Corporation is a wholly owned subsidiary of Baker Hughes Incorporated.

3. Defendant Tian is an individual residing at 3711 Monarch Grove Lane, Katy, Texas 77479. Tian may be served with process at that address. Tian may also be served with process at his current place of business, Multi-Chem Group LLC, 15865 International Plaza Drive # 200, Houston, Texas 77032.

JURISDICTION AND VENUE

4. The court has personal jurisdiction over Defendants based upon both specific and general jurisdiction. The court has subject matter jurisdiction because the amount in controversy exceeds the minimum jurisdictional threshold.

5. Venue is mandatory in this Court under Section 65.023 of the Texas Civil Practice and Remedies Code proper in that Defendant Tian is domiciled in Harris County, Texas.

SUMMARY OF FACTS

6. Tian contractually agreed to keep BHI's confidential information and trade secrets confidential, and to return all BHI property to the Company when his employment ended.

Specifically, when Tian was hired by BHI in September 2005 he entered an Employment Agreement entitled “The Employment Relationship.” (Employment Agreement, Ex. 1). The Employment Agreement provides, in relevant part:

A. I understand that the Company possesses valuable business, technical and other information that is confidential, and sometimes referred to in this Agreement as “confidential information.” Such information gives the Company a competitive advantage over others who do not possess such information. It includes, but is not limited to, information acquired from others under a confidentiality obligation, business and financial information, trade secrets, engineering and technical information, computer software and firmware, information about the development and performance of products and processes, customer lists and information related to manufacturing, purchasing, inventories, data processing, marketing, sales, and pricing. I further understand that such information also includes knowledge regarding the training, skills and abilities of the Company’s employees.

B. Except as required by the Company, or otherwise express prior written permission of the Company, I will not disclose to anyone outside of the Company, and will not use or permit others to use, and information which is confidential to the Company or which the Company is obligated to hold in confidence. I understand that this confidentiality obligation will continue even after my employment with the Company ends.

(Employment Agreement, Ex. 1 at ¶¶ 3A-B).

Return of Company Property. Following the end of my employment with the Company (irrespective of the reason for such termination), or at any other time that the Company may request, I will promptly return to the Company any and all property, product samples, equipment, material, records, documents, software, and other tangible materials, whether in electronic, written or other form, which I prepared or possessed during my employment with the Company, whether copies or originals, including notes and excerpts relating to the Company’s confidential information.

(Employment Agreement, Ex. 1 at ¶ 7).

7. Tian was a Ph.D level scientist employed in a highly sensitive Research and Development role at BHI. His specific job title was Senior Development Engineer, Flow Assurance. Flow Assurance primarily relates to the integrity of hydrocarbon flow from a wellbore including, but not limited to, scale control, hydrate control, paraffin control and

asphaltene control. As an engineer focusing on research and development, Tian's responsibilities related to the development of new chemistry, laboratory testing and commercial testing for these areas including much that has been commercialized. As such, Tian was a key technical employee and is a listed inventor on several patents and patent applications. As would be expected of an employee in such a critical research and development role, Tian had access to, and in fact accessed, many different areas of technical information in BHI's Upstream Chemicals Group – of which BHI's retains much as its confidential information protected by the above-quoted provisions of the Employment Agreement. (Employment Agreement, Ex. 1 at ¶¶ 3A-B).

8. Tian resigned from BHI on July 13, 2012. At the time he resigned, Tian initially stated that he “had to go – no reason.” (Exit Interview, Ex. 2). BHI noted at the time that Tian was tight-lipped and not cooperative in revealing information to BHI when he resigned. (*Id.*). During his exit interview, BHI believed that Tian seemed to strategically downplay his significant role, stating that he was “just a small guy with a small view.” (*Id.* at page 3).

9. Tian ultimately admitted, however, that he was going to work for Multi-Chem – a direct competitor to BHI in area of Upstream Chemicals in which Tian had worked while at BHI. Tian refused to disclose to BHI who at Multi-Chem had contacted, solicited, or interviewed him, or his new job description or technologies in which he would be involved. (Off-Boarding Checklist, Ex. 3 at page 4). This gravely concerned BHI for many reasons, including the fact that, in June 2012, coworkers in the area around Tian's work-cube had reported that Tian was conducting numerous downloads onto and his computer, which they thought was unusual. BHI subsequently confronted Tian with that information, and Tian denied taking anything from BHI. BHI later learned that coworkers had reported seeing Tian take work related files from the

building, and that he had copied his “lab book” – a book filled with BHI’s confidential information and trade secrets regarding the development of new products.

10. Because of Tian’s suspicious conduct, and the fact that he was joining a direct competitor, Jose M. Olivarez, Jr., BHI’s Vice President Security & Crisis Management (Western Hemisphere), asked CyberEvidence, Inc. (“CyberEvidence”), a recognized leader in computer forensics investigations, to perform an analysis of a forensic image of Tian’s hard drive from his work computer at BHI.

11. CyberEvidence, through Jeffrey Joseph Frank, Forensic Lab Manager, performed the analysis on July 19, 2012. (CyberEvidence Report, Ex. 4). Specifically, CyberEvidence found that:

- On June 14, 2012, and again on July 9, 2012, Tian connected a very large Western Digital USB device to his work computer identified as “WD My_Passport” with a specific Electronic Serial Number (ESN) 575847314331324830333439 (*Id.*).
- An analysis of Tian’s “user profile identified a ‘K:\’ drive, under which were 2,226 additional entries. Of these entries, 1,985 were created on, copied or moved to the ‘K:\’ drive between June 19, 2012, and July 9, 2012.”
- An analysis of “Windows Shortcut Files, also known as ‘link’ files, identified 53 link files pointing to a ‘K:\’ drive with a volume name of ‘My Passport.’ ... Analysis of these link files shows that 46 of the 53 files on the ‘K:\’ drive labeled ‘My Passport’ were created on, copied or moved to the drive between June 19, 2012, and July 9, 2012.”

12. Based on its forensic analysis, CyberEvidence concluded that “it is likely that an unauthorized copy of BHI proprietary information exists” on the aforementioned “WD My_Passport” USB device. (*Id.*). This conclusion is bolstered by the fact that the “WD My_Passport” USB device is not some small, pocket-sized “flash drive,” but rather a large removable device specifically designed to hold large amounts of information.

13. CyberEvidence issued its report to BHI on July 20, 2012. (*Id.*).

14. The files created, copied, or moved to the Western Digital drive included BHI's confidential information and trade secrets that it would never allow any employee of a competitor to have. (*Id.*).

15. On July 26, 2012, Jose M. Olivarez, Jr. called Tian, and told him about CyberEvidence's findings. Tian acknowledged that he had the drive in question. Tian also said that there was no longer any BHI data on the drive. Mr. Olivarez gave Tian 24-hours to return the aforementioned "WD My_Passport" USB device that CyberEvidence had concluded likely had BHI's proprietary information on it, so that BHI could have it inspected. Tian refused. Olivarez also asked Tian what his job title and job responsibilities were at Multi-Chem, and Tian refused to answer that question as well.

16. Potentially grave harm to BHI either already has occurred, or is imminent. Accordingly, BHI has no alternative but to file this suit and seek injunctive relief.

CAUSES OF ACTION

BREACH OF CONTRACT

17. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

18. In the Employment Agreement, Tian agreed that he would not ever disclose, use, or permit others to use BHI's confidential information and trade secrets without BHI's express prior written permission (Employee Agreement, Ex. 1 at ¶¶ 3A-B). He also agreed to "promptly return" the Company's property (Employment Agreement, Ex. 1 at ¶ 7)

19. Tian breached his Employment Agreement. Without BHI's express prior written permission, Tian disclosed, used, or inevitably will disclose or use, BHI's confidential information and trade secrets, for his own purposes, or for the purposes of assisting BHI's direct

competitor, Multi-Chem. In addition, he refused, and continues to refuse, to return BHI's property.

20. BHI has, or will inevitably, suffer damages as a result of Tian's breaches of his Employment Agreement.

COMMON LAW MISAPPROPRIATION OF CONFIDENTIAL INFORMATION AND TRADE SECRETS

21. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

22. Under Texas common law, upon the formation of an employment relationship, certain duties arise apart from any written contract. One such duty is that an employee is prohibited from using confidential information and trade secrets acquired during the relationship in a manner adverse to his employer. This obligation survives termination of employment. Furthermore, this duty prevents an employee from utilizing confidential information or trade secrets acquired during the course of employment. *See Rugen v. Interactive Bus. Sys., Inc.*, 864 S.W.2d 548, 551 (Tex. App.—Dallas 1993, no writ); *Executive Tele-Communication Sys., Inc. v. Buchbaum*, 669 S.W.2d 400, 403 (Tex. App.—Dallas 1984, no writ). It is well-settled that injunctive relief is an appropriate remedy to curtail violation of this duty. *Thermotics, Inc. v. Bat-Jac Tool Co.*, 541 S.W.2d 255 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ); *Hyde Corp. v. Huffines*, 158 Tex. 566, 314 S.W.2d 763 (1958).

23. BHI's confidential information and trade secrets provide BHI with a significant economic and competitive advantage.

24. BHI created, gathered, and compiled the confidential information and trade secrets at issue through the expenditure of substantial time, labor, skill, and money.

25. The confidential information and trade secrets constitute a unique pecuniary interest of BHI.

26. The confidential information and trade secrets taken by Tian are not known outside of the BHI. In fact, the confidential information and trade secrets taken by Tian are not even widely known by employees and others involved in BHI's business. For those reasons, BHI takes substantial measures to guard the secrecy of the information, including but not limited to password protection on its computers, workplace security, and the use of confidentiality and nondisclosure agreements with employees who have access to such information. Because of the industry is highly competitive, the value of the information to the BHI is significant, and such information would be highly valuable to its competitors. Furthermore, it would be extremely difficult, if not impossible, for a competitor to properly acquire to duplicate the information through proper means.

27. Tian took BHI's confidential information and trade secrets through improper means, and he has used or will inevitably use or disclose the trade secrets in competition with BHI to gain a financial benefit.

28. As a direct and proximate result of this misappropriation and wrongful use of BHI's confidential information and trade secrets, Tian has damaged and continue to damage BHI, and has gained and benefited and will continue to gain and benefit as a result.

29. BHI will suffer damages by injury to its competitive advantage as a result of Tian's actions.

30. Because Tian's actions were malicious and willful and in conscious disregard of BHI's rights, BHI is entitled to punitive damages.

THREATENED MISAPPROPRIATION/INEVITABLE DISCLOSURE

31. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

32. Tian's employment at Multi-Chem, a direct competitor of BHI, in a capacity involving the same technologies he worked with at BHI, will result in the inevitable disclosure of BHI's confidential information and trade secrets and the inevitable use of the confidential information and trade secrets by BHI's competitor. Confidential information and trade secrets includes all information that gives an advantage to one party "over competitors who do not know or use it." *In re Bass*, 113 S.W.3d 735, 739 (Tex. 2003).

33. The elements of misappropriation of a trade secret are satisfied here: (1) BHI's identified information constitutes trade secrets; (2) Tian has engaged in wrongful conduct by violating his contractual and common law duties; (3) Tian's employment with Multi-Chem will result in the use or disclosure of BHI's trade secrets; and (4) BHI will suffer damages by loss of its competitive advantage as a result.

34. Courts have enjoined ex-employees in situations like this one, relying on the "inevitable disclosure" doctrine or a modified version of that doctrine. The inevitable disclosure doctrine holds as follows:

[T]here are circumstances in which trade secrets inevitably will be used or disclosed, even if the defendant swears that he or she will keep the information confidential. Courts applying the doctrine have differed over its reach and the circumstances required for its application, but, generally speaking, the doctrine applies when a defendant has had access to trade secrets and then defects to the trade secret owner's competition to perform duties so similar that the court believes that those duties cannot be performed without making use of trade secrets relating to the previous affiliation.

See Cardinal Health Staffing Network, Inc. v. Bowen, 106 S.W.3d 230, 242 (Tex. App.–Houston [1st Dist.] 2003, no pet.) (quoting Linda K. Stevens, *Trade Secrets & Inevitable Disclosure*, 36 *Tort & Ins. L.J.* 917, 929 (Summer 2001)).

35. The doctrine applies here. The compelling facts in this case justify an injunction against Tian under the inevitable disclosure doctrine. For example, in *Conley v. DSC Communications Corp.*, No. 05-98-01051-CV, 1999 WL 89955, at *3-4 (Tex. App. – Dallas Feb. 24, 1999, no pet.), the Dallas Court of Appeals adopted what might be viewed as a modified version of the inevitable disclosure doctrine, holding that enjoining an employee is appropriate when it is *probable* that the former employee will use the confidential information for his benefit (or his new employer’s benefit) or to the detriment of his former employer. The court also rejected the notion that the new employer’s alleged efforts to protect against the disclosure or use of the ex-employer’s trade secrets defeated the ex-employer’s right to an injunction. As the court stated, “[w]e reject Conley’s suggested factor of the new employer’s efforts to protect the trade secrets of the former employer. At best, relying on the new employer to protect the trade secrets of the former employer when those trade secrets could work to the new employer’s advantage is little better than asking the fox to guard the henhouse. The richer the henhouse, the less wise it is to trust even the most responsible and reliable of foxes.” *Id.* at *6. Likewise, the court held that an injunction was proper notwithstanding the lack of proof of misconduct against the ex-employee, and the fact that there was no non-competition agreement.

36. In *Baker Petrolite Corp. v. Spicer*, No. 06-1749, 2006 WL 1751786 at *10-11 (S.D. Tex. 2006), a former employee of one of the Plaintiffs in this case, Spicer, was accused of misappropriating Baker Petrolite Corporation’s trade secrets and confidential information. *See id.* at *3. Judge Miller applied a probable or inevitable disclosure theory and granted a

preliminary injunction in favor of Baker Petrolite Corporation. *See id.* at *11. In addition to being generally enjoined from disclosing any of his former employer's trade secrets, Spicer was specifically enjoined from working with any customers of his former employer with whom he had sales contact during the last eighteen months of his employment, at the specific locations at which he worked for his former employer. *See id.* at *10-11.

37. In *FMC Corp. v. Varco Int'l, Inc.*, 677 F.2d 500, 503 (5th Cir. 1982), the defendant, Best Industries, having tried unsuccessfully to develop its own version of FMC's technology, recruited an FMC engineer involved in research and product development to come work for Best. *See id.* Witt had signed FMC's standard nondisclosure agreement as part of his employment. *See id.* at 505. FMC sought a preliminary injunction enjoining Witt from using or disclosing any FMC trade secrets, and enjoining Best from placing Witt in a position that would create the threat of inherent disclosure. *See id.* at 501.

38. The district court denied the application, but the U.S. Court of Appeals for the Fifth Circuit reversed, holding that FMC had proved all four requirements necessary for preliminary injunctive relief. *See id.* at 502. The Fifth Circuit rejected the defendant's assertion that Witt would be able to decide for himself what information he could or could not properly disclose to Best while working on the same technology he had worked on for FMC. *See id.* at 504. Instead, the Court noted that "[e]ven assuming the best of good faith, Witt will have difficulty preventing his knowledge of FMC's 'Longsweep' manufacturing techniques from infiltrating his work." *Id.* In the Court's view, the only way to safeguard FMC's trade secrets was to grant the requested injunction, enjoining Witt from divulging any of FMC's trade secrets, and enjoining Best from placing or maintaining Witt in a position that would pose an inherent threat of disclosure or use of FMC's trade secrets. *Id.* at 505.

BREACHES OF FIDUCIARY DUTIES

39. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

40. At all times relevant hereto, under Texas common law, Tian owed BHI a fiduciary duty not to take, use, or disclose its confidential and proprietary information and trade secrets during and after his employment relationship with BHI. *See Johnson v. Brewer & Pritchard, P.C.*, 73 S.W.3d 193, 202 (Tex. 2002).

41. Tian breached that duty by taking, using, disclosing, and misappropriating or threatening to misappropriate BHI's trade secrets and confidential information for his own benefit and not the benefit of BHI.

42. As a direct and proximate result of his breaches of fiduciary duty, BHI has been damaged and Tian has gained and benefited and will continue to gain and benefit as a result.

UNJUST ENRICHMENT

43. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

44. Tian's breaches of his duties are for his benefit and have unjustly enriched Tian.

45. Tian has wrongly obtained access to BHI's confidential information and trade secrets through the wrongful and improper conduct described herein.

46. As a result of his conduct, Tian has been unjustly enriched at the expense of BHI.

47. As a direct and proximate result of Tian's unjust enrichment, BHI has suffered and continues to suffer damages

CONVERSION

48. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

49. Tian committed conversion. BHI owned, had legal possession of, or was entitled to possession of the confidential information, trade secrets, and other property that Tian took from BHI. Tian assumed and exercised dominion and control over the confidential information, trade secrets, and other property in an unlawful and unauthorized manner, to the exclusion of and inconsistent with the BHI's rights. BHI made a demand for the confidential information, trade secrets, and other property, and Tian refused to return its confidential information, trade secrets, and other property.

50. Tian acted with malice, wanton disregard, and spite in violating BHI's rights, and committing conversion.

EXEMPLARY DAMAGES

51. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

52. The wrongful conduct of Tian described above was and is intentional, willful, malicious, and in conscious disregard of BHI's rights.

53. To deter Tian's wrongful conduct and to deter others from engaging in similar wrongdoing, Tian should be assessed exemplary damages.

CONDITIONS PRECEDENT

54. All conditions precedent to BHI's claims have been satisfied.

**APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND TEMPORARY INJUNCTION**

55. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

56. Disclosure and use of BHI's trade secrets and other confidential and proprietary information by Tian will cause BHI to suffer irreparable harm for which it has no adequate remedy at law.

57. Tian is using BHI's trade secrets and confidential information or will inevitably use this information in the course and scope of his employment with Multi-Chem for the mutual benefit of Tian and Multi-Chem.

58. Tian's use and disclosure of BHI's confidential information and trade secrets will adversely impact BHI's competitive advantage.

59. Because of the harm that it will suffer if Tian uses or discloses BHI's confidential information for his or Multi-Chem's benefit, BHI seeks injunctive relief from the court.

60. BHI asks the Court to enter a temporary restraining order, preliminary injunction and permanent injunction ordering that:

- (a) Within 24-hours of being served with the temporary restraining order, Defendant, along with his respective agents, employers, employees, attorneys, and those persons in active concert or participation with him, shall return to BHI all data, documents, electronic media of any kind, technical information, and property of any kind taken from BHI that is still in possession of Defendant or that Defendant may have possessed at one time but has placed in bailment or in custody and/or control of any other person, entity, or any other person or entity's computer, laptop, server, or other hardware. This includes, but is not limited to, WD My_Passport USB device, Electronic Serial Number (ESN) 575847314331324830333439, Physical Serial number WXG1C2H0349, Model Number WDBBEP0010BBL-NESN, and the "lab book" (and all copies thereof) referenced in this lawsuit.

- (b) Defendant, along with his respective agents, employers, employees, attorneys, and those persons in active concert or participation with him, shall not ever use or disclose any confidential or trade secret information given to him, taken by him, or learned by him, during his employment with BHI.
- (c) Within 48-hours of being served with the temporary restraining, Defendant shall: (i) certify in writing to BHI that he has complied with paragraph (a), above; and (ii) identify in writing each and every person and entity other than BHI to whom he has disclosed any BHI confidential information or trade secrets.

61. To obtain a temporary injunction, BHI must show (1) a substantial likelihood that it will prevail on the merits, (2) a substantial threat that it will suffer irreparable injury if the injunction is not granted, (3) that its threatened injury outweighs the threatened harm to Tian, and (4) that granting the preliminary injunction will not disserve the public interest.

62. The facts provide ample support to sustain the granting of injunctive relief.

63. These factual allegations and the causes of action contained in the foregoing paragraphs of this Petition are fully incorporated herein, and BHI relies upon these paragraphs in its application for temporary restraining order and temporary injunction.

64. BHI has a substantial likelihood of success to the relief it seeks against Tian. He is in possession of confidential information and trade secrets belonging to BHI, and – worse yet – is now working for a direct competitor, Multi-Chem.

65. The imminent harm with which BHI is faced greatly exceeds any harm that Defendant will incur if he is enjoined.

66. Tian's employment by Multi-Chem, BHI's competitor, threatens disclosure of the confidential information and trade secrets that BHI has worked diligently to develop and protect.

67. BHI has used reasonable measures to protect the confidentiality of its information and has entered into a confidentiality agreement with Tian limiting his use of BHI's trade secrets and other confidential information (Employment Agreement, Ex. 1).

68. BHI is in imminent danger because Tian is in possession of, and either has already, or intends to use or disclose BHI's confidential information and trade secrets to BHI's detriment.

69. The only way in which BHI may be protected from this tortious use of its property is to maintain the status quo by enjoining Tian as set forth above, and in the proposed Temporary Restraining Order filed contemporaneously with this Petition.

70. To the extent Tian is harmed by the injunctive relief requested, if at all, it will be as the result of his own wrongful conduct and such harm will be far less than the harm BHI, an innocent party, will suffer if Tian is not enjoined.

71. BHI will be irreparably harmed if Tian is allowed to maintain possession of BHI's confidential information and trade secrets, or if Tian is permitted to work for Multi-Chem in a position where he will inevitably use or disclose BHI's confidential information and trade secrets.

72. With such information, Tian could adversely impact BHI in its overall competitive position, including but not limited to its product development, sales, and servicing to its customers.

73. Further, the information could be used by Tian on behalf of Multi-Chem to develop and improve Multi-Chem's overall competitive position, including its products, sales, and servicing of customers.

74. BHI will lose a competitive advantage gained by its extensive efforts, technology, and expense that went toward the creation of the confidential information and trade secrets.

75. BHI disclosed this information to Tian so that Tian could use it in his position for BHI's benefit, not for the benefit of himself or competitors such as Multi-Chem.

76. Once this information and the competitive advantage associated with it is lost, it cannot be regained by BHI.

77. BHI has no adequate remedy at law because unless Tian is enjoined from retaining, using, or disclosing BHI's confidential information and trade secrets, BHI will have no means by which to recover the value of the information wrongfully taken by Tian.

78. The value of the confidential information and trade secrets taken by Tian and threatened to be used by Tian cannot be measured or calculated with precision or accuracy.

79. The public interest will not be disserved by granting a temporary injunction in favor of BHI restraining Tian from making use of, or disclosing, BHI's confidential information and trade secrets and requiring its return to BHI.

80. In fact, the public interest will be served as Tian and Multi-Chem will be prevented from making use of trade secrets and confidential information that were wrongly taken from BHI in violation of Tian's contractual and common law obligations not to use or disclose the confidential information and trade secrets of BHI.

81. An injunction will serve to prevent unfair competition within a significant and important industry and reinforce the obligation of business competitors to compete on a fair and legitimate basis.

82. Further, injunctive relief will only impact the parties to this litigation and have no adverse impact on the public interest.

83. Such relief is necessary because, unless Tian is ordered and enjoined by this Court from retaining BHI's confidential information and trade secrets, and using it, or disclosing it to others, BHI will have no means by which to recover the value of the information used against it.

RELIEF SOUGHT

84. To protect BHI's rights and assets, BHI seeks a temporary restraining order and a temporary injunction for the duration of this case enjoining and/or ordering that:

- (a) Within 24-hours of being served with the temporary restraining order, Defendant, along with his respective agents, employers, employees, attorneys, and those persons in active concert or participation with him, shall return to BHI all data, documents, electronic media of any kind, technical information, and property of any kind taken from BHI that is still in possession of Defendant or that Defendant may have possessed at one time but has placed in bailment or in custody and/or control of any other person, entity, or any other person or entity's computer, laptop, server, or other hardware. This includes, but is not limited to, the return in unaltered condition of WD My_Passport USB device, Electronic Serial Number (ESN) 575847314331324830333439 and the "lab book" (and all copies thereof) referenced in this lawsuit.
- (b) Defendant, along with his respective agents, employers, employees, attorneys, and those persons in active concert or participation with him, shall not ever use or disclose any confidential or trade secret information given to him, taken by him, or learned by him, during his employment with BHI.
- (c) Within 48-hours of being served with the temporary restraining, Defendant shall: (i) certify in writing to BHI that he has complied with paragraph (a), above; and (ii) identify in writing each and every person and entity other than BHI to whom he has disclosed any BHI confidential information or trade secrets.

85. It is essential that the Court immediately and temporarily restrain Tian as set forth above. In order to preserve the status quo and the property and rights of BHI during the

pendency of this action, Tian should be cited to appear and show cause why he should not be restrained, during the pendency of this action, as detailed above.

BOND

86. BHI is not opposed to posting a bond if ordered to do so by the Court. BHI asserts that no, or a low, bond is appropriate in this case, because the Tian will suffer no monetary losses as the result of the granting of the injunctive relief sought in this lawsuit.

DAMAGES

87. In addition to the emergency relief and injunctive relief contained herein, BHI has suffered damages in an amount that exceeds the jurisdictional limits of this court.

LEGAL FEES

88. BHI requests its attorneys' fees and expenses pursuant to applicable Texas law and under Section 38.001 of the Texas Civil Practice and Remedies Code, and as otherwise allowed under applicable law.

PRAYER FOR RELIEF

89. BHI seeks a temporary restraining order and a temporary injunction for the pendency of this cause enjoining and/or ordering that Defendants Tian be enjoined as set forth above in paragraph 84.

90. BHI also requests actual, additional, and exemplary damages, that it have its costs incurred on its behalf, attorneys' fees, expert fees, pre judgment and post judgment interest paid by Defendant Tian, and for such other and further relief, general and special, legal and equitable, actual and punitive, to which BHI may show itself justly entitled.

Respectfully submitted,

s/ Mark J. Oberti

Mark J. Oberti

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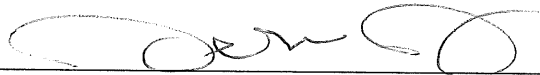
AFFIDAVIT OF JOSE M. OLIVAREZ, JR.

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

On this day, personally appeared before me, the undersigned authority, JOSE M. OLIVAREZ, JR. who upon his oath, deposes and states:

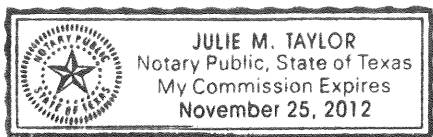
1. My name is Jose M. Olivarez, Jr. I am over the age of 21, competent to make this affidavit, and have personal knowledge that everything stated herein is true and correct.
2. I have read the original petition and application for restraining order and injunctive relief, that this Affidavit is attached to. The statements below the section entitled "Summary Of Facts," are all true and correct on my personal knowledge and the information set forth in the attached Exhibits 1 through 4 which are incorporated into my affidavit verbatim.
3. I am an authorized custodian of records for Baker Hughes. I have personal knowledge of the fact that the documents attached to his lawsuit as Exhibits 1 through 4 are from records kept by Baker Hughes in the regular course of business, and it was the regular course of business of Baker Hughes for an employee or representative of Baker Hughes, with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the records or to transmit information thereof to be included in such records; and the records were made at or near the time or reasonably soon thereafter. The records attached I have identified in this paragraph are true and correct copies of the originals.

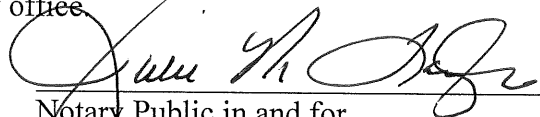
Further, Affiant sayeth naught.



JOSE M. OLIVAREZ, JR.

SUBSCRIBED AND SWORN TO before me on this the 6th day of August, 2012, certify which witness my hand and seal of office.





Notary Public in and for
The State of TEXAS
Printed name: Julie M. Taylor
My commission expires: 11/25/12

AFFIDAVIT OF JEFFREY JOSEPH FRANK

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

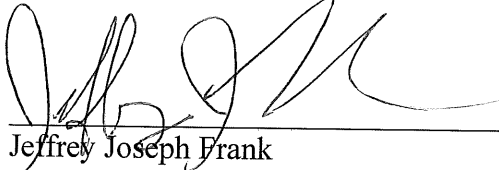
On this day, personally appeared before me, the undersigned authority, Jeffrey Joseph Frank, who upon his oath, deposes and states:

1. My name is Jeffrey Joseph Frank. I am over the age of 21, competent to make this affidavit, and have personal knowledge that everything stated herein is true and correct.

2. I am a Forensic Lab Manager for CyberEvidence, Inc. I have read the original petition and application for restraining order and injunctive relief that this Affidavit is attached to. The statements in paragraphs 11 through 13 are all true and correct on my personal knowledge as well as the information set forth in attached Exhibit 4 which is incorporated into my affidavit verbatim.

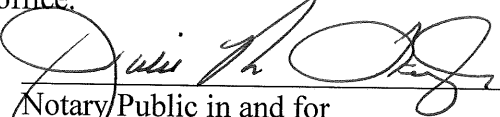
3. I am an authorized custodian of records for CyberEvidence, Inc. I have personal knowledge of the fact that the document attached to his lawsuit as Exhibit 4 is from records kept by CyberEvidence, Inc. in the regular course of business, and it was the regular course of business of CyberEvidence, Inc. for an employee or representative of CyberEvidence, Inc., with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the records or to transmit information thereof to be included in such records; and the records were made at or near the time or reasonably soon thereafter. The records attached I have identified in this paragraph are true and correct copies of the originals.

Further, Affiant sayeth naught.



Jeffrey Joseph Frank

SUBSCRIBED AND SWORN TO before me on this the 6th day of August, 2012, certify which witness my hand and seal of office.



Notary Public in and for
The State of TEXAS
Printed name: Julie M. Taylor
My commission expires: 11/25/2012

