

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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AMERIPRISE FINANCIAL
SERVICES, INC.

Civil Action No.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Plaintiff,

MAGISTRATE JUDGE Sonkin

v.

AND COMMONWEALTH
FINANCIAL SERVICES,

RECEIPT # 64851
AMOUNT \$ 250
SUMMONS ISSUED 4
LOCAL RULE 4.1 1
WAIVER FORM 1
MCF ISSUED _____
BY DPTY. CLK. fom
DATE 1/24/06

Defendants.

COMPLAINT

Plaintiff Ameriprise Financial Services, Inc. ("Ameriprise") brings this action for breach of contract against Defendant [REDACTED] interference with contractual relations against Commonwealth Financial Services ("Commonwealth"), and misappropriation of trade secrets against both defendants. The claims arise out of [REDACTED] willful breach of his franchise agreement with Ameriprise, his disclosure of highly confidential and proprietary client information to Commonwealth, and his solicitation of Ameriprise clients and employees. The claims against Commonwealth are centered on Commonwealth's on-going campaign to interfere with Ameriprise's relationship with its franchisees and employees, resulting in Ameriprise's loss of 41 financial advisors to Commonwealth over the last eight months, with two more advisors poised to join Commonwealth in a matter of days.

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over Defendants [REDACTED] and Commonwealth in that [REDACTED] resides in Charlestown, Massachusetts and does business in Waltham, Massachusetts, and the surrounding area. Commonwealth conducts business from its office in

Waltham, Massachusetts. Venue is proper in this Court because of both Defendants' residence and business activities in and around this District. Plaintiff Ameriprise is a Delaware Corporation with a primary place of business in Minneapolis, Minnesota.

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1332, by reason of the diversity of citizenship of the parties and that, without granting injunctive relief, Ameriprise will suffer both irreparable harm and damages in an amount in excess of \$75,000, exclusive of interest and costs.

PARTIES

3. Plaintiff Ameriprise provides a variety of financial services to persons and entities nationwide. Until August 1, 2005, Ameriprise was known as American Express Financial Advisors ("AEFA"), at which point its name changed to Ameriprise. Since Ameriprise is the name of the entity formerly known as AEFA, which was spun off from American Express, for ease of reference, references to AEFA shall be identified as Ameriprise.

4. Defendant [REDACTED] was an Ameriprise financial advisor who worked out of an Ameriprise office in Waltham, Massachusetts until his voluntary resignation on January 5, 2006. Tilton is now affiliated with Commonwealth Financial Network.

5. Commonwealth Financial Network is an independent Broker/Dealer with approximately 900 representatives nationwide.

FACTUAL ALLEGATIONS

I. [REDACTED] Affiliation with Ameriprise.

6. [REDACTED] began working for Ameriprise on May 16, 2001. For a period of approximately two and a half years, [REDACTED] served as an employee of Ameriprise. On October 6, 2003, [REDACTED] elected to become a franchisee of Ameriprise, signing the American Express Financial Advisors, Inc. Independent Advisor Business Franchise Agreement, (the "Franchise

Agreement”), a copy of which is attached as Exhibit A. The Franchise Agreement set forth the terms governing the business relationship between [REDACTED] and Ameriprise. This Franchise Agreement became effective on December 24, 2003.

7. Under the terms of the Franchise Agreement, [REDACTED] was entitled to establish and operate an Independent Financial Advisor Business for Ameriprise. The Franchise Agreement contained a three (3) year term, subject to automatic renewal upon the satisfaction of certain designated conditions. The Franchise Agreement also contained a specific term reserving AEFA’s right to change names. Ex. A at ¶ 8g (“AEFA reserves the right to substitute different proprietary marks for use in identifying the System and the businesses operating thereunder at AEFA’s sole discretion”).

8. [REDACTED] Franchise Agreement required [REDACTED] both during his affiliation with Ameriprise and upon termination of the agreement, strictly to maintain the secrecy of all Confidential Information obtained during the course of his employment. The Franchise Agreement also required [REDACTED] to return confidential and proprietary business records, including the records of the clients he served on behalf of Ameriprise, and to refrain, for a one-year period after his termination, from soliciting and diverting investment and insurance business of Ameriprise clients with whom he had worked or learned of while associated with Ameriprise.

9. The Franchise Agreement also incorporated Addendum 3-T (Transition) Restrictive Covenant Addendum (“Addendum 3-T”), a copy of which is attached as Exhibit B. According to Addendum 3-T, Ameriprise specifically agreed to forbear from the enforcement of certain of its designated rights under the Franchise Agreement, including the one-year prohibition on solicitation, if [REDACTED] satisfied certain conditions at the termination of his affiliation with Ameriprise.

10. The Franchise Agreement and Addendum 3-T, described more fully below,

executed by [REDACTED] are designed to protect Ameriprise's reasonable expectations in the continued confidentiality of their client information, client goodwill, and client relationships, all of which Ameriprise entrusted to [REDACTED]. The contracts also protect Ameriprise's clients from violations of their privacy and misuse of their confidential financial information by former representatives. The contracts clearly set forth the expectations and conditions that must be followed upon [REDACTED] termination of his affiliation with Ameriprise if Ameriprise is to forbear enforcement of its contractual rights.

11. After [REDACTED] became an Ameriprise financial advisor, Ameriprise assisted him in developing and expanding his practice by providing him with Ameriprise client accounts, client referrals and reassignments of Ameriprise client accounts.

12. Ameriprise also made available to [REDACTED] ongoing training and education, at Ameriprise's expense, in investment planning methods and procedures and new and more sophisticated investment techniques. Before joining Ameriprise, [REDACTED] worked as a sales associate at a sports marketing firm.

13. Additionally, Ameriprise authorized [REDACTED] to use the Ameriprise, AEFA, and American Express trade names, marks and logos.

14. Ameriprise provided [REDACTED] with sales, research and promotional support through Ameriprise's network of financial professionals. By virtue of his affiliation with Ameriprise, [REDACTED] also gained access to Ameriprise's confidential books and records, including the identity, addresses, and account information of numerous Ameriprise clients whose accounts he was assigned.

15. Through his affiliation with Ameriprise as a financial advisor, [REDACTED] worked one-on-one with clients and was encouraged by Ameriprise, as part of its long-term strategy, to build valuable and lasting financial planning relationships with those clients.

II. [REDACTED] **Contractual Relations with Ameriprise.**

16. Due to the benefit of the relationships, backing, and training provided by Ameriprise, and the critical nature of the information provided, Ameriprise requires each financial advisor to execute contracts designed to protect that information. Ameriprise explicitly sets forth the protections of its Confidential Information in Section 10 of the Franchise Agreement, stating:

10. CONFIDENTIAL INFORMATION.

Independent Advisor has had and/or may have access to Ameriprise trade secrets and confidential information that Independent Advisor agrees has great value to Ameriprise. Independent Advisor agrees that because of such access, Independent Advisor is in a position of trust and confidence with respect to this information. To protect client confidentiality, Ameriprise goodwill, trade secrets, and other proprietary and confidential business information, Independent Advisor agrees to not, during the term of this Agreement or thereafter, except as permitted under Section 14 regarding transfers of the Independent Financial Advisor Business, communicate, divulge, or use for himself or herself except pursuant to the System, or for the benefit of any other person, partnership, association, or corporation any confidential information, or trade secrets, including, without limitation, Client names, addresses and data and know-how concerning the methods of operation of the System and the business franchised under which may be communicated to Independent Advisor or of which Independent Advisor may be apprised by virtue of Independent Advisor's operation under the terms of this Agreement. Independent Advisor also shall not reveal any information about potential clients to whom a presentation has been made by any Independent Advisor who might reasonably be expected to do business with Ameriprise. Independent Advisor agrees to divulge such confidential information only to such of his or her employees as must have access to it in order to operate the Independent Financial Advisor Business. Except as otherwise permitted in Section 19, Independent Advisor agrees that, without limitation, Client names, addresses, data and other personal and financial information recorded in Client records are confidential. Confidential information includes compilations and lists of such Client information even if such

compilations or lists were the result of substantial effort, time and/or money expended pursuant to the System. Independent Advisor further agrees to use this confidential information only in furtherance of this Agreement or in accordance with the Manuals and for no other purpose. Confidential information does not include information which is generally known outside of Ameriprise other than as a result of a disclosure by Independent Advisor, Independent Advisor's agents or representatives, or any other person or entity in breach of any contractual, legal or fiduciary obligation of confidentiality to Ameriprise or to any other person or entity with respect to such information.

(Emphasis added.)

17. Ameriprise also enters into post-affiliation restrictive covenants with its financial advisors, as set forth in Section 19 of the Franchise Agreement, which provides:

19. COVENANTS.

- Independent Advisor specifically acknowledges that, pursuant to this Agreement, Independent Advisor will receive additional substantive rights as a franchisee of Ameriprise. Independent Advisor also recognizes he or she will receive valuable and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Ameriprise and the System. In recognition of and in consideration for these and other benefits, to protect the confidentiality of Ameriprise's Client information and to protect Ameriprise's goodwill, **Independent Advisor covenants that (a) during the term of this Agreement and (b) for one year after the expiration or termination of this Agreement in the geographic area within which Independent Advisor operates or operated, Independent Advisor agrees to not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person or entity:**
 - a. (1) **Encourage, assist, participate, induce, or attempt to induce any Client or prospective business or client to terminate an agreement with Ameriprise, Ameriprise's affiliates, Issuers, or any financial advisor business under the System;**
 - (2) Encourage, assist, participate, induce, or attempt to induce any Client or prospective business or client to terminate, surrender, redeem, or cancel any action related to Products & Services acquired or ordered from or through

Ameriprise, Ameriprise's affiliates, Issuers, or any financial advisor business under the System, except as provided in the Manuals or with Ameriprise's written approval and consent;

(3) **Solicit any Clients that Independent Advisor contacted, serviced or learned about while operating under this Agreement to open an account other than an Ameriprise account or to sell any investment, financial or insurance products or services other than through Ameriprise with Ameriprise's written approval and consent; or**

(4) Open an account for, or provide or offer to provide any investment, financial, or insurance products or services to any Clients that Independent Advisor contacted, serviced or learned about while operating under this Agreement;

(Emphasis added.)

18. In Section 18, the Franchise Agreement also sets certain obligations on the financial advisors, including, for example:

18. OBLIGATIONS UPON TERMINATION OR EXPIRATION.

Upon termination or expiration of this Agreement, all rights granted hereunder to Independent Advisor shall forthwith terminate although Independent Advisor's duties under this Agreement shall continue as specified in this Section 18, and:

- Independent Advisor agrees to immediately deliver to Ameriprise the Manuals and all other original records, including most recent financial plans and recommendations, computer databases and files, correspondence, and instructions containing confidential information relating to the System (and any copies thereof, including electronic or computer generated copies, even if such copies were made in violation of this Agreement), all of which are acknowledged to be the property of Ameriprise. To satisfy regulatory requirements, Independent Advisor agrees to immediately deliver to Ameriprise the originals of all Client records, including records containing Client lists and/or information and transactions belonging to Ameriprise, unless Independent Advisor transfers the Independent Financial Advisor Business as provided in Section 14.
- Independent Advisor agrees to immediately (i) discontinue use of any computer software developed for the System or

Ameriprise, (ii) deliver to Ameriprise all such computer software in Independent Advisor's possession or control and any copies made of such computer software, (iii) erase or destroy any of such computer software contained in the computers or data storage devices under the control of Independent Advisor, and (iv) remove such computer software from any other computer programs or software in Independent Advisor's possession or control that incorporates or uses such computer software in whole or in part.

- Independent Advisor agrees to comply with the covenants contained in Section 19 of this Agreement.

19. The Franchise Agreement contains a Minnesota choice of law provision in Section 26.

20. Finally, [REDACTED] agreed in Section 19 of the Franchise Agreement, that Ameriprise would be entitled to injunctive relief for any violation of the Franchise Agreement:

- **Independent Advisor agrees that to the fullest extent permitted by applicable law, Ameriprise will be entitled to injunctive relief from a court or NASD arbitration should Independent Advisor violate any of the covenants in this Section 19 and in Section 10 and 18 (the "Sections") of this Agreement. Independent Advisor recognizes that Ameriprise's remedies solely at law will be inadequate, that Ameriprise will be irreparably harmed by violations of the provisions in the Sections, and thus that Ameriprise will be entitled to injunctive relief to prevent future violations of the provisions in the Sections until a full and final resolution of any dispute may be had on the merits. If Independent Advisor has signed Addendum No. 3 but fails to comply with it, Ameriprise shall be entitled to immediate injunctive relief to enforce at Ameriprise's option, the covenants in Section 19, including 19(a)(1), (2), (3), and (4) and/or of Addendum 3. Ameriprise has the right to seek such injunctive relief in a court of competent jurisdiction, which relief shall extend until, and if, a decision on the merits of the same issue is rendered by an NASD arbitration panel. Such election by Ameriprise to see judicial relief shall not waive any rights Ameriprise may have to arbitrate disputes arising under this Agreement, including rights to obtain damages from Independent Advisor in arbitration for violations of this Agreement.**

(Emphasis added.)

21. Addendum 3-T provides that financial advisors can qualify to be released from

certain of the post-termination covenants (relating to soliciting and servicing clients) contained in the Franchise Agreement upon the satisfaction of certain requirements set forth in Section C of Addendum 3-T:

C. **Terms of Forbearance Agreement.** As a mitigation of this irreparable harm, Ameriprise agrees to forbear from enforcement of its rights against Advisor under the Restrictive Covenant if Advisor timely and fully complies with the following conditions:

1. **Two Weeks' Notice.** Advisor must provide Ameriprise with at least two-weeks' written notice of the termination of the Franchise Agreement ("Termination Notice"), with a copy to be delivered personally to the Advisor's Group Vice President ("GVP") designate, or if no designate is timely provided, to the Advisor's immediate Ameriprise leader, and, in either event, a copy, by facsimile or overnight mail, to Ameriprise Corporate Office, Licensing Unit.

2. As of the date of the Termination Notice, the Advisor must:

(a) **Length of Service.** Have served at least six consecutive years as an advisor for Ameriprise and have completed at least three full years under the Independent Financial Advisor Franchise Agreement ("Independent Advisor"). . .

(b) **Compliance Obligations.** Not be subject to discipline . . .

* * *

3. **Return of Complete Files and Proprietary Materials.** Within five (5) business days after the date of the Termination Notice (including the date of such Notice), Advisor must return all original client files and Ameriprise proprietary materials, as defined in the Franchise Agreement, . . .

4. **Franchise Agreement Compliance.** On and before the effective date of termination of the Franchise Agreement between Ameriprise and Advisor, Advisor shall comply fully with Section 18 (Obligations upon Termination or Expiration) of the Franchise Agreement. . .

5. **No Disparagement or Recruiting.** Both before and after the effective date of the termination of the Franchise Agreement between Ameriprise and Advisor, the Advisor:

* * *

(b) must not recruit or solicit any other Ameriprise independent contractor, employee or franchisee to terminate their respective relationship with Ameriprise;

* * *

6. No Pre-Termination Solicitation of Clients.

* * *

Advisor also must not, prior to the effective date of termination, solicit or otherwise assist any Ameriprise client to transfer Ameriprise client assets from Ameriprise to another broker/dealer, insurance company or investment advisor.

(Emphasis added.)

22. While not imposing undue hardships on [REDACTED], the covenants summarized above protect Ameriprise's legitimate interests in their proprietary marks and information, as well as protecting client privacy. These covenants also preserve Ameriprise's interests in its long-term relationships with clients and client goodwill by protecting Ameriprise from the deflection of clients by former agents by means of the opportunities Ameriprise gave them while allowing their former agents the opportunity to compete upon satisfying certain minimal obligations. Ameriprise compensates their agents to work hard for the Ameriprise clients assigned to them and to develop good relationships with those clients. The agents embody Ameriprise's client goodwill and would have an unfair competitive advantage if permitted to use that goodwill against Ameriprise.

23. The covenants in the Franchise Agreement also protect Ameriprise's clients' privacy, which Ameriprise is bound to protect. The covenants provide Ameriprise with the means of ensuring that agents preserve the confidentiality of Ameriprise client information.

III. Violation of [REDACTED] Franchise Agreement.

24. As a result of the foregoing, and as a result of [REDACTED] efforts for which Ameriprise compensated him and allowed him to use their marks, [REDACTED] became a successful financial advisor and had become one of Ameriprise's Gold team advisors, a title reserved for Ameriprise's elite financial advisors.

25. As of December 22, 2005 [REDACTED] had account responsibility for approximately 107 Ameriprise clients, representing approximately sixteen million dollars of assets invested through Ameriprise. In his position as a financial advisor with Ameriprise, [REDACTED] had access to hundreds of Ameriprise's client files. These files contain Ameriprise's confidential information. In addition, these files also contain confidential client information which Ameriprise clients have entrusted to Ameriprise and which Ameriprise promised to protect and which Ameriprise has obligations to protect under its privacy policy and state and federal law. Ex. J; see e.g. 15 U.S.C. § 45(a)(1), 950 C.M.R. § 12.205(9)(b)(13); M.G.L. 175I § 13; see also 15 U.S.C. § 6809 (Gramm-Leach-Bliley Act) (The Federal Government, in recognizing the importance of maintaining and preserving financial information enacted the Gramm-Leach-Bliley Act, which sets minimum requirements for protecting client privacy).

26. While [REDACTED] was entitled to use these client records to perform his duties as an Ameriprise financial advisor, he had no authorization or right to forward those records to third parties (especially a competitor of Ameriprise prior to his termination) or otherwise to retain such records or copies of such records for personal use. Such use was prohibited by the Franchise Agreement and by the Ameriprise Privacy policy. In addition, under Massachusetts law, [REDACTED] actions amounted to fraud upon his clients. M.G.L. c. 110A, § 102(2) (as explained by 950 C.M.R. 12.205(9)(b)(13), which states that disclosing the identity of any client constitutes

fraud unless required by law or consented to by client).

27. [REDACTED] does not qualify for forbearance from enforcement of his noncompete under Addendum 3-T, as [REDACTED] did not serve for the six-year minimum specified in the contract.

28. On December 22, 2005, Tilton sent his Group Vice President a letter of resignation, effective January 5, 2006. This letter is attached as Exhibit C. In his letter, [REDACTED] stated that he was in compliance with his Franchise Agreement and promised to return all client files in his possession. In a subsequent email dated December 30, 2005 and addressed to an Ameriprise compliance officer, [REDACTED] requested copies of the non-compete language in the Franchise Agreement and expressed his desire to remain in compliance with his obligations. This email is attached as Exhibit D.

29. An investigation of [REDACTED] computer files after his departure, however, reveals that [REDACTED] representations were nothing more than statements attempting to mislead Ameriprise as to his true intentions regarding his willingness to comply with his obligations under the Franchise Agreement. In fact, [REDACTED] materially breached his obligations under the Franchise Agreement.

30. The investigation uncovered a number of emails sent from [REDACTED] Ameriprise account in which [REDACTED] informed current clients of his upcoming departure, provided them with his new email address and explained to them that he was going into business with a friend; discussed technical details of his move with contractors; discussed employment details with potential business associates; and mailed files containing confidential client information from his work account to a personal account. One of [REDACTED] employees also sent confidential client information to [REDACTED] personal account. These emails are attached as Exhibit E.

31. Additionally, the investigation uncovered disturbing information that [REDACTED] sent files containing confidential client information to at least one third party, Devon Lampert, the

Coordinator of Recruitment (on information and belief) of a competitor firm, Commonwealth Financial Network. [REDACTED] also sent private client information to the school account of one of his employees, who then followed him over to Commonwealth. Both of these emails containing confidential customer data were sent over a month before [REDACTED] submitted his letter of resignation to Ameriprise. Copies of these emails are attached as Exhibit F.

32. Phone calls made to [REDACTED] former clients also revealed that [REDACTED] had informed them of his move. For example, on January 11, 2006, former client Constance Callahan told Ameriprise employees that [REDACTED] had called to tell her that he was no longer with Ameriprise. On the same day, calls to former clients John Farrell, Geralyn Kolakowski and Bethany Lemesurier confirmed the same information. Summaries of these telephone calls are attached as Exhibit G.

IV. Commonwealth's Interference with Contractual Relationships.

33. On December 22, 2005, the same date that [REDACTED] submitted his letter of resignation, Ameriprise received letters of resignation from six other financial advisors in the vicinity of Waltham, MA. Subsequent investigation has revealed that all of these advisors joined Commonwealth Financial Network after leaving Ameriprise.

34. In its investigation of former Ameriprise advisor John Esposito, who is one of the six advisors mentioned above, Ameriprise uncovered an email, dated November 23, 2005, from the above-mentioned Devon Lampert, Senior Transition Associate at Commonwealth. In this email, Lampert requested specific confidential client information from Esposito in preparation for Esposito's move to Commonwealth. The information requested included the name, address, social security number, date of birth and occupation of Esposito's clients. On information and belief, [REDACTED] and other Ameriprise Financial Advisors received similar emails from Devon Lampert in November 2005. This email is attached as Exhibit H. In fact, the type of information

requested in the email to Mr. Esposito was sent by [REDACTED] to Devon Lampert on November 21. On information and belief, Commonwealth induced [REDACTED] to forward private Ameriprise client confidential information to it.

35. Commonwealth has hired numerous Ameriprise financial advisors over the last year throughout the United States, all of whom are subject to the same Agreements. In fact, 41 Ameriprise advisors have moved to Commonwealth since May 1, 2005. Ameriprise learned on Monday, January 23, 2006 that two additional financial advisors from [REDACTED] office have submitted their resignations and intend to affiliate with Commonwealth.

36. On information and belief, Commonwealth was aware of the Franchise Agreements Ameriprise had with its financial advisors and was in fact aware of the laws of the state in which it operates, as well as rules and statutes related to the confidentiality of client information. 15 U.S.C. § 45(a)(1), 950 C.M.R. § 12.205(9)(b)(13); M.G.L. 175I § 13; 15 U.S.C. § 6809.

COUNT I
BREACH OF CONTRACT – TILTON

37. Ameriprise repeats and realleges Paragraphs 1 through 36 of this Complaint as if fully set forth herein.

38. On information and belief, [REDACTED] has violated and threatens to violate the provisions of Sections 10, 18 and 19, of his Franchise Agreement, as well as Addendum 3-T, by:

(a) While affiliated with Ameriprise, sending confidential client information to a third party competitor;

(b) Since terminating his affiliation with Ameriprise, soliciting, and/or assisting others in encouraging Ameriprise clients to terminate their relationships with Ameriprise and move their business to his new employer.

39. As a direct and proximate result of [REDACTED] breach and threatened breach of the

Franchise Agreement, Ameriprise has suffered damages in excess of \$75,000 and will continue to suffer said financial harm as well as irreparable injury to goodwill and reputation, unless and until is restrained from his unlawful conduct.

40. As a direct and proximate result of breach of the Franchise Agreement, Ameriprise has suffered additional damages, which continue to accrue in the form of attorneys' fees and costs related to this litigation.

COUNT II
MISAPPROPRIATION OF TRADE SECRETS – TILTON AND COMMONWEALTH

41. Ameriprise repeats and realleges Paragraphs 1 through 40 of this Complaint as if fully set forth herein.

42. Ameriprise has protectable confidential information in its client names, addresses, and data, including suitability information, investments and investment history, financial plans, and financial goal information, prospective client names, addresses, and data, and know-how concerning the methods of operation, client lists and other financial information.

43. Ameriprise derives economic value from this confidential information, due to it not being generally known to other persons who could obtain economic value from its disclosure or use.

44. Ameriprise has made reasonable efforts under the circumstances to maintain the secrecy and confidentiality of its confidential information.

45. and Commonwealth misappropriated Ameriprise's confidential client information for competitive business purposes without obtaining the consent of Ameriprise or of all affected clients.

46. On information and belief, and Commonwealth are using this information to compete with Ameriprise and to injure Ameriprise's relationships with its clients.

47. Through their actions, Commonwealth and have injured and continue to

injure Ameriprise's relationships with its clients.

48. Ameriprise has been injured and is continuing to be injured by [REDACTED] misappropriation and use of its confidential information and client information.

COUNT III
INTERFERENCE WITH CONTRACTUAL RELATIONS – COMMONWEALTH

49. Ameriprise repeats and realleges the allegations of paragraphs 1 through 48 of this Complaint as if fully set forth herein.

50. Commonwealth intentionally, improperly, and wrongfully interfered with Ameriprise's contractual relations by inducing a third person, [REDACTED] to violate their contractual obligations.

51. Specifically, knowing that both [REDACTED] and Esposito were under contract with Ameriprise and aware of laws and regulations related to client privacy, Commonwealth requested confidential client information under the guise of considering a potential offer of affiliation, thereby wrongfully encouraging and inducing them to violate the terms of their contract with Ameriprise.

52. Ameriprise has been injured and is continuing to be injured by [REDACTED] unfair competition and improper conduct.

53. Ameriprise is entitled to a permanent injunction prohibiting [REDACTED] from engaging in further unfair competition in order to protect it and its clients, as well as damages and other relief allowed by state law.

WHEREFORE, Ameriprise respectfully requests that this Court grant the following relief pending a final decision by the NASD:

A. Enjoin [REDACTED] and Commonwealth from using Ameriprise's confidential client information;

B. Enjoin [REDACTED] and Commonwealth by directing both to immediately account for

and return all originals and copies of Ameriprise and/or its clients' confidential documents and information forwarded by [REDACTED] to Commonwealth or otherwise retained by [REDACTED], including all Ameriprise client records, names, addresses, social security numbers, financial plans, financial inventories and Ameriprise computer software, in [REDACTED] possession or control;

C. Enjoin Commonwealth by directing it to immediately account for and return all originals and copies of Ameriprise and/or its clients' confidential documents and information forwarded by any other Ameriprise advisor who joined or plans to join Commonwealth at any time from January 1, 2005 to the present;

D. Enjoin [REDACTED] and Commonwealth from contacting clients serviced by [REDACTED] when he was affiliated with Ameriprise as provided in Tilton's noncompete;

E. Enjoin Commonwealth from further interfering with Ameriprise Franchise or Employment Agreements with its financial advisors by requesting or accepting any confidential information from Ameriprise or using said confidential information; and

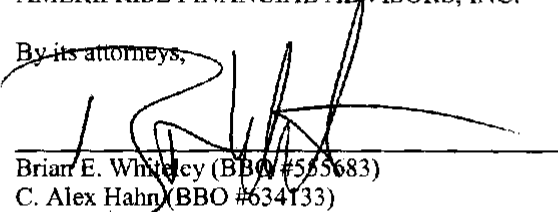
F. Grant such other relief as the Court deems appropriate, including attorneys' fees and costs.

DATED: January 25 2006

Respectfully submitted,

AMERIPRISE FINANCIAL ADVISORS, INC.

By its attorneys,



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