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UAS Investments LLC Order on UAS Investments, LLC's Motion to Compel

Elizabeth E. Long

Fulton County Superior Court, Judge

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**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

UAS INVESTMENTS, LLC,)	
)	
Plaintiff,)	
)	
v.)	CAFN 2015CV256036
)	
ROBERT MILLER,)	
)	
Defendant.)	

ORDER ON UAS INVESTMENTS, LLC's MOTION TO COMPEL

Before this Court is UAS Investments, LLC's Motion to Compel Production of Documents from Defendant Robert Miller. Having considered the briefs submitted the Court finds as follows:

Plaintiff UAS Investments, LLC ("UAS") was a large investor in Leucadia Group, LLC ("Leucadia"), a company founded by Defendant Robert Miller ("Miller") that provided defense and aerospace engineering services. Leucadia ceased operations on February 13, 2015. UAS claims that Miller, as Leucadia's President, usurped business opportunities from Leucadia in breach of his fiduciary duty to UAS. Miller allegedly took the National Instruments Corporation's ("NI") business from Leucadia and continues to benefit from this usurped opportunity. Further, in its reply brief, UAS contends that Miller and a current company of which he is a member, Perry Labs, may have also pursued a business opportunity with a company called Insitu after his termination from Leucadia and that Leucadia had pursued this opportunity before Miller's termination. In Miller's deposition and elsewhere, UAS questioned Miller about his business dealings with several other entities, including Textron, Battle Hawk, Gilat, Lockheed Martin, the U.S. Navy, the U.S. Air Force, and NATRIP.

In its Request for Production # 71, UAS seeks all documents related to any company Miller owns, controls, or operated that has provided the same or similar services and products as Leucadia since January 1, 2012. UAS asserts these documents are relevant to determine Miller's liability for breaching his fiduciary duties to UAS as an officer of Leucadia and to calculate damages.

Miller objected because this request sought irrelevant information, was vague and ambiguous because it did not define the scope of competing services and products, and was overly broad and unduly burdensome because it was not limited based by subject matter or time. Miller responded that there were no such documents between January 1, 2012 and early January of 2015 when Miller was terminated from Leucadia. Miller argues that any responsive documents after his termination would be irrelevant because he had an absolute right to conduct business of his choosing after his termination. Further, Miller notes that UAS has requested and received discovery responses from NI, from Miller's new company, Miller Aero Corp., and other non-party witnesses about Miller's activities since his termination from Leucadia.

The Court will not limit discovery into alleged wrongdoing simply because prior discovery did not disclose any wrongdoing. Instead, under the Civil Practice Act, “[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.” O.C.G.A. § 9-11-26(b)(1). Ordinarily, the courts define “relevant” very broadly. See *Bowden v. Medical Center, Inc.*, 297 Ga. 285, 291 (2015) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978)) (internal quotation marks omitted). However, under O.C.G.A. § 9-11-26(c), the Court may “make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” See also *Bd. of Regents of Univ. Sys. of Georgia v. Ambati*, 299 Ga. App.

804, 811 (2009) (“in some circumstances the interest in gathering information must yield to the interest in protecting a party”).

The Court agrees the Request is overly broad in scope and vague. As written, the Request seeks any document related to any aerospace engineering or defense services and products undertaken by any company Miller owns, controls, or operates. As Miller remained in the aerospace industry after his termination with Leucadia, this could potentially include every single business document generated by the companies he owns, controls, or operates. This is excessively broad in scope. UAS acknowledges in its reply brief that it would agree to limit its Request to “documents sufficient to show the individuals or entities with whom Miller or a company with which he is affiliated has contracted, his contracts, or other agreements, pay stubs or other pay records, financial statements, accounting records, W2s, 1099s, any communications necessary to establish the nature of the work, and the like.” And, the Court acknowledges that documents responsive to a more limited request for documents could lead to the discovery of admissible evidence. Thus, the Motion to Compel is **GRANTED in part, limited as follows:**

Under the Court’s authority to limit the scope of the discovery to certain matters, the Court will require Miller to produce the following in his possession or control:

Any accepted or pending proposal(s) and/or contract(s), or any other document that demonstrates a potential or existing business opportunity or business relationship, entered into or submitted between January 2012 and present day, between Miller or any company Miller owns, controls, or operated and NI, Insitu, Textron, Battle Hawk, Gilat, Lockheed Martin, the U.S. Navy, the U.S. Air Force, and/or NATRIP.

SO ORDERED this 20th day of September, 2016.


Senior Judge Elizabeth E. Long
Superior Court of Fulton County
Atlanta Judicial Circuit

Copies to: All registered users of eFileGA associated with this case.

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