

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CITISTAFF, INC.,

Plaintiff/Counter-Defendant,

v

Case No. 2015-149820-CB

Hon. Wendy Potts

NIC BANFIELD,

Defendant/Counter-Plaintiff.

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OPINION AND ORDER RE: PLAINTIFF CITISTAFF, INC.'S MOTION TO HOLD NIC  
BANFIELD IN CONTEMPT

At a session of Court  
Held in Pontiac, Michigan

On  
JUN 21 2016

This matter is before the Court Plaintiff CitiStaff's motion to hold Defendant Nic Banfield in contempt of Court. In the Court's February 12, 2016 Opinion and Order, the Court concluded that CitiStaff was entitled to injunctive relief and that it would enter an order prohibiting Banfield from violating his noncompetition agreement. On February, 22, 2016, the Court issued a Preliminary Injunction Order enjoining Banfield from competing with CitiStaff as prohibited by his non-compete covenant that is contained in the agreement.

On March 30, 2016, CitiStaff became aware of the possibility that Banfield was working at either Newton Services, Inc or DSG Staffing. Both Newton and DSG are staffing agencies that directly compete with CitiStaff. CitiStaff alleges that Banfield is violating the noncompetition agreement and that the Court should find Banfield in contempt. The Court

issued an Order to Show Cause and Banfield appeared on April 27, 2016 in accordance with the Order to Show Cause.

In its motion and during oral argument, CitiStaff argued that Banfield should be held in contempt for violating the noncompetition agreement for a second time. CitiStaff argued that the Court should find Banfield in contempt and force compliance with the Order. In response to the motion and the Order to Show Cause, Banfield asserted that he began his employment with Newton in Bay City on March 28, 2016, and that as part of his employment with Newton he would not call on any customers located within a fifty mile radius of CitiStaff's Troy office. On April 20, 2016, Banfield's employment with Newton was terminated; at the time of the hearing, Banfield was unemployed.

The Non-Compete Covenant in the parties' agreement provides: "Employee agrees that during the terms of the Agreement and for a period of eighteen (18) months following termination of Employee's employment, whether by Citistaff or Employee and whether with or without cause, of Employee shall not directly or indirectly engage in or prepare to engage in, or be employed by, any business that is engaging in or preparing to engage in any aspect of Citistaff's business for which Employee performed services or about which Employee obtained Confidential Information during the two (2) year period preceding termination of Employee's employment, within a radius of fifty (50) miles from the office in which Employee worked at the time Employee's employment terminated or any other office in which Employee worked during the two (2) year period preceding termination of Employee's employment ('Restricted Area')."

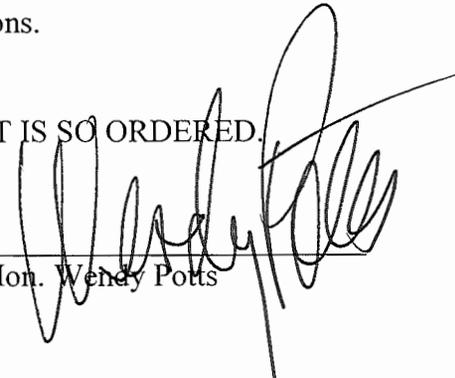
The February 22, 2016 Order of the Court that issued the preliminary injunction provided, in part, that "Banfield is enjoined commencing February 12, 2016, for 18 months, from: . . . b. competing with Citistaff as prohibited by the Non-Compete Covenant that is

contained in the Agreement. . . .” CitiStaff and Banfield agree that the office where Banfield worked was CitiStaff’s Troy office. Banfield subsequently was working out of Newton’s Bay City, Michigan office; however, Newton has offices also in Madison Heights, Michigan and Flint, Michigan. Banfield’s employment at Newton was employment at a business that is engaging in an aspect of CitiStaff’s business, and Newton is located within fifty miles from CitiStaff’s Troy, Michigan office. Thus, Banfield was violating the preliminary injunction.

At the time of the show cause hearing, Banfield was no longer employed by Newton. Banfield’s affidavit, which was attached to his response, attests that his employment with Newton began on March 28, 2016 and was terminated on April 20, 2016. As a sanction for violating the preliminary injunction, the Court will extend the duration of the preliminary injunction an additional three weeks to September 2, 2017. If Banfield continues to violate the preliminary injunction, the Court will consider further sanctions.

Dated: **JUN 21 2016**

IT IS SO ORDERED.

  
Hon. Wendy Potts