

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JEREMIAH'S INTERNATIONAL TRADING)
COMPANY, Inc. d/b/a AMERICA'S AUCTION)
NETWORK,)
)
Plaintiff,)
)
vs.)
)
ANTHONY CALDERONE and)
RAYMOND TAYLOR,)
)
Defendants.)
_____)

JURY TRIAL REQUESTED

Civil No.: 8:14-cv-584-JDW-TGW

AMENDED COMPLAINT

This is an action by Jeremiah's International Trading Company, Inc. d/b/a America's Auction Network ("AAN") against two of its former employees who were entrusted with the operation of its Artwork Department. These employees (1) obtained kickbacks from artwork suppliers, (2) accepted fake artwork from suppliers, (3) misrepresented and sold that artwork to customers of AAN, (4) misappropriated artwork and other AAN merchandise to their own uses, (5) stole AAN's trade secrets and intellectual property and then (6) solicited AAN's customers and (7) falsely claimed to AAN customers that they departed AAN because of the very practices they initiated.

Defendants' aforementioned actions detrimentally impacted AAN. Defendants' acceptance and sale of fake artwork resulted in customer complaints and reputational damage to AAN. Defendants caused AAN to pay excessive amounts for fake and / or overpriced merchandise. Defendants then looted AAN's merchandise. Defendants wrongfully appropriated AAN's trade secrets and know-how and then breached their agreements by competing against

AAN. Lastly, Defendants disparaged AAN and used AAN's confidential bidder lists and buyer preference information to solicit Plaintiff's customers. Defendants gave stolen AAN merchandise to AAN customers to induce them to purchase from Defendants instead. Each of Defendants' acts violated a common law, statutory, or contractual duty to AAN.

JURISDICTION AND VENUE

- 1) This Honorable Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff's claims under the Racketeer Influenced Corrupt Practices Act, 18 U.S.C. § 1964, arise under the laws of the United States. This Honorable Court also has subject matter jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.
- 2) Venue is proper in this judicial district pursuant to 18 U.S.C. § 1965 and 28 U.S.C. § 1391 because Defendants are subject to personal jurisdiction in this district and the vast majority of the acts and occurrences complained of occurred in this district.

THE PARTIES

- 3) Plaintiff AAN is a Florida Corporation with its principal place of business in St. Petersburg, Florida.
- 4) AAN is engaged in the sale of various items, including artwork, antiques, coins, collectibles, rugs, real estate and jewelry through its television auctions.
- 5) AAN's programming is broadcast in all 50 states. AAN deals with vendors from various states and foreign countries, and with customers in all 50 states and Canada. AAN also sells real estate in Arizona, New Mexico, Texas, Arkansas, and Florida.
- 6) Defendant Anthony Calderone studied art in college and worked for AAN from 2005 until 2010. Defendant Calderone started as a telephone representative and later served as the director of AAN's Artwork Department.

- 7) Upon information and belief, Defendant Calderone now lives in the state of Georgia, and is affiliated with America's Value Channel. ("AVC")
- 8) Defendant Raymond Taylor worked for AAN from 2006 until 2010 as its art auctioneer.
- 9) Upon information and belief, Defendant Taylor works in Georgia but maintains a home in Palmetto, Florida and commutes to Georgia to auction items with AVC.

FACTUAL ALLEGATIONS

AAN's Hiring of Defendants to Operate the Artwork Department

- 10) AAN is owned and operated by Jeremiah Hartman, an experienced retailer of artwork, jewelry and collectibles. AAN has sold artwork through television auctions for nearly a decade. Jeremiah Hartman travels extensively on business and delegates the day-to-day management of AAN to others.
- 11) AAN, like other auction businesses, maintains close relationships with customers. In order to bid during auctions, customers are usually required to register their name, address, billing and credit card information. In some instances, an auction business will run a credit check or otherwise investigate prospective bidders.
- 12) A relatively small number of collectors account for the majority of AAN's sales. Customer relationships cultivated over many years are particularly important to AAN. Because most AAN customers are private individuals, they are not well-known or easy to identify. Due to the specialized and intimate nature of auction sales, competitors cannot duplicate AAN's customer information and know-how by using public sources.
- 13) AAN's information on current, former, and even prospective customers interested in art auctions is a valuable trade secret because it is essential to success in the auction business.

14) Because of the value of customer information and auction know-how that AAN employees receive, AAN requires each employee to sign confidentiality and noncompete agreements where they acknowledge the value of AAN's intellectual property.

15) In September 2005, AAN hired Defendant Calderone as a telephone representative. Jeremiah Hartman, AAN's owner and president, trained Defendant Calderone to manage AAN's art business and then promoted Defendant Calderone to director of AAN's Artwork Department.

16) On September 15, 2005, Defendant Calderone signed a "Confidential Disclosure Agreement." In that agreement, Defendant Calderone promised not to disclose AAN confidential information and trade secrets or use such information in any way. The Confidential Disclosure Agreement also contained a noncompete clause that prohibited Defendant Calderone from competing with AAN for one year.

17) AAN hired Defendant Taylor in September 2006 as an auctioneer. Defendant Taylor was an experienced art auctioneer who concentrated his activity in the Artwork Department. However, Defendant Taylor lacked experience with television auctions and initially demonstrated poor performance on television. After training by Jeremiah Hartman, Defendant Taylor finally became a proficient television art auctioneer.

18) Defendant Taylor signed AAN's confidentiality and noncompete agreement when he started working for AAN. Upon information and belief, Defendant Taylor later purloined this document from AAN's files.

19) AAN's Employee Handbook contains a section on confidentiality. It prohibits employees from disclosing various categories of confidential and trade secret information. These categories include, among other things, customer lists, customer preferences, financial information, and pending projects and proposals.

20) On August 18, 2006, Defendant Calderone signed an employee acknowledgement and thereby agreed to follow the policies contained in AAN's Employee Handbook.

21) On September 1, 2006, Defendant Taylor signed an employee acknowledgement and thereby agreed to follow the policies contained in AAN's Employee Handbook.

22) AAN provided Defendants training, access to confidential information, and access to Plaintiff's clients in reliance upon the aforementioned promises by Defendants to maintain the confidentiality of AAN's know-how and trade secrets.

23) During the years that Defendants worked for Plaintiff, AAN grew significantly, as did the Artwork Department.

AAN's Dealings with Gallery

24) In January 2007, AAN began obtaining artwork from Gallery Supply, LLC ("Gallery"), a supplier of artwork in North Palm Beach, Florida. John Caldwell manages Gallery.

25) Salesman Chris Beckner represented Gallery in its dealings with AAN.

26) Initially, Gallery sold items to AAN on memorandum. Memorandum is similar to consignment and is commonly practiced by art galleries, jewelry stores, and auctioneers. The only important difference between memorandum and consignment is that memorandum indicates a long-term arrangement between two businesses (manufacturer, gallery, wholesaler, retailer, auctioneer) whereas consignment refers to sporadic or one-off transactions. Under the memorandum arrangement, AAN paid Gallery only after an item was sold.

27) Initially, Gallery would send a periodic list of outstanding memorandum items and request payment for any items that had been sold. Later, Gallery began compiling information about AAN's sales of memorandum items and sending invoices indicating the items and the

prices paid. Upon information and belief, Defendant Calderone provided AAN's sales information to Gallery for use in preparing these invoices.

28) Both the earlier lists and the later invoices were inaccurate. Gallery listed or billed for many items for which AAN had already paid. Moreover, many of the invoices purporting to show items sold by AAN list items that had not been sold or indicated incorrect prices. AAN accountants discovered double and triple billing.

29) Upon information and belief, but unbeknownst to AAN at the time, Defendants conspired to falsify documents in order to promote and further a fraudulent scheme,

30) After initial training, Jeremiah Hartman, the owner of AAN, authorized Defendant Calderone to exercise discretion in negotiating memorandum transactions with Gallery on behalf of AAN. Although Jeremiah Hartman limited Defendant Calderone's discretion by prescribing minimum commissions, Defendant Calderone agreed with Gallery to reduce AAN's commissions even further without authorization from Jeremiah Hartman. Upon information and belief, Defendant Calderone received kickbacks from Gallery in exchange for reducing AAN's commissions.

31) Jeremiah Hartman eventually discovered these unauthorized deals and reprimanded Defendant Calderone. Because Jeremiah Hartman had not yet discovered the kickbacks or other components of Defendants' scheme, Defendant Calderone was merely instructed to reduce AAN's dealings with Gallery.

32) Due to disputes over commissions, AAN's increasing artwork volume, and other difficulties with memorandums caused by Gallery and Defendants, AAN decided to phase out the memorandum system and transition to outright purchases from its vendors.

33) During this transition time, Gallery would sometimes invoice AAN for the same item on both a memorandum and direct buy basis. Defendants inexplicably increased AAN's purchases from Gallery despite Jeremiah Hartman's aforementioned instructions to the contrary.

34) Jeremiah Hartman suspected continued irregularities in Gallery's dealings with AAN and told Defendants to cease dealing with Gallery.

35) During a call between Sydney Wade, AAN's Accounting Manager, and a Gallery representative, Jeremiah Hartman joined the call and told the Gallery representative that AAN would no longer purchase from Gallery.

36) Jeremiah Hartman instructed his brother, who issued AAN's checks, to stop preparing checks to Gallery in order to ensure the cessation of dealings.

37) On November 19, 2008, John Caldwell, Gallery's owner, telephoned Tammy Calderone, Defendant Calderone's then-wife, who was handling invoicing in AAN's Artwork Department and instructed AAN not to make any payments to Chris Beckner, who had left Gallery's employ on November 4, 2008. John Caldwell indicated that Chris Beckner had misappropriated both Gallery merchandise intended for AAN and payments from AAN to Gallery.

AAN's Dealings with Global

38) In April 2009, at Defendants' behest, AAN began purchasing artwork from Global Fine Art Distributors, LLC ("Global"), a company which operates out of Marietta, Georgia.

39) John Ward was AAN's contact person at Global. John Thomas Ward appears on Global's corporate filings, including its 2010 Limited Liability Company Annual Registration filing. In a later corporate filing for a company called World Shopping Network, Inc., ("WSN") John Thomas Ward appears as the registered agent and corporate secretary while John Caldwell

appears as CEO and CFO. Upon information and belief, John Thomas Ward is John Caldwell's brother-in-law.

40) Defendants represented to AAN that Global was a suitable replacement for Gallery because it sold similar artwork at similar prices and also provided proper Certificates of Authenticity.

41) Upon information and belief, Global and Gallery are related companies. This was hidden from AAN management, other than Defendants, until just before Defendants left AAN's employ. Unbeknownst to AAN or Jeremiah Hartman, Defendants, John Caldwell, and John Ward used Global as a front to continue their scheme even after Jeremiah Hartman decided that AAN should cease dealings with Gallery.

42) Upon information and belief, Defendants had or have a formal or informal relationship with WSN and profited and / or hoped to profit from that venture.

43) Over the next year, Global sold and Defendants purchased a substantial volume of artwork on behalf of AAN. Jeremiah Hartman, Sydney Wade, and members of AAN's Customer Service Department later discovered that many pieces supplied by Global were counterfeit, misrepresented, or lacked accurate certificates of authenticity.

44) Although Jeremiah Hartman continued to travel extensively on business, AAN attempted to implement controls to prevent the problems experienced with Gallery. Defendants evaded these controls as their scheme evolved.

45) In contrast to AAN's dealings with Gallery, the majority of AAN's transactions with Global were outright sales of artwork from Global to AAN and not memorandums.

46) Notwithstanding the previous paragraph, Defendant Calderone also took memorandums from Global. AAN was unaware of the memorandum transactions with Global until after Defendants left AAN's employ.

47) Shortly after Defendants left AAN's employ, Global sued AAN for money due for items sold or "memoed" to AAN. Much to AAN's surprise, Global attached to its complaint a long list of items that had allegedly been "memoed" to AAN and demanded payment.

48) When AAN checked this memorandum list against items that had been paid as direct buys, AAN discovered that many of the alleged memorandums reflected items that AAN already purchased outright. Other alleged memorandums reflected items that AAN never received.

Continuing Problems in AAN's Artwork Department

49) Defendants sometimes failed to inventory certain deliveries. In other instances, Defendants failed to detect errors or omissions by suppliers or delivery personnel. Most perniciously, Defendants sometimes deliberately falsified AAN's inventory and documents.

50) Defendants' failure to implement adequate controls thwarted AAN's effort to monitor and audit the memorandum system. AAN paid the supplier only after an item sold and therefore could not rely on its then-current inventory to verify each payment. AAN's Accounting Department therefore verified memorandum invoices from suppliers by instead checking those invoices against records of sales to customers. In the case of memorandums that did not actually result in a sale, AAN's Accounting Department was unable to confirm initial delivery and verify a claim for payment for an item neither recorded as sold nor remaining in inventory.

51) The memorandum system therefore created a loophole in AAN's inventory and accounting system. Because of this loophole, AAN was unable to verify that items which were

invoiced by suppliers, but which were neither sold to customers, nor remaining in inventory, had actually been delivered in the first instance.

52) AAN sold many lithographs of works by famous artists. In some instances, AAN would receive and / or sell more than one copy of a particular lithograph. If each lithograph received a different item number, then AAN could track each item sold or remaining in inventory.

Defendants and Gallery sometimes assigned the same item number to similar lithographs, rendering it difficult to determine which (or even how many) lithographs had sold and accurately determine proper memorandum payments.

53) Customers returned lithographs for various reasons and AAN would resell such lithographs to other customers. The amount of lithograph sales recorded by AAN sometimes exceeded the number of lithographs actually received, particularly when Defendants failed to carefully record returns.

54) AAN later discovered that some items that were inventoried by Defendant Calderone were absent from inventory. In other cases, AAN was able to ascertain that these items were never delivered, were not delivered in the quantities claimed, or were diverted by Defendants. In other instances, AAN has not determined whether these items were never actually delivered, whether they were returned as not sold and not recorded as such, or whether they were misappropriated by Defendant Calderone. As detailed below, very few of these items were later recovered.

55) Defendant Calderone manipulated paperwork in order to hide the irregularities in the Artwork Department and evade scrutiny. Defendant Calderone would inundate AAN's Accounting Department by presenting numerous invoices, including invoices substantially past due, in one large tranche.

56) In one instance on November 26, 2008, Defendant Calderone presented six months of Gallery invoices to the Accounting Department all at once. These blizzards of paperwork were designed to overwhelm AAN's Accounting Department in an attempt to evade scrutiny of Defendant Calderone's activity.

57) These avalanches of tardy invoices caused problems for AAN. Gallery harangued AAN about tardy payments. AAN faced a serious cash flow problem when it suddenly discovered six months of outstanding invoices. Inundated with paperwork, AAN personnel were unable to process and scrutinize each invoice in an orderly manner.

58) On January 13, 2009, Sydney Wade, AAN's accounting manager, issued a written warning to Defendant Calderone for mishandling paperwork and causing AAN to accumulate severe arrearages with suppliers.

59) Tammy Calderone, Defendant Calderone's then-wife, was originally hired to work as a telephone representative. However, Tammy Calderone began assisting Defendant Calderone with the Artwork Department's accounts.

60) Defendant Calderone and Tammy Calderone initially worked only part time at AAN. The Calderones were paid on an hourly basis but inexplicably expressed a reluctance to work overtime or even full-time.

61) Sydney Wade felt that Defendant Calderone failed to dedicate the time necessary to properly administer the Artwork Department.

62) Sydney Wade asked how the Calderones supported their household without working longer hours. Defendant Calderone responded that he supplemented his income from AAN by also selling narcotics.

63) In 2009, AAN customers began to complain that artwork they received was not authentic, did not match the product description, or did not match the certificates of authenticity.

64) In one instance in February 2010, a customer ordered three paintings. Upon receipt, the customer questioned their authenticity. Defendant Calderone was slow to respond to the complaint, which further aggravated the customer. Shortly after Defendant Calderone resigned, AAN refunded over \$6,000, the full purchase price, to the customer. All three of the questioned pieces came from Global. Upon information and belief, Defendant Calderone delayed this and other refunds so that AAN's management would remain unaware of the problems in the Artwork Department.

AAN's Investigation of the Artwork Department

65) When unframed artwork was received, Defendant Calderone would deliver the artwork to a framing company called Florida Frames in Clearwater, Florida. Defendant Calderone would transport artwork between AAN's warehouse and Florida Frames during his morning and evening commutes. Defendant Calderone would transport unframed artwork in a shipping tube. This provided Defendant Calderone with a pretext to remove artwork from AAN's premises. Defendant Calderone used this as an opportunity to appropriate certain paintings for himself.

66) In late 2009, a vendor named Greg Weder sent items to AAN for consignment. Defendant Taylor told Greg Weder to send the items to his attention. When the items arrived, Defendant Taylor telephoned Greg Weder from his cellphone and confirmed receipt. After not hearing from Defendant Taylor regarding the status of the consignment, Greg Weder telephoned AAN to inquire. An AAN employee checked inventory records but found no record of the consignment.

67) In early 2010, Defendant Calderone authorized purchases of artwork from Michael Johnson, a father of AAN auctioneer Mason Johnson. Although these items were invoiced, the most valuable items disappeared from inventory. Shortly after Defendant Calderone's departure from AAN, Mr. Johnson contacted AAN regarding payment for the items. Mr. Johnson stated that he saw Defendant Calderone place the items in Defendant Taylor's pickup truck. Upon information and belief, Defendant Calderone planned to omit the stolen items from the official invoices submitted to AAN and inflate the cost of the other items in order to justify the full amount of the payment to Mr. Johnson.

68) Mason Johnson also claimed in an April 10, 2010 memorandum that Defendants were selling art to a local cruise line. Upon information and belief, Defendants thereby appropriated AAN's opportunities in breach of their fiduciary duties to AAN.

69) Upon information and belief, Defendant Calderone physically abused his then-wife, Tammy Calderone, which led to marital troubles in early 2010. Tammy Calderone reported that Defendant Calderone had been receiving envelopes and packages from Gallery and Global that each contained thousands of dollars in cash or checks.

70) Jeremiah Hartman directed Natalie Delong, an AAN manager, to search Defendant Calderone's office in order to investigate Defendant Calderone's receipt of money from AAN suppliers. Natalie Delong found half a pound of marijuana in Defendant Calderone's office.

71) Faced with evidence that he kept large quantities of narcotics in the workplace, Defendant Calderone submitted a letter of resignation on March 17, 2010. In that letter, Defendant Calderone confessed to receiving *quid pro quo* payments from Global and Gallery.

The letter reads in full:

Over the years I have received cash payments and product from vendors for selling their product on air. It is unethical and I am

now submitting my resignation to Jeremiah's International as of 3-17-10. Two of the artworks that went to the framers never made it back, and were kept in my possession.

/s/

Anthony Calderone

Witness: Sydney Wade 3/17/10

72) AAN never authorized Defendant Calderone to accept gifts from Gallery or Global nor did Defendant Calderone disclose the same to AAN. Defendant Calderone negotiated prices and terms for artwork and inspected shipments received from Gallery and Global. Defendant Calderone's receipt of kickbacks or even "gifts" from Gallery and Global created a conflict of interest and violated his fiduciary duty of loyalty to AAN.

73) Defendant Calderone brought Jeremiah Hartman to a storage shed located at 1675 Starkey Road, Seminole, Florida. There Jeremiah Hartman recovered seven paintings belonging to AAN. Jeremiah Hartman also found at least eleven other paintings in the storage shed that Defendant Calderone claimed were gifts from Gallery and Global to Defendant Calderone.

74) Defendant Calderone brought Jeremiah Hartman to his mother's home. There, Jeremiah Hartman recovered two additional paintings belonging to AAN. Upon information and belief, these were the paintings that "never made it back [from the framers.]"

75) Tammy Calderone, Defendant Calderone's then-wife, later returned various items of stolen jewelry that Defendant Calderone had pilfered from AAN. Tammy Calderone claimed that she found these additional items while she was packing to depart the marital home.

76) Because Jeremiah Hartman suspected that Defendant Calderone had not yet divulged his entire scheme, he reported Defendant Calderone's known theft of at least 75 paintings valued at \$50,000 to the St. Petersburg Police and hoped that law enforcement would further investigate.

77) Defendant Calderone admitted that he had purported to consign four of AAN's paintings to a shop in Dunedin, Florida called Vintage Art & Glass. Defendant Calderone told the owner

of that business, "Skip" Clementons, that these paintings were Calderone's personal property. An AAN employee visited the shop and verified that AAN's paintings were displayed for sale. The St. Petersburg police recovered the paintings without further incident.

78) AAN also discovered that Defendant Calderone's sister was selling artwork through an Ebay account. Upon information and belief, Defendant Calderone supplied stolen AAN artwork to his sister.

79) AAN also investigated Tammy Calderone's report that Defendant Calderone had received kickbacks from AAN suppliers. In addition to Defendant Calderone's salary and various income received by his wife, Defendant Calderone's bank records indicate substantial counter credits. Counter credits reflect deposits over the counter at a bank. These counter credits substantially exceed Defendant Calderone's salary from AAN. None of Defendant Calderone's legitimate known activity can account for these deposits. Upon information and belief, these counter credits reflect kickbacks from AAN's vendors. Upon information and belief, Global and / or Gallery issued a 1099 or W2 tax form reflecting payments to Defendant Calderone while he was in AAN's employ.

80) AAN also purchased artwork from I. Brewster & Co. Gallery. AAN also had difficulties with I. Brewster regarding accurate invoicing and payments. I. Brewster engaged in duplicate billing and later claimed that AAN's outstanding balance was far in excess of any amount that had been documented or invoiced. Upon information and belief, I. Brewster paid for vacations for Defendant Calderone and his wife. I. Brewster's owner, Nicky Isen, purported to deny that he paid kickbacks to Defendant Calderone but admitted that he gave Defendant Calderone gifts in the form of artwork and cruises.

81) Although AAN has recovered artwork directly from Tammy and Defendant Calderone, from third parties, and through the authorities, substantial amounts of artwork and other merchandise remain missing. Upon information and belief, Defendants appropriated this merchandise for their own profit. Defendants' theft and kickback scheme(s) caused serious financial harm to AAN.

Raymond Taylor Stole AAN's Collectible Coins

82) Shortly after Defendant Calderone's misconduct was discovered, Defendant Taylor abruptly ceased reporting to the AAN premises. Defendant Taylor failed to provide notice or otherwise explain his de facto resignation. Upon information and belief, Defendant Taylor was conscious of his wrongful conduct and preferred to avoid an encounter with Jeremiah Hartman and / or law enforcement.

83) AAN later discovered that valuable coins, including Morgan Silver Dollars, that had been scanned into Defendant Taylor's auctions, some of which were actually shown on air, were neither shown in AAN's inventory nor recorded as sold at auction. In total, hundreds of Morgan Silver Dollars linked to Defendant Taylor went missing from AAN inventory.

84) Most, if not all, of AAN's Morgan Silver Dollars are numismatic grade coins with antique value far in excess of their silver content. Many Morgan Silver Dollars are over one hundred years old and are worth hundreds or even thousands of dollars.

85) Later, AANTV learned that Defendant Taylor was offering Morgan Silver Dollars to AAN customers to induce them to open accounts with his new companies.

86) AAN lost tens of thousands of dollars to Defendant Taylor's brazen theft and suffered further financial harm when the looted coins were used to steal AAN customers.

Raymond Taylor and Anthony Calderone Wrongfully Competed with AAN

87) After Defendant Calderone left AAN, a second search of his office uncovered a handwritten business plan drafted by Defendant Calderone to create a competing enterprise. Among other things, the business plan included the language "We want the channels closest to AAN, to catch flipper's (sic). . ." Upon information and belief, Defendant Calderone used the term "flipper's" to refer to cable subscribers who scroll through channels in search of a certain program genre instead of remembering and dialing a specific station number. Defendants apparently intended to target AAN customers who were watching or attempting to watch AAN's programming. Defendants intended to specifically target AAN and its customers with the intent of harming AAN beyond mere competition for business.

88) Upon information and belief, Defendants not only intended to profit directly from their thefts but also intended to undermine AAN's competitive position and thereby benefit Gallery and Global. By damaging AAN's reputation with customers, creating administrative difficulties in the Artwork Department, and by providing Gallery and Global with a pretext to sue AAN, Defendants and their co-conspirators hoped to force AAN out of the televised art auction business. Gallery and later Global hoped to then cannibalize AAN's preferred time slots and customer lists and enter the television auction business themselves with Defendants as their partners.

89) Upon information and belief, Defendants had been planning and preparing to establish a competing auction business while employed with AAN. Defendants stole AAN's know-how, customer lists, and software to aid in their venture. These pernicious thefts and misappropriations occurred continuously during Defendants' employ and also occurred at the

time of Defendants' departure. Defendants have continuously used AAN's intellectual property since departing AAN.

90) Defendants also began sabotaging AAN's reputation. Among other things, they telephoned important AAN customers and said that AAN sold fake goods. Upon information and belief, Defendants failed to mention the fact that Defendants were the persons responsible for AAN's unwitting sales of fake or misrepresented artwork. Defendants' statements were materially false.

91) For several months after leaving AAN, Defendants worked for a company known as EmVee TV, based out of Clearwater, Florida. During the time that Defendants worked for EmVee TV, EmVee TV used AANTV's trade secrets.

92) Defendant Taylor telephoned an AAN customer and told him not to continue to purchase from AAN. Defendant Taylor stated that AAN manipulates bids and engages in other scams. Defendant Taylor announced that he was starting his own internet business and offered the customer a free coin if he would register with Defendant Taylor's new business. Upon information and belief, the coin that Defendant Taylor offered was one of the Morgan Silver Dollars stolen from AAN. After his conversation with Defendant Taylor, the customer contacted AAN and announced that he wanted his information deleted and credit cards "cancelled."

93) A longtime customer telephoned AAN and announced that she had received a mail offer from Defendant Taylor who was now under the employ of EmVee TV. Defendant Taylor offered special deals and invited the customer to watch his new show on EmVee TV. Upon information and belief, Defendant Taylor obtained AAN's mailing list illegally and used it to contact this and other customers.

94) Defendant Taylor referred to AAN as "the station where the hosts wear the white gloves" while conducting an auction and stated that AAN hosts wore white gloves because they were handling synthetically colored stones. In the television auction industry, AAN hosts are known to wear white gloves in order to showcase merchandise in an appealing manner. Persons familiar with television auctions would have understood that Defendant Taylor was referring to AAN.

95) By the end of 2010, EmVee TV had stopped conducting and broadcasting auctions and was defunct. EmVee TV left many orders unfilled.

96) By June 12, 2010, Defendant Taylor was conducting auctions on the WSNTV station. WSN is a competing television auction business headquartered in Georgia. Upon information and belief, Defendant Calderone also began working for WSN.

97) John Ward, who appears on Global's corporate filings, also appears as the registered agent of WSN, Inc.

98) Upon information and belief, Global and its agents assisted Defendants in establishing a competing auction business. Once AAN discovered Defendants' fraud and also discovered that Global was simply a front for continuing the Gallery relationship, John Caldwell opened his own auction network in order to recoup lost sales volume arising from AAN's cessation of its dealings with Gallery and then Global.

99) Defendants, who had been continuously conspiring with John Caldwell, eventually began working with John Caldwell's new company, and continued to employ unfair and deceptive business practices and utilize AAN's confidential information to pursue this venture.

100) WSN now does business as AVC and Defendant Taylor continues to work as an auctioneer for AVC. Upon information and belief, Defendant Calderone also continues to work

with AVC. Upon information and belief, both Defendants continue to conspire with Gallery, Global, and / or their principals, affiliates, and successors.

101) Defendants acted with the intention of causing AAN irreparable harm.

102) Defendants' actions caused substantial injury to the competitive advantage AAN obtained through its considerable efforts and substantial expenditures to develop a customer base. Defendants' use of AAN's confidential information to wrongfully compete with AAN and assert false and / or misleading allegations about AAN's business practices and merchandise substantially undermined Plaintiff's customer relationships that AAN has developed at great expense.

103) AAN retained undersigned counsel to pursue this action and is obligated to pay him a reasonable fee for his services.

COUNT I
(FEDERAL CIVIL RICO)

104) AAN repeats and realleges the facts set forth in paragraphs 10-81 and 98-103.

105) Defendant Calderone and Defendant Taylor are each a "person" as defined by 18 U.S.C. §§ 1961(3) and 1964(c).

106) AAN is an "enterprise" as defined by 18 U.S.C. §§ 1961(4) and 1962(c).

107) Global and Gallery are each also an "enterprise" as defined by 18 U.S.C. §§ 1961(a4) and 1962(c).

108) AAN, Global, Gallery, Defendant Calderone, and Defendant Taylor each were and are engaged in activities that affect interstate commerce.

109) Defendant Calderone violated 18 U.S.C. § 659 by taking, carrying away, and concealing; and buying, receiving and possessing; from AAN's warehouse facility, with intent to convert to his own use; various items of artwork which constituted interstate shipments of freight.

110) Defendant Taylor violated 18 U.S.C. § 659 by taking, carrying away, and concealing; and buying, receiving and possessing; from AAN's warehouse facility, with intent to convert to his own use; various coins which constituted interstate shipments of freight.

111) Defendants both violated 18 U.S.C. § 1341 by using the United States Postal Service and other interstate carriers to further their fraud. Various false invoices were mailed to AAN and payments were mailed to various vendors in connection with Defendants' fraud. Defendants falsely represented to AAN that these invoices and payments accurately described merchandise that was received by AAN for sale to its customers. Defendants then sent various counterfeit or misrepresented goods to AAN customers through the mail and other interstate carriers. For example, AAN customer Mark Williams purchased three paintings, each of which had been obtained from Global. One of the paintings, a Marc Chagall painting, item number 783136, had been directly purchased from Global, while two of the paintings, a Henri Matisse, item number 782945, and a Pablo Picasso, item number 783132, were memorandums. All three of these items were listed on Global's Invoice 61. This invoice was mailed to AAN and falsely represented that these and other items were authentic. Defendant Calderone presented this invoice to AAN's Accounting Department and falsely represented that the items received were authentic. This caused AAN's Accounting Department to issue a check to Global for these and other paintings. Defendant Taylor auctioned the aforementioned paintings on AAN's television program and falsely represented that they were authentic. Based upon these representations, Mark Williams purchased these paintings, which were delivered by an interstate carrier. Customer Mark Williams later returned these paintings because an examination by Sotheby's revealed that the paintings were not authentic. Defendants knew that these paintings were not authentic but

accepted them from Global and sold them to Mark Williams because they were receiving kickbacks from Global.

112) As described above, Defendants both violated 18 U.S.C. § 1343 by using wire and television communication to further their fraud. Defendants caused counterfeit or misrepresented items to be offered for sale on AAN television auctions and on its website. Defendants used electronic communications to obtain, advertise, sell, deliver, and pay and receive payment for misrepresented artwork. Defendants engaged in television, telephone, email and other electronic communications with customers in furtherance of their scheme to defraud AAN and its customers. Defendants also facilitated transactions with and payments from AAN customers by using telephone, email, and other electronic communication. Defendants also communicated by telephone with Gallery and Global as well as other vendors in furtherance of their scheme to defraud AAN and its customers.

113) Defendants both violated 18 U.S.C. 2314 by transporting and / or transferring in interstate commerce goods, wares, and merchandise valued in excess of \$5,000 and stolen from AAN, knowing the same to have been stolen, converted or taken by fraud.

114) Defendants both violated 18 U.S.C. § 2315 by selling in interstate commerce stolen AAN merchandise valued in excess of \$5,000 knowing the same to have been stolen, converted, or taken by fraud.

115) Defendants both violated 18 U.S.C. § 2318 by knowingly trafficking in counterfeit labels and documentation designed to accompany copies of pictorial and graphic work and works of visual art. Defendants knowingly accepted from vendors and sold to AAN customers artwork that was counterfeit, misrepresented, accompanied by false certificates of authenticity, or that

was represented for sale in a manner different than the manner it was described in the genuine certificate of authenticity.

116) Defendants' conduct constituted a pattern of criminal activity against AAN within the meaning of 18 U.S.C. § 1961(5) because each crime occurred within a ten year period and had the common intent of enriching Defendants by surreptitiously depriving AAN of physical and intellectual property as well as AAN's right to Defendants' honest services. Each above-mentioned crime victimized AAN by causing a financial loss.

117) Defendants both pose a threat to interstate commerce by depriving AAN of goods that traveled or were intended to travel in interstate commerce, by defrauding customers of AAN who purchased such goods, and by impairing AAN's ability to continue to engage in interstate commerce.

118) AAN's business injury is directly and proximately caused by Defendants' conduct and their violations of 18 U.S.C. §§ 659, 1341, 1343, 2314, 2315, and 2318.

119) Pursuant to 18 U.S.C. § 1964, AAN is entitled to treble damages and its costs of bringing this action, including attorney fees.

COUNT II
(FLORIDA CIVIL RICO)

120) AAN repeats and realleges the facts set forth in paragraphs 10-103.

121) Defendants were employed by AAN. Defendants were also associated with Gallery and Global because they were receiving kickbacks from those companies while they were working for AAN. Defendants then worked for EmVee TV, WSN, and AVC and used AAN's customer lists and other intellectual property.

122) AAN is an enterprise within the meaning of Fla. Stat. 772.102(3).

123) Global and Gallery are also enterprises within the meaning of Fla. Stat. 772.102(3).

124) Defendants associated with AAN because they worked as employees of AAN while committing each crime alleged. Defendants also committed such acts in association with Global and Gallery.

125) Defendants' conduct violated Fla. Stat. 812.014 (theft), 812.019 (dealing in stolen property), 812.0195 (Dealing in stolen property by use of the internet), 812.081 (trade secret theft), 838.15 (commercial bribe receiving), as well as various federal criminal laws listed at 18 U.S.C. § 1961(1)(B), which are discussed more fully in Count I and incorporated herein by reference.

126) Defendants' conduct constituted a pattern of criminal activity against AAN within the meaning of Fla. Stat. 772.102(4), because each crime had the common intent of enriching Defendants by surreptitiously depriving AAN of physical and intellectual property as well as AAN's right to Defendants' honest services. Each above-mentioned crime victimized AAN by causing a financial loss.

127) AAN's business injury is directly and proximately caused by Defendants' conduct and their various crimes against AAN.

128) Pursuant to Fla Stat 772.104, AAN is entitled to treble damages and its costs of bringing this action, including attorney fees.

COUNT III
(CIVIL CONSPIRACY)

129) AAN repeats and realleges the facts set forth in paragraphs 24-103.

130) Defendants are parties to a civil conspiracy.

131) Defendants conspired to breach their fiduciary duty to AAN, defraud AAN's customers, steal AAN's merchandise and trade secrets, receive kickbacks from AAN's vendors, and engage in acts of unfair competition with AAN.

132) Defendants, as employees and agents of AAN, had a duty to protect AAN in its dealings with vendors and customers and to safeguard AAN's merchandise and information.

133) Defendants committed numerous overt acts in furtherance of their conspiracy, including acting against AAN's interest in their dealings with customers and vendors, accepting kickbacks and compensation from AAN's vendors, and stealing AAN's merchandise and information.

134) Defendants' conspiracy and their respective overt acts caused AAN to suffer damages. AAN lost revenue and business goodwill due to Defendants' acts. AAN also lost the merchandise that Defendants stole and lost the value of Defendants' honest services. Defendants damaged AAN's competitive position by using Plaintiff's confidential information to compete against AAN.

135) AAN is entitled to punitive and compensatory damages against Defendants for civil conspiracy and such other relief this Honorable Court deems just and proper.

COUNT IV
(BREACH OF FIDUCIARY DUTY)

136) AAN repeats and realleges the facts set forth in paragraphs 10-23, 27-33, 38-81, and 87-90.

137) Defendant Calderone was entrusted with the management of AAN's Artwork Department. Defendant Calderone was entrusted with AAN's property and with responsibility for dealing with AAN's customers and suppliers.

138) Defendant Taylor was employed by AAN as its auctioneer, was entrusted with AAN's property, and was employed to conduct television auctions and sell artwork on behalf of AAN.

139) AAN's Artwork Department operated independently and AAN relied upon Defendants to protect its business interests in their purchases and sales of artwork.

140) Defendants had a fiduciary duty to AAN to handle AAN's property, negotiate with suppliers, and deal with customers on AAN's behalf and to protect AAN's interests in so doing.

141) Defendants breached that duty by accepting gifts, bribes, and kickbacks from AAN's suppliers, by causing AAN to pay suppliers for fake or misrepresented artwork, by selling fake or misrepresented artwork to AAN customers, by stealing AAN's property such as artwork and coins, by appropriating AAN opportunities, and by misappropriating AAN's information for use in future competition with AAN.

142) Defendants failed to disclose their relationships with Global and Gallery, the fact that they received various payments from Global and Gallery, and the fact that Global was affiliated with Gallery and created by Defendants' associates in order to continue the kickback scheme, sell misrepresented artwork, and otherwise benefit at AAN's expense.

143) AAN was damaged by this breach of fiduciary duty by Defendants. AAN paid for fake artwork, was deprived of Defendants' honest services, lost property to Defendants' theft, lost customer goodwill due to the sale of fake or misrepresented artwork, and also lost customers when Defendants used AAN's information to compete with AAN.

144) AAN is entitled to punitive and compensatory damages against Defendants for breach of fiduciary duty in an amount to be determined at trial.

COUNT V
**(TORTIOUS INTERFERENCE WITH AN ADVANTAGEOUS BUSINESS
RELATIONSHIP)**

145) AAN repeats and realleges the facts set forth in paragraphs 10-23, 30, 43, 63-64, 71, and 83-102.

146) AAN maintained advantageous business relationships with numerous customers.

147) Many AAN customers were frequent and repeat purchasers of artwork and set up credit accounts with AAN for this purpose.

148) As the manager and the auctioneer in AAN's Artwork Department, Defendants had knowledge of AAN's business relationships.

149) Defendants interfered with AAN's business relationships. Defendants caused AAN to sell fake or misrepresented artwork to customers. Defendants then issued false and derogatory remarks about Plaintiff to AAN customers. Lastly, Defendants used knowledge and information acquired from AAN to undermine Plaintiff's advantageous business relationships with artwork customers.

150) Defendants written and oral remarks, as well as their conduct, indicate that they were not merely engaging in legitimate competition with AAN but that they intended to specifically target their derogatory remarks at AAN and their marketing efforts at AAN's customers.

151) As a result of these actions, AAN sustained damage to its business reputation, goodwill, and profits. In the months preceding and subsequent to Defendants' departure from AAN, Plaintiff lost nearly one hundred customers each of whose cumulative purchases totaled ten thousand dollars or more. It is estimated that AAN's lost revenues from these customers amount to over \$2 million.

152) AAN is entitled to punitive and compensatory damages against Defendants for their tortious interference with AAN's advantageous business relationships in an amount to be determined at trial but estimated at more than \$2 million.

COUNT VI
(DEFAMATION)

153) AAN repeats and realleges the facts set forth in paragraphs 88, 90, 92-94, and 101-102.

154) Defendant Taylor falsely asserted, both on live television and during telephone calls with AAN customers, that AAN sells fake merchandise, manipulates bids, and otherwise swindles customers.

155) Defendant Taylor knew at the time that his statements were untrue or misleading but nonetheless uttered these statements for the purpose of damaging AAN's reputation and / or promoting Defendant Taylor's competing ventures.

156) Defendant Taylor's issuance of these statements was negligent, reckless, and intentionally malicious as to their truth. Defendant Taylor's improper commercial speech is only entitled to attenuated protection.

157) Defendant Taylor's statements caused substantial damage to AAN's business reputation and caused AAN to lose customers, revenue, and profits.

158) AAN is entitled to punitive and compensatory damages against Defendant Taylor for the lost revenue and damage to its business goodwill caused by Defendant Taylor's false statements.

COUNT VII
(CIVIL THEFT)

159) AAN repeats and realleges the facts set forth in paragraphs 49-86 and 103.

160) Defendant Calderone knowingly removed artwork from AAN premises with the intent to permanently deprive AAN of the right to ownership of that artwork and to appropriate that artwork to his own use. The total value of this stolen artwork was \$50,000 before accounting for the costs of investigation and the ensuing disruptions to AAN.

161) Defendant Taylor knowingly removed coins from AAN premises with the intent to permanently deprive AAN of the right to ownership of those coins and to appropriate those coins to his own use. Upon information and belief, Defendant Taylor stole many coins, the total value

of which cannot be ascertained at present, but which are conservatively estimated to be worth at least \$10,000.

162) AAN, through undersigned counsel, sent statutory letters, pursuant to Fla. Stat. 772.11, to each defendant demanding that Defendants pay AAN the value of the items that Defendants stole from AAN. The total value of these coins and other damages to AAN was at least \$60,000.

163) AAN is entitled to compensatory damages from Defendants in the amount of \$50,000 from Defendant Calderone and \$10,000 from Defendant Taylor, which, upon trebling pursuant to Fla Stat. 772.11, amount to \$150,000 from Defendant Calderone and \$30,000 from Defendant Taylor, and attorney fees and costs for bringing this action.

COUNT VIII
(CONVERSION)

164) AAN repeats and realleges the facts set forth in paragraphs 49-86.

165) Defendant Calderone wrongfully appropriated AAN's artwork.

166) Defendant Taylor wrongfully appropriated AAN's coins.

167) Defendants' misappropriation of AAN property was inconsistent with AAN's ownership rights because Defendants did not account to AAN for any profits from the sale of these items which had been purchased by, paid for, or invoiced to AAN.

168) AAN was therefore deprived of its ownership rights in the merchandise that Defendants misappropriated.

169) AAN is entitled to punitive damages as well as compensation from Defendants for the fair value of the merchandise that Defendants converted.

COUNT IX
(MISAPPROPRIATION OF TRADE SECRETS)

170) AAN repeats and realleges the facts set forth in paragraphs 10-23 and 87-102.

171) AAN's confidential information, including customer lists and information, constitutes trade secrets because it derives independent economic value from not being generally known to, and not being readily ascertainable through proper means by, other persons who can obtain value from disclosure and use.

172) AAN took all reasonable steps under the circumstances to maintain the secrecy of its trade secrets, including requiring employees to agree to abide by the employee handbook and requiring Defendants to sign nondisclosure and noncompete agreements.

173) AAN's trade secrets, including customer lists and information, were misappropriated by Defendants in violation of Fla. Stat. § 688.001 *et seq.*

174) Defendants used improper means to obtain AAN's trade secrets.

175) AAN is entitled to its punitive and compensatory damages against Defendants based upon their misappropriation of AAN trade secrets.

COUNT X
(BREACH OF CONTRACT)

176) AAN repeats and realleges the facts set forth in paragraphs 10-23 and 87-102.

177) Both Defendants signed valid contracts with AAN that prohibit them from (a) disclosing and/or using AAN's confidential information, (b) copying AAN's confidential information, (c) soliciting AAN's customers by telephone, (d) soliciting AAN's customers by mail, or (e) competing with AAN in its television auction business.

178) Defendant Taylor has breached, and continues to breach, the terms, conditions, and obligations under his agreement with AAN. Defendant Taylor breached the contract by, *inter alia*, copying and disclosing AAN customers' names and contact information, soliciting those customers by telephone and mail, and competing with AAN in violation of the agreement.

179) Defendant Calderone breached the terms, conditions, and obligations under his agreement with AAN by competing with AAN in violation of the agreement.

180) AAN has been damaged as a result of Defendants' breach. As a consequence of the foregoing, AAN has suffered, and will continue to suffer, irreparable harm and loss.

181) AAN is entitled to damages caused by Defendants' breach of their agreements with AAN.

COUNT XI
(UNFAIR AND DECEPTIVE TRADE PRACTICES)

182) AAN repeats and realleges the facts set forth in paragraphs 10-23 and 85-102.

183) At all relevant times, Defendants solicited, advertised, offered, and provided goods and services by conducting auctions of artwork, coins, and other collectibles, and were thereby engaged in trade or commerce as defined in Fla. Stat. 501.203.

184) Defendants violated Fla. Stat. 501.204 by utilizing unfair methods of competition, engaging in unconscionable acts or practices; and disseminating unfair or deceptive messages in the conduct of trade or commerce.

185) Defendants wrongfully utilized trade secrets and confidential information that they acquired and / or wrongfully appropriated from AAN. Defendants used this information for their benefit and to AAN's detriment.

186) Defendants wrongfully targeted AAN customers by using AAN customer information to locate and entice AAN customers.

187) While soliciting AAN customers, Defendants issued false and misleading statements about AAN's business practices that were calculated to induce, and did induce, AAN customers to cease or reduce their dealings with AAN and / or begin dealing with Defendants.

188) Defendants' acts resulted in Defendants' unjust enrichment at AAN's expense.

Defendants' unfair methods of competition and unconscionable acts and practices in the conduct of their trade and commerce caused damage to AAN's business.

189) AAN is entitled to its damages caused by Defendants' unfair and deceptive trade practices.

JURY DEMAND

AAN requests a trial by jury as to all claims that may be tried to a jury.

PRAYER FOR RELIEF

WHEREFORE, AAN requests the following relief:

- (a) That Defendants immediately return all AAN property;
- (b) That Defendants pay AAN the value of any property that cannot be returned;
- (c) That Defendants disgorge to AAN their wages, including bonuses, that they received from AAN while engaging in some or all of the above-stated activity;
- (d) That Defendants disgorge to AAN any revenues, income or profits earned by any of them from the above-mentioned activity, including any bribes, kickbacks, "gifts," gratuities, or other payments received from any AAN vendor while Defendants were in Plaintiff's employ;
- (e) That this Honorable Court proclaim that Defendants' liability to AAN is joint and several;
- (f) That AAN receive actual, compensatory, and punitive damages, pre-judgment and post-judgment interest;
- (g) That AAN receive reasonable attorney fees and costs, pursuant to Fla. Stat. 772.104, Fla. Stat. 772.11, Fla. Stat. 688.005, and 18 U.S.C. § 1964(c);
- (h) That AAN receive treble damages pursuant to Fla. Stat. 772.104, Fla. Stat. 772.11, and 18 U.S.C. § 1964(c).

(i) That AAN receive such other and further necessary and proper relief as this Honorable Court may deem just and proper.

Filed: May 2, 2014.

Respectfully Submitted,

/s/Michael Paul Beltran

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