

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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TEKsystems, Inc.,

Plaintiff,

**CIVIL ACTION NO.** \_\_\_\_\_

vs.

Brelyn Hammernick, f/k/a Brelyn Kritz,  
Quinn VanGorden, Michael Hoolihan, and  
Horizontal Integration, Inc.,

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF**

Defendants.

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Plaintiff TEKsystems, Inc. (“TEKsystems”), by and through its undersigned counsel, brings the following Complaint against defendants Brelyn Hammernick, f/k/a Brelyn Kritz (“Hammernick”), Quinn VanGorden (“VanGorden”), Michael Hoolihan (“Hoolihan”) and Horizontal Integration, Inc. (“Horizontal Integration”), and states and alleges as follows:

**PARTIES AND JURISDICTION**

1. TEKsystems is a Maryland corporation with its principal place of business located in the state of Maryland. TEKsystems is a subsidiary of Allegis Group, Inc.

2. Hammernick is a former employee of TEKsystems who is now working for Horizontal Integration. Hammernick resides in Bloomington, Minnesota. Hammernick is formerly known as Brelyn Kritz. For purposes of this Complaint, she will be referred to at all times as “Hammernick.”

3. VanGorden is a former employee of TEKsystems who is now working for Horizontal Integration. VanGorden resides in Minneapolis, Minnesota.

4. Hoolihan is a former employee of TEKsystems who is now working for Horizontal Integration. Hoolihan resides in Burnsville, Minnesota.

5. Horizontal Integration is a Minnesota corporation with its principal place of business located in Minnetonka, Minnesota.

6. This Court has original jurisdiction over this action pursuant to the diversity of citizenship provisions contained in 28 U.S.C. § 1332, because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

7. Venue is placed in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial portion of the events giving rise to the claims occurred in this district.

**FACTUAL ALLEGATIONS FACTS COMMON TO ALL COUNTS**

8. TEKsystems is engaged in the business of recruiting, employing and providing the services of technical service personnel, industrial personnel and office personnel, including but not limited to, programmers, engineers, network specialist, systems administrators, technical support specialists, helpdesk support, security analysts, and other IT positions on a temporary or permanent basis to companies throughout the United States, and in the Minneapolis\St. Paul metropolitan area, in particular.

9. TEKsystems invested and continues to invest considerable resources to develop information, methods, and techniques to: (a) identify entities that utilize professional placement to fill staffing needs; (b) identify the key individuals responsible for recruitment of professional employees within those entities; (c) maintain, develop and nurture a business relationship with those entities and individuals; (d) learn clients' business and technological needs; (e) develop innovative solutions to meet clients' staffing needs; (f) develop, screen, and maintain highly-qualified candidates for placement with its clients; and (g) set appropriate pricing to attract and maintain clients.

10. The information described in paragraph 9 is valuable, confidential, and proprietary to TEKsystems, and is not generally known in the public domain.

11. Individuals employed by TEKsystems who are involved in recruitment of potential candidates and placement, inter alia, become inexorably and intimately knowledgeable regarding TEKsystems' clients, financial information regarding its clients' rates, its contacts for those clients, its clients' needs, and the candidates TEKsystems has or may have to fill those needs.

12. The aforementioned information has significant economic value to TEKsystems, and would be of significant economic value to competitors in the professional recruitment and placement industry.

13. To protect its legitimate business interests with respect to the aforementioned information, TEKsystems requires that the individuals it employs to conduct professional recruitment and placement sign restrictive covenants and non-disclosure agreements as a condition of employment.

14. Prior to their employment with TEKsystems, Hammernick, VanGorden and Hoolihan had no knowledge of TEKsystems' confidential information or trade secrets, i.e., the identity of TEKsystems' clients, its contacts for those clients, pricing for various clients, its clients' needs and the data bank of information regarding potential candidates to fill positions.

15. In carrying out their duties, Hammernick, VanGorden and Hoolihan had access to proprietary and confidential information, including but not limited to: Client Lists, Internal Employee Contracts, Client Service Agreements, Consultant Agreements, Road Books (print-outs of all clients and contacts within territory), AMS/Siebel reports (sales and documentation information), Bill Rate information based on skills of consultants and clients, Burden Sheets,

TeamTrak\RWS Information (resume and information database for all candidates), Hot Books, Submittal Logs, and Phone Interview Sheets. They also participated in meetings to discuss current and target accounts with other Account Managers in the office, learning about opportunities with the accounts they were servicing.

16. During their employment with TEKsystems, Hammernick, VanGorden and Hoolihan had a duty to, among other things, gain familiarity with candidates; to evaluate them; develop new clients; maintain business relationships with existing clients; develop and maintain lists of candidates, clients and contacts; and work diligently to develop the business of TEKsystems.

17. As employees of TEKsystems and through the use of TEKsystems' resources, Hammernick, VanGorden and Hoolihan developed and maintained relationships with the candidates in TEKsystems' database, as well as TEKsystems' clients.

18. Hammernick, VanGorden and Hoolihan's duties included creating goodwill for TEKsystems through personal contacts and business relationships.

19. As employees of TEKsystems and through the use of its resources, Hammernick, VanGorden and Hoolihan had access to and was exposed to the following confidential information:

- A. the identity of TEKsystems' clients;
- B. the identity of the contact persons at TEKsystems' clients who decide or have significant influence regarding which recruiting/placement firm(s) they will use;
- C. the billing rates TEKsystems charges each of its clients (which varied by client);
- D. the placement/recruitment history of TEKsystems with clients and current/future staffing requirements;
- E. margin tolerances regarding prices, wage rates of contract employees;

- F. sales and marketing strategies, and sales, recruiting, pricing and marketing techniques'
- G. the particular idiosyncrasies of each client/contact person including their preferences, likes, and dislikes regarding recruiting/placement;
- H. the employment histories, qualifications, contact information, and preferences of candidates suitable to satisfy clients' requirements.

20. The information referenced in paragraph 19 above is not otherwise obtainable from public sources and constitutes confidential information and trade secrets.

21. As employees of TEKsystems, Hammernick, VanGorden and Hoolihan each owed TEKsystems a duty of loyalty under Minnesota law to act solely in its best interests.

#### **HAMMERNICK'S EMPLOYMENT WITH TEKSYSTEMS**

22. On or about January 8, 2007, TEKsystems hired Hammernick for the position of Recruiter in its Edina, Minnesota office.

23. At all times relevant to this matter, Hammernick worked in TEKsystems' Edina office. For a period of her employment with TEKsystems, Hammernick worked directly with VanGorden as a recruiter and reported directly to him. VanGorden was responsible for mentoring Hammernick.

24. In her employment with TEKsystems, Hammernick was involved in searches to identify qualified candidates for placement, developed familiarity with candidates, and oversaw the placement process. She also had front-line responsibility for developing and maintaining TEKsystems' relationships with its clients in various industries. She was further responsible for negotiating Service Agreements and Vendors List Agreements, developing recruiters, maintaining consultants, and servicing national accounts.

25. Hammernick signed an Employment Agreement (the "Hammernick Agreement") with TEKsystems, which included Covenants Not To Compete, Not To Solicit and Not To

Divulge Confidential Information.

26. Hammernick signed the Hammernick Agreement on January 8, 2007. (A copy is attached as Exhibit A.)

27. The Agreement provides, inter alia, as follows:

**A. NON-COMPETE COVENANT:** EMPLOYEE agrees that upon the termination of EMPLOYEE's employment, whether by TEKsystems or EMPLOYEE and whether with or without cause, for a period of eighteen (18) months thereafter 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 TEKsystems' Business in which EMPLOYEE performed work during the two (2) year period preceding his/her termination of employment, within a radius of fifty (50) miles of 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) years preceding termination of employment, or as much geographic territory as a court of competent jurisdiction deems reasonable. The prohibitions contained in this Paragraph shall extend to (i) activities undertaken by EMPLOYEE directly on EMPLOYEE's own behalf, and to (ii) activities undertaken by EMPLOYEE indirectly through any individual, corporation or entity which undertakes such prohibited activities with EMPLOYEE's assistance and in or with respect to which EMPLOYEE is an owner, officer, director, trustee, shareholder, creditor, employee, agent, partner or consultant or participates in some other capacity.

**B. NON-SOLICITATION COVENANT:** EMPLOYEE agrees that upon the termination of EMPLOYEE's employment, whether by TEKsystems or EMPLOYEE and whether with or without cause, for a period of eighteen (18) months thereafter EMPLOYEE shall not directly or indirectly:

(a) Approach, contact, solicit or induce any individual, corporation or other entity which is a client or customer of TEKsystems, about which EMPLOYEE obtained knowledge by reason of EMPLOYEE's employment by TEKsystems, in an attempt to:

(i) enter into any business relationship with a client or customer of TEKsystems if the business relationship is competitive with any aspect of TEKsystems' Business in which EMPLOYEE

- worked during the two (2) year period preceding termination of employment, or
- (ii) reduce or eliminate the business such client or customer conducts with TEKsystems; or
- (b) Approach, contact, solicit or induce any Regular Employee of TEKsystems:
- (i) to provide services to any individual, corporation or entity whose business is competitive TEKsystems, or
  - (ii) to leave the employ of TEKsystems; or
- (c) Approach, contact, solicit or induce any person who has been a Contract Employee within the two (2) year period prior to the date of termination of EMPLOYEE's employment and about whom EMPLOYEE obtained knowledge by reason of EMPLOYEE's employment with TEKsystems:
- (i) to cease working for TEKsystems at clients or customers of TEKsystems, or
  - (ii) to refrain from beginning work for TEKsystems at clients or customers of TEKsystems, or
  - (iii) to provide services to any individual, corporation or entity whose business is competitive with TEKsystems.
- (d) As used in this Paragraph 4: "Regular Employee" means an employee of TEKsystems who is not a "Contract Employee"; and "Contract Employee" means an employee or candidate for employment of TEKsystems who is or was employed to perform services or solicited by EMPLOYEE to perform services at customers or clients of TEKsystems.
- (e) The prohibitions contained in (a), (b) and (c) above shall extend to (i) activities undertaken by EMPLOYEE directly on EMPLOYEE's own behalf, and to (ii) activities undertaken by EMPLOYEE indirectly through any individual, corporation or entity which undertakes such prohibited activities with EMPLOYEE's assistance and in or with respect to which EMPLOYEE is an owner, officer, director, trustee, shareholder, creditor, employee, agent, partner or consultant or participates in some other capacity.

(f) . . . .

**C. COVENANT NOT TO DIVULGE CONFIDENTIAL INFORMATION:** EMPLOYEE covenants and agrees that, except as required by the proper performance of EMPLOYEE's duties for TEKsystems, EMPLOYEE shall not use, disclose or divulge any Confidential Information of TEKsystems to any other person, entity or company besides TEKsystems. For purposes of this Agreement, "Confidential Information" shall mean information not generally known by TEKsystems' competitors or the general public concerning TEKsystems and that TEKsystems take reasonable measures to keep secret, including but not limited to: their financial affairs, sales and marketing strategy, acquisition plans, pricing and costs; their customers' names, addresses, telephone numbers, contact persons, staffing requirements, margin tolerances regarding pricing, and the names, addresses, telephones numbers, skill sets, availability and wage rates of its temporary or contract personnel; sales, recruiting, pricing and marketing techniques, sales and recruiting manuals, forms and processes for acquiring and recording information, financial controls, and management practices, procedures and processes.

28. The Hammernick Agreement also provides that "[i]f EMPLOYEE's employment with TEKsystems is terminated by either EMPLOYEE or TEKsystems, the parties agree that the terms of Paragraphs 3 through 13 of this Hammernick Agreement shall survive the termination of EMPLOYEE's employment with TEKsystems." (Ex. A, at ¶ 2.)

29. The Hammernick Agreement contains a choice of law provision to apply Maryland law.

30. Hammernick's employment with TEKsystems ended on November 13, 2009.

31. By the fact of her employment with TEKsystems, and the knowledge she derived therefrom, Hammernick took with her TEKsystems' sensitive, confidential, proprietary and trade secret information.

32. In particular, Hammernick took with her knowledge regarding TEKsystems' clients, the contact persons of those clients, the idiosyncrasies of the clients/contact persons, the



clients' recruiting/placement needs, and the account managers' assessment of the clients' future needs and plans for meeting those needs.

**HAMMERNICK'S POST-TERMINATION CONDUCT**

33. While the exact date of employment is as yet unknown, Hammernick is now employed by Horizontal Integration in Minnetonka, Minnesota.

34. Horizontal Integration is engaged in the business of recruitment and placement of employees on a temporary or permanent basis. Horizontal Integration competes in the same marketplace as TEKsystems in the Minneapolis\St. Paul metropolitan area.

35. Hammernick's employment with Horizontal Integrations is in violation of Section 3 of the Hammernick Agreement.

36. Upon information and belief, while still working for TEKsystems, and/or since joining Horizontal Integration, Hammernick has:

- (a) contacted Contract Employees of TEKsystems on behalf or for the benefit of Horizontal Integration, and in violation of the Hammernick Agreement;
- (b) contacted the key contact persons at clients of TEKsystems (information she knew only by virtue of her employment with TEKsystems) on behalf or for the benefit of Horizontal Integration and in violation of the Hammernick Agreement;
- (c) solicited business on behalf or for the benefit of Horizontal Integration in violation of the Hammernick Agreement; and/or

- (d) placed/filled vacancies with clients of TEKsystems on behalf or for the benefit of Horizontal Integration in violation of the Hammernick Agreement.

37. Hammernick is soliciting TEKsystems' Contract Employees and clients in the geographic area encompassed by the non-competition and non-solicitation provisions of the Hammernick Agreement. For example, Hammernick has communicated with at least 20 of TEKsystems' Contract Employees using such electronic networking systems as "Linkedin." Hammernick has, at a minimum, "connected" with the following TEKsystems' employees through "Linkedin: Harold Osmundson, Steve Wicks, Kazim Merchant, Shawn Faber, Srujana Pasunuri, Shailaja Garishakurti, Kevin Jordahl, Mitha KC, Carl Boudreau, Tom Peterson, Seann Van Cleve, Bob Hasselman, Marcia Diterich, Bill Severson, Claude Wallander, and Brett Snaza. In her contacts with Tom Peterson, Hammernick asked Peterson if he was "still looking for opportunities." She then stated that she "would love to have [you] come visit my new office and hear about some of the stuff we are working on." (Exhibit D.)

38. Upon information and belief, Hammernick has realized earnings, commissions, and/or profits from using, soliciting and disclosing confidential information and trade secrets in violation of her the Hammernick Agreement.

39. Hammernick's violation of her "non-compete," "non-disclosure," and "non-solicitation" covenants has and will continue to cause TEKsystems irreparable damage in excess of \$75,000, exclusive of interest and costs, which represents the value of the rights sought to be protected by TEKsystems.

40. Upon information and belief, Hammernick has violated the duty of loyalty she owed to TEKsystems. Prior to leaving TEKsystems, Hammernick sent emails to a number of

candidates advising them that she was leaving TEKsystems and joining Horizontal Integration. Hammernick invited these candidates to contact her at Horizontal Integration. Upon information and belief, a number of these candidates have contacted Hammernick since she joined Horizontal Integration. Further, on her last day of employment, Hammernick connected two USB drives to her computer and downloaded information onto a CD-ROM.

41. Upon information and belief, Horizontal Integration has encouraged, approved and/or ratified Hammernick's unlawful and improper actions.

#### **VANGORDEN'S EMPLOYMENT WITH TEKSYSTEMS**

42. On or about January 23, 2005, TEKsystems hired VanGorden for its Edina, Minnesota office. Ultimately, VanGorden was a salesperson for TEKsystems.

43. At all times relevant to this matter, VanGorden worked in TEKsystems' Edina office. Hammernick worked closely with VanGorden as a recruiter, reported directly to him and was mentored by him.

44. In his employment with TEKsystems, VanGorden was involved in searches to identify qualified candidates for placement, developed familiarity with candidates, and oversaw the placement process. He also had front-line responsibility for developing and maintaining TEKsystems' relationships with its clients in various industries. He was further responsible for negotiating Service Agreements and Vendors List Agreements, developing recruiters, maintaining consultants, and servicing national accounts.

45. VanGorden signed an Employment Agreement (the "VanGorden Agreement") with TEKsystems, which included Covenants Not To Compete, Not To Solicit and Not To Divulge Confidential Information.

46. VanGorden signed the VanGorden Agreement on January 13, 2005. (A copy of the VanGorden Agreement is attached as Exhibit B.)

47. The Agreement provides, inter alia, as follows:

**A. NON-COMPETE COVENANT:** EMPLOYEE agrees that upon the termination of EMPLOYEE's employment, whether by TEKsystems or EMPLOYEE and whether with or without cause, for a period of eighteen (18) months thereafter 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 TEKsystems' Business in which EMPLOYEE performed work during the two (2) year period preceding his/her termination of employment, within a radius of fifty (50) miles of 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) years preceding termination of employment, or as much geographic territory as a court of competent jurisdiction deems reasonable. The prohibitions contained in this Paragraph shall extend to (i) activities undertaken by EMPLOYEE directly on EMPLOYEE's own behalf, and to (ii) activities undertaken by EMPLOYEE indirectly through any individual, corporation or entity which undertakes such prohibited activities with EMPLOYEE's assistance and in or with respect to which EMPLOYEE is an owner, officer, director, trustee, shareholder, creditor, employee, agent, partner or consultant or participates in some other capacity.

**B. NON-SOLICITATION COVENANT:** EMPLOYEE agrees that upon the termination of EMPLOYEE's employment, whether by TEKsystems or EMPLOYEE and whether with or without cause, for a period of eighteen (18) months thereafter EMPLOYEE shall not directly or indirectly:

(a) Approach, contact, solicit or induce any individual, corporation or other entity which is a client or customer of TEKsystems, about which EMPLOYEE obtained knowledge by reason of EMPLOYEE's employment by TEKsystems, in an attempt to:

(i) enter into any business relationship with a client or customer of TEKsystems if the business relationship is competitive with any aspect of TEKsystems' Business in which EMPLOYEE worked during the two (2) year period preceding termination of employment, or

- (ii) reduce or eliminate the business such client or customer conducts with TEKsystems; or
- (b) Approach, contact, solicit or induce any Regular Employee of TEKsystems:
  - (i) to provide services to any individual, corporation or entity whose business is competitive TEKsystems, or
  - (ii) to leave the employ of TEKsystems; or
- (c) Approach, contact, solicit or induce any person who has been a Contract Employee within the two (2) year period prior to the date of termination of EMPLOYEE's employment and about whom EMPLOYEE obtained knowledge by reason of EMPLOYEE's employment with TEKsystems:
  - (i) to cease working for TEKsystems at clients or customers of TEKsystems, or
  - (ii) to refrain from beginning work for TEKsystems at clients or customers of TEKsystems, or
  - (iii) to provide services to any individual, corporation or entity whose business is competitive with TEKsystems.
- (d) As used in this Paragraph 4: "Regular Employee" means an employee of TEKsystems who is not a "Contract Employee"; and "Contract Employee" means an employee or candidate for employment of TEKsystems who is or was employed to perform services or solicited by EMPLOYEE to perform services at customers or clients of TEKsystems.
- (e) The prohibitions contained in (a), (b) and (c) above shall extend to (i) activities undertaken by EMPLOYEE directly on EMPLOYEE's own behalf, and to (ii) activities undertaken by EMPLOYEE indirectly through any individual, corporation or entity which undertakes such prohibited activities with EMPLOYEE's assistance and in or with respect to which EMPLOYEE is an owner, officer, director, trustee, shareholder, creditor, employee, agent, partner or consultant or participates in some other capacity.
- (f) . . . .

C. **COVENANT NOT TO DIVULGE CONFIDENTIAL INFORMATION:** EMPLOYEE covenants and agrees that, except as required by the proper performance of EMPLOYEE's duties for TEKsystems, EMPLOYEE shall not use, disclose or divulge any Confidential Information of TEKsystems to any other person, entity or company besides TEKsystems. For purposes of this Agreement, "Confidential Information" shall mean information not generally known by TEKsystems' competitors or the general public concerning TEKsystems and that TEKsystems take reasonable measures to keep secret, including but not limited to: their financial affairs, sales and marketing strategy, acquisition plans, pricing and costs; their customers' names, addresses, telephone numbers, contact persons, staffing requirements, margin tolerances regarding pricing, and the names, addresses, telephones numbers, skill sets, availability and wage rates of its temporary or contract personnel; sales, recruiting, pricing and marketing techniques, sales and recruiting manuals, forms and processes for acquiring and recording information, financial controls, and management practices, procedures and processes.

48. The VanGorden Agreement provides that "[i]f EMPLOYEE's employment with TEKsystems is terminated by either EMPLOYEE or TEKsystems, the parties agree that the terms of Paragraphs 3 through 13 of this VanGorden Agreement shall survive the termination of EMPLOYEE's employment with TEKsystems." (Ex. B, at ¶ 2.)

49. The VanGorden Agreement also contains a choice of law provision to apply Maryland law.

50. VanGorden's employment with TEKsystems ended on June 30, 2009.

51. By the fact of his employment with TEKsystems, and the knowledge he derived therefrom, VanGorden took with him TEKsystems' sensitive, confidential, proprietary and trade secret information.

52. In particular, VanGorden took with her knowledge regarding TEKsystems' clients, the contact persons of those clients, the idiosyncrasies of the clients/contact persons, the clients' recruiting/placement needs, and the account managers' assessment of the clients' future needs and plans for meeting those needs.

**VANGORDEN'S POST-TERMINATION CONDUCT**

53. While the exact date of employment is as yet unknown, VanGorden is now employed by Horizontal Integration in Minnetonka, Minnesota.

54. Horizontal Integration is engaged in the business of recruitment and placement of employees on a temporary or permanent basis. Horizontal Integration competes in the same marketplace as TEKsystems in the Minneapolis\St. Paul metropolitan area. By providing services to Horizontal Integration, VanGorden is violating Section 3 of the VanGorden Agreement.

55. Upon information and belief, since joining Horizontal Integration, VanGorden has:

- (a) Approached, contacted, solicited and induced Hammernick to leave TEKsystems and join Horizontal Integration;
- (b) contacted Contract Employees of TEKsystems on behalf or for the benefit of Horizontal Integration, and in violation of the VanGorden Agreement;
- (c) contacted the key contact persons at clients of TEKsystems (information she knew only by virtue of his employment with TEKsystems) on behalf or for the benefit of Horizontal Integration and in violation of the VanGorden Agreement;
- (d) solicited business on behalf or for the benefit of Horizontal Integration in violation of the VanGorden Agreement; and/or

- (e) placed/filled vacancies with clients of TEKsystems on behalf or for the benefit of Horizontal Integration in violation of the VanGorden Agreement.

56. Upon Information and belief, VanGorden is soliciting TEKsystems' Regular Employees, Contract Employees and clients in the geographic area encompassed by the non-competition and non-solicitation provisions of the VanGorden Agreement. Also upon information and belief, VanGorden has violated the duty of loyalty he owed to TEKsystems.

57. Upon information and belief, VanGorden has realized earnings, commissions, and/or profits from using, soliciting and disclosing confidential information and trade secrets in violation of the VanGorden Agreement.

58. VanGorden's violation of his "non-compete," "non-disclosure," and "non-solicitation" covenants has and will continue to cause TEKsystems irreparable damage in excess of \$75,000, exclusive of interest and costs, which represents the value of the rights sought to be protected by TEKsystems.

59. Upon information and belief, Horizontal Integration has encouraged, approved and/or ratified VanGorden's unlawful and improper actions.

#### **HOOLIHAN'S EMPLOYMENT WITH TEKSYSTEMS**

60. On or about September 19, 1999, TEKsystems hired Hoolihan to work in its Edina, Minnesota office. Hoolihan eventually became a salesperson in that office.

61. At all times relevant to this matter, Hoolihan worked in TEKsystems' Edina office.

62. In his employment with TEKsystems, Hoolihan was involved in searches to identify qualified candidates for placement, developed familiarity with candidates, and oversaw



the placement process. He also had front-line responsibility for developing and maintaining TEKsystems' relationships with its clients in various industries. He was further responsible for negotiating Service Agreements and Vendors List Agreements, developing recruiters, maintaining consultants, and servicing national accounts.

63. As a condition to, and in consideration of, Hoolihan becoming employed by TEKsystems, Hoolihan was required to sign an Employment Agreement (the "Hoolihan Agreement"), which included Covenants Not To Compete, Not To Solicit and Not To Divulge Confidential Information.

64. He signed the Hoolihan Agreement on September 20, 1999. (A copy of the Hoolihan Agreement is attached as Exhibit C.)

65. The Agreement provides, inter alia, as follows:

3. **COVENANT NOT TO COMPETE:** EMPLOYEE agrees that upon the termination of his/her employment, whether by [TEKsystems] or EMPLOYEE and whether with or without cause, for a period of eighteen (18) months thereafter EMPLOYEE shall not:

- (1) Engage in the business of recruiting or providing on a temporary or permanent basis technical service personnel (including, but not limited to, such personnel as engineers, designers, drafters, computer programmers, database administrators, systems analysts or other similarly skilled individuals engaged in similar lines of work), industrial personnel (including, but not limited to, assemblers, warehousemen, shipping/receiving, technicians, or other similarly skilled individuals engaged in similar lines of work), or office support personnel (including, but not limited to, secretaries, data entry personnel, mailroom personnel, administrative assistants, word processors, desktop publishers or other similarly skilled individuals engaged in similar lines of work) within a radius of fifty (50) miles of the office in which EMPLOYEE worked at the time his/her employment terminated, or any other office in which EMPLOYEE worked during the two (2) years preceding termination of employment, or as much thereof as a court of competent jurisdiction deems reasonable;
- (2) Approach, contact, solicit, divert or accept technical service personnel, industrial personnel or office support personnel to

provide services on a temporary or permanent basis to any individual, corporation or other entity which, at any time within two (2) years prior to the date of termination of EMPLOYEE'S employment, was a client or customer of [TEKsystems], or diverting or inducing such personnel to cease working for [TEKsystems] or its clients or customers;

- (3) Approach, contact or solicit any individual, corporation or other entity which, at any time within the two (2) years prior to the date of termination of EMPLOYEE'S employment, was a client or customer of [TEKsystems], regarding
  - (a) recruiting or providing on a temporary or permanent basis technical service personnel, industrial personnel or office support personnel, or
  - (b) reducing or eliminating the business it conducts with [TEKsystems]; or
- (4) induce or attempt to induce any person
  - (a) who was an employee of [TEKsystems] at the date of termination or,
  - (b) who has been an employee of [TEKsystems] during the two (2) years prior to such termination,

to leave the employ of the [TEKsystems], whether to join EMPLOYEE in a similar enterprise or otherwise.

The prohibitions contained in (1), (2), (3) and (4) above shall extend to activities undertaken by EMPLOYEE directly on his/her own behalf and activities undertaken by EMPLOYEE indirectly through any entity which undertakes such prohibited activities and in or with respect to which EMPLOYEE is an owner, officer, director, trustee, shareholder, creditor, employee, agent, partner or consultant or participates in some other capacity.

66. The Hoolihan Agreement provides that “if EMPLOYEE’s employment with [TEKsystems] is terminated by either EMPLOYEE or [TEKsystems], the parties agree that the terms of Paragraphs 3 through 12 of this Agreement shall survive the termination of EMPLOYEE’s employment with [TEKsystems].” (Ex. C, at ¶ 2.)

67. The Hoolihan Agreement also contains a choice of law provision to apply Maryland law.

68. Hoolihan's employment with TEKsystems ended on February 23, 2010.

69. By the fact of his employment with TEKsystems, and the knowledge she derived therefrom, Hoolihan took with him TEKsystems' sensitive, confidential, proprietary and trade secret information.

70. In particular, Hoolihan took with him knowledge regarding TEKsystems' clients, the contact persons of those clients, the idiosyncrasies of the clients/contact persons, the clients' recruiting/placement needs, and the account managers' assessment of the clients' future needs and plans for meeting those needs.

#### **HOOLIHAN'S POST-TERMINATION CONDUCT**

71. While the exact date of employment is as yet unknown, Hoolihan is now employed by Horizontal Integration in Minnetonka, Minnesota.

72. Horizontal Integration is engaged in the business of recruitment and placement of employees on a temporary or permanent basis. Horizontal Integration competes in the same marketplace as TEKsystems in the Minneapolis\St. Paul metropolitan area.

73. Upon information and belief, since joining Horizontal Integration, Hoolihan has:

- (a) contacted Contract Employees of TEKsystems on behalf or for the benefit of Horizontal Integration, and in violation of the Hoolihan Agreement;
- (b) contacted the key contact persons at clients of TEKsystems (information she knew only by virtue of his employment with TEKsystems) on behalf or for the benefit of Horizontal Integration and in violation of the Hoolihan Agreement;

- (c) solicited business on behalf or for the benefit of Horizontal Integration in violation of the Hoolihan Agreement; and/or
- (d) placed/filled vacancies with clients of TEKsystems on behalf or for the benefit of Horizontal Integration in violation of the Hoolihan Agreement.

74. Hoolihan is using the same sub-vendor, Magna Systems, to obtain candidates to fill positions for Horizontal Integration. For example, on March 4, 2010, Hoolihan sent an email to Magna Systems requesting information on candidates. Upon information and belief, Hoolihan is using TEKsystems confidential information in this process.

75. Upon information and belief, Hoolihan has realized earnings, commissions, and/or profits from using, soliciting and disclosing confidential information and trade secrets in violation of the Hoolihan Agreement.

76. Hoolihan's violation of his "non-compete," "non-disclosure," and "non-solicitation" covenants has and will continue to cause TEKsystems irreparable damage in excess of \$75,000, exclusive of interest and costs, which represents the value of the rights sought to be protected by TEKsystems.

77. Upon information and belief, Horizontal Integration has encouraged, approved and/or ratified Hoolihan's unlawful and improper actions.

#### **ALLEGATIONS AGAINST HORIZONTAL INTEGRATION**

78. Horizontal Integration competes with TEKsystems.

79. Jeremy Langevin ("Langevin") is in charge of sales and marketing at Horizontal Integration. Langevin previously worked for TEKsystems and worked with VanGorden and Hoolihan.

80. Upon information and belief, Langevin — in connection with other Horizontal Integration employees — tortiously interfered with TEKsystems' contractual relationship with, at a minimum, VanGorden and Hoolihan.

**COUNT I - BREACH OF CONTRACT**  
**(AGAINST HAMMERNICK, VANGORDEN AND HOOLIHAN)**

81. TEKsystems incorporates and realleges paragraphs 1 through 80 of this Complaint as though fully set forth herein.

82. The conduct of Hammernick, VanGorden and Hoolihan as alleged herein constitutes a breach of the provisions of the Hammernick Agreement.

83. As a result of Hammernick, VanGorden and Hoolihan's breaches of their respective agreements, TEKsystems has been and will continue to be severely and irreparably damaged.

84. All conditions precedent necessary for the enforcement of these agreements have been satisfied.

85. TEKsystems will not have an adequate remedy at law for the harm and damage which Hammernick, VanGorden and Hoolihan's breaches will cause.

**COUNT II - BREACH OF CONFIDENTIALITY AGREEMENT**  
**(AGAINST HAMMERNICK, VANGORDEN AND HOOLIHAN)**

86. TEKsystems incorporates and re-alleges paragraphs 1 through 85 of this Complaint as though fully set forth herein.

87. Hammernick, VanGorden and Hoolihan are subject to confidentiality provisions of their agreements, which are reasonable, valid and enforceable.

88. Upon information and belief, Hammernick, VanGorden and Hoolihan have breached the confidentiality terms of their agreements. Also upon information and belief, Hammernick, VanGorden and Hoolihan are also liable for breach of the confidentiality terms of

their agreements by Horizontal Integration through its agents or apparent agents, officers or employees.

89. As a result of the actions of Hammernick, VanGorden and Hoolihan, TEKsystems has been and will be severely and irreparably damaged.

90. By virtue of the aforesaid actions, Hammernick, VanGorden and Hoolihan breached their duties not to use, in competition with TEKsystems, its trade secrets and confidential information.

91. TEKsystems will not have an adequate remedy at law for the harm and damage that Hammernick's breach of the confidentiality provisions will continue to cause.

**COUNT III - TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS**  
**(AGAINST HAMMERNICK, VANGORDEN AND HOOLIHAN)**

92. TEKsystems incorporates and re-alleges paragraphs 1 through 91 of this Complaint as though fully set forth herein.

93. Through their employment at TEKsystems, Hammernick, VanGorden and Hoolihan knew of TEKsystems' contractual relationships with its clients and Regular Employees and Contract and/or previously had worked with these persons while employed by TEKsystems.

94. Upon information and belief, Hammernick, VanGorden and Hoolihan have intentionally, maliciously, and without justification or privilege acted to deprive TEKsystems of its existing customer and Contract Employee contractual relationships by, among other things, misappropriating and misusing confidential information.

95. Additionally, at least VanGorden has intentionally, maliciously, and without justification or privilege acted to deprive TEKsystems of its contractual relationship with Hammernick.

96. Hammernick, VanGorden and Hoolihan's interference with TEKsystems' business was wrongful and tortious.

97. As a result of the tortious actions by Hammernick, VanGorden and Hoolihan, TEKsystems has been and will continue to be severely and irreparably damaged.

98. TEKsystems will not have an adequate remedy at law for the harm and damage that the acts of Hammernick, VanGorden and Hoolihan and their tortious interference with TEKsystems' business relations will cause.

**COUNT IV - MISAPPROPRIATION OF TRADE SECRETS**  
**(AGAINST HAMMERNICK, VANGORDEN AND HOOLIHAN)**

99. TEKsystems incorporates and realleges paragraphs 1 through 98 of this Complaint as though fully set forth herein.

100. Upon information and belief, Hammernick, VanGorden and Hoolihan each have in their possession confidential information of TEKsystems concerning its business plans, customer lists, consultants, financial information concerning the company's products and other proprietary information relating to TEKsystems' business, the disclosure and misappropriation of which poses a significant threat to TEKsystems' ongoing business in Minnesota.

101. TEKsystems has made reasonable efforts to maintain the confidentiality of such information.

102. TEKsystems' confidential information, including but not limited to customer lists, has actual and potential independent and economic value to TEKsystems and is not generally known to nor readily ascertainable by TEKsystems' competitors.

103. TEKsystems' confidential information, including but not limited to customer lists, were developed by TEKsystems and constitute "trade secrets" within the meaning of Minnesota's Uniform Trade Secret Act, Minn. Stat. § 325C.01 et seq. ("Act").

104. Hammernick, VanGorden and Hoolihan have violated the Act through their conduct as described above.

105. As a direct and proximate result of Hammernick, VanGorden and Hoolihan's violation of the Act, TEKsystems has been and will continue to be severely and irreparably damaged.

106. This Court has jurisdiction to enjoin the actual or threatened misappropriation of TEKsystems' trade secrets pursuant to the Act and is authorized to award damages for such misappropriation pursuant to the Act.

**COUNT V – BREACH OF THE DUTY OF LOYALTY**  
**(AGAINST HORIZONTAL INTEGRATION)**

107. TEKsystems incorporates and realleges paragraphs 1 through 106 of this Complaint as though fully set forth herein.

108. Hammernick, VanGorden and Hoolihan each owed TEKsystems a duty of loyalty under Minnesota law..

109. Hammernick, VanGorden and Hoolihan have breached this duty.

110. As a direct and proximate result of these breaches, without justification or privilege, TEKsystems has been severely and irreparably damaged.

111. TEKsystems will not have an adequate remedy at law for the harm and damage that the acts of Horizontal Integration and its tortious interference with TEKsystems' contract will cause.

**COUNT VI – TORTIOUS INTERFERENCE WITH CONTRACT**  
**(AGAINST HORIZONTAL INTEGRATION)**

112. TEKsystems incorporates and realleges paragraphs 1 through 117 of this Complaint as though fully set forth herein.



113. TEKsystems has a valid and enforceable agreements with Hammernick, VanGorden and Hoolihan. TEKsystems also has valid and enforceable agreements with its clients.

114. Horizontal Integration has knowledge of these agreements.

115. Despite its knowledge of the terms of Hammernick, VanGorden and Hoolihan's post-employment restrictions under these agreements, Horizontal Integration has intentionally and improperly interfered with Hammernick, VanGorden and Hoolihan's performance of the Agreement by continuing to employ them and endorsing and/or ratifying their breaches of this Agreement. Horizontal Integration's actions in causing Hammernick, VanGorden and Hoolihan not to perform these agreements were and are not justified or privileged. Similarly, Horizontal Integration has knowledge of TEKsystems' contracts with its customers and knowingly interfered with these contracts without justification or privilege.

116. As a direct and proximate result of Horizontal Integration's improper interference, without justification or privilege, TEKsystems has been severely and irreparably damaged.

117. TEKsystems will not have an adequate remedy at law for the harm and damage that the acts of Horizontal Integration and its tortious interference with TEKsystems' contract will cause.

#### **COUNT VI - EQUITABLE ACCOUNTING**

118. TEKsystems incorporates and realleges paragraphs 1 through 117 of this Complaint as though fully set forth herein.

119. Upon information and belief, Hammernick, VanGorden and Hoolihan breached their agreements by, among other things:

- (a) diverting and misappropriating proprietary and confidential information from TEKsystems; and
- (b) realizing profits and receiving money through her misuse of TEKsystems' confidential and proprietary information.

120. By signing their agreements, Hammernick, VanGorden and Hoolihan agreed that if they breached any of the covenants they would pay an amount equal to 100% of the gross profit, or 25% of the gross sales, whatever amount is greater, resulting from business they generates, either directly or indirectly, from soliciting or competing for TEKsystems' accounts or candidates.

121. TEKsystems believes that Hammernick, VanGorden and Hoolihan have derived a substantial profit or other revenues through their misuse of TEKsystems' confidential and proprietary information.

**STATEMENT OF IRREPARABLE INJURY TO PLAINTIFF**

122. TEKsystems has been and continues to be subjected to irreparable injury for which no remedy at law exists.

123. Given the fierce competition in the professional staffing business and the sales and revenue at stake, the unlawful actions by Hammernick, VanGorden, Hoolihan and Horizontal Integration, their agents and those acting in concert with them, are causing and will continue to cause great and irreparable harm to TEKsystems' business which cannot be adequately remedied by an award of monetary damages. The actions described herein are causing and will continue to cause TEKsystems harm and irreparable damage insofar as that conduct interferes with TEKsystems' established business relationships and providing staffing services to customers and prospective customers, interferes with TEKsystems' business

opportunities, interferes with candidates or recruiting relationships, and damages TEKsystems' reputation, goodwill and competitive position. TEKsystems will continue to suffer such injury unless Hammernick, VanGorden, Hoolihan and Horizontal Integration, their agents and persons acting in concert with them are restrained and enjoined from continuing the unlawful conduct and from breaching or interfering with the provisions of Hammernick's Agreement.

**PRAYER FOR INJUNCTIVE RELIEF AND DAMAGES**

WHEREFORE, TEKsystems demands the following:

- a. an injunction prohibiting Hammernick, VanGorden and Hoolihan from using or disclosing proprietary or confidential information of TEKsystems;
- b. an injunction prohibiting Hammernick, VanGorden and Hoolihan from violating, directly or indirectly, the non-solicitation provision of their respective agreements by soliciting or inducing clients about whom he\she had knowledge based on his\her employment with TEKsystems for purposes of entering into a competitive business relationship, or reducing or eliminating business with TEKsystems;
- c. an injunction prohibiting Hammernick, VanGorden and Hoolihan from violating, directly or indirectly, the non-solicitation provision of their respective agreements by soliciting or inducing Contract Employees who worked for TEKsystems in the two years prior to their termination and about whom they obtained knowledge for the purpose of ceasing or refraining work with a TEKsystems client or providing services to a competitor;
- d. an injunction prohibiting Hammernick, VanGorden and Hoolihan, for 18 months from the date of entry of an order, from working for Horizontal Integration or any other competitor of TEKsystems conducting business within a 50-mile radius of TEKsystems' Edina office;

e. an injunction prohibiting Horizontal Integration from interfering with TEKsystems' agreements with Hammernick, VanGorden and Hoolihan;

f. an injunction prohibiting Horizontal Integration from interfering with TEKsystems' agreements with its customers;

g. an accounting for and payment of any compensation, commission, bonus, salary, gratuity, emolument, or other gain received, directly or indirectly, by Hammernick, VanGorden and Hoolihan in any transaction or employment connected with the breach of the Agreement;

h. an injunction prohibiting Hammernick, VanGorden and Hoolihan from duplicating or disposing of any confidential or proprietary information or any money received or generated by Hammernick following her termination of employment with TEKsystems;

i. exemplary damages under Minn. Stat. § 325C.01 *et seq.*;

j. punitive damages, pursuant to common law;

k. actual damages;

l. costs, including reasonable attorneys' fees based on Minn. Stat. § 325C.01 *et seq.*;

and

m. such other and further relief as this Court may deem proper.

Date: March 16, 2010.

s/ George R. Wood

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George R. Wood (#0166017)

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**ATTORNEYS FOR PLAINTIFF  
TEKSYSTEMS, INC.**

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**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a jury for all claims properly triable thereby.

Date: March 16, 2010.

s/ George R. Wood

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