

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

NEW BREED, INC.,

Plaintiff,

v.

GREGORY ALBERT GOLDEN, JR.;  
BENJAMIN LANIER HOLDER;  
MICHAEL ERIC TURNER; KILEY  
CHET LANNING; and RAHUL S.  
BIDE,

Defendants.

IN THE GENERAL COURT OF  
JUSTICE  
SUPERIOR COURT DIVISION

2012 JUL 1  
CVS 7847

BY



COMPLAINT

Plaintiff alleges as follows:

#### OVERVIEW

1. This is an action for preliminary and permanent injunctive relief, and for compensatory, punitive and treble damages, against individuals who have in the past recruited and are currently illegally recruiting employees in the Information Technology ("IT") division of Plaintiff New Breed, Inc. ("New Breed") to join the IT department at a competitor, BE Aerospace, Inc. ("BE Aerospace"). Defendants formerly worked for New Breed and are now employed at BE Aerospace. Although Defendants promised in their employment agreements not to solicit, hire or attempt to hire New Breed's employees, they have ignored their promises and embarked — with the substantial assistance and encouragement of other individuals — on an effort to raid New Breed's IT division. Since April 1, 2012, sixteen (16) IT employees have either stopped working for New Breed or provided their notice of resignation. Most have secured positions with

BE Aerospace at the direct urging, encouragement and networking activities of Defendants and others. This action seeks redress for this unlawful conduct and an injunction requiring Defendants and those in concert with them to cease violating their legal obligations.

2. This action also seeks appropriate compensatory and treble damages and injunctive relief for Defendants' violation of their agreements against competition with New Breed. Because New Breed and BE Aerospace compete with one another in providing logistics services to the aerospace industry, Defendants' acceptance of positions of employment with BE Aerospace constitutes a violation of the agreements they signed with New Breed prohibiting them from such competition for one year.

#### **PARTIES AND EMPLOYMENT AGREEMENTS**

3. New Breed is a North Carolina corporation with its corporate headquarters located in High Point, Guilford County, North Carolina. New Breed designs, implements and operates comprehensive supply chain solutions for industry leaders and government/defense agencies. New Breed's IT division is integral to the Company's success.

4. Defendant Gregory Albert Golden, Jr. is a citizen and resident of Yadkin County, North Carolina. He entered into an Employment, Confidentiality and Non-Compete Agreement with New Breed on or about May 24, 2004. He resigned his employment with New Breed on or about September 9, 2011 and is currently working as an Oracle Database Manager for BE Aerospace.

5. Golden's employment agreement with New Breed provides, in pertinent part, that so long as he is employed by New Breed and for a period of twelve (12) months following termination of employment, he will not:

- a. Solicit, hire or attempt to hire any employee of New Breed or any of its affiliates who has been employed by New Breed or any of its affiliates at any time in the year preceding the date of his termination of employment to work for any entity associated with Golden; or
- b. Become employed with a Competitor, which includes any company "operating as a logistics company, third party logistics company or lead logistics company, including but not limited to, being involved in transportation and transportation solutions, warehousing, warehouse and inventory control, delivery and product management, supply chain management . . . , and inventory management solutions."

6. Defendant Benjamin Lanier Holder is a citizen and resident of Guilford County, North Carolina. He entered into an Employment, Confidentiality and Non-Compete Agreement with New Breed on or about August 12, 2009. He resigned his employment with New Breed on or about September 10, 2010 and is currently working as Corporate Director Enterprise Applications for BE Aerospace.

7. Holder's employment agreement with New Breed provides, in pertinent part, that so long as he is employed by New Breed and for a period of twelve (12) months following termination of employment, he will not:

- a. Solicit, hire or attempt to hire any individual who is then employed with the Company and with whom Holder came into contact or about whom Holder obtained Confidential Information while at the Company or induce or attempt to induce such individual to leave the Company's employment; or
- b. Become employed by a Competitor, which includes any company "operating as a logistics company, logistics operations within a business or company, third party logistics company or lead logistics company, including but not limited to, being engaged in the business of transportation and transportation solutions, warehousing, warehouse and inventory control, delivery and product management, supply chain management . . . , and inventory management solutions."

8. Defendant Michael Eric Turner is a citizen and resident of Forsyth County, North Carolina. He entered into an Employment, Confidentiality and Non-Compete Agreement with New Breed on or about January 18, 2008. He resigned his employment with New Breed on or about August 12, 2011 and is currently working as Global Technical Services Director for BE Aerospace.

9. Turner's employment agreement with New Breed provides, in pertinent part, that so long as he is employed by New Breed and for a period of twelve (12) months following termination of employment, he will not:

- a. Solicit, hire or attempt to hire any employee of New Breed or any of its affiliates who has been employed by New Breed or any of its affiliates at

any time in the year preceding the date of his termination of employment to work for any entity associated with Turner; or

- b. Become employed with a Competitor, which includes any company “operating as a logistics company, third party logistics company or lead logistics company, including but not limited to, being involved in transportation and transportation solutions, warehousing, warehouse and inventory control, delivery and product management, supply chain management . . . , and inventory management solutions.”

10. Defendant Kiley Chet Lanning is a citizen and resident of Guilford County, North Carolina. He entered into an Employment, Confidentiality and Non-Compete Agreement with New Breed on or about April 26, 2004. He resigned his employment with New Breed on or about June 8, 2012 and is currently working as a Senior Systems Administrator at BE Aerospace.

11. Lanning’s employment agreement with New Breed provides, in pertinent part, that so long as he is employed by New Breed and for a period of twelve (12) months following termination of employment, he will not:

- a. Solicit, hire or attempt to hire any employee of New Breed or any of its affiliates who has been employed by New Breed or any of its affiliates at any time in the year preceding the date of his termination of employment to work for any entity associated with Lanning; or
- b. Become employed with a Competitor, which includes any company “operating as a logistics company, third party logistics company or lead

logistics company, including but not limited to, being involved in transportation and transportation solutions, warehousing, warehouse and inventory control, delivery and product management, supply chain management . . . , and inventory management solutions.”

12. Defendant Rahul S. Bide is a citizen and resident of Guilford County, North Carolina. He entered into an Employment, Confidentiality and Non-Compete Agreement with New Breed on or about April 27, 2006. He resigned his employment with New Breed on or about July 11, 2012 to join the IT department of BE Aerospace.

13. Bide’s employment agreement with New Breed provides, in pertinent part, that so long as he is employed by New Breed and for a period of twelve (12) months following termination of employment, he will not:

- a. Solicit, hire or attempt to hire any employee of New Breed or any of its affiliates who has been employed by New Breed or any of its affiliates at any time in the year preceding the date of his termination of employment to work for any entity associated with Bide; or
- b. Become employed with a Competitor, which includes any company “operating as a logistics company, third party logistics company or lead logistics company, including but not limited to, being involved in transportation and transportation solutions, warehousing, warehouse and inventory control, delivery and product management, supply chain management . . . , and inventory management solutions.”

14. The aforementioned employment agreements between Defendants and New Breed (the "Employment Agreements") also provide that a breach or anticipated breach of the agreements will cause irreparable and permanent injury to New Breed and that New Breed, in such event, will be entitled to injunctive relief.

15. BE Aerospace is a Delaware corporation with its principal place of business located in Wellington, Florida. BE Aerospace's largest commercial aircraft manufacturing facility is located in Forsyth County, North Carolina, where Defendants work in the Corporate Data Center. BE Aerospace manufactures cabin interior products for commercial aircraft and distributes aerospace fasteners and consumables. A part of BE Aerospace's business involves logistics. In January 2012, BE Aerospace acquired UFC Aerospace Corp., a provider of complex supply chain management and inventory logistics solutions to aerospace equipment manufacturers.

#### **UNLAWFUL ACTIONS UNDERTAKEN BY DEFENDANTS**

16. New Breed, like BE Aerospace, provides logistics services to the aerospace industry. Logistics support for aerospace manufacturing includes demand planning; receiving and storage; vendor-managed inventory; and kit assembly and delivery. New Breed also manages service parts distribution programs in the aerospace industry, including service parts planning; order processing; inventory management; and delivery, including on ground (AOG) support and returns processing. New Breed was selected in 2006 as the lead logistics provider for the 787 Dreamliner final assembly and delivery program at Boeing's manufacturing campus in Everett, Washington. In 2010, Boeing

established a second 787 final assembly operation in North Charleston, South Carolina, and again selected New Breed to operate the support facility.

17. In addition, New Breed supports several other Boeing commercial and defense aviation programs. New Breed operates the Boeing Commercial Airplanes spare parts program for eastern North America, South America and Central America; the F/A-18 Integrated Readiness Support Teaming, or FIRST, program; and spares programs for the H-46 rotorcraft, Japanese and Italian KC-767 tankers, F-15s, the C-17 and the F-22. New Breed also provides parts kitting and line-side delivery services for new-build military rotorcraft programs at Boeing's Ridley Park, Pennsylvania manufacturing site that include the Chinook and V-22 Osprey.

18. Boeing recently selected New Breed to provide logistics and supply chain management of commercial aircraft fasteners in support of the Boeing Aggregated Standards Network (BASN) program. The program includes planning, ordering, storage and distribution of fasteners for up to 300 Boeing suppliers and 20 Boeing fastener manufacturers. Services New Breed provides for the BASN program include forecast aggregation for fasteners, capacity planning, supply base management, inbound transportation management, product storage, order processing and coordination of outbound transportation.

19. New Breed and BE Aerospace compete in providing logistics services in the aerospace industry. BE Aerospace, for example, directly competed with New Breed in the effort to secure aircraft fastener work for Boeing, as described above.



20. Defendants, aided and abetted by each other and by others, have engaged in a series of efforts to hire New Breed's IT employees in violation of the agreements they signed with New Breed. Defendants have done so either directly or indirectly, including by providing names and contact information to others within BE Aerospace and otherwise participating, directly or indirectly, in solicitation activities precluded by the Employment Agreements.

21. Defendants' unlawful activities have borne fruit. In June and July 2012, eleven (11) employees working in New Breed's IT department either left or provided notice that they will be leaving.

22. All or a majority of these eleven employees are going to work in BE Aerospace's IT Department, having been illegally recruited by Defendants. BE Aerospace's IT department supports business units across the entire BE Aerospace organization, including areas that compete directly with New Breed. BE Aerospace's data center and help desk specialists, for instance, provide technical support to personal computer and PC network users across the entire organization. In addition, IS Applications Analysts/Specialists within BE Aerospace provide a link between the IS Group and its functional business units, including Engineering, Manufacturing, Sales/Marketing, Finance, Human Resources and Supply Chain. Moreover, BE Aerospace's system and network administrators support, maintain, develop and troubleshoot the network infrastructure and related components with that company's manufacturing environment.

23. Each Defendant — when he recruited other individuals working for New Breed in the IT area to join BE Aerospace — understood that either his own agreement prohibited such activity or that the individuals with whom he was conspiring had such obligations. Turner and Golden each remain obligated not to solicit any New Breed employees to leave New Breed, and they have repeatedly violated that obligation, leading to the en masse resignation of multiple New Breed employees.

24. BE Aerospace is a Competitor of New Breed, as defined in the Employment Agreements. Each Defendant is working in an area of BE Aerospace's business that facilitates, promotes or encompasses BE Aerospace's competition against New Breed.

25. All Defendants except Holder are currently in breach of their own noncompete agreements by working at BE Aerospace. Each Defendant, including Holder, has aided and abetted the breach of noncompetition obligations by the other Defendants and has aided and abetted in the interference of contracts between New Breed and its IT employees who are leaving.

26. As a direct, proximate and foreseeable result of the violations of the aforementioned Employment Agreements, New Breed has been damaged and has incurred additional expense and damages including, *inter alia*, additional fees and expenses to replace departing employees.

#### **COUNT I—BREACH OF CONTRACT**

27. New Breed incorporates and realleges all of the foregoing allegations.

28. The Employment Agreements are valid, binding and enforceable contracts between New Breed and the Defendants.

29. Defendants breached the Employment Agreements by soliciting and hiring New Breed's IT employees and by working for a Competitor in violation of the Employment Agreements.

30. Defendants' breaches directly and proximately damaged New Breed.

31. New Breed is entitled to the relief more fully described below to redress these breaches.

#### **COUNT II – TORTIOUS INTERFERENCE WITH CONTRACT**

32. New Breed incorporates and realleges all of the foregoing allegations.

33. New Breed has valid contracts with its IT employees that prohibited those employees from going to work for a Competitor within a year of leaving New Breed's employment.

34. Defendants knew of these contracts.

35. Defendants intentionally induced New Breed's IT employees not to perform their contracts.

36. Defendants acted without justification.

37. Defendants' actions resulted in actual damage to New Breed, and New Breed is entitled to the relief set out below.

#### **COUNT III – CIVIL CONSPIRACY**

38. New Breed incorporates and realleges all of the foregoing allegations.

39. Defendants by and between themselves reached an agreement to do an unlawful act, including interfering with New Breed's employment agreements with its IT employees and breaching agreements prohibiting solicitation of New Breed's employees.

40. This unlawful agreement resulted in injury to New Breed inflicted by one or more of the conspirators.

41. The agreement and injury were accomplished pursuant to a common scheme, entitling New Breed to the relief more fully set out below.

#### **COUNT IV – UNFAIR AND DECEPTIVE TRADE PRACTICES**

42. New Breed incorporates and realleges all of the foregoing allegations.

43. Defendants have engaged in unfair or deceptive acts and practices in or affecting commerce. These actions include, but are not limited to, hiring New Breed's IT employees in large numbers designed to "raid" New Breed, all with the purpose and intent of harming a competitor, of acquiring trade secrets and/or confidential and proprietary information and of soliciting New Breed's employees secretly and in such a way as to deprive New Breed of the opportunity to retain the employees.

44. These actions offend established public policy, amount to unfair competition and are immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.

45. The aforementioned actions proximately caused actual injury to New Breed.

46. New Breed is entitled the relief set out below.

**PRAYER FOR RELIEF**

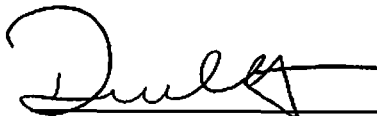
WHEREFORE, New Breed prays that the Court:

- A. On Counts I-IV, enter judgment against Defendants for compensatory damages proximately resulting from the unlawful conduct of Defendants;
- B. On Counts II and III, enter judgment against Defendants for punitive damages;
- C. On Count IV, enter judgment against Defendants for treble the compensatory damages and award New Breed its attorney's fees;
- D. Grant New Breed preliminary and permanent injunctive relief, in light of the irreparable harm caused by Defendants' actions; and
- E. Award New Breed any such other relief as may be just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury of any issue triable of right by a jury.

This the 17<sup>th</sup> day of July 2012.



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