

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

KRAFT HEINZ FOODS COMPANY,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
ZACHERY KLEIN and GOLDEN STATE)	JURY TRIAL DEMANDED
FOODS CORPORATION,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Kraft Heinz Foods Company (“Kraft Heinz” or the “Company”) for its complaint against Defendants Zachary Klein (“Klein”) and Golden State Foods Corporation (“Golden State”) (collectively “Defendants”), states as follows:

NATURE OF THE ACTION

1. Former employee Klein stole trade secrets from the foodservice division of Kraft Heinz, known as Kraft Heinz Away From Home (“AFH”), in order to bring them to a chief competitor in the foodservice condiment space, Golden State, where Golden State management is actively encouraging Klein to unfairly use the confidential and proprietary trade secret information he stole from Kraft Heinz. As such, this is an action for injunctive relief and damages arising out of Defendants’ trade secret misappropriation and other willful misconduct.

2. Before departing Kraft Heinz, Klein was on the AFH sales leadership team where he had access to trade secrets and other highly proprietary and competitively sensitive information. For example, the day before he tendered his resignation notice, Klein attended a leadership meeting offsite for the broader business unit, where the business unit’s confidential business plans and strategies were discussed extensively. When Klein announced he was leaving Kraft Heinz, he was evasive about where he was going. Now Kraft Heinz knows why. Kraft Heinz recently uncovered

evidence showing that Klein surreptitiously emailed some of Kraft Heinz's most sensitive trade secrets to his personal email account in the days before he left Kraft Heinz. And the trade secrets Klein stole—at least the ones that Kraft Heinz currently knows about—were purposely selected to provide maximum benefit to Golden State and inflict maximum damage on Kraft Heinz.

3. After Klein's departure, Kraft Heinz discovered an email that Klein sent to his personal Gmail account—before he departed Kraft Heinz but after he accepted a position with Golden State—in which Klein attached an Excel spreadsheet he secretly created to include Kraft Heinz's customer-specific pricing information for the most valuable product lines that AFH provides to some of its largest customer accounts. Klein attempted to mask his action by naming the file "Transition Log in info," but his intentions were clear—he only took customer-specific pricing information related to condiments, which is the primary market where Golden State competes with Kraft Heinz's AFH division. AFH also sells products like soup and condiment dispensers, but Klein's theft was laser-focused on information he could use at Golden State.

4. Klein has already disclosed Kraft Heinz's trade secrets. A confidential source that until recently worked for Golden State provided information to Kraft Heinz that Klein has been using Kraft Heinz's trade secrets to provide Golden State with an unfair advantage, including in a customer bidding process where Kraft Heinz and Golden State are competing. Upon information and belief, Klein's misconduct is being applauded and encouraged by Golden State management.

5. In the hands of a competitor like Golden State, and used by Klein, the trade secret information could be employed immediately to boost Golden State's sales and have catastrophic consequences on Kraft Heinz's sales, current customer relationships, and ongoing business strategies.

6. Before Kraft Heinz's customer relationships, confidential information, trade secrets, and goodwill are further eroded, Kraft Heinz seeks injunctive relief to protect their value.

PARTIES

7. Kraft Heinz is a limited liability company organized under the laws of the Commonwealth of Pennsylvania and co-headquartered in Pittsburgh, Pennsylvania and Chicago, Illinois. Kraft Heinz's members are Kraft Heinz Intermediate Corporation II and HJH Development Corporation, both corporations organized under the laws of the State of Delaware with their principal place of business in Pittsburgh, Pennsylvania.

8. Upon information and belief, Golden State is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Irvine, California.

9. Upon information and belief, Klein is the Director of Sales at Golden State; and, upon information and belief, he resides in and is a citizen of Dallas, Texas.

JURISDICTION AND VENUE

10. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question), because the claims asserted arise under 18 U.S.C. § 1836; and 28 U.S.C. § 1367 (supplemental jurisdiction) and the doctrines of ancillary and pendent jurisdiction, because the non-federal claims are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

11. This Court has personal jurisdiction over Golden State because it is a Delaware corporation.

12. This Court has personal jurisdiction over Klein because Section 14 of the Restrictive Covenants Agreement that Klein agreed to in connection with his receipt of Restricted Stock Units in Kraft Heinz provides:

VENUE, PERSONAL JURISDICTION, AND COVENANT NOT TO SUE. Executive expressly agrees to submit to the exclusive jurisdiction and exclusive venue of courts located in the State of Delaware in connection with any litigation which may be brought with respect to a dispute between the Company and Executive in relation to this Restrictive Covenants Agreement, regardless of where Executive resides or where Executive performs services for the Company. Executive hereby irrevocably

waives Executive's rights, if any, to have any disputes between the Company and Executive related to this Restrictive Covenants Agreement decided in any jurisdiction or venue other than a court in the State of Delaware. Executive hereby waives, to the fullest extent permitted by applicable law, any objection which Executive now or hereafter may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding, and Executive agrees not to plead or claim the same. Executive further irrevocably covenants not to sue the Company related to this Restrictive Covenants Agreement in any jurisdiction or venue other than a court in the State of Delaware. All matters relating to the interpretation, construction, application, validity, and enforcement of this Agreement, and any disputes or controversies arising hereunder, will be governed by the laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule, whether of the State of Delaware or any other jurisdiction, that would cause the application of laws of any jurisdiction other than the State of Delaware.

13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because Golden State resides in this judicial district and Klein's Restrictive Covenants Agreement contains a Delaware exclusive venue provision.

BACKGROUND FACTS

Overview of Kraft Heinz Away From Home Business

14. Kraft Heinz is one of the world's leading foodservice companies, offering a wide range of products, including the #1 ketchup brand in the world, Heinz Tomato Ketchup.

15. Kraft Heinz has some of the most recognized brands in North America, with significant customer awareness levels and long histories that evoke strong emotional connections with consumers.

16. Kraft Heinz's AFH business sells food and beverage products for use in restaurants, convenience stores, institutions, and other locations, with both unbranded and branded front-of-house items (e.g., Heinz Tomato Ketchup packets) and back-of-house items (e.g., bulk condiments).

17. Kraft Heinz's AFH division supports large and small businesses across the United States and sells more than 4,000 products. However, one of the most recognizable and profitable segments is its foodservice condiment business, including the iconic Heinz Tomato Ketchup, as

well as Kraft Mayonnaise, Heinz Mustard, Grey Poupon, and other specialty sauces like A1.

18. In the foodservice condiment space, Kraft Heinz is the largest supplier, followed by Golden State. In other words, Golden State is Kraft Heinz's biggest competitor in the foodservice condiment space. Despite its leading position, Kraft Heinz consistently faces a very competitive pricing environment and customer deals often require years of lead time.

19. Kraft Heinz frequently bids against Golden State for business. For example, both Kraft Heinz and Golden State will bid to provide large, national fast-food chains with condiments. Right now, Kraft Heinz is responding to a request for proposal ("RFP") as part of the bidding process for one such chain's condiment business. Upon information and belief, Golden State is also bidding in response to the same RFP.

20. The bidding process with customers, especially national restaurant chains, is important because the opportunity to bid does not arise very often. Indeed, depending on the customer, the opportunity to bid for their business may only come once every two to seven years. For example, Kraft Heinz lost its bid in response to a particular customer's RFP approximately seven years ago. Only now, seven years later, does Kraft Heinz have another chance to win that customer's business. This long sales cycle is common, especially with the biggest and most lucrative accounts.

21. As another example, Kraft Heinz has submitted a bid in response to an RFP from a large distributor. Kraft Heinz currently supplies condiments to the distributor and has done so since approximately 2016. This distributor issues an RFP for ketchup, for example, only every two to three years.

22. Given this long sales cycle, winning or losing a bid can have significant financial consequences, on the order of tens of millions of dollars for a single account.



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