

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

EXPRESS SCRIPTS, INC. and CIGNA
CORPORATION,

Plaintiffs,

v.

Arefin Kabir,

Defendant.

Civil Action No. _____

VERIFIED COMPLAINT

Plaintiffs Express Scripts, Inc. (“Express Scripts”) and Cigna Corporation (“Cigna”) (collectively “Plaintiffs”), by and through their undersigned counsel, bring this action for injunctive relief, monetary damages, the attorneys’ fees and expenses that it incurs in this action, and other necessary and proper relief as the Court may deem just and proper.

PRELIMINARY STATEMENT

1. This is an action for equitable and legal relief against a former Express Scripts employee who, in the days and weeks preceding his departure from the company, misappropriated Express Scripts’s trade secrets and transmitted valuable confidential and proprietary Express Scripts’s information via email from his work email address to his personal Yahoo! email address.

2. As Director of Pharma Strategy & Contracting at Express Scripts,¹ Defendant Arefin Kabir (“Kabir”) was privy to some of the most sensitive trade secrets and confidential information used in Express Scripts’s business, including highly-sensitive rate information, trade

¹ Express Scripts is a subsidiary of Cigna that operates as a pharmacy benefit management (PBM) organization that provides integrated pharmacy benefit management services, including network-pharmacy claims processing, pharmacy services, specialty pharmacy benefit management, benefit design consultation, drug-utilization review, formulary management, and medical and drug analysis services to manage drug plans for health plans, self-insured employers and government agencies (both as administrator of employee benefits and public assistance programs). Express Scripts also offers PBM services for workers’ compensation insurance programs.

secret data concerning rebates negotiated by Express Scripts with drug manufactures, confidential customer data, etc..

3. Upon learning that Express Scripts would be terminating his employment, Kabir embarked on a brazen campaign to misappropriate Express Scripts trade secrets. Between October 16, 2020 and December 16, 2020, Kabir sent highly confidential formulary, pricing, rebate and other data and information to his personal email account.

4. Kabir remains in possession of that data and information, which are trade secrets and proprietary information of Express Scripts and from which Plaintiffs derive millions of dollars of revenue.

5. Kabir's sending of highly sensitive and restricted information to his personal email address is a clear violation of Cigna's Information Protection Standards, the Confidentiality, Non-Competition and Non-Solicitation Agreements that Kabir signed, and Kabir's legal obligations to Cigna. A true and correct copy of the February 2020 Non-Confidentiality, Non-Competition and Non-Solicitation Agreement that Kabir signed (the "2020 Agreement") is attached hereto as Exhibit A. A true and correct copy of the October 2016 Non-Confidentiality, Non-Competition and Non-Solicitation Agreement that Kabir signed (the "2016 Agreement") is attached hereto as Exhibit B.

6. Kabir's actions also constitute a violation of the Federal Defend Trade Secrets Act insofar as Kabir has misappropriated Express Scripts's confidential and proprietary information that qualifies as trade secrets without the express or implied consent of Express Scripts.

7. Plaintiffs bring this action seeking a temporary restraining order, preliminary injunction and permanent injunction: (i) compelling Kabir to turn over to Express Scripts all confidential and proprietary information in his possession, including all copies of the files that

Kabir sent to his personal email address between October 16, 2020 and December 17, 2020; (ii) requiring Kabir to submit his laptop(s), smart phones, tablets, hard drives, flash drives and any other electronic devices in his possession for a forensic examination by a third party vendor so that all of Plaintiffs' confidential and proprietary property and data residing on those devices can be extracted and deleted from the devices; and (iii) requiring Kabir to provide a detailed accounting, under oath, of what he did with the highly sensitive documents and information that he took from Plaintiffs.

8. Plaintiffs also seek monetary damages stemming from Kabir's willful and malicious actions and attorneys' fees pursuant to the express language of the Agreements.

THE PARTIES

9. Plaintiff Express Scripts, Inc. is a Delaware corporation with its headquarters and principal place of business at One Express Way, Saint Louis, Missouri, 63121. Express Scripts is an indirect subsidiary of Cigna Corporation.

10. Plaintiff Cigna Corporation is a Delaware corporation with its headquarters and principal place of business at 900 Cottage Grove Road, Bloomfield, Connecticut, 06002.

11. Defendant Kabir is the former Director of Pharma Strategy & Contracting at Express Scripts. His last known address is 902 Lagoon Drive, Oviedo, Florida 32765.

JURISDICTION AND VENUE

12. This Court has personal jurisdiction over Kabir insofar as he lives and worked in this district and expressly consented to jurisdiction in this Court in the 2020 Agreement. *See* Ex. A, §2.1(b).

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because Kabir is the only Defendant in this action and he resides in Florida. Moreover, the parties expressly agreed that any action or proceeding between them arising from the 2020 Agreement would be

brought exclusively in the state or federal courts of the state of Florida, which is the state where Kabir last worked for Express Scripts. Ex. A, §2.1(b).

14. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Express Scripts's claim under the Defend Trade Secrets Act ("DTSA"), 18 U.S.C. §§ 1836, *et seq.*, arises under federal law, and this Court has supplemental subject-matter jurisdiction over Express Scripts's remaining state law claims pursuant to 28 U.S.C. § 1367 because they are so related to Express Scripts's federal DTSA claim that they form part of the same case or controversy and derive from a common nucleus of operative fact.

15. This Court also has subject-matter jurisdiction over this action under 28 U.S.C. § 1332 because the amount in controversy in the present action exceeds the sum or value of seventy five thousand dollars (\$75,000.00), exclusive of interests and costs, and complete diversity of citizenship exists between the parties, as Express Scripts is a citizen of Delaware and Missouri and Kabir is a Florida citizen.

FACTUAL ALLEGATIONS

A. **Kabir Contracted Not To Take or Disclose Plaintiffs' Trade Secrets And Confidential Information.**

16. As the Director of Pharma Strategy & Contracting, Kabir occupied a position of trust and confidence, with access to some of the most sensitive and confidential aspects of Express Scripts's business.

17. In his role at Express Scripts, Kabir was involved in managing a portfolio of dozens of pharmaceutical contracts that generated sizeable revenue for Express Scripts.

18. On behalf of Express Scripts, Kabir was involved in negotiating the terms and conditions of pharmaceutical contracts for Commercial, Exchange, Medicare and Medicaid books of business, advising pharmaceutical manufacturers and consultants on market access and

pricing. He provided advice to large national payers, rebate accumulators and PBM clients on therapeutic strategy development and net cost management.

19. Kabir and Express Scripts entered into multiple Confidentiality, Non-Competition, and Non-Solicitation Agreements prior to and during his Express Scripts employment. The most recent Confidentiality, Non-Competition, and Non-Solicitation Agreements signed by Kabir in February 2020.²

20. Pursuant to the 2020 Agreement, Kabir agreed that he would not, during or after the termination of his employment, use or disclose any of Plaintiffs' trade secret information except as required by his responsibilities to Express Scripts:

(a) Employee agrees that all records and Confidential Information obtained by Employee as a result of Employee's employment with the Company, whether original, duplicated, computerized, memorized, handwritten, or in any other form, and all information contained therein or derived therefrom, are confidential and the sole and exclusive property of the Company. Employee understands and agrees that the business of the Company and the nature of Employee's employment will require Employee to have access to Confidential Information of and about the Company, its business, its prospects, and its Customers. During Employee's employment and thereafter, Employee will not use Confidential Information or remove any such records or information from the premises or computer systems of the Company except for the sole purpose of conducting business on behalf of the Company. Employee further agrees that during Employee's employment and thereafter, Employee will not, without express consent of the Company, divulge or disclose this Confidential Information to any third party other than for the purposes of performing Employee's job duties with the Company, and under no circumstances will Employee reveal or permit this information to become known by any competitor of the Company.

(b) Employee agrees not to use or attempt to use any Confidential Information on behalf of any person or entity other than the Company, or in any manner which may injure or cause loss or may be calculated to injure or cause loss, whether directly or indirectly, to the Company. If at any time over the last two years of Employee's employment with the Company, Employee's position included access to Confidential Information as described above, specifically related to the Company's procurement of prescription drugs, Employee understands and agrees that Employee's subsequent employment with a pharmaceutical manufacturer, distributor or supplier ("Pharmaceutical Entity") would create a substantial risk of use and/or disclosure of Confidential Information with which Employee has been or will be entrusted during Employee's employment with the Company. Specifically, Employee agrees that the disclosure of such Confidential Information to the Company's pharmacy benefits management competitors with

² Kabir signed the 2016 Agreement as a condition of his commencing employment with Express Scripts and he signed the 2020 Agreement in conjunction with his receipt of an equity grant from the company.

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