

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**APEX INTERNATIONAL, LLC  
AND GREG LINDBERG,**

**Plaintiffs,**

**v.**

**JEFFREY SERBER,**

**Defendant.**

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**CIVIL ACTION NO. 3:19-cv-2242**

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**PLAINTIFFS’ VERIFIED ORIGINAL COMPLAINT**

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Plaintiffs Apex International, LLC (“Apex”) and Greg Lindberg (“Lindberg”) (collectively, “Plaintiffs”) file this Verified Original Complaint against Jeffrey Serber (“Serber”). Plaintiffs show the Court as follows:

**OVERVIEW OF DISPUTE**

1. This is a lawsuit for breach of contract, trade secret misappropriation, breach of fiduciary duty, violations of the Texas Theft and Liability Act, and fraud under Texas law.

2. Serber is a former 1099 security contractor of Apex. Apex retained his services in February 2019 as part of its ongoing duties to provide close protection services to Lindberg. Lindberg is a business executive and ultra-high-net-worth individual with business operations throughout the continental United States and abroad. Serber misrepresented his professional and military background to Apex while he was an Apex contractor. Once he was provided access to Plaintiffs’ confidential, personal, and proprietary information and trade secrets, he accumulated this information with the intent of using and disclosing it to third parties for his own personal benefit and to Plaintiffs’ substantial detriment.

3. Plaintiffs are aware of at least one instance where Serber appears to have disclosed Plaintiffs' confidential, personal and proprietary information and trade secrets—a dossier—to journalists for an international daily newspaper. Plaintiffs believe this disclosure occurred in mid-Spring 2019—around the time when Plaintiffs learned that Serber had been lying about his professional and military background. Plaintiffs believe that Serber made this disclosure to these journalists given their prior reporting on Mr. Lindberg and with the expectation of financial remuneration.

4. Apex relieved Serber of his responsibilities as a security contractor in May 2019. This decision came following a determination that Serber represented a credible insider threat to Plaintiffs' operations and to Lindberg's security. Since that time, Plaintiffs have learned of Serber's wrongful conduct and are dealing with the fallout it has caused. If Serber is not enjoined, Plaintiffs will suffer imminent harm for which there is no adequate remedy at law.

#### **THE PARTIES**

5. Plaintiff Apex International, LLC is a North Carolina limited liability company with its principal place of business located at 2222 Sedwick Road, Durham, North Carolina 27713.

6. Plaintiff Greg Lindberg is an individual residing in New York City, New York.

7. Defendant Jeffrey Serber is a California resident. He may be served with process at his last known home address of 997 Donner Avenue, Simi Valley, California 93065, or wherever he may be found.

#### **JURISDICTION & VENUE**

8. Subject matter jurisdiction rests on diversity of citizenship under 28 U.S.C. § 1332. The parties are completely diverse. The amount in controversy exceeds the minimal jurisdictional requirements of this Court because Plaintiffs seek money damages, equitable relief,

and legal fees in excess of \$75,000, exclusive of costs.

9. The Court has personal jurisdiction over Serber because he specifically agreed to Texas jurisdiction and venue in the federal or state courts of Dallas County, Texas. *See* Ex. 1, attached.

10. This action arises under Texas law. Specifically, this is an action for breach of contract, trade secret misappropriation, breach of fiduciary duty, violations of the Texas Theft and Liability Act, and fraud.

11. Venue is proper in this district under the mandatory venue provision in the agreement attached as Exhibit 1. *See id.*

#### **FACTUAL BACKGROUND**

12. Lindberg is the founder of the Global Growth family of companies. He started the company that would eventually become Global Growth in 1991 while he was a college undergraduate. He launched Home Care Week, an insurance and compliance newsletter that was targeted to home health agencies, from his dorm room with only \$5,000. By 2000, the company that he had bootstrapped to build with \$5,000 had grown to approximately \$5 million in annual revenue with no outside equity capital. By 2001, the company enjoyed approximately \$1 million in annual profit.

13. Lindberg and the Global Growth team reinvested that cash flow in over 100 acquisitions that have produced a compound annual growth rate of over 35% on equity capital. Currently, Global Growth's portfolio consists of over 100 companies worldwide that employ over 8,000 employees across a diverse range of industries. This portfolio generates over \$1.4 billion in annual revenue around the world.

14. The success of Global Growth has made Lindberg a very wealthy man. The level

of wealth he has attained makes Lindberg and members of his family potential targets for elevated personal risk. Accordingly, Apex was established to provide close protection services for Lindberg and his family.

15. Apex is staffed with close protection professionals who proudly and honorably served in the United States Armed Forces. These professionals have prior experience in the security industry and are retained to provide a multitude of services. These services include physical protection, driving, advance detail, location scouting and reconnaissance, and protective intelligence. Apex is also involved in numerous Lindberg business activities including facilities management, two start-up businesses, physical asset management, documentation management, and IT systems management.

16. Apex's operations are international in scope and include projects in Texas. Apex has kept and maintained confidential information and trade secrets that belonged to it, as well as information that is the subject of this lawsuit and information belonging to Lindberg, in Texas. Apex provided services in Texas for Lindberg at or around the time of the events giving rise to this lawsuit.

17. Regarding the close protection services that Apex provides, protective intelligence is a type of threat assessment which endeavors to identify, assess, and mitigate possible threats to the principal. Apex has developed its own cutting-edge protective intelligence methodologies to ensure its operations exceeded the industry standard. These methodologies include a blended approach to physical security assessment, surveillance and counter-surveillance, and related disciplines to account for a customer's professional and personal lifestyle. As can be expected, these methodologies generate sensitive, confidential, personal, and proprietary information and trade secrets that, in the wrong hands, could be used to disable Apex's operations, weaken

Lindberg's business interests, and expose Lindberg, his family and associates to extortion and personal harm.

18. In early 2019, Apex required additional assistance to grow its operational capabilities. Apex sought to retain the services of security contractors to provide this much-needed, and appreciated, assistance. Serber was one of the individuals who applied and was retained for one of these 1099 positions in February 2019.

19. Serber entered into a confidentiality agreement with Plaintiffs that became effective on February 21, 2019 (the "Agreement"). A copy of the Agreement is attached as Exhibit 1 and incorporated for all purposes.

20. As part of the Agreement, Serber acknowledged that disclosure of Plaintiffs' confidential, personal, and proprietary information and trade secrets would adversely affect Plaintiffs. *See* Ex. 1 ¶ 1.2(b). Serber then agreed to hold this information "in the strictest confidence" and "not disclose same to any person[.]" *Id.* ¶ 1.3(a). Serber further agreed to return this information following his discharge. *See id.* ¶ 1.4.

21. Apex assigned Serber to field work that would inform the close protection team's operational decisions. This work took him far afield from his California home. His projects took him around the country, and he was read into projects that were ongoing in Texas and elsewhere. Serber also received access and was privy to confidential, private, and proprietary information and trade secrets that belonged to Plaintiffs in his capacity as a security contractor. This information included extensive and intimate details of Lindberg's: travel schedule; personal relationships and family plans; activities with associates, friends and acquaintances; and professional dealings, among other things. This information also included details of third parties associated with Lindberg that would enable Serber to fulfill his responsibilities in the field. This information was

provided via products that were created and developed by, and unique to, Apex and which could be accessed in the field. These products included templates and intel cards with data fields and terminology that were specific to Apex's operations. Serber retained access to this and other information through his discharge in May 2019.

22. Also prior to his discharge in May 2019, Serber received training, experience, and insight regarding the protective intelligence methodologies that Apex had developed or refined.

23. During his time with Apex, Serber presented himself as an experienced professional with a background in the military and law enforcement. Among other things, he alluded to service in the Afghanistan theater during Operation Enduring Freedom; represented that he had worked as a military contractor in Afghanistan; had served as an 18XRay Communications Specialist; had worked as an intelligence officer for the United States Department of Defense; had been a police officer with the Los Angeles Police Department; had been shot in the line of duty; and had been an "Interrogator" in Afghanistan. These statements were untrue when Serber made them, and Apex's suspicions were aroused when, in response to the Apex Intel Office's request for DD Form 214s, Serber responded, "No DD-214 for me, I wasn't in the military."<sup>1</sup>

24. Serber made this statement in an integrated chat thread that went to members throughout Apex's organization. This statement and other events precipitated an investigation and internal threat assessment of Apex's operations. Apex discharged Serber in May 2019 after the investigation had concluded. It was during this investigation that Apex discovered Serber's casual flouting of Apex protocols and protections, creating the potential for grievous security breaches and compromising Lindberg and ongoing Apex operations.

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<sup>1</sup> The DD Form 214 ("Certificate of Release or Discharge from Active Duty") is a document the United States Department of Defense issues upon a military service member's retirement, separation, or discharge from active duty. Apex was cataloging all military schools, training and certifications—and hence, capabilities—of its team members when it made this request.

25. Upon information and belief, it was around the time of his discharge in May 2019 that Serber provided a dossier of Plaintiffs' confidential, personal, and proprietary information and trade secrets to journalists for an international daily newspaper. It was also around this time that Serber began actively soliciting other Apex contractors and employees for particular confidential, personal, and proprietary information and trade secrets that belonged to Plaintiffs, providing false and conflicting reasons for why he wanted this information.

26. Since then, Plaintiffs and others have been contacted by these journalists with requests to comment on details and information that, upon information and belief, could have only come from Serber and the May 2019 dossier. Plaintiffs believe that Serber continues to seek to acquire and disseminate Plaintiffs' confidential, personal, and proprietary information and trade secrets to further benefit himself and harm Plaintiffs.

### **PLAINTIFFS' CLAIMS**

#### **First Cause of Action – Breach of Contract**

27. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

28. Serber entered into a valid confidentiality agreement with Plaintiffs—the Agreement—in which he agreed to not use or disseminate Plaintiffs' confidential, personal, and proprietary information and trade secrets in exchange for access to Plaintiffs' confidential and proprietary information, trade secrets, and other good and valuable consideration. *See id.* ¶ 1.3.

29. Because he signed the Agreement, Serber became and was privy to Plaintiffs' confidential, personal, and proprietary information and trade secrets including, but not limited to, details of Lindberg's travel schedule, personal relationships and family plans, and financial and business dealings, along with Apex's unique strategies, operational capabilities and

methodologies, and other highly sensitive and confidential information and trade secrets.

30. Serber breached the Agreement when he provided third parties with confidential, personal, and proprietary information and trade secrets, and assisted third parties with their efforts to discover confidential, personal, and proprietary information and trade secrets, before and after his discharge. Serber's efforts here included soliciting and attempting to acquire confidential, personal, and proprietary information and trade secrets from Plaintiffs' employees and contractors under false pretenses.

31. Plaintiffs have incurred or will incur actual damages as a proximate result of Serber's breach, for example by expending significant monetary resources to revamp Apex's protective intelligence methodologies in light of Serber's disclosure of its practices. If Serber is not enjoined from further breaches of the Agreement, including disclosing, publishing or disseminating Plaintiffs' confidential, personal, and proprietary information and trade secrets, then Plaintiffs will suffer damages within the jurisdictional limits of the court.

32. Under the terms of the Agreement, Plaintiffs are entitled to a recovery of their attorney's fees.

33. Serber recognizes that a breach of the Agreement "will cause irreparable injury to [Plaintiffs] for which legal remedies may be inadequate" and for which Plaintiffs "are entitled to seek injunctive relief against" him. Ex. 1 ¶ 3.1. If Serber is not immediately prevented and enjoined from further breaches of the Agreement, Plaintiffs will be immediately and irreparably harmed and will incur actual damages as a result of the breach(es). Serber is or has been in possession of Plaintiffs' confidential, personal, and proprietary information and trade secrets and has clearly demonstrated his willingness to use and disclose same for his own benefit and to Plaintiffs' detriment.

**Second Cause of Action – Trade Secret Misappropriation  
Under the Texas Uniform Trade Secrets Act**

34. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

35. The confidential, personal, and proprietary information and trade secrets that Serber misappropriated belong to Plaintiffs. Plaintiffs keep this confidential, personal, and proprietary information and trade secrets substantially secret.

36. Serber had a contractual relationship with Plaintiffs through which he was exposed to and acquired Plaintiffs' confidential, personal, and proprietary information and trade secrets.

37. Serber provided third parties with confidential, personal, and proprietary information and trade secrets, and assisted third parties with their efforts to discover confidential, personal, and proprietary information and trade secrets, before and after his discharge, in violation of his relationship with Plaintiffs. This would have included internal products and operations materials that Apex developed for use in the field, including templates and intel cards that were unique to Apex, as well as information regarding Lindberg's personal relationships and activities with associates, friends and acquaintances, among other things.

38. Further, Serber's efforts here included soliciting and attempting to acquire confidential, personal, and proprietary information and trade secrets from Plaintiffs' employees and contractors under false pretenses. For instance, shortly after his discharge, Serber contacted an Apex associate and requested a particular intel card. When asked why he wanted it, Serber represented that he had moved to another company, was creating products for that company's internal use, and intended to copy Apex's products to do so.

39. Upon information and belief, Serber will seek to further use, disclose, or disseminate Plaintiffs' confidential, personal, and proprietary information and trade secrets, in

violation of his relationship with Plaintiffs.

40. Serber knew or should have known that he possessed, viewed, used, and disclosed Plaintiffs' confidential, personal, and proprietary information and trade secrets by improper means.

41. Plaintiffs have incurred or will incur actual damages as a proximate result of Serber's misappropriation. If Serber is not enjoined from further misappropriation, then Plaintiffs will suffer damages within the jurisdictional limits of the court. Accordingly, Plaintiffs are entitled to injunctive relief as permitted by Tex. Civ. Prac. & Rem. Code Ann. § 134A.003.

42. Serber's misappropriation was malicious. Therefore, Plaintiffs are entitled to a recovery of exemplary damages pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 134A.004(b).

43. Plaintiffs are further entitled to their reasonable attorney's fees pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 134A.005.

### **Third Cause of Action – Breach of Fiduciary Duty**

44. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

45. Serber had a relationship with Plaintiffs through which he was exposed to and acquired Plaintiffs' confidential, personal, and proprietary information and trade secrets.

46. By providing asset and threat assessment and protection services, Serber held a position of confidence and trust. Accordingly, Serber owed a fiduciary duty to Plaintiffs to protect their confidential, personal, and proprietary information and trade secrets and to not use same for his own personal gain. This fiduciary duty did not terminate after his discharge.

47. Serber breached his fiduciary duty when he provided third parties with confidential, personal, and proprietary information and trade secrets, and assisted third parties with their efforts to discover confidential, personal, and proprietary information and trade secrets, before and after

his discharge. Serber's efforts here included soliciting and attempting to acquire confidential, personal, and proprietary information and trade secrets from Plaintiffs' employees and contractors under false pretenses.

48. Serber's breaches were intentional as he sought to leverage additional, unwarranted benefits for himself and to harm Plaintiffs' respective businesses and reputations.

49. Plaintiffs have incurred or will incur actual damages as a proximate result of Serber's breach. If Serber is not enjoined from further breaches, then Plaintiffs will suffer damages within the jurisdictional limits of the court.

**Fourth Cause of Action – Texas Theft and Liability Act  
Under Tex. Civ. Prac. & Rem. Code Ann. §§ 134.001 *et seq.***

50. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

51. Serber is liable to Plaintiffs for unlawful appropriation of their property as described in Tex. Penal Code Ann. § 31.03. Specifically, Serber has unlawfully appropriated Plaintiffs' highly confidential and privileged information. *See* Tex. Civ. Prac. & Rem. Code Ann. §§ 134.001 *et seq.*

52. As a direct result of Serber's theft, Plaintiffs have suffered actual and consequential damages.

53. Plaintiffs are further entitled to disgorgement of Serber's gains and punitive damages because of his misconduct.

54. Plaintiffs are further entitled to their court costs and reasonable and necessary attorney's fees pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 134.005.

**Fifth Cause of Action – Fraud**

55. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all

purposes.

56. Upon entering a relationship with Plaintiffs, Serber made representations about his military background and prior professional service. These representations were false.

57. Serber knew these representations were false when he made them.

58. Serber made these representations to create a misleading and favorable impression of his professional experience, training and background, to induce Plaintiffs to continue to retain his services.

59. Serber's false representations violate state and federal laws that criminalize falsifying military records, including the Texas Stolen Valor Act. *See* Tex. Penal Code Ann. § 32.54.

60. Plaintiffs have paid Serber compensation and incurred or will incur actual damages as a proximate result of Serber's fraud.

61. Plaintiffs are entitled to exemplary damages for Serber's fraud.

#### **EXEMPLARY DAMAGES**

62. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

63. Plaintiffs plead for exemplary damages against Serber because his wrongful acts were done knowingly, intentionally, willfully, with malice and/or gross negligence as made actionable by Tex. Civ. Prac. & Rem. Code Ann. §§ 41.001 *et seq.*, Tex. Civ. Prac. & Rem. Code Ann. § 134A.004(b), and applicable common law. Serber's acts are so willful, malicious, felonious and egregious that any statutory cap on the recovery of exemplary damages should not apply.

#### **ATTORNEY'S FEES**

64. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all

purposes.

65. Plaintiffs have retained the undersigned counsel and are entitled to recover from Serber their reasonable and necessary attorney's fees and costs incurred in pursuit of their claims pursuant to the terms of the Agreement and under Tex. Civ. Prac. & Rem. Code Ann. § 38.001.

**CONDITIONS PRECEDENT**

66. All conditions precedent to Plaintiffs' claims have been satisfied.

**APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTIVE RELIEF**

67. Plaintiffs incorporate each allegation contained in the preceding paragraphs for all purposes.

68. Plaintiffs seek injunctive relief concerning Serber's activities.

69. Plaintiffs seek a temporary restraining order and temporary and permanent injunctive injunction which order Serber to:

- a. Cease, desist and refrain from directly or indirectly seeking to acquire, acquiring, possessing, viewing, using, disclosing, publishing, or disseminating Plaintiffs' confidential, personal, and proprietary information and trade secrets;
- b. Cease, desist and refrain directly or indirectly communicating false, defamatory, or disparaging statements about Plaintiffs, or from directly or indirectly misappropriating Plaintiffs' confidential, personal, and proprietary information and trade secrets for the acts complained of in these pleadings; and
- c. Cease, desist and refrain from directly or indirectly seeking to acquire, acquiring, possessing, viewing, using, disclosing, publishing, or disseminating any confidential, personal, and proprietary information or trade secrets which belong to Plaintiffs.

70. Plaintiffs are likely to succeed on the merits of this case because, among other reasons, Serber has already disclosed highly sensitive and confidential, personal, and proprietary information and trade secrets belonging to Plaintiffs to third parties and, if he is not enjoined, will

continue to disclose the information and trade secrets to others. It is also highly likely that Serber will renew his efforts to procure other highly sensitive and confidential, personal, and proprietary information and trade secrets belonging to Plaintiffs in order to further make good on efforts to harm them. Serber has no legitimate defense for his possession and use of Plaintiffs' confidential, personal, and proprietary information and trade secrets or his efforts to harm Plaintiffs.

71. If Serber is not immediately restrained, his actions will result in immediate and irreparable harm to Plaintiffs' respective businesses and their reputations. Plaintiffs have and will continue to be injured by Serber's conduct.

72. Issuing a temporary restraining order and temporary and permanent injunction which prevent Serber from continuing to access, possess and use Plaintiffs' confidential, personal, and proprietary information and trade secrets and from performing the other illegal activity described in these pleadings is necessary to prevent immediate, substantial, and irreparable injury to Plaintiffs. Issuing these orders and injunctions also minimize the risk of any further compromise of Plaintiffs' confidential, personal, and proprietary information and trade secrets.

73. Serber recognizes that a breach of the Agreement "will cause irreparable injury to [Plaintiffs] for which legal remedies may be inadequate" and for which Plaintiffs "are entitled to seek injunctive relief against" him. Ex. 1 ¶ 3.1.

74. To preserve Plaintiffs' confidential, personal, and proprietary information and trade secrets, Serber should be temporarily restrained and enjoined, during the pendency of this action, and then permanently enjoined from continuing the wrongful conduct described in these pleadings.

75. Plaintiffs are willing and able to post bond.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs ask that Serber be cited to appear and answer herein and that they have the following relief against Serber:

a. Temporary, preliminary, and permanent injunctive relief against Serber from directly or indirectly seeking to acquire, acquiring, possessing, viewing, using, disclosing, publishing, or disseminating Plaintiffs' confidential, personal, and proprietary information and trade secrets;

b. Temporary, preliminary, and permanent injunctive relief against Serber and his affiliates, agents, representatives, servants, employees, attorneys, and all other persons in active concert or privity or participation with Serber from directly or indirectly communicating false, defamatory, or disparaging statements about Plaintiffs, or from directly or indirectly misappropriating Plaintiffs' confidential, personal, and proprietary information and trade secrets for the acts complained of in these pleadings;

c. Temporary, preliminary, and permanent injunctive relief against Serber and his affiliates, agents, representatives, servants, employees, attorneys, and all other persons in active concert or privity or participation with Serber from directly or indirectly seeking to acquire, acquiring, possessing, viewing, using, disclosing, publishing, or disseminating any confidential, personal, and proprietary information or trade secrets which belong to Plaintiffs;

d. All actual, economic, consequential, and exemplary damages;

e. Attorney's fees, costs, and pre- and post-judgment interest, as allowed by law; and

f. Such other and further relief to which Plaintiffs are entitled.

Dated: September 18, 2019

Respectfully submitted,

**CONDON TOBIN SLADEK THORNTON PLLC**

*/s/Aaron Z. Tobin*

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