

Confidential information on defendants' computers ordered to be destroyed

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A court has ordered that confidential information used by a company despite belonging to a competitor must be destroyed.

Mr Skriptchenko worked for Arthur J Gallagher, insurance

brokers, until his dismissal in July 2014. Around February 2015, he began working for Portsoken, who were also in the insurance brokerage industry. A few months later, Gallagher suspected that Mr Skriptchenko may have taken its confidential information with him to Portsoken. Gallagher brought claims against Mr Skriptchenko and Portsoken for breach of confidence. Mr Skriptchenko admitted taking a client list from Gallagher and Portsoken admitted to using it to contact over 300 of Gallagher's clients.

Gallagher obtained a court order requiring that Mr Skriptchenko deliver up all of his electronic devices for inspection and that Portsoken's systems be analysed by a forensic IT expert to look for confidential information. As a result, 4,000 documents were disclosed which showed that several other members of staff at Portsoken, including some senior directors, had misused Gallagher's confidential information. Internal emails made clear that those using the information knew it was a breach of confidence to do so, such as one which read:

"I don't think you can formally put these in any presentation as we would obviously be breaching confidentiality but would suggest that we keep in our back pocket to show on a nudge nudge wink wink basis to interested parties".

Gallagher sought an injunction requiring that: (i) all of the defendants' computers be inspected and imaged; and (ii) any confidential information found on them which belonged to Gallagher be deleted.

The High Court granted the injunction. It considered that there were no less intrusive ways to protect Gallagher's information given that the defendants had knowingly misused the confidential information and showed a "high degree of subterfuge" in doing so. As the evidence showed that the defendants could not be trusted to delete the material themselves, the interim order should require it. The court

held that there was a “high degree of assurance” that Gallagher would succeed at trial in any event.

Injunctions like this are rare but, as this case shows, will be granted when it is appropriate to do so.

Arthur J. Gallagher (UK) Ltd v Skriptchenko [2016] EWHC 603

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