

Rutan & Tucker Recovers Five Million Dollars For Employer In Trade Secret Theft Case

In one of the biggest trade secret misappropriation lawsuits in Orange County in 2009, Rutan & Tucker recovered \$5,000,000, as well as injunctive relief, on behalf of its clients American Career College and West Coast University (“ACC”) against three former executives and the institutions that next employed them.

The case involved a number of claims asserted by ACC, including claims of trade secret misappropriation, violation of statutes governing misuse of computer data, breach of contract, and breach of fiduciary duty by the defendants. ACC alleged that the former executives, who included ACC’s Chief Operating Officer and its Controller, had conspired to steal company information and engaged in other misconduct, including working for their new employers while still employed by ACC.

Rutan navigated ACC through an investigation which revealed that, over an extended period, the former executives furtively copied tens of thousands of files from ACC’s computer system by using external hard drives or off-site network access. As a result of the investigation, one of the former executives was arrested for criminal misappropriation of trade secrets and robbery. Realizing that ACC was hot on their tails, the other co-conspirators sued by ACC immediately began destroying evidence that showed how they had pursued their scheme. Rutan uncovered not only the evidence destruction, but also the facts that (1) the defendants had begun performing services for their new employers at the same time they still worked for and were being paid by ACC, and (2) the senior-most leadership of the new employers knew of this activity and actively participated in it.

Despite these facts, the defendants hotly litigated the case, asserting that they would not pay a dime to settle. After approximately a year of litigation, in which our client worked with Rutan to meticulously dismantle the defendants’ positions piece by piece, the defendants agreed to pay the full \$5,000,000 demanded by ACC to settle the action. ACC also obtained injunctive relief against the defendants, designed to protect ACC’s trade secret information. ACC further obtained another injunction requiring the return or destruction of all files copied by the defendants (to be verified under oath by the defendants), and permitting ACC to conduct a forensic examination of defendants’ computers to confirm that all ACC computer files had been removed or destroyed.

ACC believed so staunchly in its position that it refused even to consider the defendants’ request for a confidentiality clause to cover the terms of this settlement. The defendants settled anyway. ACC was willing to put the entire settlement at risk rather than be muzzled in its right to speak publicly about this litigation and the result it obtained.

Rutan partners Jim Morris and Brian Sinclair represented American Career College and West Coast University in this case.