IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

NETWORK I MANAGEMENT, LLC, et al.,	:	OCTOBER TERM, 2016
Plaintiffs,	:	No. 04195
v.	:	COMMERCE PROGRAM
AMERICAN TRANSPORT, INC.,	:	
Defendant	:	

FINDINGS OF FACT & CONCLUSIONS OF LAW

Procedural History

This action commenced October 31, 2016, with the filing of a Complaint by Network I, LLC, ("Plaintiff-Company") and Lyn Tetreau ("Plaintiff"). The Complaint set out claims against American Transport, Inc. ("Defendant") for declaratory relief, breach of contract, and a demand for an accounting in connection with an agency agreement entered into by the parties on October 31, 2015 ("the contract"). Defendant filed an Answer to the Complaint on March 23, 2017, and in response to Plaintiffs' Preliminary Objections, filed an Amended Answer on May 1, 2017, asserting eleven Counterclaims requesting injunctions and remedies for various contractual breaches. Upon Order of this Court dated June 12, 2017, in response to Plaintiffs' Preliminary Objections to Defendant's Amended Answer, the following counterclaims were dismissed: breach of fiduciary duty, legal fraud, equitable fraud, and negligent misrepresentation. The matter proceeded to a bench trial before this Court on August 20, 21, and 23, 2018.

The Parties

Network I, LLC, is a trucking agency which recruits truck drivers to haul loads for different carriers, maintain lease relationships, and secure and dispatch freight for customers. *See* Complaint 10/31/2016; Notes of Testimony (hereinafter N.T.) 08/21/18, at 82-83, 87. Network I is owned by Lyn Tetreau. *See* Complaint 10/31/2016; N.T. 08/21/18 at 81-83. Defendant, American Transport, Inc., is a carrier who contracts with other companies to haul truckloads of materials, and, here, contracted to provide administrative and other functions to Plaintiff-Company. *See id.*

Negotiations & Initial Contract

The Plaintiffs and Defendant engaged in months of negotiation prior to the entry of the contract. N.T. 08/20/18 at 48-51, 85-100. During this time Plaintiff represented that Plaintiff-Company was a successful agent for a previous carrier-company, Greatwide. *Id.* at 153, 165-66. During the course of the negotiations, the Plaintiff represented that the records from Greatwide were protected by a confidentiality agreement, hence they were not available for the negotiations. *Id.* at 165-66. Further, the Plaintiff did not allow Defendant's representatives to contact Greatwide to verify the representations made by Plaintiff during negotiations. Plaintiff continually referred Defendant to a confidentiality agreement with Greatwide. *Id.* At 166.

The Contract included changes and terms negotiated by both parties. *Id.* at 45-46, 48-49. Defendant used a basic template for agency agreements that were typically altered during the course of any given negotiation. *Id.* at 51-52. The contract at issue was in fact a modification of the template typically used by Defendant. *Id.* at 94-97,

104, 163. Plaintiff was actively involved in making changes to the basic template and sent multiple drafts to Defendant before signing the contract. *See* Exhibit P-4; Exhibit D-14. Plaintiff employed the services of an attorney to review the proposed contract as well. N.T. 08/21/18 at 221.

The contract negotiations included an in-person interview in Pittsburgh, Pennsylvania in September, 2015. N.T. 08/20/18 at 150-52. Donald McAdams (President of Transport Investments and Defendant's Corporate designee), Plaintiff, and Rick Tetreau (Plaintiff's son) were all present at the meeting. *Id.* at 150-52, 43, 104. During the Pittsburgh meeting Plaintiff proposed changes to the contract, which were then, if agreed upon, made by overwriting a previous version of the contract on McAdam's computer. *Id.* at 209, 214. Defendant agreed to changes to sections 2.4-Signing Service and 8(c)-Termination. N.T. 08/23/19 at 135-38. Plaintiff emailed a final, red-lined version of the contract to Defendant on October 28, 2015 after the Pittsburgh meeting. *See* Exhibit D-59; N.T. 08/21/19 at 214-16.

The contract at issue was finalized and entered into on October 31, 2015, with an effective date of November 2, 2015. *See* Exhibit P-1. Plaintiff paid $225,000 to Greatwide to be released from his previous contract, so that he would be free to enter into the Contract with Defendant. N.T. 08/20/18 at 105. Per the contract, the Plaintiff received a $1.1 million signing bonus. *See* Exhibit 1. McAdams testified that the signing bonus amounted to an advance of commission yet-to-be-earned. N.T. 08/20/18 at 90. The contract was structured so that the Plaintiff-Company would receive credit toward the signing bonus based upon the company's gross-line haul revenue generated over

the course of the contract. *See* Exhibit P-1; N.T. 08/20/18 at 90-91. The signing bonus was determined based on Plaintiff's representation of his previous haul revenue with Greatwide, and the Plaintiff's belief that his revenue could be increased due to his new endeavor with the Defendant and new payment practices. N.T. 08/20/18 at 170-171. The Contract did not include any specific details or information about Plaintiff's previous revenue generation with Greatwide. Exhibit P-1.

During the course of the Contract Defendant monitored Plaintiff-Company's profit and loss statements. *Id.* at 162, 173-76; Exhibit D-77. Defendant began to become increasingly concerned as it monitored the statements, and those concerns reached their apex in March of 2016. N.T. 08/20/18 at 176-77. During the course of the Contract Plaintiff received his profit and loss statements from Defendant. *Id.* at 173-76. Plaintiff was given a chance to reconcile Defendant's statements with his own, and he typically agreed with Defendant's statements. *See* Exhibit D-14. Plaintiffs did not dispute that the losses on the statements were attributable to Plaintiffs. *See id.*

Promissory Note and Security Agreement

In December, 2015 as Defendant's concern was mounting, Plaintiff assured Defendant via an email dated December 29, 2015, that Plaintiff and Plaintiff-company were preparing for "a strong launch to our season that starts in April." *See* Exhibit D-13; N.T. 08/21/18 at 243. In the following April, Plaintiff-company's gross line-haul revenue had decreased to $333,000, down from $535,000 in March. N.T. 08/20/18 at 185-86. As a result of Plaintiff-Company's April performance, a meeting between the parties was

scheduled to take place in Toledo, Ohio. *Id.* at 186. At this meeting, Plaintiff was given the choice to pledge collateral or face termination with 30 days' notice. *Id.* at 186-88.

After the meeting, Defendant again reiterated concern that the last 6 months of the arrangement had been discouraging. N.T. 08/20/18 at 132-33, 188; Exhibit P-8. McAdams conveyed his need to either cancel the contract or try to limit the losses Defendant was incurring in attempt to assure investors. N.T. 08/20/18 at 188. Defendant additionally conveyed a willingness to allow Plaintiff and Plaintiff-Company to seek contracts with other companies. N.T. 08/23/18 at 117-18. At this time McAdams offered to put up $250,000 of his own money if the Plaintiff would match it, this was because McAdams could no longer risk Defendant's money but he could put up his own. *Id.* at 106-07. The arrangement was worked out so that McAdams would place his capital into escrow monthly and Plaintiff was to put 50% of his weekly income into escrow. N.T. 08/21/18 at 124-25. However, Plaintiff did not put up cash to match McAdams initial contribution of $150,000, and he informed Defendants that none of his $1.1 million signing bonus was left to give. N.T. 08/20/18 at 190-91. Instead, Plaintiff offered up real property he owned in Michigan appraised at $400,000. *Id.* at 191; N.T. 08/21/18 at 137-38.

The losses were to be split 50/50 until McAdams payment was depleted, and McAdams made it clear that once his contribution was spent the Plaintiff would not be given any more opportunities to fulfill the Contract. N.T. 08/20/18 at 188. Following the explanation of the terms of this new agreement, Plaintiff emailed McAdams stating "[t]hanks for taking the time spent with me this weekend and the past week . . . I am

100 percent on board with our agreement and feel good about it. In fact, I feel better today than I felt in the past two months." *See* Exhibit D-13; N.T. 08/20/18 at 193. In a May 3, 2016 email McAdams confirmed these terms with Plaintiff. Exhibit D-13. In this email, Plaintiff also confirmed that this agreement was to secure repayment of the signing bonus. *See* Exhibit P-9; 08/20/18 at 196-98. Plaintiff further admitted that the collateral he posted was for a portion of the original signing bonus. N.T. 08/21/18 at 124.

This arrangement was subsequently memorialized by two separate documents. On May 9, 2016, Plaintiff and Defendant executed the security agreement and promissory note signed by both parties and notarized. Exhibit P-9; Exhibit P-10.

Performance of the Contract

Defendant suffered losses as a result of the Plaintiff and Plaintiff-Company's performance of the contract, specifically Defendant incurred a loss of $534,968. Exhibit D-77; N.T. 08/20/18 at 178. Plaintiffs' revenue generation improved slightly prior to termination, but Plaintiff was never on pace to generate even $10 million a year in revenue, much less the $20 million a year contemplated by the Contract. N.T. 08/23/18 at 111-12. Plaintiff's own July 21, 2016, email admits that prior to termination, in that email Plaintiff stated income was "terrible this week and will cause retention issues and a lack of proper maintenance to the trucks. It will also create a financial loss to me." Exhibit D-13. In July 2016, Plaintiffs had used up the $150,000 put up by McAdams intended to assist Plaintiff in a potential turnaround. N.T. 08/20/18 at 188-89.

Termination

Accordingly, as mentioned above, the contract was terminated in August 2016. Exhibit P-13; N.T. 08/20/18 at 117. Plaintiff was informed of the termination first by telephone call and later by an official termination notice. N.T. 08/21/18 at 143. The termination notice was officially dated August 8, 2016, and put forth an official end date of September 7, 2016. *See* Exhibit P-13; N.T. 08/20/18 at 117. A subsequent letter sent by Defendant on September 23, 2016, Informed Plaintiff that he was being terminated for cause, and demanded repayment of the signing bonus and an early termination fee, and provided notice of default under the security agreement and promissory note. *See* Exhibit P-14; 08/20/18 at 128-29. No money has been paid to Defendant by Plaintiffs to date that were not paid back through revenue generation by performance of the contract, and Plaintiff has failed to pay back the unearned signing bonus as well. N.T. 08/23/18 at 38-39. The unpaid amount of the signing bonus is $1,062,000. N.T. 08/23/18 at 115. Additionally, Plaintiff has not paid the early termination fee under the contract of $250,000 as provided by the contract. 08/21/18 at 225.

Conclusions of Law

A. The Contract is Unambiguous and Plaintiff must Repay Defendant the Remaining Balance on the Unearned Signing Bonus Pursuant to Section 2.4 the Contract.

Initially, this Court must determine whether the contract is ambiguous in its terms. *See Hutchinson v. Sunbeam Coal Corp.*, 519 A.2d 385, 390 (Pa. 1986). A contract must be interpreted consistently with the intent of the parties who are bound

by it. *See Lesko v. Frankford Hospital-Bucks County*, 15 A.3d 337, 342 (Pa. 2011). A party is bound by the language of the contract regardless of whether he or she fully read or understood its terms. *See Samuel-Bassett v. Kia Motors America, Inc.*, 34 A.3d 1, 25 (Pa. 2011). Unless specified to the contrary, the Court must interpret the language of a contract according to its plain ordinary meaning. *See TruServ Corp. v. Morgan's Tool & Supply Co.*, 39 A.3d 253, 260 (Pa. 2012). When a Contract is unambiguous the intent of the parties is ascertained by the terms of the contract itself. *See Steuart v. McChesney*, 444 A.2d 659, 661 (Pa. 1982).

Here, regardless of whether the contract's termination was for cause or not, the remaining unpaid balance of the signing bonus is due to Defendant. Section 2.4 of the contract provides,

"[i]n the event of termination provided for in Section 8 of this Agreement, AGENT [Network 1] agrees to repay the remaining balance of the amounts paid to AGENT under this Section, in addition to all other amounts due under this Agreement." Exhibit P-1. This Section clearly and unambiguously calls for the repayment of the portion of the signing bonus that remains unearned. Defendant sent two letters to Plaintiff regarding termination. *See* Exhibit P-13; Exhibit P-14. The first letter, dated August 8, 2016, terminated Plaintiff in accordance with Section 8 of the contract by providing 30 days' notice to Plaintiff. Exhibit P-13. The second letter both demanded repayment and specifically referenced Section 8(c) of the contract. Exhibit P-14. Therefore, in accordance with Section 2.4 of the contract, Defendant terminated the

contract by the terms of Section 8 of the contract, and Defendant is due the remaining balance of the signing bonus.

Furthermore, it is irrelevant whether the contract was terminated for cause, with respect to repayment of the signing bonus, because the plain language of Section 8 provides additional penalties "in addition to" the, already expected, repayment of the signing bonus. Exhibit P-1. Section 8 provides in relevant part, "or if this Agreement is terminated for cause by ATI as specified in this Agreement . . . , an early Termination Fee will be paid to ATI in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00), **in addition to** any portion of the Signing Bonus that has not been repaid via generation in revenue as specified in Section 2." (emphasis added) Exhibit P-1. It is clear from the plain, unambiguous language of the contract the early termination fee was being added as an additional penalty to an already existing obligation, which was the repayment of any unearned signing bonus. Therefore, Plaintiff must repay the defendant pursuant to Section 2.4 of the parties' contract.

B. The Contract was not Terminated *For Cause.*

Under the terms of the Contract, a 30 days' notice termination requirement was only required in the event that the Contract was terminated by Defendant *without cause*. The relevant part of the Contract provides, "[Defendant] reserves the right to terminate this Agreement without cause by mailing or delivering to the [Plaintiff] written notice of termination at least thirty (30) days prior to the effective date of termination specified in the written notice." Exhibit P-1. Further, the Contract provided in the event that the Contract was terminated *for cause* the Defendant was required to "give

[Defendant] written notice that it is in violation, and to give [Defendant] seventy two (72) hours to remedy such defect or violation, before terminating this Agreement for cause." *Id.*

By these clear and unambiguous terms the Defendant terminated the Contract *without cause*. Defendant's initial termination letter sent August 8, 2016, to Plaintiffs provided that the Contract was going to be terminated on September 7, 2016. Exhibit P-13. This letter provided, exactly pursuant to the terms of *without cause* termination provided in the Contract, thirty days' notice of termination and provided a specified end date. *Id.* The letter makes no reference to *for cause* termination, and, in fact, states that the Defendant was open to discussing a "systematic and amicable transition" over the course of the next thirty days. *Id.* Moreover, this letter makes no mention of the seventy two (72) hour cure period specified in the contract as necessary for a *for cause* termination. *Id.*; Exhibit P-1.

Later the Defendant sent a second letter dated September 23, 2016, demanding repayment of the signing bonus and early termination fee stating that the termination of the Contract was, in fact, *for cause*, despite their failure to mention this in the previous termination notice. Exhibit P-14. This letter does not change the termination of the Contract from a *without cause* termination to a *for cause* termination. Defendant made no reference to a *for cause* termination nor did they give any indication that the Plaintiff had breached the Contract. Exhibit P-13. Instead, Defendant adhered to the plain and unambiguous language of the Contract as it applied to Section 8's *without cause* termination specifications. Exhibit P-1. The fact that Defendant, at a later date

after the Contract was already terminated, sent a for *cause* termination notice did not change the fact that the Contract was already terminated *without cause*, which was well within Defendant rights pursuant to Section 8. *Id.* Therefore, this Court finds that the Contract was terminated *without cause* pursuant to the clear and unambiguous terms of the Contract.

C. The Contract Requires that the Plaintiff Pay the Defendant 12% Interest and Attorney's Fees Pursuant to Section 8.

Section 8 of the Contract states "[a]ny amounts payable to [Defendant] herein are due and payable within thirty (3) days from the receipt of the termination notice. If not paid by that date it is agreed that [Plaintiffs] will incur an interest expense of twelve percent (12%) per annum and agrees to reimburse any and all costs of collection including legal, collection agency or court fees incurred by [Defendant]." Exhibit P-1. Here, Defendant terminated the agreement pursuant to Section 8 of the Contract in a letter dated August 8, 2016. Exhibit P-13. Section 2.4 established that the signing bonus was due back to Defendant in the event of a termination pursuant to Section 8. Exhibit P-1. Under the plain meaning of the Contract, the signing bonus was due September 7, 2016, and interest from that date was due to the Defendant pursuant to the Contract. *Id.* Additionally, the legal fees incurred by Defendant seeking collection of that signing bonus are also due to Defendant. *Id.*

D. Plaintiff Breached the Promissory Note and Security Agreement.

Plaintiffs and Defendant entered into separate agreements in the form of a promissory note and security agreement on May 9, 2016. Exhibit P-9; Exhibit P-10. To find a breach of contract this Court must find: (1) the existence of a contract; (2) a

breach of contract; and (3) resultant damages. *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 137 A.3d 1247, 1258 (Pa. 2016). The terms of the agreements were performance standards laid out in a May 3, 2016, email exchange that is explicitly referenced in the security agreement and the promissory note. *Id.* The May 3, 2016, email states that Plaintiff was to provide security for the signing bonus in the form of a commercial property valued at approximately $400,000 with a demand note of $500,000 to be recorded against it, 50% of Plaintiffs' gross-line haul commissions were to be placed in escrow and at the end of the month Plaintiff and McAdams would split the losses in half and would personally escrow $150,000 to cover his share of the losses. Exhibit D-13.

The promissory note and security agreement are contracts, they are signed documents containing the essential terms discussed in the email exchanges contained in Exhibits D-13 and 14. Exhibit P-9; Exhibit P-10. Consideration for the contract was the escrowed amount by McAdams and the collateral piece of land put up by the Plaintiff. Once McAdams' escrow was depleted due to the poor performance of Plaintiffs the promissory note and security agreement were breached. Defendant was damaged by the loss of the escrow amount and Plaintiffs' failure to repay the signing bonus. But, because any damages that would flow from the breach of the promissory note and security agreement would be duplicative, as the Contract already requires Plaintiff repay the signing bonus, no additional damages flow from this breach.

E. Defendant's Claim of Breach of the Covenant of Good Faith and Fair Dealing is Absorbed by Defendant's Breach of Contract Claim.

Under Pennsylvania law a claim for breach of the implied covenant of good faith and fair dealing is incorporated within a breach of contract claim. *See LSI Title Agency, Inc. v. Evaluation Services, Inc.*, 951 A.2d 384, 392 (Pa. Super. 2008). Defendant's counterclaim includes claims for breach of contract and breach of the implied covenant of good faith and fair dealing. Defendant's Amended Answer 05/01/17. This Court finds, consistent with Pennsylvania law, that the Defendant's counterclaim for breach of the implied covenant of good faith and fair dealing is subsumed by the Defendant's breach of contract claims.

F. The Contract was not Breached by either Party, and no Party is Due Damages for Any Alleged Breach of Contract.

To find a breach of contract this Court must find: (1) the existence of a contract; (2) a breach of contract; and (3) resultant damages. *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 137 A.3d 1247, 1258 (Pa. 2016). Here, the existence of a contract is admitted by both sides, and both parties were undoubtedly damaged by the poor performance of the Contract, in the case of Defendant, and the Contract's termination, in the case of Plaintiffs. Ultimately, the remaining issue is whether the Contract was breached by either party, and such issue is addressed in turn below.

a. Plaintiffs' Allegation of Breach of Contract for Assessment of Additional Fees and Commission Deduction.

The Contract was not breached by Defendant's alteration of commission payments. The parties agreed in a separate subsequent contract to a change in the

Plaintiffs' receipt of commission payments. *See* Exhibit P-9; Exhibit P-10; Exhibit D-13. Per the May 3, 2016 email in contemplation of the promissory note and security agreement each of the parties agreed to the reorganization of the commission payments, in order to secure the repayment of the signing bonus. Exhibit D-13. The Plaintiff now claims that this was a breach of the earlier Contract, when in fact each party agreed to the escrow of 50% of the commission, and the Plaintiff himself was excited and eager to perform under that new agreement. *Id.* Defendant gave the Plaintiff every opportunity to improve performance as evidenced by McAdams willingness to put his own money into escrow and share in the losses, as well as by Defendant's offer to negotiate with Plaintiffs' leasing company for better rates, which the Plaintiff refused. N.T. 08/23/18 at 34, 13; Exhibit D-13. Accordingly, the Defendant did not breach the contract.

b. Plaintiffs' Allegation of Breach of Contract for Improper Termination of the Contract and Entry into the Promissory Note and Security Agreement.

Defendant did not breach the contract by terminating the agreement. Despite the fact that the Contract contained no specific performance requirements, Defendant was well within its right to terminate the Contract under Section 8's without cause termination clause. Exhibit P-1. Defendant sent its August 8, 2016 letter stating that the Contract would be terminated on September 7, 2016. Exhibit P-13. This letter followed the procedures laid out in the Contract for without cause termination, and is not a violation of the terms of the Contract. Further, Defendant did not breach by allegedly

inducing Plaintiff into signing an additional agreement in the form of a promissory note and security agreement.

Section 13 of the Contract contains a merger clause stating that the agreement cannot be changed orally and it "shall not be modified or changed by any expressed or implied promises, warranties, guarantees, representations, or other information unless expressly and specifically set forth in this Agreement or an addendum thereto properly executed by the parties." Exhibit P-1. The promissory note and security agreement are express addendums to the original Contract. They make explicit reference to the previous Contract and state that they are coming into existence to serve as additional security that the signing bonus, provided in the initial Contract, was payed back to Defendant. Exhibit P-9; Exhibit P-10. Therefore, this Court finds the Defendant did not breach the Contract.

c. Defendant's Allegation of Breach of Contract for Poor Performance and Misrepresentations During the Negotiations.

Plaintiffs did not breach the Contract by performing poorly, nor did Plaintiffs breach the contract for their conduct in the course of negotiations. Defendant alleges that the Plaintiff misrepresented his ability to fulfill the obligations of the Contract, and alleges that they terminated the Contract for Plaintiffs' failure to live up to those standards. The Contract contains explicit performance standards, but only as it relates to what the Plaintiffs will generate six years from the date of the Contract. Exhibit P-1. Section 8(c) lays out a reason for cause termination stating "significant and protracted downturn in gross billed line-haul transportation revenue generated from [Plaintiffs']

activities as defined as more than a fifty (50%) contraction in revenue from the prior year in [Defendant's] sole discretion." *Id.*

Defendant's initial termination of the Contract was pursuant to Section 8's without cause termination clause, not Section 8(c) outlined above. *Id.* Despite the Defendants insistence that it terminated the Contract for cause, its initial letter to Plaintiff stated nothing about termination for cause, it did not reference Section 8(c), and expressed a willingness to work with the Plaintiffs for an orderly exit. Exhibit P-13. Only later, did Defendant decide that it wanted to terminate the agreement for cause, well after the date of termination of the parties' contractual relationship. Exhibit P-14. Defendant already terminated the agreement without cause, which was within its rights under the Contract, and therefore Plaintiffs' poor performance under the Contract was not a Breach. The Contract did not have specific performance requirements and the Contract was not terminated under Section 8(c), the only section that allowed the Defendant to take for cause termination action under the Contract.

Moreover, the Contract fails to mention the figures allegedly represented by Plaintiff during negotiations. At trial, this Court excluded evidence of Plaintiffs' prior performance numbers with Greatwide under Pa. R.E. 401. Pa. R.E. 401 states that evidence is relevant if "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) that fact is of consequence in determining the action." Section 8(c) does not make mention of the Plaintiffs' revenue generation with Greatwide. Exhibit P-1. The Contract does not say in Section I or II how the numbers were calculated, instead its states the numbers that the Plaintiffs were to

generate during the term of the Contract. *Id.* Defendant may have taken into account the representations by the Plaintiff in its contemplation of these numbers, but the Contract speaks for itself, and it fails to mention performance standards for anything other than what is expected over the entire term of the Contract. *Id.* Therefore, the fact that Plaintiffs' former performance numbers with Greatwide were not a fact of consequence in determining the action.

G. The Contract's Non-competition Section was Not Breached and No Injunction is Due.

The Pennsylvania Supreme Court is clear that restrictive covenants are to be strictly construed. *See Hayes v. Altman*, 266 A.2d 269, 271 (Pa. 1970). In construing a restrictive covenant, the Court will not assume that the language was written carelessly. *See WMI Group, Inc. v. Fox*, 109 A.3d 740, 749 (Pa. 2015). When the language chosen is clear, its meaning must be determined by that language alone. *Id.* Here, the Contract defines "Agent" as Network I Management, Inc. and Lyn Tetreau. Exhibit P-1. Section 5 of the Contract is the Noncompetition clause, and it states in relevant part:

> AGENT and ATI agree that they will not directly or indirectly contact, contract with, or in any other way interfere with the business relationships of the other or any of their affiliates with their other commission agents, sub-agents, customers, drivers, equipment lessors or employees for a period of two (2) years following the termination of this Agreement with the exception of any sub-agents or customers secured by AGENT on behalf of ATI. For the sake of clarity, drivers and truck owners recruited for ATI by AGENT for which AGENT has received a Recruiting Fee under the terms of paragraph 2.5 of this Agreement are subject to the terms of this provision and may not be contacted by AGENT for a period of two (2) years following the termination of this Agreement.

Exhibit P-1. This Section is very specific and it is clear that the language is calculated and precise based on the specification regarding truck owners and drivers for which

Plaintiffs were given recruiting fees. What the plain language of this Section does not say is that the employees of Network I are subject to the noncompetition provisions. The Contract simply refers to Agent and ATI, and Agent has been defined by the Contract as Network I Management, Inc. and Lyn Tetreau. In accordance with the Supreme Court of Pennsylvania, this Court finds that the language used in the noncompetition provision is clear, and hence its meaning must be determined by the words that the parties chose to write in the Contract. Therefore, Defendant is not entitled to damages based on an employee of Plaintiff-Company's post-Contract activity, nor is it entitled to an injunction of that activity. However, Plaintiffs themselves are subject to the noncompetition Section of the Contract for the remainder of its term.

BY THE COURT:

Dated: December 16, 2019

Nina W. Padilla, J.