

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RESMAN, LLC,

Plaintiff,

v.

KARYA PROPERTY MANAGEMENT,
LLC, and SCARLET INFOTECH, INC.
d/b/a EXPEDIEN, INC.,

Defendants.

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CIVIL ACTION NO. 4:19-CV-00402
Judge Mazzant

PERMANENT INJUNCTION

On the basis of the record and the Court’s Final Judgment, the Court **FINDS** that Defendants’ conduct has caused, and will continue to cause, ResMan irreparable injury for which there is no adequate remedy at law and that the Permanent Injunction appropriately addresses such future harm to ResMan. Pursuant to the Court’s inherent equitable powers and authority under the Defend Trade Secrets Act, 18 U.S.C. § 1836(b); the Texas Uniform Trade Secrets Act, TEX. CIV. PRAC. & REM. CODE ANN. §§ 134A.001 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and Federal Rule of Civil Procedure 65, there being no further issues of fact for the Court to resolve, and upon balancing the hardships in view of the public interest, the Court **ORDERS** that Defendants are **PERMANENTLY ENJOINED** as follows:

1. **Definitions.** The following definitions apply for purposes of this Permanent Injunction:
 - a. “ResMan” means ResMan, LLC.
 - b. “Expedien” means Defendant Scarlet InfoTech, Inc. d/b/a Expedien, Inc.
 - c. “Karya” means Defendant Karya Property Management, LLC.
 - d. “Defendants” means Karya and Expedien.

- e. “Enjoined Parties” means Karya and Expedien, their principals, owners, members, managers, directors, officers, agents, servants, employees and attorneys, and any person in active concert or participation with the foregoing.
 - f. “Effective Date” means the date this Permanent Injunction is signed and entered or, if enforcement or implementation of this Permanent Injunction or any term or terms thereof is stayed by this Court, any Court of Appeals, or the United States Supreme Court, the date such stay is lifted.
 - g. “ResMan’s Confidential Information” means (i) all confidential or proprietary information belonging to ResMan and disclosed or made available to Defendants (with or without ResMan’s knowledge or consent), whether orally, in writing, by computer memory or electronic or other media, that is or was designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure; (ii) the ResMan Platform and all products, services, and documentation related thereto; (iii) any information obtained by accessing the ResMan Platform; and (iv) any other information, software, product, or service, that is derived from or was created using any of the foregoing information.
 - h. “Arya” means both the substantive property management software called “Arya,” and the functions and features contained within the platform called “Arya.” Defendants may not circumvent the restrictions set forth in this injunction by changing the name of the platform or creating a new platform by duplicating the functions and features contained within the platform called “Arya.”
 - i. “Independent Monitor” means the Honorable Magistrate Judge Kimberly C. Priest Johnson, the individual appointed by the Court in this case to oversee the Enjoined Parties’ compliance with the Permanent Injunction, or any successor or replacement appointed by the Court.
2. **Use of ResMan Confidential Information.** The Enjoined Parties are enjoined in perpetuity from in any way acquiring, accessing, viewing, disclosing, transferring, disseminating, copying, storing, or otherwise communicating, using, or exploiting ResMan’s Confidential Information, without ResMan’s express prior written consent, and

except as expressly provided herein to facilitate compliance with this Permanent Injunction.

3. Information and Communication Requirements.

- a. Within three (3) days of the Effective Date, each of the Defendants shall designate one individual to serve as the point of contact for the Independent Monitor. The designated individual for each of Defendant must be authorized to take all actions necessary to implement and comply with this Permanent Injunction on behalf of the party for which the individual is designated.
- b. Within twenty-one (21) days of the Effective Date, the Enjoined Parties shall each provide to the Independent Monitor:
 - i. A list of all persons who had access to ResMan Confidential Information at any time; the beginning and ending dates each individual had access; each individual's role and the reason the individual had access; the location(s) from which each individual accessed ResMan's Confidential Information; whether each individual is currently employed, contracted, or otherwise hired or retained by the party providing the list; and, if not, the last known contact information for each such individual.
 - ii. An inventory of all information related in any way to Arya, where and how such information is stored currently or was stored in the past, and the individuals who now have access or previously had access to that information.
 - iii. A report of all instances in which any information related to Arya or any ResMan Confidential Information was communicated to third parties, including but not limited to any company related to Defendants or the Enjoined Parties.
 - iv. Such access to Arya or other premises, files, and personnel as the Independent Monitor requires to determine the extent to which ResMan Confidential Information is contained within Arya for as long as the Independent Monitor requests such access.
 - v. All other information that the Independent Monitor requests to facilitate the implementation of the terms of this Permanent Injunction.

- c. The Enjoined Parties may access and view ResMan Confidential Information already in their possession, custody, or control solely to the extent necessary to comply with the requirements of ¶ 3(b).
- 4. Notice of Permanent Injunction.**
- a. Immediately upon the Effective Date, in addition to and notwithstanding the requirements of the Notice Plan described below, Defendants must take all reasonable steps to communicate the terms of this Permanent Injunction to the Enjoined Parties and all other persons necessary to ensure immediate compliance with this Permanent Injunction.
 - b. After receiving the information required by ¶ 3, the Independent Monitor shall provide written instructions setting forth the requirements for the Defendants to provide notice of the terms of this Permanent Injunction (the “Notice Plan”). The Notice Plan shall identify the individuals or groups the Enjoined Parties are required to notify and the form of notice the Enjoined Parties are required to communicate to those individuals or groups. The Notice Plan may also set out internal policies or procedures that the Enjoined Parties are required to adopt to comply with the Permanent Injunction and may specify the means by which such policies or procedures shall be posted or otherwise communicated. In addition to whatever other notice the Independent Monitor deems appropriate, the Notice Plan shall require each Defendant to (i) provide notice of this Permanent Injunction to each Enjoined Party, and all other persons necessary to ensure compliance with this Permanent Injunction, and to confirm receipt of the same; and (ii) implement policies and procedures to ensure compliance by any contractor or other persons with whom the Enjoined Parties do business.
 - c. When the Enjoined Parties have fully complied with the Notice Plan to the Independent Monitor’s satisfaction, Defendants shall file with this Court a Notice of Compliance with Notice Plan in which:
 - i. Defendants attest under penalty of perjury to the Enjoined Parties’ compliance with the Notice Plan; and
 - ii. The Independent Monitor certifies the Independent Monitor’s satisfaction that the Enjoined Parties have fully complied with the Notice Plan.

- d. If the Notice of Compliance with Notice Plan is not filed within thirty (30) days of the Effective Date, ResMan may move the Court to direct Defendants to show cause as to why they are not in contempt of this Permanent Injunction. Defendants shall bear all costs, fees, and expenses of such proceedings, including all costs, attorneys' and expert witness fees, and expenses of ResMan.
- e. Each of the Enjoined Parties shall provide such other notices or communications as the Independent Monitor may deem necessary.

5. Destruction of ResMan Confidential Information.

- a. After receiving the information required by ¶ 3, the Independent Monitor shall prepare and provide to ResMan and Defendants written instructions setting forth the process for the identification and destruction of ResMan Confidential Information (the "Destruction Plan"). The Destruction Plan shall provide deadlines for compliance with the provisions thereof, and a procedure satisfactory to the Independent Monitor for validating and certifying compliance.
 - b. When the Enjoined Parties have fully complied with the Destruction Plan to the Independent Monitor's satisfaction, Defendants shall file with this Court a Notice of Compliance with Destruction Plan in which:
 - i. Defendants attest under penalty of perjury to the Enjoined Parties' compliance with the Destruction Plan and the provisions of this ¶ 5; and
 - ii. The Independent Monitor certifies the Independent Monitor's satisfaction that the Enjoined Parties have fully complied with the Destruction Plan and the provisions of this ¶ 5.
 - c. If the Notice of Compliance with Destruction Plan is not filed within sixty (60) days of the Effective Date, ResMan may move the Court to direct Defendants to show cause as to why they are not in contempt of this Permanent Injunction. Defendants shall bear all costs, fees, and expenses of such proceedings, including all costs, attorneys' and expert witness fees, and expenses of ResMan.
- 6. Commercial Use of Arya.** The Enjoined Parties are enjoined from any commercial use of Arya for a period of ninety-six (96) months from the Effective Date. Commercial use includes any use of Arya for any property management purpose, including any property managed or owned by Karya or any other person or entity.

7. Development of Arya or Other Property Management Software.

- a. The Karya Parties are enjoined from developing any property management software, including but not limited to Arya, for a period of twenty-four (24) months from the Effective Date.
- b. The Karya Parties are enjoined from in any way assigning any individual who has previously had access to ResMan to any software development efforts, or otherwise using, consulting, or employing such individual in such capacity, for a period of sixty (60) months from the Effective Date.
- c. The Expedien Parties are enjoined from developing any property management software for a period of forty-eight (48) months from the Effective Date.

8. Monitoring and Certification.

- a. Defendants shall bear jointly and severally all costs, fees, and expenses of the Independent Monitor.
- b. Defendants shall provide the Independent Monitor such access to their premises, files, and personnel, including with respect to Arya or otherwise, as the Independent Monitor deems necessary to validate compliance with the terms of this Permanent Injunction.
- c. Six (6) months after the Effective Date, and every six (6) months thereafter until the expiration of the applicable requirement, Defendants shall file a Notice of Continued Compliance in which:
 - i. Defendants attest under penalty of perjury to the Enjoined Parties' continued compliance with this Permanent Injunction; and
 - ii. The Independent Monitor certifies satisfaction that the Enjoined Parties have continued to comply with this Permanent Injunction.
- d. If any Notice of Continued Compliance is not filed within twenty-one (21) days from the date on which such notice is due, ResMan may move the Court to direct Defendants to show cause as to why they are not in contempt of this Permanent Injunction. Defendants shall bear all costs, fees, and expenses of such proceedings, including all costs, attorneys' and expert witness fees, and expenses of ResMan.
- e. At the expiration of the requirements set forth in ¶¶ 6–7 of this Permanent Injunction, Defendants shall file a Notice of Final Compliance in which:

- i. Defendants attest under penalty of perjury that the Enjoined Parties have complied at all times, or timely cured to the Independent Monitor's satisfaction, any noncompliance; and
 - ii. The Independent Monitor certifies that the Enjoined Parties have complied at all times, or timely cured to the Independent Monitor's satisfaction, any non-compliance.
- f. The Independent Monitor may, at any time, provide any other information to the Court that the Court or the Independent Monitor deems necessary and appropriate.
- g. Defendants shall have the right to petition the Court to modify, or release them from, the Independent Monitor requirements prior to the expiration of the requirements set forth in ¶¶ 6–7 of this Permanent Injunction at the Court's discretion and with the approval of the Independent Monitor.

9. Violations and Non-Compliance.

- a. If at any time the Independent Monitor discovers a violation of this Permanent Injunction, including any failure by Defendants to provide the required access or to timely pay the Independent Monitor's costs, fees, and expenses, the Independent Monitor shall file a Notice of Non-Compliance specifying the violation. Defendants shall thereafter have seven (7) days to cure the non-compliance to the Independent Monitor's satisfaction.
- b. If, after the expiration of ten (10) days, the Independent Monitor has not filed a Notice of Cure of Non-Compliance, ResMan may move the Court to direct Defendants to show cause as to why they are not in contempt of this Permanent Injunction. Defendants shall bear all costs, fees, and expenses of such proceedings, including all costs, attorneys' and expert witness fees, and expenses of ResMan.
- c. Any violation of or non-compliance with the terms of this Permanent Injunction may be redressed by one or more of the following:
 - i. Contempt proceedings, which may result in fines against Defendants payable to ResMan;
 - ii. Extending the time applicable to the term(s) of the Permanent Injunction with which the Enjoined Parties failed to comply;

- iii. Modifying the terms of this Permanent Injunction, including by imposing additional constraints, monitoring requirements, or certification requirements; or
- iv. Any other measure the Court deems just and proper.

10. The Enjoined Parties shall take no action to circumvent the requirements of this Permanent Injunction.

VIOLATION OF THIS PERMANENT INJUNCTION SHALL CONSTITUTE CONTEMPT OF COURT, which will entitle ResMan to seek, and the Court to grant, any and all appropriate relief. Defendants shall be liable for all expert witness and attorneys' fees, costs, and expenses incurred to enforce this Permanent Injunction, including all costs, attorneys' and expert witness fees, and expenses of ResMan.

All writs and processes for the enforcement of this Permanent Injunction may issue as necessary. The Court shall retain jurisdiction for enforcement of this Permanent Injunction.

IT IS SO ORDERED.

SIGNED this 12th day of August, 2021.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE