

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

INTERNATIONAL AIRPORT CENTERS )  
L.L.C., PIC IAC LLC and IACEA LLC, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
JACOB CITRIN, )  
 )  
Defendant. )

No. 03 C 8104  
Judge Wayne R. Andersen  
Magistrate Judge Bobrick

FILED

MAR 12 2004

MICHAEL W. DOBBS  
CLERK, U.S. DISTRICT COURT

DOCKETED

MAR 15 2004

NOTICE OF FILING

PLEASE TAKE NOTICE that on 12<sup>th</sup> day of March, 2004, we have filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Dirksen Federal Building, 219 South Dearborn, Chicago, Illinois, Plaintiffs' **Amended Complaint**, a copy of which is attached hereto and hereby served upon you.

Respectfully submitted,

INTERNATIONAL AIRPORT CENTERS, L.L.C.,  
PIC IAC LLC, IACEA LLC

By:   
One of Their Attorneys

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that he caused a true and correct copy of the attached **Amended Complaint** to be served upon:

Ronald L. Marmor  
James L. Thompson  
Jenner & Block LLP  
One IBM Plaza  
Chicago, IL 60611

via hand delivery, this 12<sup>th</sup> day of March, 2004.

A handwritten signature in black ink, appearing to read 'William K. Kane', written in a cursive style.

William K. Kane

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
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**INTERNATIONAL AIRPORT  
CENTERS L.L.C., PIC IAC LLC  
and IACEA LLC,** )  
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**AMENDED COMPLAINT**

NOW COME Plaintiffs, International Airport Center L.L.C., PIC IAC LLC and IACEA LLC, by their attorneys, and as their Complaint against Defendant, Jacob Citrin, for Injunctive Relief, Damages and for other relief allege, as follows:

**I.**

**THE PARTIES**

1. Plaintiff International Airport Center L.L.C. ("IAC" or "Company") is a Delaware limited liability company that was formed in 1995. IAC is engaged in the business of acquiring, owning, holding for investment, developing and operating structures designed primarily to meet the warehouse, distribution and office needs of air freight companies and related users located in the environs of international airports. IAC's principal offices are located at 1849 Green Bay Road, 4<sup>th</sup> Floor, Highland Park, Illinois, 60035.

2. There are two additional co-plaintiffs to this action, both members of IAC, both Delaware limited liability companies, both engaged in the business of organizing, creating, forming, investing in and becoming a member of IAC, and both having their principal offices at



1849 Green Bay Road, 4<sup>th</sup> Floor, Highland Park, Illinois, 60035: "PIC IAC LLC" (a 4.18% member of IAC) and "IACEA LLC" (a 5% member of IAC). The two co-plaintiffs are the equivalent of corporate holding companies. Exhibit 1 attached hereto sets forth in chart form the interrelationship and ownership of the three limited liability company Plaintiffs.

3. The Defendant is Jacob Citrin ("Citrin"). Citrin resides at 10 West Street, Apartment 29E, New York, New York, 10004. Citrin, until October 30, 2003, was an officer and employee of IAC, serving as a "Managing Director." Citrin continuously has been employed by IAC since its formation in 1995 and, prior thereto, he was employed by Edward Schulak Equities, Inc.

4. Citrin was responsible during his employment at IAC for, among other things, identifying potential properties for acquisition and directing the acquisition process with respect to such properties. Citrin is a 19.88 % member of PIC IAC LLC (and thus indirectly a .08% owner of IAC [4.18% of IAC x 19.88% of PIC IAC LLC = .08% of IAC]) and a 40% member of IACEA LLC (thereby indirectly an owner of an additional interest in IAC). Citrin is thus a beneficial owner of IAC and such beneficial membership interest is worth several million dollars.

## II.

### JURISDICTION AND VENUE

5. Jurisdiction of this cause is based on 28 U.S.C. § 1332 (a)(1) in that this is an action between parties that are citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Jurisdiction is also proper as a claim arises under 18 U.S.C. § 1030 (g).

6. Venue is in this District pursuant to 28 U.S.C. § 1391(a)(2) in that a substantial part of the events or omissions giving rise to this action occurred in this District.

### III.

#### **CITRIN'S WRONGDOING AND RELIEF REQUESTED**

7. Citrin has breached his fiduciary obligations to, as well as his covenants and contracts with, Plaintiffs. The Plaintiffs seek both actual and punitive damages as well as disgorgement of the illegal profits he has reaped. Plaintiffs at this time, because of Citrin's unlawful conduct, are unable to determine the full extent of the monetary damages that Citrin caused. However, based on the nature of the injuries, Plaintiffs reasonably and in good faith believe the damages to be in the high six figures or low seven figures. Plaintiffs also seek both an injunction against Citrin not to compete and a declaration by this Court that Citrin has lost the right to certain compensation expectations because of his wrongful conduct as a fiduciary as well as his breaches of covenants and contracts.

8. Sometime at a date unknown to Plaintiffs, but before October, 2003, Citrin decided that he would leave his IAC employment and compete with IAC. He did not so disclose to IAC, but instead, made surreptitious plans to compete with IAC and to wrongfully and fraudulently appropriate IAC opportunities and assets, along with its confidential and proprietary work product, for his own, all in clear breach of his fiduciary obligations as a Managing Director of IAC, as well as his contractual obligations to Plaintiffs. In particular:

a) While employed by IAC, Citrin identified, and directed IAC's efforts concerning the potential acquisition of a distribution facility located at 160 McClellan Highway in East Boston, Massachusetts (the "Eagle Distribution Facility");

b) During the last quarter of calendar year 2002 and the first quarter of calendar year 2003, a wholly-owned subsidiary of IAC entered into a contract with the then owner of the Eagle Distribution Facility for the purchase of that property (the "Agreement of Sale"). IAC undertook extensive due diligence investigations in contemplation of the purchase of the Eagle Distribution Facility by a wholly-owned subsidiary of IAC;

c) In March, 2003, Citrin reported to IAC that the Eagle Distribution Facility was not a viable opportunity for purchase because of environmental issues that had arisen and because of a potential lack of the necessary legal access to that property. Based upon Citrin's report and representations, IAC ceased to actively pursue the purchase of the Eagle Distribution Facility. However IAC continued to have an interest in acquiring the Eagle Distribution Facility based upon Citrin's advice and representations that he was seeking solutions to the problems he had reported;

d) From March through September of 2003, Citrin continued to report to IAC that the acquisition of the Eagle Distribution Facility was not a viable opportunity and prudent purchase. However, he also requested and obtained IAC's confidential and proprietary information and work product from IAC fellow executives concerning the Eagle Distribution Facility, such as IAC's environmental and property condition investigations, IAC's "scope of work" material, its price estimate for a potential Phase II environmental investigation and an electronic copy of the executed version of the Agreement of Sale; and

e) Thereafter, Citrin, then still employed by IAC, duplicitously and surreptitiously formed a company, Cargo Ventures LLC ("Cargo Ventures"), to acquire

the Eagle Distribution Facility. Citrin, using IAC's confidential due diligence materials and confidential drafts of the purchase of the Eagle Distribution Facility, secretly engaged in negotiations for the sale of the Eagle Distribution Facility to a third party, with Cargo Ventures (Citrin) becoming a 50% owner and the other 50% owned by such third party. Thus, Citrin, while serving as an IAC Managing Director, appropriated for himself wrongfully and secretly a 50% interest in the Eagle Distribution Facility, thereby usurping IAC's valuable corporate opportunity to acquire that property.

9. Citrin also engaged in other wrongful and disloyal conduct prior to his leaving IAC. He totally neglected his duties and responsibilities to the point of open insubordination. He failed to attend in October, 2003 no less than five important IAC management meetings that he should have attended and was required to have attended. He was less than respectful to inquiries and reasonable requests received from his superiors. Citrin also granted, without IAC's knowledge or authority, a \$171,000 lease concession to a tenant and thus exposed IAC to a substantial potential landlord obligation. In addition, IAC provided Citrin with a computer and a snap server for his use as an IAC Managing Director. Citrin used such computer and snap server in the course of his role of performing due diligence throughout the country on potential acquisition targets. Citrin knowingly stripped by deliberate deletion all of the data from the IAC computer and snap server assigned to his use while a Managing Director of IAC. He then secretly imported a program into the computer and snap server that made it totally impossible for IAC to recover from the computer and/or snap server any of the deleted material, thus making it impossible for IAC to learn of either any of his activities or the information he obtained while a Managing Director that was contained in the computer and snap server, thereby giving him a potential competitive advantage over IAC by having sole knowledge of the contents of the

computer and snap server. Additionally, Citrin, by destroying the entire content of information contained on the computer and snap server, was clearly attempting to prevent IAC from recovering from them any evidence of his improper conduct that the computer and snap server contained. Citrin is guilty of gross spoliation in purging the data from the IAC computer and snap server assigned to his use while he served as a Managing Director of IAC. He also violated State and Federal law.

10. Citrin, when he became a Member of IACEA LLC on December 4, 2000, received and signed a "Grant of Subordinated Non-Voting Member Interest" (attached hereto as Exhibit 2) according him an indirect interest in IAC (the "Grant"). Citrin, to obtain this valuable emolument of employment, agreed (Exhibit 2 §5) that, for a period of two (2) years following the termination of his employment with IAC, he "will not be engaged as employee of any company if 5% or more of their business is, or will be, to acquire, own, hold for investment, develop or operate structures designed primarily to meet the warehouse and distribution needs of air freight companies and related users located in the environs of an international airport..." if that "international airport is either one in which IAC has or is developing Distribution Facilities or is one in which IAC has in the past five years has in its Annual Business Plan an initiative to own, operate or develop Distribution Facilities." The Grant does provide that Citrin's covenant not to compete "shall be void and ineffective in the event of a Change of Control and/or termination of Grantee's employment, if not for Cause." (Exhibit 2 § 5(d)). The Grant also provides that, were Citrin to be terminated for cause, IAC would have the right to purchase from him the unvested portion of his interest under the Grant for the sum of one dollar (\$1.00). (Exhibit 2 § 2). On that same day, Citrin executed a Confidentiality Agreement with IAC and IACEA LLC ("Confidentiality Agreement") (See Exhibit 3). The Confidentiality Agreement provided that



Citrin would preserve confidential information and take “steps to protect and preserve the confidentiality” of IAC’s confidential information. (Exhibit 3 § 2 (a)). Furthermore, Citrin agreed to be subject to immediate injunctive relief in the event of his breach of the Confidentiality Agreement. (Exhibit 3 § 3).

11. Upon being advised by IAC in writing on October 22, 2003 that he would likely and shortly be terminated for cause because of non-performance, Citrin, on October 30, 2003, in a transparent effort to preempt termination for cause, abruptly resigned from IAC claiming that there had been a Change of Control (as defined in Section 2 of the Grant). There has been no Change of Control. IAC, in responding to Citrin’s resignation and claim of Change of Control, chose not to engage in a pointless minuet by refusing to accept Citrin’s October 30, 2003 resignation and then immediately terminating him for cause. IAC instead acknowledged that Citrin’s employment had terminated, rejected his fallacious claim of a resignation as a result of a Change of Control, and advised him that his employment terminated for cause and he would be so treated. Subsequently, on November 20, 2003, IAC exercised its rights, under Section 2 of the Grant, to purchase from Citrin the unvested interest under the Grant and tendered to him a check for one dollar (\$1.00). Citrin, in violation of the terms of the Grant, rejected the tender.

12. Citrin, having left IAC, is now competing with IAC in the market place. In addition to his two year IACEA LLC contractual obligation not to compete, in the light of Citrin’s corporate responsibility and his fiduciary position, his duplicity to IAC, his access to private IAC information as to IAC’s plans, present and future, as to acquiring, developing and/or improving airport distribution centers, his intimate knowledge of IAC customers needs, finances and lease terms offered, IAC’s mode of research for opportunities and protocol of operation, his long tenure with IAC, his act of spoliation and his 50% purchase of the Eagle Distribution

Facility, Citrin is in the very center of the penumbra of the doctrine of inevitable disclosure. In fact, Citrin has already demonstrated that he will disclose with alacrity. IAC is thus entitled to appropriate equitable and injunctive protection against Citrin's competing with IAC nationwide for an appropriate period. The private and proprietary information Citrin possesses could do irreparable harm to IAC, if Citrin were to compete with IAC in the marketplace, especially given Citrin's flawed understanding of business ethics and integrity. IAC has no adequate remedy at law.

13. In light of all of the acts and the circumstances alleged herein, IAC seeks that Citrin be enjoined from competing with IAC for no less than 5 years within the United States and the two years he contractually agreed not to compete should be subsumed in that 5 years.

#### COUNT ONE

##### **Breach of Fiduciary Duty – The Eagle Distribution Facility**

14. Plaintiffs, as and for paragraph 14 of Count One, re-allege paragraphs 1 – 13 as though fully set forth herein.

15. At all times relevant hereto, Citrin was a Managing Director of IAC and was an agent of his principal, IAC.

16. As an agent of IAC, Citrin owed IAC a fiduciary duty of loyalty and good faith.

17. Citrin, by his secret acquisition of the Eagle Distribution Facility and all other actions complained of above, intentionally and willfully violated his duty of loyalty and good faith to IAC.

18. As a result of Citrin's acts and omissions, he has caused and is causing irreparable harm, as well as substantial monetary damages to IAC.

19. Plaintiffs have demonstrated that Citrin, unless enjoined, would continue to engage in the conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

20. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to Plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law.

21. The granting of an injunction will not disserve the public interest. Indeed, injunctive relief would deter others from engaging in this kind of outrageous conduct.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. Entry of a declaratory judgment in favor of Plaintiffs, and against Citrin, finding that his conduct is illegal and unfair and constitutes a breach of his fiduciary duty of loyalty and good faith owed to Plaintiffs;

B. A Preliminary Injunction and, upon final disposition, entry of a Permanent Injunction, enjoining and restraining Citrin, and any other individual or entity in active concert or participation with him, who shall receive actual notice of this Court's Order from:

(i) Unlawfully interfering with Plaintiffs' business expectancies and the continued use of Plaintiffs' confidential business information and property to compete against Plaintiffs in the air freight distribution center industry;

(ii) Disseminating or otherwise making use of Plaintiffs' confidential business information, including, but not limited to, business plans, development targets, financial models and Plaintiffs financial information;

(iii) Selling, dissipating or otherwise disposing of or secreting assets he holds.

C. An order requiring Citrin, and any individual or entity in active concert or participation with him, who shall receive actual notice of this Court's order, to return to Plaintiffs all confidential business and customer information which is the property of Plaintiffs, including the return and restoration of all computer data files that Citrin destroyed or removed from IAC's computer and snap server;

D. An order restraining Citrin and any individual or entity acting in concert with him from using or benefiting from Plaintiffs' confidential business information;

E. An order imposing a constructive trust on any property, interest or money Citrin obtained through his wrongful acts;

F. An order requiring Citrin to disgorge and forfeit all compensation received from Plaintiffs during the time when he breached his fiduciary duties owed to Plaintiffs;

G. That a judgment be entered in favor of Plaintiffs and against Citrin for compensatory damages in an amount presently unknown to Plaintiffs but in good faith and reasonably believed to be in excess of \$100,000;

H. That a judgment be entered in favor of Plaintiffs and against Citrin for punitive damages in the amount of \$1,000,000;

I. An order awarding Plaintiffs its costs incurred in this action, including its attorneys' fees; and

J. An order awarding Plaintiffs such other and further relief as is just and equitable.

## COUNT TWO

### Conversion

22. Plaintiffs, as and for paragraph 22 of Count Two, re-allege paragraphs 1 – 13 as though fully set forth herein.

23. Citrin's conduct as alleged herein has resulted in the unlawful and wrongful assumption of control over Plaintiffs' property.

24. Plaintiffs have the right to recover possession of their property.

25. Citrin has failed or refused to return Plaintiffs' property.

26. By his continuing conduct, Citrin has demonstrated his willingness to continue to engage in unlawful conduct. The injury to Plaintiffs is immediate and irreparable.

27. Plaintiffs have demonstrated that Citrin, unless restrained, would continue to engage in conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

28. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to Plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law

29. The granting of an injunction will not disserve the public interest.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. Entry of a judgment in favor of Plaintiffs and against Citrin finding that he unlawfully converted property from Plaintiffs and an order requiring Citrin to make restitution therefore;

B. A Preliminary Injunction and, upon final disposition, entry of a Permanent Injunction, enjoining and restraining Citrin from selling, dissipating or otherwise disposing or secreting assets he holds;

C. An order preventing Citrin from removing, destroying, or disposing of any property, whether real personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest and compelling Citrin to return and restore all computer data files that he destroyed or removed from IAC's computer and snap server;

D. An order preventing Citrin from allowing any bank or entity to remove, destroy, encumber, or dispose of any property, whether real personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest;

E. An order imposing a constructive trust on any property, interest or money Citrin obtained through his wrongful acts;

F. That a judgment be entered in favor of Plaintiffs and against Citrin for compensatory damages in an amount presently unknown to Plaintiffs but in good faith and reasonably believed to be in excess of \$100,000;

G. A judgment entered in favor of Plaintiffs and against Citrin for punitive damages in the amount of \$1,000,000;

H. An order awarding Plaintiffs its costs and attorneys' fees incurred in this action; and

I. Such other and additional relief as this Court may deem as just.

**COUNT THREE**

**Misappropriation**

30. Plaintiffs, as and for paragraph 30 of Count Three, re-allege paragraphs 1 – 13 as though fully set forth herein.

31. Citrin, by engaging in the conduct described above, has misappropriated, retained and misused IAC property and assets for his benefit and to the detriment of Plaintiffs.

32. Citrin knowingly engaged, sponsored, aided and abetted the theft of IAC's confidential information, services and physical assets, including, but not limited to, computers, servers, investigative resources, software and confidential business information.

33. Citrin's conduct is willful, intentional and unauthorized, and has caused and is causing irreparable harm, as well as substantial monetary damages, to Plaintiffs.

34. By his continuing conduct, Citrin has demonstrated his willingness to continue to engage in unlawful acts. The injury to Plaintiffs is immediate and irreparable.

35. Plaintiffs have demonstrated that Citrin, unless restrained, would continue to engage in conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

36. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to Plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law.

37. The granting of an injunction will not disserve the public interest.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. Entry of a Preliminary Injunction and, upon final disposition, entry of a Permanent Injunction, enjoining and restraining Citrin, and any other individual or entity in active concert or participation with him, who shall receive actual notice of this Court's order, from:

- (i) Unlawfully using Plaintiffs' confidential business information and property to compete against Plaintiffs in the air freight distribution center industry;
- (ii) Disseminating or otherwise making use of Plaintiffs' confidential business information, including, but not limited to, business plans, development targets, financial models and Plaintiffs financial information;
- (iii) Selling, dissipating or otherwise disposing of or secreting assets he holds.

B. An order requiring Citrin, and any individual or entity acting in concert or participation with them, who shall receive actual notice of this Court's order, to return to Plaintiffs financial assets and physical assets of Plaintiffs, including the return and restoration of all computer data files that Citrin destroyed or removed from IAC's computer and snap server;

C. An order requiring Citrin, and any individual or entity acting in concert with them, who shall receive actual notice of this Court's order, from using or benefiting from Plaintiffs' misappropriated assets;

D. Entry of a judgment in favor of Plaintiffs, and against Citrin, finding that his conduct is illegal and unfair and constitutes misappropriation of Plaintiffs property and an order requiring Citrin to make restitution therefore;



E. That a judgment be entered in favor of Plaintiffs and against Citrin for compensatory damages in an amount presently unknown to Plaintiffs but in good faith and reasonably believed to be in excess of \$100,000;

F. That a judgment be entered in favor of Plaintiffs and against Citrin for punitive damages in the amount of \$1,000,000;

G. An order awarding Plaintiffs their costs incurred in this action, including its attorneys' fees; and

H. An order awarding Plaintiffs such other and further relief as is just and equitable.

#### **COUNT FOUR**

##### **Breach of Contract—The Grant**

38. Plaintiffs, as and for paragraph 38 of Count Four, re-allege paragraphs 1 – 13 as though fully set forth herein.

39. In December, 2002, IAC and Citrin executed and delivered the Grant.

40. The Grant accorded Citrin an indirect interest in IAC in consideration for the aforementioned covenant not to compete.

41. The Grant also provided that the covenant not to compete would be void if IAC underwent a Change of Control or Citrin's employment were to be terminated not for cause.

42. IAC performed fully under its terms of the Grant and did not undergo a Change of Control.

43. Upon the breach of his fiduciary duty, the breach of his duty of loyalty and his insubordination, Citrin was in law terminated for cause and has, therefore, by the terms of the Grant, forfeited all future rights enumerated in the Grant.

44. As a result of his secretive acquisition of the Eagle Distribution Facility, Citrin is in direct competition with his former employer, IAC.

45. Citrin has breached his covenant with IACEA LLC not to compete and he is also a flawed and insubordinate fiduciary who will inevitably disclose. As such, his departure from IAC was for cause, thus totally extinguishing his future rights under the Grant.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. An order declaring and adjudging that Citrin's conduct constitutes a breach of the Grant;

B. An order declaring and adjudging that Plaintiffs' tender of November 20, 2003 was effective;

C. That a judgment be entered in favor of Plaintiffs, and against Citrin, for compensatory damages in an amount presently unknown to Plaintiffs, but in good faith and reasonably believed to be in excess of \$100,000;

D. That a judgment be entered in favor of Plaintiffs, and against Citrin, for punitive damages in the amount of \$1,000,000, for Citrin's false misrepresentations, attempts at concealment, flagrant breaches of his fiduciary obligations and willful spoliation;

E. An order awarding Plaintiffs their costs incurred in this action, including attorneys' fees; and

F. An order awarding Plaintiffs such other and further relief as is just and equitable.

**COUNT FIVE**

**Illinois Trade Secrets Act**

46. Plaintiffs, as and for paragraph 46 of Count Five, re-allege paragraphs 1 – 13 as though fully set forth herein.

47. At all times relevant to this Complaint, there was in existence a certain statute, to wit: the Illinois Trade Secrets Act (“ITSA”), 765 ILCS 1065/1 et seq. Section 2(b) of the ITSA provides, in relevant part, as follows:

(b) "Misappropriation" means:

(1) acquisition of a trade secret of a person by another person who knows or has reason to know that the trade secret was acquired by improper means; or

(2) disclosure or use of a trade secret of a person without express or implied consent by another person who:

(A) used improper means to acquire knowledge of the trade secret;

(B) at the time of disclosure or use, knew or had reason to know that knowledge of the trade secret was:

(I) derived from or through a person who utilized improper means to acquire it;

(II) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(III) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use.

48. Plaintiffs’ business plan, strategies and potential development targets are not generally known in the air freight distribution center industry.

49. Citrin, by engaging in the conduct alleged herein, has misappropriated, retained, and misused Plaintiffs' confidential business information and assets for his benefit and to the detriment of Plaintiffs.

50. Citrin knowingly engaged, sponsored, aided and abetted the misappropriation of Plaintiffs' confidential business information, including, but not limited to, Plaintiffs' lists of development targets, business plan, and developmental and operational resources.

51. Citrin's conduct is willful, intentional, without consent and has caused and is causing irreparable harm, as well as substantial monetary damages to Plaintiffs. Citrin, without the consent of Plaintiffs, took Plaintiffs' confidential business information used in Plaintiffs' business which was obtained over many years and at great expense, resulting in the loss and compromise of Plaintiffs' unique development opportunities.

52. Citrin's misappropriation of Plaintiffs' confidential business information and property is a violation of the ITSA.

53. Section 3 of the ITSA allows this Court to enjoin any actual or threatened misappropriation of Plaintiffs' trade secrets (765 ILCS § 1065/3 (a)) and to compel Citrin to take affirmative acts to protect IAC's trade secrets (765 ILCS § 1065/3 (c)).

54. Plaintiffs have demonstrated that Citrin, unless enjoined, would continue to engage in conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

55. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to Plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law.

56. The granting of an injunction will not disserve the public interest. Indeed, injunctive relief would accomplish the objectives of the ITSA.

57. In addition to injunctive relief, this Court may award money damages for actual loss, misappropriation and unjust enrichment. 765 ILCS § 1065/4 (a). Where willful and malicious misappropriation exists, this Court may award exemplary damages twice the amount awarded for actual loss, misappropriation and unjust enrichment. (765 ILCS §1065/4 (b)). This Court may also award reasonable attorney's fees for willful and malicious misappropriation. 765 ILCS § 1065/5 (iii).

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, against Citrin engaging in acts and practices in violation of the ITSA; and

- (i) Unlawfully interfering with Plaintiffs' business expectancies and the continued use of Plaintiffs' confidential business information and property to compete against Plaintiffs in the air freight distribution center industry;
- (ii) Disseminating or otherwise making use of Plaintiffs' confidential business information, including, but not limited to, unique developmental targets, financial models, financial information and business plans;

B. An order requiring Citrin, and any individual or entity acting in concert or participation with him, who shall receive actual notice of this Court's order, to return to Plaintiffs all confidential business information which is the property of Plaintiffs, including the return and restoration of all computer data files that Citrin destroyed or removed from IAC's computer and snap server;

C. An order requiring Citrin, and any individual or entity acting in concert with him, who shall receive actual notice of this Court's order, from using or benefiting from Plaintiffs' confidential business information;

D. Entry of a declaratory judgment in favor of Plaintiffs, and against Citrin, finding that his conduct is illegal and unfair and constitutes misappropriation of trade secrets and Plaintiffs' property;

E. That a judgment be entered in favor of Plaintiffs, and against Citrin, for compensatory damages in an amount presently unknown to Plaintiffs, but in good faith and reasonably believed to be in excess of \$100,000;

F. That a judgment be entered in favor of Plaintiffs, and against Citrin, for punitive damages in the amount of \$1,000,000;

G. An order awarding Plaintiffs their costs and attorneys' fees as provided for in § 5 of the ITSA (765 ILCS 1065/5 (iii)); and

H. Such other and further relief as is just and equitable.

## COUNT SIX

### Computer Fraud and Abuse Act

58. Plaintiffs, as and for paragraph 58 of Count Six, re-allege paragraphs 1 – 13 as though fully set forth herein.

59. At all times relevant to this Complaint, there was in existence a certain statute, to-wit: The Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. §1030 *et. seq.* The CFAA provides, in relevant part, as follows:

Whoever ... knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer...

18 U.S.C. §1030 (a)(5)(A)(i).

by conduct described in clause (i), (ii), or (iii) of subparagraph (A), caused...

18 U.S.C. §1030 (a)(5)(B).

loss to 1 or more person during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

18 U.S.C. §1030 (a)(5)(B)(i).

the term "computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

18 U.S.C. §1030 (e)(1).

the term "protected computer" means...a computer which is used in interstate or foreign commerce or communication....

18 U.S.C. §1030(e)(2)(B).

Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and **injunctive relief or other equitable relief**. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.

18 U.S.C. §1030(g) (emphasis added).

60. Citrin's willful destruction of IAC's computer and snap server is a violation of both the criminal and civil provisions of the CFAA, pursuant to which Plaintiffs are entitled to damages and injunctive relief or other equitable relief.

61. Citrin, as alleged herein, knowingly caused the transmission of a program, information, code or command, and as a result of such conduct, intentionally caused damage without authorization, to a protected computer within the meaning of the CFAA.

62. Citrin's unlawful conduct has caused damages in an amount presently unknown to Plaintiffs but in good faith and reasonably believed to be in excess of \$100,000;

63. Plaintiffs have no adequate remedy at law. Money damages alone will not, and cannot, compensate Plaintiffs for the loss of goodwill and business opportunities that it has suffered as a result of Citrin's actions. Those actions have and will in the future continue to harm Plaintiffs' business relationships. As a result of Citrin's actions, Plaintiffs have and will have difficulty securing their targeted development sites, which will in turn impact their ability to do business.

64. By his continuing conduct, Citrin has demonstrated his willingness to continue to engage in acts that violate the CFAA. The injury to Plaintiffs is immediate and irreparable.

65. Plaintiffs have demonstrated that Citrin, unless restrained, would continue to engage in conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

66. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to Plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law.

67. The granting of an injunction will not disserve the public interest. Indeed, injunctive relief would accomplish the objectives of the CFAA.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:



A. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, pursuant to Section (g) of the CFAA, against Citrin, enjoining him from engaging in acts and practices in violation of the CFAA;

B. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, pursuant to Section (g) of the CFAA, against Citrin, enjoining him from destroying or disposing of any books, records or accounts or of any property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest;

C. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, pursuant to Section (g) of the CFAA, against Citrin, enjoining him from withdrawing, transferring or disposing of any property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest;

D. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, pursuant to Section (g) of the CFAA, against Citrin, directing that he turnover all Plaintiffs' property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest, including, but not limited to, confidential business information and any copies of the same to Plaintiffs, including the return and restoration of all computer data files that Citrin destroyed or removed from IAC's computer and snap server;

E. That a judgment be entered in favor of Plaintiffs, and against Citrin, for compensatory damages in an amount presently unknown to Plaintiffs, but in good faith and reasonably believed to be in excess of \$100,000;

- F. That a judgment be entered in favor of Plaintiffs, and against Citrin, for punitive damages in the amount of \$1,000,000;
- G. An order awarding Plaintiffs its costs and attorneys' fees; and
- H. Such other and additional relief as this Court may deem appropriate.

## COUNT SEVEN

### Illinois Computer Tampering Act

68. Plaintiffs, as and for paragraph 68 of Count Seven, re-allege paragraphs 1 – 13 as though fully set forth herein.

69. At all times relevant to this Complaint, there was in existence a certain statute, to-wit: The Illinois Computer Tampering Act (“ICTA”), 720 ILCS 5/16D-3 *et. seq.*, which provides, in relevant part, as follows:

(a) A person commits the offense of computer tampering when he knowingly and without the authorization of a computer's owner ... or in excess of the authority granted to him:  
720 ILCS 5/16D-3 (a).

(4) Inserts or attempts to insert a “program” into a computer or computer program knowing or having reason to believe that such “program” contains information or commands that will or may damage or destroy that computer, ...or that will or may alter, delete or remove a computer program or data from that computer, ... or that will or may cause loss to the users of that computer or the users of a computer which accesses or which is accessed by such “program”  
720 ILCS 5/16D-3 (a)(1)(4).

(c) Whoever suffers loss by reason of a violation of subsection (a)(4) of this Section may, in a civil action against the violator, obtain appropriate relief. In a civil action under this Section, the Court may award to the prevailing party reasonable attorney's fees and other litigation expenses.  
720 ILCS 5/16D-3 (c).

70. Citrin's willful destruction of IAC's computer and snap server is a violation of both the criminal and civil provisions of the ICTA, pursuant to which the Plaintiffs are entitled appropriate relief, attorneys' fees and other litigation expenses.

71. Citrin, as alleged herein, knowingly and without authorization inserted a program into IAC's computer and snap server intending that such program would execute commands to alter, delete and remove data from such computer and snap server, and, as a result of such conduct, intentionally caused the data on Plaintiffs' computer and snap server to be destroyed.

72. Citrin's unlawful conduct has caused damages in an amount presently unknown to Plaintiffs but in good faith and reasonably believed to be in excess of \$100,000;

73. Plaintiffs have no adequate remedy at law. Money damages alone will not, and cannot, compensate Plaintiffs for the loss of goodwill and business opportunities that it has suffered as a result of Citrin's destruction of the data. Those actions have and will in the future continue to harm Plaintiffs' relationships with its potential customers. As a result of Citrin's actions, Plaintiffs have lost valuable data relevant to their business and will have difficulty securing their targeted development sites, which will in turn impact their ability to do business.

74. By his continuing conduct, Citrin has demonstrated his willingness to continue to engage in acts that violate the ICTA. The injury to Plaintiffs is immediate and irreparable.

75. Plaintiffs have demonstrated that Citrin, unless restrained, would continue to engage in conduct that is alleged herein. There is a likelihood that Plaintiffs will prevail on the merits of this action.

76. Should this Court grant injunctive relief to Plaintiffs, the burden on Citrin would be slight compared to the injury to plaintiffs if it were not granted. No injury to Citrin would result from an order requiring him to comport his actions under the law.

77. The granting of an injunction will not disserve the public interest. Indeed, injunctive relief would accomplish the objectives of the ICTA.

**WHEREFORE**, for all the foregoing reasons, Plaintiffs, International Airport Centers L.L.C., PIC IAC LLC and IACEA LLC, respectfully request that this Court grant the following relief:

A. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, against Citrin, enjoining him from engaging in acts and practices in violation of the ICTA;

B. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, against Citrin, enjoining him from destroying or disposing of any books, records or accounts or of any property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest;

C. Entry of a Preliminary Injunction, and, upon final disposition, entry of a Permanent Injunction, against Citrin, enjoining him from withdrawing transferring or disposing of any property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest;

D. Entry of a Preliminary Injunction and, upon final disposition, entry of a Permanent Injunction, against Citrin, directing that he turnover all of Plaintiffs' property, whether real, personal or mixed, owned by Plaintiffs or in which Plaintiffs have an interest, including, but not limited to, confidential business information and any copies of the same to Plaintiffs, including the return and restoration of all computer data files that Citrin destroyed or removed from IAC's computer and snap server;

E. so as to a judgment be entered in favor of Plaintiffs, and against Citrin, for compensatory damages in an amount presently unknown to Plaintiffs, but in good faith and reasonably believed to be in excess of \$100,000;


F. That a judgment be entered in favor of Plaintiffs, and against Citrin, for punitive damages in the amount of \$1,000,000;

G. An order awarding Plaintiffs its costs and attorneys' fees pursuant to 720 ILCS 5/16D-3 (c); and

H. Such other and additional relief as this Court may deem appropriate.

Dated: March 12, 2004

INTERNATIONAL AIRPORT CENTERS  
L.L.C., PIC IAC LLC and IACEA LLC

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**See Case File  
For  
Exhibits**

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