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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

American Traffic Solutions, Inc., a
 Kansas corporation,

 Plaintiff,

 vs.

 Michael J. Lenza, an individual; Public
 Finance Strategies, LLC, a Delaware
 Limited Liability Company; and Photo
 Enforcement Consultants, LLC, a
 Delaware Limited Liability Company,

 Defendants.

Case No.

**VERIFIED COMPLAINT FOR
PRELIMINARY AND PERMANENT
INJUNCTIVE RELIEF AND
DAMAGES**

(Jury Trial Requested)

Plaintiff American Traffic Solutions, Inc. (“ATS”) states its Verified
 Complaint for Injunctive and Other Relief against Defendants Michael Lenza, Public
 Finance Strategies, LLC, and Photo Enforcement Consultants, LLC and alleges as
 follows.

PRELIMINARY STATEMENT

1. This is an action for injunctive relief to halt and prevent ATS’s former
 Senior Vice President for Financial Services, Michael Lenza, from continuing to

1 breach his post-employment obligations owed to ATS. ATS will suffer irreparable
2 injury unless a preliminary injunction is entered.

3 2. Mr. Lenza is party to three enforceable agreements that restrict his
4 ability to compete against ATS during and following his ATS employment. As a
5 condition of his employment, Mr. Lenza executed two agreements: an Executive
6 Employment Agreement (“Employment Agreement”), a copy of which is attached as
7 **Exhibit A**, and a Proprietary Rights Agreement (the “Proprietary Rights
8 Agreement”), a copy of which is attached as **Exhibit B**. Also in connection with his
9 employment, Mr. Lenza’s company, Public Finance Strategies, and ATS entered into
10 a separate Business Representation Agreement, a copy of which is attached as
11 **Exhibit C**.

12 3. In the course of working for ATS, Mr. Lenza acquired knowledge of
13 protected confidential information of ATS, including but not limited to, strategic sales
14 and marketing information, and confidential technical and planning information
15 relating to parking systems, toll and traffic violation enforcement management
16 systems and processes, revenue collection processing systems and software, methods
17 and manners of submitting proposals for contracts with municipalities and states, and
18 customer confidential and intellectual property.

19 4. Following Mr. Lenza’s voluntary resignation from ATS, the company
20 delivered to him a letter reminding him of his post-employment obligations and
21 restrictions and demanded the return of all ATS property.

22 5. Upon information and belief, while working for ATS, Mr. Lenza was a
23 dual agent—simultaneously working for both ATS and himself and competing and/or
24 preparing to compete directly against ATS. Mr. Lenza has violated his fiduciary and
25 contractual obligations by engaging in this competition and by directly interfering
26 with and impairing ATS’s ability to compete in the Massachusetts market.

1 12. The amount in controversy, exclusive of interest and costs, exceeds
2 \$75,000.

3 13. This Court has diversity jurisdiction under the provisions of 28 U.S.C.
4 §1332. Jurisdiction and venue are proper in this Court. Moreover, the applicable
5 agreements contain an exclusive forum selection clause that provides that any dispute
6 arising out of the Agreement will be adjudicated in Maricopa County, Arizona.

7 **ALLEGATIONS APPLICABLE TO ALL CLAIMS**

8 14. From September 30, 2006 until May 13, 2011, Mr. Lenza was employed
9 with ATS as Senior Vice President for Financial Services. Mr. Lenza solicited
10 customers and potential customers for ATS. On behalf of ATS, Mr. Lenza consulted
11 with municipalities on various issues relating to photo-traffic enforcement, including
12 assisting or educating those municipalities with establishing photo-traffic enforcement
13 systems and with collecting fines and penalties. As a condition of his employment,
14 Mr. Lenza executed the Employment Agreement (Exhibit A) and the Proprietary
15 Rights Agreement (Exhibit B).

16 15. The Employment Agreement and Proprietary Rights Agreement
17 expressly prohibit Mr. Lenza from competing with ATS during his employment and
18 for a one-year period following his termination. Specifically, Mr. Lenza is prohibited
19 during this period from engaging in the business of manufacturing, developing,
20 marketing, or selling photo-traffic enforcement software, technology, techniques,
21 equipment, or services as an employee, partner, consultant, advisor, or otherwise.

22 16. At the same time that Mr. Lenza joined ATS, he and ATS entered into a
23 Business Representation Agreement (Exhibit C). In that agreement, ATS and Mr.
24 Lenza's company, Public Finance Strategies, agreed that ATS would represent Public
25 Financing Strategies' photo-enforcement collections and other services. Public
26 Financing Strategies agreed that ATS was its exclusive representative and that Public

1 Financing Strategies would not offer or provide its services to any competitor or
2 customer without written permission from ATS.

3 17. ATS recently discovered that while Mr. Lenza was ATS's Senior Vice
4 President, Mr. Lenza was simultaneously competing directly with ATS by consulting
5 with municipal customers and potential customers and marketing photo-traffic
6 enforcement services. On information and belief, Mr. Lenza was directly diverting
7 opportunities away from ATS.

8 18. On information and belief, Mr. Lenza formed a company to compete
9 with ATS called Photo Enforcement Consultants, a Defendant in this action. Mr.
10 Lenza has offered consulting services in the photo-enforcement field through this
11 company.

12 19. Despite requests from ATS that Mr. Lenza honor his contractual
13 obligations, Mr. Lenza has continued to solicit his competitive consulting services.
14 On information and belief, Mr. Lenza also has solicited ATS's potential customers
15 with whom he worked while at ATS.

16 20. On information and belief, Public Finance Strategies has materially
17 breached the Business Representation Agreement by, among other things, competing
18 with ATS and by working directly with customers without written consent from ATS.

19 21. Photo Enforcement Consultants has interfered with the Employment
20 Agreement and Proprietary Rights Agreement by permitting, assisting, and employing
21 Mr. Lenza with knowledge of his non-competition obligations and by directing or
22 allowing him to breach his non-competition obligations to ATS. Photo Enforcement
23 Consultants and Mr. Lenza have interfered with ATS's potential customer
24 relationships by attempting to divert their business from ATS to Photo Enforcement
25 Consultants.

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1 28. ATS has demanded that Defendants comply with their agreements with
2 ATS and applicable law, and refrain from wrongfully soliciting or competing with
3 ATS.

4 29. Mr. Lenza and Public Finance Strategies have been and are violating
5 contractual and legal duties owed by them to ATS.

6 30. Defendants have interfered and are interfering with ATS's contracts,
7 potential customers, business, and operations.

8 31. Mr. Lenza has misappropriated for himself and for Photo Enforcement
9 Consultants, ATS's potential customers, customer relationships, and ATS's other
10 interests to ATS's detriment and to the advantage of Mr. Lenza and Photo
11 Enforcement Consultants.

12 32. Mr. Lenza has failed, neglected, and refused to stop soliciting ATS
13 customers, and he has traded for himself or for the benefit of others upon ATS's
14 relationships while employed with ATS.

15 33. As Photo Enforcement Consultants is operated by Mr. Lenza, it is well
16 aware of Mr. Lenza's contractual obligations to ATS.

17 34. Mr. Lenza's direct competition is interfering with ATS's legitimate
18 business efforts, harming ATS's goodwill and reputation in the industry, and should
19 be enjoined.

20 35. Defendants' actions have resulted and will result in damage to ATS and
21 in Defendants' unjust enrichment.

22 36. ATS does not yet know, and cannot yet estimate, the exact extent of its
23 actual and potential damages incurred and to be incurred, the damage to reputation,
24 good will and customer relationships, the number of sales lost, additional potential
25 costs incurred, and other harm suffered and to be suffered, as a direct and
26 consequential result of Defendants' activities.

1 42. Mr. Lenza is party to the enforceable Employment Agreement and
2 Proprietary Rights Agreement that, among other things, prohibit him from competing
3 with ATS and/or soliciting ATS's customers for one year after the termination of his
4 employment.

5 43. Mr. Lenza has breached the Employment Agreement and Proprietary
6 Rights Agreement by, among other things, marketing competitive consulting services
7 to ATS's customers and potential customers and municipalities with whom he had
8 contact while employed by ATS.

9 44. ATS has reminded Mr. Lenza of the Employment Agreement and
10 Proprietary Rights Agreement and demanded that he honor his contractual
11 commitments.

12 45. ATS has been damaged. As a result of the foregoing, ATS is entitled to
13 recover its actual damages from Mr. Lenza.

14 46. Defendant Public Finance Strategies is a party to a Business
15 Representation Agreement, which, among other things, designates ATS as its
16 exclusive representative to market collection services to municipalities.

17 47. On information and belief, Public Finance Strategies has breached the
18 Business Representation Agreement by competing with ATS and by offering its
19 collection services directly to municipality customers without informing ATS or
20 obtaining ATS's written consent.

21 48. ATS has suffered and will continue to suffer substantial damages
22 resulting from these breaches of contract. Defendants' actions are likely to continue
23 unless enjoined. ATS has no adequate remedy at law. Defendants' actions are
24 causing, and unless remedied, will continue to cause irreparable harm to ATS.

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COUNT THREE
(Breach of Fiduciary Duties)
(As to Michael Lenza)

49. ATS incorporates by reference the above allegations of this Complaint.

50. As an agent and Senior Vice President of ATS, Mr. Lenza held a position of responsibility, trust, and confidence. During his employment, Mr. Lenza was obligated to act with undivided loyalty to ATS and not to take actions to the detriment of ATS.

51. During his relationship with ATS, Mr. Lenza was charged with soliciting customers and potential customers for photo-traffic enforcement consulting and other services.

52. While employed with ATS, and in breach of his fiduciary duties to ATS, Mr. Lenza worked directly with ATS customers and potential customers and offered competitive consulting services in the photo-traffic enforcement field.

53. Mr. Lenza has engaged in a course of conduct inconsistent with his fiduciary obligations and duties of loyalty and fairness to protect the interests of ATS and to refrain from doing anything that would improperly or unfairly injure ATS.

54. Mr. Lenza acted with an evil mind, and with an intent to injure ATS, entitling ATS to an award of punitive damages.

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COUNT FOUR
(Aiding and Abetting Breach of Fiduciary Duties)
(As To Defendant Photo Enforcement Consultants)

55. ATS incorporates by reference the above allegations of this Complaint.

56. Mr. Lenza breached his fiduciary duties owed to ATS, causing substantial damages to ATS.

1 57. Photo Enforcement Consultants, Mr. Lenza’s company, had knowledge
2 or a general awareness that the conduct of Mr. Lenza described herein constituted a
3 breach of his fiduciary duties to ATS.

4 58. By virtue of its employment of Mr. Lenza and other encouragement
5 and/or support, Photo Enforcement Consultants provided substantial assistance or
6 encouragement to Mr. Lenza in the achievement of his breach, making it easier for
7 Mr. Lenza to breach his fiduciary duties.

8 59. Photo Enforcement Consultants acted with an evil mind and with an
9 intent to injure ATS, entitling ATS to an award of punitive damages.

10 **COUNT FIVE**
11 **(Tortious Interference With Business Expectancy)**
12 **(As to All Defendants)**

13 60. ATS incorporates by reference the above allegations of this Complaint.

14 61. ATS had a reasonable expectancy that it would continue to do business
15 with its customers and prospective customers.

16 62. Defendants are aware of ATS’s existing and prospective business
17 relationships with its customers and potential customers.

18 63. Using improper motives and means, Defendants intentionally engaged
19 in the acts described above for the purpose of interfering with ATS’s enjoyment and
20 benefit of its contractual and prospective business relationships and expectancies with
21 its customers, thereby causing substantial damage to ATS in an amount to be proven
22 at trial and entitling ATS to injunctive relief.

23 **COUNT SIX**
24 **(Tortious Interference With Contract)**
25 **(As to Defendant Photo Enforcement Consultants)**

26 64. ATS incorporates by reference the above allegations of this Complaint.

1 65. Photo Enforcement Consultants hired or continued to employ or engage
2 Mr. Lenza with knowledge of Mr. Lenza's obligations under the Employment
3 Agreement and Proprietary Rights Agreement.

4 66. Despite its knowledge of Mr. Lenza's agreements with ATS, Photo
5 Enforcement Consultants has nevertheless proceeded to induce Mr. Lenza to breach
6 his agreements with ATS, or allowed him to do so, using improper motives or means,
7 thereby intentionally interfering with ATS's enjoyment and benefit of its rights in the
8 Agreement.

9 67. Photo Enforcement Consultants acted knowingly, improperly,
10 intentionally, wantonly and maliciously, in an effort to damage ATS.

11 68. Photo Enforcement Consultants has no justification or excuse for
12 intentionally and willfully interfering with ATS's rights under the Employment
13 Agreement and Proprietary Rights Agreement. Photo Enforcement Consultants has
14 interfered with ATS's rights under Mr. Lenza's agreements with ATS in bad faith,
15 and with the intent to harm ATS.

16 69. ATS has been damaged as a result of the foregoing actions by
17 Defendants.

18 70. As a result of the foregoing, ATS is entitled to recover its actual
19 damages from Photo Enforcement Consultants, as well as punitive damages.

20 71. Photo Enforcement Consultants' actions are likely to continue unless
21 enjoined. ATS has no adequate remedy at law. These actions threaten to cause
22 irreparable harm to ATS.

23 72. ATS is entitled to injunctive relief to prevent Photo Enforcement
24 Consultants from instigating, inducing, or acquiescing in Mr. Lenza's breaches of Mr.
25 Lenza's agreement with ATS.

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1 **COUNT SEVEN**
2 **(Constructive Trust)**

3 73. ATS incorporates by reference the above allegations of this Complaint.

4 74. Mr. Lenza breached his fiduciary duties to ATS by soliciting ATS
5 prospective customers on behalf of himself and/or a competitor while he was still
6 employed by ATS.

7 75. Defendant Photo Enforcement Consultants maliciously aided and
8 abetted Mr. Lenza's breaches of fiduciary duties and all Defendants have benefited
9 from Mr. Lenza's breaches of duties owed to ATS.

10 76. ATS had and has the resources and the motivation to service the
11 customers that Mr. Lenza diverted away from ATS.

12 77. Defendants should be required to disgorge the profits they made from
13 any customers that Defendants misappropriated through Mr. Lenza's efforts while he
14 was employed with ATS or afterwards in violation of Mr. Lenza's duties, and a
15 constructive trust should be imposed over those profits and the businesses of
16 Defendants and for the benefit of ATS.

17 WHEREFORE, Plaintiff ATS requests:

18 A. Injunctive relief as set forth above.

19 B. Constructive trust as set forth above.

20 C. Monetary damages.

21 D. ATS' reasonable costs and expenses, including attorneys' fees incurred
22 in connection with the prosecution of this action to the extent allowed by law.

23 E. Such other and further relief as the Court may deem just and equitable.

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DATED this 18th day of May, 2011.

OSBORN MALEDON, P.A.

s/ John L. Blanchard
Scott W. Rodgers
John L. Blanchard
Kristin L. Windtberg
2929 N. Central Avenue, Suite 2100
Phoenix, AZ 85012-2793
Attorneys for Plaintiff

VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

Greg Parks hereby verifies:

1. I am the Senior Vice President of American Traffic Solutions, Inc., the Plaintiff, and I am authorized to make this verification on behalf of American Traffic Solutions, Inc.

2. I have read the foregoing Verified Complaint and know the matters stated in the Verified Complaint to be true and correct, except matters stated on information and belief, which matters I believe to be true.

Executed on May 17, 2011



Greg Parks