

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

RYAN, LLC,

Plaintiff,

v.

Case No: 8:12-CV-289-T-30TBM

CHARLES J. EVANS, JR., ALLEN  
ESPINOSA, MERIT APPRAISAL &  
TAX CONSULTING GUILTY PLEA, LLC,  
and MERIT APPRAISAL & TAX  
CONSULTING, LP.,

Defendants.

---

**ORDER**

**THIS CAUSE** came on for consideration upon the Report and Recommendation submitted by Magistrate Judge Thomas B. McCoun, III (Dkt. #58), the Plaintiff's Objections (Dkt. #64), Defendants' Response (Dkt. #65), and Defendants' Notice of Joinder (Dkt. #66) filed thereto.

After careful consideration of the Report and Recommendation of the Magistrate Judge, the Objections, the Response, the Notice of Joinder, and in conjunction with an independent examination of the file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be modified in part, and adopted in part. Specifically, based upon the Eleventh Circuit's decision in *U.S. v. Rodriguez*, 628 F.3d 1258 (11th Cir. 2010), the Court declines to adopt the Magistrate Judge's conclusion that Plaintiff has failed

to show a likelihood of the merits on its claims for violations of 18 U.S.C. § 1030(a)(2)(C) and (a)(4); the Court declines to assert any opinion on this issue at this time, noting that the Magistrate Judge's preliminary injunction recommendation does not depend upon its conclusion on this matter. The Court does, however, adopt the Magistrate Judge's Report and Recommendation in all other respects.

**ACCORDINGLY**, it is therefore, **ORDERED AND ADJUDGED**:

1. The Court declines to adopt the Magistrate Judge's ruling that Plaintiff failed to show a likelihood of success on the merits on its claims for violations of 18 U.S.C. § 1030(a)(2)(C) and (a)(4).

2. The Report and Recommendation (Dkt. #58) of the Magistrate Judge is adopted, confirmed, and approved in all other respects and is made a part of this order for all purposes, including appellate review.

3. Plaintiff's Emergency Motion for Temporary Restraining Order (Dkt. #2), construed as a motion for preliminary injunction, is **GRANTED in part** and preliminary injunctive relief is granted on the following terms:

A. Defendants are enjoined from destroying or altering any evidence;

B. Defendants are enjoined to return to Plaintiff Ryan, LLC any and all information and data, in whatever format, taken from Plaintiff Ryan, LLC, excluding matters of a purely personal nature to Charles J. Evans, Jr. and Allen Espinosa. To facilitate the return of all such matters and to the extent that such has not already been agreed to, Defendants are ordered to permit the inspection of any computer and server storing Plaintiff

Ryan, LLC's confidential or proprietary matters by a qualified independent forensic examiner under an agreed upon search protocol;

C. Defendants are enjoined from using or disclosing any Plaintiff Ryan, LLC confidential or proprietary information unless otherwise permitted by Plaintiff Ryan, LLC;

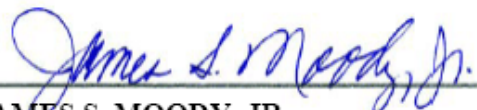
D. Defendants are enjoined from soliciting or providing services to any Plaintiff Ryan, LLC client in connection with any business for which Plaintiff Ryan, LLC had an engagement agreement with or with which (or whom) Plaintiff Ryan, LLC can demonstrate that it was negotiating an engagement agreement at the time Charles J. Evans, Jr. and Allen Espinosa left its employ.

E. Defendants are enjoined from soliciting or inducing any Plaintiff Ryan, LLC employee from terminating his or her position with Plaintiff Ryan, LLC and hiring or engaging as an independent contractor any employee of Plaintiff Ryan, LLC who is or was employed by Plaintiff Ryan, LLC prior to Charles J. Evan, Jr.'s and Allen Espinosa's leaving its employ; and

F. The provisions hereof shall take effect upon Plaintiff Ryan, LLC's posting a \$25,000 bond.

**DONE and ORDERED** in Tampa, Florida on April 30, 2012.

**Copies Furnished to:**  
Counsel/Parties of Record

  
\_\_\_\_\_  
JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

S:\Odd\2012\12-cv-289.adopt 58.wpd