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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

|                               |   |                       |
|-------------------------------|---|-----------------------|
| ENVTECH, INC.,                | ) | 3:11-cv-00523-HDM-WGC |
|                               | ) |                       |
| Plaintiff,                    | ) |                       |
|                               | ) | ORDER                 |
| vs.                           | ) |                       |
|                               | ) |                       |
| TALMOR SUCHARD, SENTRO        | ) |                       |
| TECHNOLOGIES, LTD, and SENTRO | ) |                       |
| TECHNOLOGIES, LLC,            | ) |                       |
|                               | ) |                       |
| Defendants.                   | ) |                       |
|                               | ) |                       |

Plaintiff EnvTech ("EnvTech") has filed an amended complaint asserting multiple claims against defendants Talmor Suchard ("Suchard"), Sentro Technologies LTD, and Sentro Technologies, LLC ("Sentro Nevada"). Plaintiff has also filed a motion for preliminary injunction (#47), proposed interim injunctive relief (#73), and on October 31, 2012, a "Request for Urgent Entry of Injunctive Relief" (#78). On October 31, 2012, the court entered a temporary restraining order enjoining and restraining Suchard from

1 sending out or transmitting any letters or other forms of  
2 communication to oil refineries disclosing EnvTech's proprietary  
3 chemical blends and cleaning processes, or other confidential,  
4 proprietary, and trade secret information belonging to EnvTech.  
5 The court thereafter conducted a telephonic hearing on the Request  
6 for immediate injunctive relief (#78) and issued its order granting  
7 interim preliminary injunctive relief pending a full hearing on the  
8 motion for preliminary injunction (#83).

9 **Factual Background**

10 EnvTech claims to be the "world's primary provider" of  
11 chemical cleaning solutions to oil and gas refineries. Controlling  
12 80 percent of the market for cleaning and neutralization of "HF  
13 Alkylation" units - accounting for 40-60 percent of its business -  
14 and with a "significant presence in other types of unit cleaning,"  
15 EnvTech bases its success on its proprietary chemical formula and  
16 processes that it claims no other company has been able to  
17 duplicate. HF Alkylation units are a small part of the overall  
18 refinery process, and they are not in all refineries.

19 Suchard is an Israeli citizen and former EnvTech employee.  
20 Prior to working for EnvTech from 2005 to 2011, Suchard spent seven  
21 years in the oil and gas refinery business.

22 Suchard's job responsibilities at EnvTech included visiting  
23 clients, pitching work, and overseeing the cleaning processes, and  
24 he had access to EnvTech's proprietary chemical formula and  
25 cleaning process. Suchard asserts that the vast majority of his  
26 time was spent in chemical cleaning of HF Alkylation units. While  
27 Suchard admits he cleaned other types of units, he claims he did so  
28 only a few times and was not in charge of those projects. EnvTech,

1 however, produced evidence demonstrating that Suchard was also  
2 involved in drafting proposals for decontamination of heat  
3 exchangers, vapor phase cleaning unrelated to HF Alkylation, and  
4 cleaning of vacuum towers, crude oil units, crude oil exchangers,  
5 desalters, FCC Units, and heavy oil units. (Pl. Reply to Mot.  
6 Prelim. Inj. Exs. 4, 7-8; Suchard Decl. in Support of Removal ¶ 3).

7 As part of his employment, Suchard signed an at-will  
8 employment agreement ("EA") and a "Trade Secrets and  
9 Non-Competition Agreement" ("TSNCA"). The agreements required  
10 Suchard to maintain the confidentiality of EnvTech's trade secrets  
11 and proprietary information, to not compete against it, and to not  
12 solicit EnvTech clients.

13 Suchard was terminated from EnvTech in May 2011. While still  
14 employed by EnvTech, and after his termination up to the present  
15 time, Suchard allegedly used and is using EnvTech's confidential  
16 and proprietary information to compete against it, including  
17 soliciting EnvTech's clients and creating two competing businesses.  
18 Suchard does not deny that he has created oil and refinery cleaning  
19 businesses, but denies that they compete with EnvTech, denies that  
20 he has done any work for EnvTech clients, and denies using any of  
21 EnvTech's confidential and trade secret information.

## 22 **Preliminary Injunction Standard**

23 "An injunction is a matter of equitable discretion and is an  
24 extraordinary remedy that may only be awarded upon a clear showing  
25 that the plaintiff is entitled to such relief." *Earth Island Inst.*  
26 *v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation  
27 marks omitted).

28 To obtain a preliminary injunction, EnvTech must show: (1) it

1 will probably prevail on the merits; (2) it will likely suffer  
2 irreparable injury if relief is denied; (3) the balance of equities  
3 tips in its favor; and (4) an injunction is in the public interest.  
4 *Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 129 S.  
5 Ct. 365, 374 (2008).

6       Alternatively, an injunction may issue under the “sliding  
7 scale” approach if there are serious questions going to the merits  
8 and the balance of hardships tips sharply in EnvTech’s favor, so  
9 long as EnvTech still shows a likelihood of irreparable injury and  
10 that an injunction is in the public interest. *Alliance for the*  
11 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).  
12 “Serious questions are those which cannot be resolved one way or  
13 the other at the hearing on the injunction.” *Bernhardt v. Los*  
14 *Angeles County*, 339 F.3d 920, 926-27 (9th Cir. 2003) (internal  
15 quotation marks omitted) (citing *Republic of the Philippines v.*  
16 *Marcos*, 862 F.2d 1355, 1362 (9th Cir. 1988)). They “need not  
17 promise a certainty of success, nor even present a probability of  
18 success, but must involve a ‘fair chance of success on the  
19 merits.’” *Marcos*, 862 F.2d at 1362.

#### 20 **I. Likelihood of Success/Serious Questions**

21       While employed by EnvTech, Suchard signed agreements to not  
22 disclose EnvTech’s confidential, proprietary, and trade secret  
23 information, (TSNCA §§ 1.3, 1.4, 1.6, 1.7; EA ¶ 18), and to not  
24 “engage or participate in any competitive activity relating to the  
25 subject matter of his ... hiring by” EnvTech, (TSNCA § 1.8). A  
26 review of the record indicates that these agreements are likely  
27 enforceable. At this juncture, Suchard has failed to establish  
28 that the EA and TSNCA were signed in bad faith to avoid application

1 of California law, that Nevada lacks a substantial relationship to  
2 the agreements, or that the agreements are contrary to Nevada  
3 public policy. Applying Nevada law, as selected by the agreements,  
4 the court concludes the noncompete and trade secret provisions  
5 contained in the TSNCA are likely enforceable, and the noncompete,  
6 trade secret, and nonsolicitation agreements in the EA are likely  
7 enforceable if modified as follows. The EA noncompete provision  
8 barring Suchard from providing any service to any EnvTech client is  
9 too broad to be enforceable; the scope must be limited to acts that  
10 compete with EnvTech in a manner related to the work Suchard  
11 performed for EnvTech. The nonsolicitation provision must be  
12 modified in a similar way, to prevent Suchard from soliciting  
13 EnvTech business associates to do business related to work Suchard  
14 performed for EnvTech. Finally, the duration of the EA trade  
15 secret provision must be limited to a definable term.

16 The record also indicates that Suchard is likely violating the  
17 enforceable agreements. The evidence establishes that, both during  
18 and after his employment with EnvTech, Suchard solicited EnvTech  
19 clients and associates with respect to services that compete with  
20 EnvTech and relate to work Suchard performed for EnvTech. Suchard  
21 does not deny that he has established entities that engage in the  
22 oil and gas refinery cleaning business, though he denies that they  
23 directly compete with EnvTech because they do not engage in  
24 cleaning of HF Alkylation units and because his technologies are  
25 different from EnvTech's. Whether Suchard has engaged in cleaning  
26 and decontamination of HF Alkylation units - and there is evidence  
27 in the record that he has at least attempted to do so - is not  
28 particularly relevant. Competition with EnvTech can encompass more

1 than just cleaning HF Alkylation units, and Suchard has clearly  
2 engaged or attempted to engage in other types of cleaning,  
3 including heavy oil and vapor phase, which he was involved in while  
4 employed by EnvTech and which competes with EnvTech. Similarly,  
5 competition with EnvTech is not limited to competition using the  
6 same technologies and processes. Even assuming Suchard's  
7 technologies differ from EnvTech's, he is competing with EnvTech if  
8 he attempts to clean and/or decontaminate the same units in oil and  
9 gas refineries that EnvTech cleans and decontaminates.

10       Recent filings by EnvTech present evidence demonstrating  
11 threats by Suchard to immediately disclose confidential,  
12 proprietary and trade secret information belonging to EnvTech to at  
13 least 100 refineries. In addition, the record contains persuasive  
14 evidence that Suchard has engaged and continues to engage in  
15 competitive activities relating to the subject matter of his hiring  
16 - that is, Suchard is competing or attempting to compete with  
17 EnvTech in the cleaning of oil and gas refinery units.  
18 Significantly, while employed by EnvTech, he cleaned and/or drafted  
19 proposals for cleaning for several different types of units.  
20 Accordingly, pending further order of the court, the court  
21 concludes that EnvTech has shown at least serious questions going  
22 to, if not a likelihood of success on, the merits of its claim that  
23 Suchard is violating his employment agreements.

## 24 **II. Likelihood of Irreparable Harm**

25       The disclosure of confidential trade secret information would  
26 cause immediate and irreparable harm to EnvTech. Further, given  
27 the evidence of Suchard's conduct, the court also concludes that  
28 Suchard's competitive activities threaten to undermine EnvTech's

1 goodwill and market share and would also therefore result in  
2 irreparable harm.

### 3 **III. Balance of Hardships**

4 EnvTech's potential loss of confidential, proprietary, and  
5 trade secret information and of market share greatly outweighs  
6 Suchard's inability to work in the field of oil and gas refinery  
7 cleaning insofar as it relates to work he performed for EnvTech,  
8 particularly in light of the most recent filing reflecting efforts  
9 by Suchard to disclose confidential, proprietary and trade secret  
10 information that belongs to EnvTech. Accordingly, the court finds  
11 the balance of hardships tips in EnvTech's favor.

### 12 **IV. Public Interest**

13 "The public interest inquiry primarily addresses impact on  
14 non-parties rather than parties." *Sammartano v. First Judicial*  
15 *Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002). The nonparties  
16 potentially impacted by an injunction would be clients and  
17 potential clients of EnvTech and Suchard. Those clients would have  
18 fewer options for chemical cleaning and may have to pay more for  
19 such services. On the other hand, the businesses that provide  
20 chemical cleaning services exist and are able to thrive in part  
21 because of trade secret protection. Failure to protect trade  
22 secrets would greatly undermine EnvTech's business, would  
23 discourage innovation in the field, and could eventually reduce the  
24 number of businesses engaged in the cleaning of oil and gas  
25 refineries. On balance, the court concludes that the public  
26 interest favors the protection of EnvTech's confidential and trade  
27 secret information and therefore favors the issuance of a  
28 preliminary injunction.

1 **Conclusion**

2 EnvTech has shown a likelihood of success on, or at the very  
3 least serious questions going to, the merits of its contractual  
4 claims, that it faces likely irreparable harm in the absence of an  
5 injunction, that the balance of hardships tips sharply in its  
6 favor, and that the public interest favors an injunction.

7 Accordingly, a preliminary injunction is properly issued pending  
8 further order of the court. Accordingly, pursuant to Federal Rule  
9 of Civil Procedure 65 the court hereby reconfirms its preliminary  
10 injunction of November 1, 2012 as herein modified, and the  
11 defendant and the defendant's agents, assigns, and affiliates are  
12 restrained and enjoined from the following:

- 13 1. Using in any way, or disclosing to anyone, any of  
14 EnvTech's confidential and proprietary information and  
15 trade secrets, including but not limited to EnvTech's  
16 strategic planning information, the chemical formulas it  
17 has developed to service its customers, identities or  
18 information on its customers including attributes and  
19 preferences, and the unique processes and procedures  
20 EnvTech has developed to service its customers;
- 21 2. Sending out or transmitting any letters or other forms of  
22 communication to oil refineries stating that EnvTech's  
23 chemicals contain unspecified carcinogens;
- 24 3. Holding himself out to anyone as affiliated with EnvTech  
25 or use EnvTech's name, trademarks, literature or  
26 documents for any purpose whatsoever;
- 27 4. Engaging in any type of chemical cleaning business  
28 related to activities Suchard participated in while



1 employed by EnvTech, for a period not to exceed two years  
2 or until further order of the court, including:

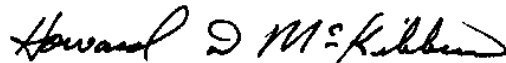
- 3 a. HF Alkylation Unit Cleaning;  
4 b. Decontamination of Heat Exchangers;  
5 c. Cleaning of Vacuum Towers;  
6 d. Cleaning of Crude Oil Units;  
7 e. Cleaning of Crude Oil Exchangers;  
8 f. Cleaning of Desalters;  
9 g. Cleaning of FCC Units;  
10 h. Vapor Phase Cleaning;  
11 i. Cleaning of Heavy Oil Units; and

12 5. Soliciting or encouraging any person or entity with whom  
13 EnvTech has done business while Suchard was employed with  
14 EnvTech to cease doing business with EnvTech or to do any  
15 business with defendants, that is the business described  
16 in paragraph 4 above.

17 The bond previously posted by EnvTech shall apply to this  
18 preliminary injunction and is increased to \$50,000.

19 **IT IS SO ORDERED.**

20 DATED: This 29th day of November, 2012.

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22 UNITED STATES DISTRICT JUDGE  
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