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Business, Company

In Ohio law, an allegation regarding violation of a non-compete clause requires the claimant to prove that the section is reasonable and required to secure legitimate interests of the company. Such a clause is acceptable if it is not more than required for the security of the company, does not put excessive hardship on the worker, and is not detrimental to the general public. If the section is arbitrary or too broadly drafted, the judiciary may alter it for securing the company's legitimate stakes. (Bishara & Westermann-Behaylo 2012) Per Raimonde v. Van Vlerah, the Ohio Supreme Court grants recognition to an authority to alter arbitrary non-compete sections, having conveyed that the general law allows the judiciary to come up with an agreement that suits all parties, pursuant to their will during the time of formation of the contract and that they may alter or revise employment contracts. (Anenson 2005).

Legitimate commercial information may contain business details of training and constructing the company’s image, privileged data like client lists and plans, and customer ties. Ultimately, most jurisdictions take note of the fact that some implementation is permissible to secure the company’s stakes in disseminating trade secrets with their workers. (Bishara &Westermann-Behaylo 2012) The appropriateness of a contract is ascertained by perusing its applicability, tenure, and geographical coverage. To be construed as appropriate, a clause not to work for a competitor needs to fulfill a number of parameters: (a) the contract must be confined in its scope and applicability in respect of time as well as geography; (b) the contract needs to be premised on valid consideration; and (c) it needs to be appropriate in offering only a reasonable security to the concerns of the person on the

favorable side, and it shall not be so huge in its working so as to intrude upon the stakes of the common public. (Bishara & Westermann-Behaylo 2012) In light of the above principles, the employment of former DCS employees by Packers appears perfectly ethical. The prohibitions imposed on the employees for taking up posts in competing organizations after termination are excessively broad since they operate over a huge geographical area and in a sweeping manner wipes out all possible alternatives a terminated worker may pursue after being discharged from employment. In effect, this amounts to robbing the livelihood of employees without just cause. Stringent non-compete clauses are understandable for certain sectors in the industry which deal with highly specialized products or services of great scientific value. However, cleaning services fail to qualify as one such industrial operation where the competitors stand at huge commercial risks of leaking trade secrets to their rival competitors. The resolution offered by the appellate court in this case therefore represents an ethical conclusion to the facts and circumstances. These types of clauses are also frequently needed as a factor of sustained working when a worker has been an existing employee for the entity for a considerable duration. It will possibly be tougher for the worker to refuse to implement a clause of this nature, for lack of prior experience and job alternatives. This “ take-it-or-leave-it” tactic restricts the worker’s ability to negotiate the covenants of clauses restricting competition. Additionally, strengthened by their tough negotiating stance, the company may write elaborate non-compete sections, incapable of withstanding judicial scrutiny. The arm twisting negotiating tactics employed by such corporations therefore creates strong reservations

against signing agreements with such clauses in the first place. In an ideal scenario, a valid contract must allow parties to transact free from the pressures of coercion and undue influence. A contract which creates negotiating disparity between the parties smacks in the face of equity. Companies in the business of cleaning operations should therefore avoid making their workers sign such contracts while employing them to clean buildings.

References

Bishara, N. D. & Westermann-Behaylo, M. (2012). THE LAW AND ETHICS OF RESTRICTIONS ON AN EMPLOYEE'S POST-EMPLOYMENT MOBILITY. American Business Law Journal, 1, 4, 6, 7 & 8.

Raimonde v. Van Vlerah, 42 Ohio St. 2d 21, 325 N. E. 2d 544, 546-47 (1975)

Anenson, T. L. (2005). THE ROLE OF EQUITY IN EMPLOYMENT NONCOMPETITION CASES. American Business Law Journal, 1, 5.

Noncompetition Covenants(2008), Business Torts Reporter, Volume 20, No. 6, 174, 179, 180.

acts § 69 (1981)