

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CITIZENS SECURITIES, INC.,
Plaintiff,

vs.

JOHN P. DAVITT, IV,
Defendant.

Civil Action No.

COMPLAINT

As and for its Complaint against Defendant John P. Davitt, IV (“Davitt”), Plaintiff Citizens Securities, Inc. (“Citizens”) states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Citizens is a corporation organized and existing pursuant to the laws of the State of Rhode Island with its principal office located in Dedham, Massachusetts.
2. Citizens formerly was known as CCO Investment Services Corp. (“CCOISC”) and is the successor-in-interest of CCOISC. Citizens is a wholly-owned subsidiary of Citizens Bank, N.A. (“Citizens Bank”).
3. Citizens is registered as a broker-dealer with the United States Securities and Exchange Commission and the Financial Industry Regulatory Authority (“FINRA”).
4. Upon information and belief, Mr. Davitt is a natural person who resides in Pittsburgh, Pennsylvania.
5. Mr. Davitt is registered as a broker and investment advisor with the FINRA, FINRA Central Registration Depository No. 4774803.

6. This Court has jurisdiction based on diversity of citizenship, pursuant to 28 U.S.C. § 1332, in that the parties are of diverse citizenship and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. Venue is properly in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims for relief occurred in this District.

FACTS

8. Citizens is a financial services firm that provides customers with investment advice, financial planning, portfolio management, and other related services.

9. Citizens employs Financial Advisors to advise clients and manage clients' investments.

10. Citizens' Financial Advisors are assigned to specific Citizens Bank branches to service the investment needs of Citizens Bank's clients. Because Citizens is a bank broker-dealer, almost all of its Financial Advisors' clients are referred through bank branch channels. For instance, when a Citizens Bank branch employee learns that an existing Citizens Bank client needs investment advice or services, that employee may refer or introduce the client to a Citizens Financial Advisor. Thus, the vast majority of the Citizens clients whom Citizens' Financial Advisors serve are preexisting clients of Citizens Bank.

11. Citizens' client information—including client lists and names, addresses, investment holdings, and other financial information—is valuable, confidential, not generally known throughout the securities industry, and not readily or easily ascertainable by Citizens' competitors.

12. Further, clients consider their financial information to be highly secret and expect Citizens to take reasonable steps to insure its confidentiality.

13. Citizens does in fact take steps, at significant effort and expense, to ensure that its confidential client information is secured and not available to the public. These steps include, *inter alia*: (a) requiring employees (*e.g.*, Mr. Davitt) to execute confidentiality agreements; and (b) instituting and monitoring security systems that limit access to hard copy and computer data and restrict access to confidential client information to only those persons who have a legitimate business need to access it.

14. Citizens hired Mr. Davitt as a Financial Advisor (then referred to as a “Financial Consultant”) in September 2010.

15. As a condition of employment, Mr. Davitt entered into an Employment Agreement with Citizens. A copy of the Employment Agreement is attached as Exhibit A.

16. In the Employment Agreement, Mr. Davitt recognized and agreed that documents containing Citizens’ client information were confidential trade secrets and were the exclusive property of Citizens. He agreed to return all such documents to Citizens upon cessation of his employment with Citizens, and agreed not to use or disclose those documents or the information contained therein except in connection with his employment with Citizens:

- a. You agree that all memoranda, notes, records or other documents made, or compiled by you, or made available to you, during the term of this Agreement concerning the business of CCOISC, Agency or Bank, or any account or portfolios of any of CCOISC’s, Agency’s or Bank’s customers, are confidential business records and shall remain the property of CCOISC, Agency and Bank, and shall be delivered by you to CCOISC upon the termination of your employment or at any other time at CCOISC’s request, and that none of such records, nor any part of them, is to be removed from the branch of Bank at which you are employed, either in original form or in duplicated or copied form, and that the names, addresses, and other facts in such records are not to be transmitted verbally except as necessary in the ordinary course of conducting business for CCOISC and Agency.

- b. You may obtain or have access to certain proprietary, privileged or other confidential information of CCOISC, Agency and Bank and their clients or customers, or prospective clients or customers, including those clients or customers you bring in (collectively referred to as “Confidential Information”). Confidential Information includes, but is not limited to, the identity of clients or customers or prospective clients or customers, business plans, strategies, products, services, programs, systems, databases, methods of operation, financial information, policies, procedures, or personnel information, of CCOISC, Agency or Bank. Confidential Information also includes any non-public information disclosed by a client or customer, potential client or customer, or other third party which CCOISC, Agency or Bank has agreed or is otherwise obligated to keep confidential, including, but not limited to, financial information concerning such individual or entity. You acknowledge and agree that CCOISC, Agency and Bank have obligations to protect the confidentiality of this information and that those obligations extend to you. You acknowledge and agree that such Confidential Information derives independent economic value, actual or potential, from not being generally known to, and not readily ascertainable by proper means by, competitors of CCOISC, Agency or Bank, that it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, and that it is therefore trade secret information under applicable law, including the Uniform Trade Secrets Act.

You shall not in any way, commercial or otherwise, except to the extent required by the proper performance of your duties pursuant to this Agreement, use or disclose to any person, for any reason or at any time (whether during or after the term of this Agreement), any Confidential Information.

Exhibit A at p. 4, ¶ 10(a)-(b).

17. In addition, Mr. Davitt agreed that for a period of one year after the cessation of his employment with Citizens, he would not solicit any Citizens client whose name became known to Mr. Davitt as a direct or indirect result of his employment with Citizens:

- c. Except as otherwise required in connection with the performance of your duties as contemplated herein, you agree that, during the term of this Agreement and for a period of one (1) year thereafter, you will not, either directly or indirectly, for your own account or as an agent, servant or employee, officer,

director, shareholder, partner, member or manager of any entity, or member of any firm, or participant in any venture:

- (iii) Solicit by mail, phone, personal meeting or in any other manner the retail securities brokerage, investment advisory or insurance business of any customer whose name became known to you as a direct or indirect result of your employment with CCOISC and/or Bank.

Exhibit A at pp. 4-5, ¶ 10(c).

18. Mr. Davitt also recognized in the Employment Agreement that any breach of this non-solicitation provision may result in irreparable injury to Citizens, for which money damages are insufficient, and that Citizens is entitled to enforce the non-solicitation provision by obtaining an injunction for specific performance without bond. Exhibit A at p. 5, ¶ 10(g).

19. The Employment Agreement requires Mr. Davitt to indemnify and defend Citizens, including for costs and attorneys' fees, in connection with Mr. Davitt's breach. Exhibit A at ¶¶ 10(e), 10(g), 12. The Employment Agreement is supported by good and sufficient consideration, and Citizens has complied with all of its obligations under the Employment Agreement.

20. Upon beginning employment with Citizens, Mr. Davitt also signed a Code of Ethics, in which he recognized the confidentiality of Citizens' customer and other information, agreed that this information was proprietary to Citizens, promised to safeguard the information, and agreed not to use Citizens' customers' confidential information except in connection with his employment.

21. On January 6, 2020, Mr. Davitt voluntarily resigned from Citizens' employment.

22. Upon information and belief, after resigning from Citizens, Mr. Davit began working for or on behalf of Good Life Financial Advisors ("GLFA") and LPL Financial LLC ("LPL") in the Commonwealth of Pennsylvania.

23. According to FINRA's public records, Mr. Davitt became registered with LPL January 6, 2020—the same day he resigned from Citizens.

24. Upon information and belief, Mr. Davitt currently is working for or on behalf of GLFA and LPL in Pennsylvania.

25. GLFA and LPL are direct competitors of Citizens in that they offer investment services to prospective and/or actual customers in common geographic regions.

26. On January 13, 2020, Citizens sent Mr. Davitt a letter reminding him of his non-solicitation and confidentiality obligations pursuant to the Employment Agreement.

27. Shortly after Mr. Davitt resigned, however, Citizens learned that he was actively initiating contact with and soliciting the Citizens clients whom he previously served while employed with Citizens.

28. Specifically, Mr. Davitt called numerous customers, indicated that he had left Citizens, provided his reasons for leaving, and invited customers to set up meetings with him.

29. Mr. Davitt also sent at least some of the customers that he served while at Citizens a letter, in which he indicated that he had left Citizens, provided his reasons for leaving, and provided customers with information as to why a customer would decide to stay with an advisor versus switch to a new advisor.

30. As a result of Mr. Davitt's letter and telephonic solicitation campaign, several Citizens customers have moved their investments to GLFA/LPL, several others have indicated that they are considering moving their business from Citizens to Mr. Davitt's new firm(s), and still others have advised Citizens that they have arranged to meet with Mr. Davitt.

31. On January 27, 2020, Citizens sent Mr. Davitt another letter, demanding that he cease and desist from using Citizens' confidential information and contacting and soliciting Citizens' customers in violation of the Employment Agreement.

32. Despite receipt of this letter, Mr. Davitt continues to solicit business from Citizens' clients, in an attempt to convince them to move their accounts to GLFA/LPL, in blatant violation of the Employment Agreement.

33. Upon information and belief, Mr. Davitt took confidential client information with him upon his departure from Citizens, and has used that confidential information to contact and solicit clients to transfer their accounts from Citizens to his new firm. This stolen information is confidential and proprietary to Citizens and is not readily available to Mr. Davitt or to his firm other than through Mr. Davitt's former employment with Citizens.

34. Mr. Davitt breached the Employment Agreement by contacting and soliciting clients whom he served at Citizens and by taking confidential and proprietary information belonging to Citizens.

35. Mr. Davitt's actions have caused and will cause compensatory damage and non-compensable damage to Citizens' business reputation and goodwill, which are invaluable assets in the banking and investment industries, and which Citizens has developed at great effort and expense over the years. In addition, Mr. Davitt's actions, if not restrained, may cause regulatory damage to Citizens.

36. Unless Mr. Davitt is restrained from using the confidential and proprietary information that he has misappropriated and is restrained from contacting and soliciting Citizens' clients pursuant to the Employment Agreement, he will continue to use the information to the detriment of Citizens and to solicit Citizens' clients to transfer their accounts to his new firm.

COUNT I – BREACH OF CONTRACT

37. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 36 as though fully set forth herein.

38. The Employment Agreement is a valid and binding contract between Citizens and Mr. Davitt.

39. Citizens performed its obligations under the Employment Agreement.

40. Mr. Davitt breached the Employment Agreement by taking Citizens' confidential client information and soliciting Citizens' clients.

41. As a result of Mr. Davitt's breach of contract, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

COUNT II – BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

42. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 41 as though fully set forth herein.

43. The Employment Agreement is a valid and binding contract between Citizens and Mr. Davitt.

44. By failing to satisfy his confidentiality and non-solicitation obligations under the Employment Agreement in good faith, Mr. Davitt deprived Citizens of the benefit of the parties' bargain, which Citizens reasonably expected to receive, and breached the implied covenant of good faith and fair dealing.

45. As a result of Mr. Davitt's breach of the covenant, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

COUNT III – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

46. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 45 as though fully set forth herein.

47. Citizens has contractual relations with its clients, and Mr. Davitt is aware of those contractual relations.

48. Mr. Davitt tortiously interfered with Citizens' client relations when he purposefully acted without privilege or justification and with intent to harm Citizens' client relations, by misappropriating Citizens' confidential and proprietary client information and soliciting Citizens' clients.

49. As a result of Mr. Davitt's tortious interference, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

**COUNT IV – VIOLATION OF THE PENNSYLVANIA
UNIFORM TRADE SECRETS ACT, 12 Pa. Cons. Stat. §§ 5301, et seq.**

50. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 49 as though fully set forth herein.

51. Citizens' confidential client information is a trade secret under the Pennsylvania Uniform Trade Secrets Act ("UTSA"), because: (a) Citizens derives economic value from its client information not being generally known to or readily ascertainable by proper means by others (like GLFA and LPL) that can obtain value from its disclosure or use; and (b) Citizens' client information is subject to efforts that are reasonable under the circumstances to maintain its secrecy and confidentiality.

52. Mr. Davitt has misappropriated and, unless enjoined, will continue to misappropriate Citizens' trade secrets in violation of the UTSA by acquiring, using, and/or disclosing Citizens' confidential and proprietary client information, without Citizens' consent, and by improper means.

53. As a result of Mr. Davitt's misappropriation of Citizens' trade secrets, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

54. As a result of Mr. Davitt's misappropriation of Citizens' trade secrets, Citizens is entitled to injunctive relief under § 5303 of the UTSA.

COUNT V – UNFAIR COMPETITION

55. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 54 as though fully set forth herein.

56. Mr. Davitt caused harm to Citizens' commercial relations with its customers by misappropriating Citizens' confidential information, interfering with Citizens' client relationships, and improperly soliciting Citizens' clients.

57. As a result, Mr. Davitt engaged in unfair competition, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

COUNT VI – CONVERSION

58. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 57 as though fully set forth herein.

59. Mr. Davitt converted Citizens' client information when he deprived Citizens of its property right in, or use or possession of, that information, without Citizens' consent and without legal justification.

60. As a result of Mr. Davitt's conversion, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

COUNT VII – BREACH OF FIDUCIARY DUTY

61. Citizens repeats and re-alleges the allegations set forth in Paragraphs 1 through 60 as though fully set forth herein.

62. As an employee of Citizens, Mr. Davitt owed Citizens a duty of loyalty.

63. Mr. Davitt breached his fiduciary duty of loyalty to Citizens by taking Citizens' confidential information while he was employed by Citizens in order to divert business from Citizens after his resignation.

64. As a result of Mr. Davitt's breach of his duty of loyalty, Citizens has suffered irreparable harm, and will continue to suffer irreparable harm until injunctive relief issues.

WHEREFORE, Citizens prays for the following relief:

1. That the Court find in favor of Citizens and against Mr. Davitt on all Counts;
2. That the Court enter a temporary restraining order and preliminary injunction, to remain in effect until this matter can be heard at arbitration, enjoining Mr. Davitt, whether directly or indirectly, whether alone or in concert with others (*e.g.*, GLFA and LPL), until further order of this Court, as follows:
 - (a) From contacting or soliciting business from any current or prospective client of Citizens whom Mr. Davitt served or whose name became known to Mr. Davitt while he was employed by Citizens;
 - (b) From altering, destroying, using, disclosing, or transmitting Citizens' records or the information contained therein, including but not limited to the names, addresses, email addresses, telephone numbers, and financial information of Citizens' current and prospective clients;
 - (c) Requiring Mr. Davitt to immediately cease using and to return, within 24 hours of entry of a temporary restraining order, all original Citizens records and reproductions thereof, whether in paper, electronic, or other form; and
 - (d) From altering any of Mr. Davitt's computer environments including desktops, laptops, tablets, and smart phones or mobile devices, including

those that Mr. Davitt uses at or for GLFA and LPL, pending further order of this Court.

3. That the Court order Mr. Davitt to pay Citizens' fees and costs, including reasonable attorneys' fees; and
4. That the Court award Citizens such other and further relief, both general and special, at law or in equity, to which Citizens is justly entitled.

Dated: February 14, 2020

Plaintiff,
CITIZENS SECURITIES, INC.,
By its Attorneys,

/s/ James A. Holt
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Citizens Securities, Inc.

(b) County of Residence of First Listed Plaintiff Providence, RI
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
James A. Holt, Reed Smith LLP, Reed Smith Centre, 225 Fifth Avenue,
Pittsburgh, PA 15222, (412) 288-4173

DEFENDANTS

John P. Davitt, IV

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|---------------------------------------|---|---------------------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332

Brief description of cause:

Complaint for TRO and injunctive relief for violation of confidentiality and non-solicitation agreement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

02/14/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ James A. Holt

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

JS 44AREVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (☐ Erie ☐ Johnstown ☒ Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. ☐ This case is related to Number _____ . Short Caption _____.
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit
EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. ☐ Antitrust and Securities Act Cases
2. ☐ Labor-Management Relations
3. ☐ Habeas corpus
4. ☐ Civil Rights
5. ☐ Patent, Copyright, and Trademark
6. ☐ Eminent Domain
7. ☐ All other federal question cases
8. ☐ All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. ☒ Insurance indemnity, contract and other diversity cases.
10. ☐ Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/ James A. Holt

Date: 02/14/2020

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Western District of Pennsylvania

Civil Action No.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Exhibit A

John Paw H.

CCO INVESTMENT SERVICES CORP.
53 State Street
Boston, Massachusetts 02109

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") formalizes the agreement between you and CCO Investment Services Corp. ("CCOISC"), a Rhode Island corporation, involving services that you shall render to CCOISC and certain of its affiliated entities. You shall be a registered representative of CCOISC and may also be an investment advisor agent of CCOISC. You shall also be a licensed insurance agent of CCOISC and/or Citizens Financial Services Insurance Agency, Inc. ("Agency"). You acknowledge and agree that the position also requires that you be jointly employed by RBS Citizens, N.A. ("Bank") and that this Agreement is intended to cover your employment with Bank and, as applicable, Agency as well as your employment with CCOISC.

Your title shall be Financial Consultant (or such other title as CCOISC may designate from time to time) and you shall undertake securities and/or insurance product sales and services on behalf of CCOISC and/or Agency through sales locations at branches of Bank. The terms and conditions of your employment are set forth below:

1. You agree to perform the following duties in accordance with CCOISC, Agency and Bank policies and procedures and applicable industry standards:
 - a. You shall take all actions necessary, and hereby agree that CCOISC may take any action on your behalf, as necessary, in order to obtain all securities, insurance and any other licenses required for you to sell securities and insurance products and investment advisory services (if applicable) as a registered representative, investment advisor agent or licensed insurance agent of CCOISC and/or Agency.
 - b. You shall execute for CCOISC's customers purchases and sales of securities included in CCOISC's program from time to time, and you shall not execute any purchase or sale of securities not included in CCOISC's program.
 - c. You shall provide investment advice and recommendations to CCOISC's customers, in accordance with the limitations of the applicable customer suitability profile and the customer's investment goals.
 - d. You shall execute for CCOISC and/or Agency customers, sales of insurance products listed in the CCOISC and/or Agency approved product list and to provide customer service with regard to such sales, and you shall not execute any purchase of an insurance product not included in the CCOISC and/or Agency program.
 - e. You shall provide CCOISC and/or Agency insurance customers with insurance product illustrations and insurance planning advice.

- f. You shall perform such other duties in accordance with CCOISC's and Agency's instructions, as applicable, as are customarily performed by one holding the position of a registered representative in a retail securities brokerage firm and of an insurance agent in an insurance agency, respectively.
- 2. You agree that you will strictly adhere to all of the rules and regulations established by CCOISC for the conduct of its registered representatives as set forth in CCOISC's Compliance Manual and Investment Advisor Manual and Code of Ethics, copies of which have been provided to you, as such manuals may be modified from time to time.

Pursuant to those requirements, securities and insurance products that have not been approved for inclusion in CCOISC's/Agency's program shall not be offered or sold by you. You may solicit transactions in all products offered through CCOISC and/or Agency with the exception of general equities (i.e., stocks), which you may trade on behalf of customers on an unsolicited basis. You agree to strictly adhere to all applicable rules, regulations, and reporting requirements, including, but not limited to, those of the Financial Industry Regulatory Authority or any successor entity thereto ("FINRA"), all applicable national and regional stock exchanges, the relevant regulatory authorities of the federal government and the state in which you are employed, and all procedures of any clearing broker with which CCOISC may become associated at any time during the term of your employment. You agree to perform all the duties that are required of you pursuant to this Agreement in good faith and to the best of your ability.

- 3. You agree to maintain all individual insurance and securities licenses required for you to carry out your duties hereunder. In the case of securities licensing, you warrant and represent that you already hold FINRA/NASD Series 7 securities registration, or you agree to obtain such registration within three (3) months of the date of this Agreement. If you are an investment advisor agent of CCOISC, you represent and warrant that you have a Series 65 or 66 registration.
- 4. Notwithstanding your status as a joint employee, you acknowledge and agree that you shall be subject in all respects to the supervision, direction and control of CCOISC.
- 5. You warrant and represent that you are free to enter into this Agreement and to perform the duties to be performed by you hereunder and your performance hereunder shall not violate the terms of any agreement in force between you and any other party. You acknowledge and agree that CCOISC, Bank, and, as applicable, Agency are relying on this representation in offering you the employment that is the subject of this Agreement.
- 6. Notwithstanding any other provision of this Agreement or any other document or any representation made by any party at any time, your employment with CCOISC, Bank, and/or, as applicable, Agency may be terminated at will by you or by CCOISC, Bank, and/or, as applicable, Agency at any time. Nothing herein nor in any other document, including, without limitation, the Policy Manual for employees of CCOISC, Bank, or, as applicable, Agency constitutes a guarantee

of continued employment, changes the "at will" status of your employment, or affects the ability of you or CCOISC, Bank and/or, as applicable, Agency to terminate your employment at any time.

7. You agree to perform your duties under this Agreement at the locations of Bank as designated from time to time by CCOISC.
8.
 - a. As full payment for the services performed by you pursuant to this Agreement, you will receive the compensation set forth in the current Compensation Plan for Financial Consultants (the "Plan") as such may be amended from time to time. The Plan may be amended or terminated in whole or in part, at any time, in any manner and without prior notice to you, with the approval of management. You agree that CCOISC management has complete and unfettered discretion to accept or reject any transaction, for any reason, without regard to any loss of earnings that could have been made pursuant to the Plan.
 - b. You will be liable for any commissions reversed against CCOISC or Agency in accordance with the Plan in effect at that time. No commission, commission override or other compensation will be payable to you in connection with the sale of a product or service for which you are not duly licensed. Commission and fee payments shall be made to you only when and to the extent that the amount of such compensation consisting of securities and insurance commissions and/or investment advisory fees has been received by CCOISC or Agency from CCOISC's clearing broker, a mutual fund issuer or a custodian or from the insurance carrier through which the insurance product was issued.
9. You agree that, during the term of this Agreement, you will not acquire, possess or maintain any interest, pecuniary or otherwise directly or indirectly, as a partner, officer, director, stockholder, member, advisor, employee, or in any other capacity, in any other business similar to CCOISC's or Agency's business or any allied trade, and you will not, during the term of this Agreement, own any equity or have any direct or indirect financial interest in any other organization engaged in any retail securities brokerage, investment advisory, insurance or similar business without prior written consent of CCOISC's Compliance Department; provided, however, that nothing herein contained shall limit your right to invest in any securities that are publicly traded, except that the written consent of CCOISC's Compliance Department will be required with regard to ownership of, or other financial interests in, any securities, insurance or similar business which is publicly traded if a control relationship exists between such entity and you, your spouse, your parents or your children.
10. You agree that you will devote your full work time, attention, knowledge and skills to performing your duties hereunder. CCOISC, or, as applicable, Agency, will be entitled to all of the benefits or profits arising from, or incident to, all of the work, services, and advice that you provide to securities and insurance customers during the term of this Agreement. In consideration of the agreement to employ you as provided herein and as an express condition thereto you agree to the following:

- a. You agree that all memoranda, notes, records or other documents made, or compiled by you, or made available to you, during the term of this Agreement concerning the business of CCOISC, Agency or Bank, or any account or portfolios of any of CCOISC's, Agency's or Bank's customers, are confidential business records and shall remain the property of CCOISC, Agency and Bank, and shall be delivered by you to CCOISC upon the termination of your employment or at any other time at CCOISC's request, and that none of such records, nor any part of them, is to be removed from the branch of Bank at which you are employed, either in original form or in duplicated or copied form, and that the names, addresses, and other facts in such records are not to be transmitted verbally except as necessary in the ordinary course of conducting business for CCOISC and Agency.
- b. You may obtain or have access to certain proprietary, privileged or other confidential information of CCOISC, Agency and Bank and their clients or customers, or prospective clients or customers, including those clients or customers you bring in (collectively referred to as "Confidential Information"). Confidential Information includes, but is not limited to, the identity of clients or customers or prospective clients or customers, business plans, strategies, products, services, programs, systems, databases, methods of operation, financial information, policies, procedures, or personnel information, of CCOISC, Agency or Bank. Confidential Information also includes any non-public information disclosed by a client or customer, potential client or customer, or other third party which CCOISC, Agency or Bank has agreed or is otherwise obligated to keep confidential, including, but not limited to, financial information concerning such individual or entity. You acknowledge and agree that CCOISC, Agency and Bank have obligations to protect the confidentiality of this information and that those obligations extend to you. You acknowledge and agree that such Confidential Information derives independent economic value, actual or potential, from not being generally known to, and not readily ascertainable by proper means by, competitors of CCOISC, Agency or Bank, that it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, and that it is therefore trade secret information under applicable law, including the Uniform Trade Secrets Act.

You shall not in any way, commercial or otherwise, except to the extent required by the proper performance of your duties pursuant to this Agreement, use or disclose to any person, for any reason or at any time (whether during or after the term of this Agreement), any Confidential Information.

- c. Except as otherwise required in connection with the performance of your duties as contemplated herein, you agree that, during the term of this Agreement and for a period of one (1) year thereafter, you will not, either directly or indirectly, for your own account or as an agent, servant or employee, officer, director, shareholder, partner, member or manager of any entity, or member of any firm, or participant in any venture:

- (i) Induce any person employed by CCOISC, Agency or Bank to leave such employment, or otherwise interfere with the relationship of CCOISC, Agency or Bank and any of their employees;
 - (ii) Engage, hire, employ or solicit or assist any other person or entity in any effort to engage, hire, employ or solicit the employment of any of the employees of CCOISC, Agency or Bank; or
 - (iii) Solicit by mail, phone, personal meeting or in any other manner the retail securities brokerage, investment advisory or insurance business of any customer whose name became known to you as a direct or indirect result of your employment with CCOISC and/or Bank.
 - d. You recognize that the foregoing limitations are reasonable and properly required for the adequate protection of the business and trade secrets of CCOISC, Agency and Bank, and that in the event any such limitation is deemed to be unreasonable at law, then you agree to be subject to the reduction of said limitation as the appropriate judicial body shall deem reasonable.
 - e. In connection with any improper use by you of Confidential Information, and in addition to the general indemnification and hold harmless obligation that you agree to undertake in Paragraph 12 hereof, you agree to indemnify CCOISC, Agency and Bank for any and all losses, expenses, damages, costs, claims or liabilities, including, but not limited to, all reasonable legal fees and disbursements (collectively, "Losses") resulting from your violation of this Paragraph 10, including but not limited to actions involving any third parties or administrative proceedings.
 - f. The provisions of this Paragraph 10 shall survive the termination of this Agreement and of your employment hereunder, irrespective of the reasons therefor.
 - g. You understand and agree that if you violate any of the provisions of this Paragraph 10, you shall be liable to CCOISC, Agency and Bank for any Losses caused thereby. Further, you agree that the breach of any of the provisions of Paragraph 10 could result in irreparable injury to CCOISC, Agency and Bank for which monetary damages may be insufficient, and that CCOISC, Agency and Bank will be entitled to enforce such provisions by obtaining an injunction or order for specific performance without bond.
11. Your relationship to CCOISC, Bank, and, as applicable, Agency is that of an employee. You may not obligate CCOISC, Agency or Bank to any contracts or pledge their credit. In order to qualify for reimbursement, travel, room and board expenses incurred by you, the expense must be as a result of CCOISC pre-approved assignments and such expense must comply with CCOISC expense standards in effect at the time incurred.

12. You hereby indemnify and hold CCOISC, Agency and Bank harmless from any and all Losses resulting from your misconduct, gross negligence or your unauthorized acts or transactions. The provisions of this Paragraph 12. shall survive the termination of this Agreement and of your employment hereunder, irrespective of the reasons therefor.
13. Notwithstanding anything herein to the contrary, you agree to be fully liable and responsible for any Losses which CCOISC, Agency or Bank sustains as a result of your role in any transaction entered into involving a client or client account and you agree to indemnify CCOISC, Agency and Bank for any and all Losses related thereto. You shall not be liable or responsible for Losses sustained by CCOISC, Agency or Bank attributable solely to individuals other than you involved in effecting securities or insurance transactions, including but not limited to administrative assistants or CCOISC's clearing broker. The provisions of this Paragraph 13. shall survive the termination of this Agreement and of your employment hereunder, irrespective of the reasons therefor.
14. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the party to be charged therewith. Waiver by either party hereto of any breach or default by the other party of any of the terms and provisions of this Agreement shall not operate as a waiver of any other breach or default, whether similar to or different from the breach or default waived.
15. This Agreement, together with the Compliance Manual, Investment Advisor Manual and Code of Ethics and Compensation Plan for Financial Consultants (as any of such may be modified from time to time), constitute the entire agreement with respect to your employment with CCOISC, Bank, and, as applicable, Agency and supersede all prior agreements and understandings, written or oral, with respect to such affiliation, including any written employment agreements previously executed by you and CCOISC, Bank and, as applicable, Agency. This Agreement may only be amended by a writing signed by duly authorized representatives of the parties hereto and stating the intent of the parties to amend the Agreement. YOU EXPRESSLY REPRESENT AND WARRANT THAT NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO YOU WITH RESPECT TO YOUR EMPLOYMENT OTHER THAN THOSE CONTAINED HEREIN.
16. All agreements, provisions, and covenants contained herein are severable, and, in the event that any one or more of them is deemed not enforceable at law, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected thereby, and this Agreement shall be interpreted as if such invalid, illegal, or unenforceable agreements, provisions, or covenants were enforceable to the greatest extent permissible by the appropriate judicial body by limiting or reducing it or them, if possible, so as to be enforceable to the maximum extent compatible with applicable law.
17. You agree that Agency and Bank shall be third party beneficiaries of this Agreement. This Agreement may be assigned by CCOISC and the benefits and obligations thereof shall inure to CCOISC's successors and assigns. You may not assign this Agreement.

18. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Rhode Island.

YOU ACKNOWLEDGE AND AGREE THAT SIGNING THIS AGREEMENT IS A CONDITION OF EMPLOYMENT WHICH CONDITION YOU UNDERSTOOD BEFORE ACCEPTING EMPLOYMENT WITH CCOISC, BANK, AND, AS APPLICABLE, AGENCY.


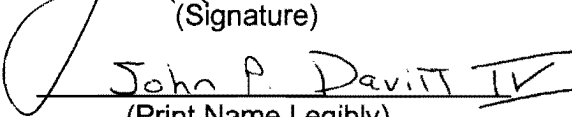
This Agreement shall become effective upon execution by all parties.

CCO INVESTMENT SERVICES CORP.

By:


Kevin L. Fein
Chief Compliance Officer

AGREED:


(Signature)

John P. Davitt IV
(Print Name Legibly)
9-27-10
(Date)