**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIAN
SOUTH BEND DIVISION**

ILLINOIS CENTRAL RAILROAD COMPANY,	Case No. _____
Plaintiffs,	Judge _____
v.	
MICHAEL BELCHER,	**COMPLAINT**
Defendant.	**JURY TRIAL DEMANDED**

Plaintiff Illinois Central Railroad Company ("IC"), for its Complaint against Defendant Michael Belcher, states and alleges as follows:

NATURE OF THE CASE

1.   Mr. Belcher was employed as a Senior Manager for IC until his termination on October 19, 2022. Mr. Belcher's duties included writing software code for IC's financial data systems that includes, but is not limited to, IC's systems for financial metrics, financial records, and compliance.

2.   Prior to Mr. Belcher's termination, Mr. Belcher deleted the source code in place for the financial systems and replaced it with his own code that effectively disabled IC's systems. Mr. Belcher informed IC that he would only restore access to their financial systems if IC paid him a ransom.

3.   IC seeks a temporary restraining order to require Mr. Belcher to immediately restore IC's access to the financial systems that he locked IC out of to prevent further damages and harm to IC.

4.   IC also seeks relief based on Mr. Belcher's (1) breach of contract based on the Share Unit Plan and Award Letters ("the Agreement"); (2) breach of his duty of loyalty to IC; (3) conversion of IC's systems and the data and processes contained therein; (4) trade secret misappropriation under the Indiana Uniform Trade Secrets Act (Ind. Code § 24-2-3-1 *et seq.*); (5) trade secret misappropriation in violation of the Defend Trade Secrets Act (18 U.S.C. § 1836 *et seq.*); and (6) trespass to chattels.

PARTIES

5.   Upon information and belief, Defendant Michael Mr. Belcher is a resident of Crown Point, Indiana.

6.   Illinois Central Railroad Company is an Illinois corporation with its principal place of business at 17641 South Ashland Avenue, Homewood, Illinois. IC was Mr. Belcher's employer until his termination on October 19, 2022.

JURISDICTION AND VENUE

7.   This Court has jurisdiction over Mr. Belcher because he is a resident of the State of Indiana.

8.   This Court has original subject matter jurisdiction over IC's Defend Trade Secrets Act (18 U.S.C. § 1836 *et seq.*) claims against Mr. Belcher pursuant to 28 U.S.C. § 1331.

9.   This Court has supplemental jurisdiction over IC's state law claims pursuant to 28 U.S.C. §1367.

10.   Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a).

11.   The Court may properly exercise jurisdiction over all parties in this lawsuit.

FACTS

12.   Mr. Belcher was employed by IC as a Senior Manager from 2002 until his termination on October 19, 2022. Around 2012, he began working with in the Company's finance

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department and worked most recently as a Senior Manager—Basic Capital. . *See* Declaration of

Jean-Francois Boudreau in Support of Temporary Restraining Order ("Boudreau Decl.") ¶ 2.

13.   In his position, Mr. Belcher served as the key point of contact for financial analysis,

performance tracking, and corrective action related to Basic Capital budgets for all levels of

Engineering management, which includes a budget with an annual spend of more than 1 billion

dollars annually across a broad range of investments. He was also responsible for compliance

controls and working with external auditors. *See id.* ¶ 2.

14.   As a Senior Manager, Mr. Belcher participated in IC's Share Units Plan ("PSU

Plan") and was awarded Performance Share Units ("PSUs"). Each time he was awarded PSUs, he

received and accepted an award letter ("Award Letters") containing the following Confidential

Information provision:

> During the course of the Participant's employment with the Company, the Participant will
> have had access to and will have been entrusted with confidential information relating to
> the Company, its customers, suppliers and employees (the "Confidential Information"), the
> particulars of which, if disclosed to competitors of the Company or to the general public,
> could be detrimental to the best interests of the Company. The Confidential Information is
> the exclusive property of the Company, and while employed by the Company and at all
> times thereafter, the Participant will not, without the prior written consent of the Company,
> (a) reveal, disclose or make known any Confidential Information to any person, or (b) use
> the Confidential Information for any purpose, other than for the purpose of the Participant
> performing his or her duties for the Company.

See id. ¶¶ 6–7, Exs. A, B.

15.   Most recently, Mr. Belcher was awarded and accepted PSUs containing this

provision in January 2019, January 2020, and January 2022. *See id.* ¶ 7, Ex. B.

16.   The PSU Award letters Mr. Belcher accepted defines "Confidential Information"

as confidential information relating to the Company, its customers, suppliers and employees, the

particulars of which, if disclosed to competitors of the Company or to the general public, could be

detrimental to the best interests of the Company. *See id.*

17.   The Award Letters further make clear that the Confidential Information is the exclusive property of IC. *See id.*

18.   Pursuant to the Award Letters, Mr. Belcher agreed to not—without prior written consent from IC —reveal, disclose or make known any Confidential Information (as defined by the Agreement) to any person, or (b) use the Confidential Information for any purpose, other than for the purpose of the Participant performing his or her duties for the Company. *See id.*

19.   Pursuant to the Agreement, Mr. Belcher understood and agreed that violating the Agreement's covenant of confidentiality would "be detrimental to the best interests of the Company." *See id.*

20.   In addition, Mr. Belcher received regular training on the Company's Code of Business Conduct ("Code of Conduct") and affirmed his commitment to abide by it. *See id.* ¶¶ 8–9, Exs. C, D

21.   The Code of Conduct requires every employee to safeguard Company assets and intellectual property. The Code indicates that "[i]mproperly using CN's assets – including for personal gain" undermines the Company's integrity. It also prohibits employees from taking Company assets off premises except as strictly required for work. The Code provides that "CN's intellectual property is a valuable competitive asset and must be protected at all times." As to intellectual property, the Code indicates, in relevant part:

> CN owns the intellectual property that employees, contractors and agents create while working for CN or using CN resources, regardless of whether such intellectual property has been created on CN's premises or outside of regular work hours. If you create, discover, or develop methods, processes, systems, improvements, designs, ideas, technologies or other patentable inventions, you must promptly disclose them to the CN Law Department and maintain accurate records as CN may want to protect them with, for example, patents or industrial designs. You should also do everything that is requested by CN (at the expense and on behalf of CN) in order to obtain, establish, preserve and protect CN's rights in its intellectual property, including preparing and signing applications and other documents.
> . . .

You agree that all such intellectual property is owned by CN and agree to transfer or assign ownership to CN and waive any moral rights in favour of CN.

See id. ¶8, Ex. C.

22.   The Code of Conduct also contains provisions defining Company Confidential Information, and prohibitions against disclosure. *See id.* ¶ 8, Ex. C.

23.   In addition to the contractual safeguards IC uses to protect its intellectual property, the Company also enacts physical and electronic security measures to protect the secrecy of the source code, files, and documents at issue here. IC's offices have security on premises and all internal doors requires employee keycards for access. IC's computer systems require passwords to log in, and all systems are firewall-protected. IC also strictly controls which employees have access to confidential and trade secret information. IC utilizes an "Identity Management System" whereby access to particular networks, folders, and documents is provided only after the user is approved by a specially designated person within each department. Highly sensitive data, including source code, is not available to any IC employees unless they have a specific need to access that data. *See id.* ¶ 9.

24.   Mr. Belcher's obligation to maintain confidential IC's Confidential Information was in effect during Mr. Belcher's employment with IC and it survives the termination thereof. *See id.* ¶ 7, Ex. B.

25.   Mr. Belcher has repeatedly affirmed his obligations to follow IC's policies for protecting Company information. *See id.* ¶ 7–8, Exs. B–D.

26.   Around 2012, Mr. Belcher began working with in the Company's finance department. Because Mr. Belcher was proficient in programming languages, he was tasked with building programs to automate and streamline the company's internal auditing functions. *See id.* ¶¶ 2–4.

27.   Mr. Belcher's duties as a Senior Manager included writing software code for IC's financial data systems that includes, but is not limited to, IC's systems for financial metrics, financial record keeping, financial reports, and other financial and compliance systems. Specifically, the systems at issue relate to SSIS Packages, SQL Server, Web Landing Page and Web Reports, various virtual applications, and various processes for budgeting, financial forecasts, and Fieldglass Accruals (collectively as "the Financial Systems").

28.   Mr. Belcher utilized IC's time, tools and materials to code, program, and develop the Financial Systems, which was a primary part of Mr. Belcher's duties for IC. Specifically, Mr. Belcher was compensated to code, program, and develop the Financial Systems, and he used IC - issued devices and IC's computer systems and networks to perform such duties.

29.   As Mr. Belcher reflects in own resume, his assigned responsibilities at IC include "[m]aintain[ing] data structures, applications and websites that are used to provide daily financial reporting." He also notes that "[w]hile in this role I developed several websites and applications that are used by varying audiences." *See id.* ¶ 17, Ex. G.

30.   Over the years, Mr. Belcher has received multiple bonus payments in recognition of his individual work performance, including his work creating and maintaining these programs and files. *See id. ¶* 4.

31.   In late September 2022, several IC employees complained that Mr. Belcher had pursued a romantic relationship with a subordinate, that he was exhibiting favoritism by allowing that subordinate to decline work at her discretion, that he had taken aggressive and inappropriate actions towards employees, and that he had threatened employees with retaliation if they reported his conduct. *See id. ¶* 10.

32.   The Company began an investigation, which eventually substantiated Mr. Belcher's violations IC's Code of Business Conduct, its Conflict of Interest Policy, and its Prohibited Harassment, Discrimination, and Anti-Retaliation Policy. *See id. ¶* 11.

33.   On October 17, 2022, Mr. Belcher sent the following email to his manager:

> This company has failed to do the right thing by me over and over again, as such I am no longer allowing the use of my intellectual properties with out fair market compensation. I am not relinquishing my position as Financial senior manager and as such it is my duty to inform you that many of our finance systems are no longer functioning. I will be out of the office for the rest of the day but can be reached on my cell phone with a reasonable offer for compensation in this matter. As info the longer this take the higher the price, if I am offered something offensive the higher the price. Hope that you have a great rest of the day.

See id. ¶ 12, Ex. E.

34.   Mr. Belcher's manager spoke with him shortly after receiving his ransom email. He told Mr. Belcher that whatever he took belonged to IC, that it must be returned, and that Mr. Belcher would likely face serious consequences for his actions. Mr. Belcher replied that he "knew what he was doing" and would "see you in Court." *See id.*

35.   IC immediately began an investigation into its systems. IC confirmed that Mr. Belcher had removed or stolen source code and files across three systems, fully disabling use of the applications he created. Mr. Belcher also prevented employees from accessing web pages allowing engineering and finance employees to perform their work or access information. *See id. ¶* 13.

36.   Specifically, upon information and belief, one of Mr. Belcher's mechanisms for locking out IC of the Financial Systems is to have a unique pin or number embedded in the code that would cause the Financial Systems to prevent anyone else but Mr. Belcher from being able to access the systems. Mr. Belcher effectively created a digital mechanism that would allow him to have exclusive access to the Financial Systems and their data and functions. *See id.*

37.   As a result of Mr. Belcher's wrongful conduct, IC has lost many capabilities on its internal web pages, compliance control programs, and financial reporting for budgeting, forecasting, and accruals. *See id. ¶* 15.

38.   Because Mr. Belcher helped develop, program, and manage the Financial Systems on behalf of IC, IC's internal informational technology department has been unable bypass Mr. Belcher's code or program to regain access or use of the Financial Systems. *See id.*

39.   The loss of these systems has already cost IC a huge amount of time and resources, and the potential future damages and costs cannot be predicted. If IC is forced to rebuild its systems to match current standards without the stolen data, the direct costs alone will easily be in the millions. More importantly, the resulting damage from Mr. Belcher's actions, if not stopped immediately, will likely be incalculable. If IC experiences errors or other issues with the platform, it will not have the code to repair it. Similarly, IC's potential ongoing costs for the disruption to its financial reporting and compliance controls cannot be predicted or quantified at this time, but they would likely include untrackable losses in productivity, reputational damage, and harm to employee morale. And, of course, if its trade secrets are disclosed, the damage would include all the above plus the loss of the competitive advantage conveyed by these proprietary systems. *See id.*

40.   IC did not authorize Mr. Belcher to develop, code, or program the Financial Systems in any manner that would result in Mr. Belcher having sole access to the Financial Systems, or in a manner that would result IC's inability to access the Financial Systems. *See id.*

41.   IC sent Mr. Belcher a letter via email on October 19, 2022, terminating Mr. Belcher's employment for cause and demanding that Mr. Belcher return the Company's property and restore its systems. Specifically, IC demanded the Mr. Belcher take action to grant IC the ability to access the Financial Systems, and demanded that Mr. Belcher restore the Financial

Systems and the data and databases to the condition they were at prior to his unlawful tampering, alterations, and deletions. Mr. Belcher has refused to do so.

42.   On or about October 19, 2022, Mr. Belcher publicly posted an internal manual for one of the applications that he designed and implemented for IC ("Manual") on LinkedIn without CN's consent. The Manual constitutes IC's Confidential Information. The Manual that Mr. Belcher publicly released includes information regarding employee salary and vendor information that IC goes to great lengths to maintain their confidential and non-public status. That same day, IC began a process with LinkedIn to remove Mr. Belcher's post. As of the date of this Complaint, the Manual is still accessible to the public. *See id. ¶* 16, Ex. F.

43.   Mr. Belcher's unlawful activities have caused, and continues to cause, IC significant amount of harm and damages. In addition, Mr. Belcher's publication of IC's Confidential Information that contains confidential employee and vendor information has caused irreparable harm and incalculable damages to IC's reputation and goodwill.

CAUSES OF ACTION

COUNT I
BREACH OF CONTRACT

44.   Plaintiff restates and incorporates the allegations above as though fully set forth herein.

45.   Mr. Belcher and IC agreed to the terms of the Agreement, which contained a covenant of confidentiality, and was handsomely compensated for doing so. IC has performed its obligations under the Agreement, including most recently in February 2022 when Mr. Belcher was awarded PSUs under the Share Units Plan.

46.   The covenant of continentality states: "The Confidential Information is the exclusive property of the Company, and while employed by the Company and at all times thereafter, the Participant [Mr. Belcher] will not, without the prior written consent of the Company,

(a) reveal, disclose or make known any Confidential Information to any person, or (b) use the Confidential Information for any purpose, other than for the purpose of the Participant performing his or her duties for the Company."

47.   Mr. Belcher also agreed to the Company's Code of Conduct ("the Code"). By his agreement, he agreed that he would maintain IC's information as confidential, including any intellectual property created during his employment.

48.   Mr. Belcher breached the Agreement and the Code when he claimed ownership and a proprietary right of the Confidential Information, in the form of the Financial Systems and their use and operation.

49.   Mr. Belcher breached the Agreement and the Code when he unlawfully altered and retained the data and databases, and other functions of the Financial Systems, and altered or deleted the data and databases in order to demand a ransom from IC.

50.   Mr. Belcher breached the Agreement and the Code when he unlawfully posted for public view IC's Confidential Information on LinkedIn on October 19, 2022.

51.   Mr. Belcher's many breaches of the Agreement and the Code have caused and continues to cause IC significant harm and damages.

COUNT II
BREACH OF DUTY OF LOYALTY

52.   Plaintiff restates and incorporates the allegations above as though fully set forth herein.

53.   Under Indiana law, Mr. Belcher has a duty of loyalty to IC.

54.   Mr. Belcher breached his duty of loyalty to IC when he coded or programmed the Financial Systems in a manner that would provide him with the exclusive means of accessing the Financial Systems and their data and data bases in order to give him leverage for his demand for a ransom payment against IC.

55.   Mr. Belcher breached his duty of loyalty to IC when he unlawfully interfered, deleted, and/or altered the Financial Systems and their data and databases and demanded a ransom.

56.   Mr. Belcher breached his duty of loyalty to IC when he unlawfully committed conversion of IC's property and trespass to chattels.

57.   Mr. Belcher's breaches of his duty of loyalty to IC have caused and continues to cause IC significant harm and damages.

COUNT III
CIVIL CONVERSION (IND. CODE §§ 34-24-3-1, 35-43-4-3)

58.   Plaintiffs restates and incorporates the allegations above as though fully set forth herein.

59.   The Financial Systems and their data and databases and reports are the sole property of IC.

60.   Mr. Belcher unlawfully converted the Financial Systems and their data and databases and reports when the code or program that Mr. Belcher designed gave Mr. Belcher exclusive means of accessing the Financial Systems and their data and databases and reports, and when Mr. Belcher refused to allow IC to access the Financial Systems and their data and databases and reports.

61.   Mr. Belcher unlawfully converted the Financial Systems' data and databases when he deleted the certain portions of the data and databases and prevented IC from accessing or using the Financial Systems.

62.   Mr. Belcher's Civil Conversion of the Financial Systems and their data and databases and reports have caused and continues to cause IC significant harm and damages.

COUNT IV
INDIANA UNIFORM TRADE SECRETS ACT (IND. CODE § 24-2-3-1 ET SEQ.)

63.   Plaintiff restates and incorporates the allegations above as though fully set forth herein.

64.   IC's source code for the Financial Systems, application files, and Manual are unquestionably trade secrets because they are designs, programs, or codes whose secrecy gives them value because they give IC an edge over competitors who lack such proprietary software. *See* Ind. Code § 24-2-3-2.

65.   IC's source code for the Financial Systems, application files, and Manual are the subject of reasonably efforts to maintain their secrecy, including both physical and electronic limitations to access.

66.   IC owns the source code for the Financial Systems, application files, and Manual because maintaining and developing those items were a part of Mr. Belcher's duties as an employee for IC, and Mr. Belcher used IC's time, resources, and materials in developing and maintaining them.

67.   Mr. Belcher acquired IC's source code and application files via improper means because he stole them in breach of his contractual obligations and his fiduciary duty of loyalty as an employee.

68.   Mr. Belcher's improper acquisition of the Financial Systems' source code, data, and databases and reports have caused and continues to cause IC significant harm and damages.

69.   Mr. Belcher's improper publication of the Manual has caused and continues to cause IC significant harm.

COUNT V
DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836 ET SEQ.)

70.   Plaintiff restates and incorporates the allegations above as though fully set forth herein.

71.   IC's source code for the Financial Systems, application files, and Manual are unquestionably trade secrets because they are designs, programs, or codes" that are valuable

because they give IC an edge over competitors who lack such proprietary software. See 18 U.S. Code § 1839(3)

72.   IC's source code for the Financial Systems, application files, and Manual are the subject of reasonably efforts to maintain their secrecy, including both physical and electronic limitations to access.

73.   IC owns the source code for the Financial Systems, application files, and Manual because maintaining and developing those items were a part of Mr. Belcher's duties as an employee for IC, and Mr. Belcher used IC's time, resources, and materials in developing and maintaining them.

74.   Mr. Belcher acquired IC's source code and application files via improper means because he stole them in breach of his contractual obligations and his fiduciary duty of loyalty as an employee.

75.   Mr. Belcher's improper acquisition of the Financial Systems' source code, data, and databases and reports have caused and continues to cause IC significant harm and damages.

76.   Mr. Belcher's improper publication of the Manual has caused and continues to cause IC significant harm.

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COUNT VI
TRESPASS TO CHATTELS

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77.   Plaintiff restates and incorporates the allegations above as though fully set forth herein.

78.   The Financial Systems and their data and databases and reports are the sole property of IC.

79.   Mr. Belcher unlawfully trespassed on IC's Financial Systems and their associated source code, files, and programming when he altered the code or program to give himself exclusive means of accessing the Financial Systems and their data and databases and reports, when he

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removed source code and files from IC's Financial Systems, and when he disabled or otherwise prevented IC's access to it Financial Systems and their data, databases, reports.

80.   Mr. Belcher's actions deprived IC of the use and benefit of the Financial Systems and their data, databases, reports.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment in its favor and against Defendant as follows:

A.   Entering temporary, preliminary, and permanent injunctive relief as respectfully requested in IC's Motion for a Temporary Restraining Order;

B.   Awarding Plaintiff compensatory damages in an amount to be determined at trial;

C.   Awarding Plaintiff treble the amounts of their damages in an amount to be determined trial;

D.   Awarding Plaintiff punitive damages in an amount to be determined at trial;

E.   Awarding Plaintiff pre- and post-judgment interest;

F.   Awarding Plaintiff their reasonable attorney fees, interest, costs, and disbursements to the fullest extent permitted by law; and

G.   Awarding Plaintiff their such other, further, or different relief as the Court may deem just and equitable, or to which Plaintiffs are entitled as a matter of law.

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DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury on all issues so triable in this matter.

Respectfully submitted,

/s/ Emily L. Connor
Emily L. Connor (#27402-49)

Attorney for Plaintiff,
Illinois Central Railroad Company

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