

# *The* CHRONICLE

A SOUTHERN NEW JERSEY DEVELOPMENT COUNCIL PUBLICATION

2017 VOL. 2

## Small Businesses Have a **BIG Impact** *on South Jersey's Economy*



---

Small Business Growth Through  
Workforce Development

Cyber Security and  
Financial Transactions

Protecting Your Secret Sauce  
No Matter the Industry

Rowan Boulevard Redevelopment

Living Life Insurance

---

T H E   B U S I N E S S   A N D   F I N A N C E   E D I T I O N



## Protecting Your Secret Sauce No Matter the Industry

### Important Provisions to Include in Your Employee and Contractor Agreements

By: Randy Ford, Attorney, Lauletta Birnbaum, LLC

As the owner of a small business, you may have a pre-conceived notion that nothing in your business is proprietary and is, therefore, not worth protecting. The purpose of this article is, to (1) make you think about throwing that pre-conceived notion out the window and (2) provide some easy ways to protect your proprietary information in the context of an employee or contractor relationship.

First and foremost, do not sell you or your business short. You owe it to yourself and the longevity of your business to think about what proprietary information you may have and what steps you can take to protect it. For instance, you may have “trade secrets” as that term is defined by the New Jersey Trade Secrets Act. The Act defines trade secrets somewhat broadly:

A trade secret means information, held by one or more people, without regard to form, including a formula, pattern, business data compilation, program, device, method, technique, design, diagram, drawing, invention, plan, procedure, prototype or process, that: (1) Derives independent economic value, actual or potential from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

New Jersey courts have found that trade secrets may include information such as customer lists, computer programs, internal bookkeeping procedures, etc. Furthermore, even if information does not rise to the level of a trade secret, New Jersey courts have also upheld the use of restrictive covenants to guard against misappropriation of other business information.

*(continued on page 8)*



# Protecting Your Secret Sauce No Matter the Industry

*(continued from page 7)*

Below is a list of items you can include in agreements with employees and contractors that can assist you in protecting such information that you consider a trade secret, confidential, or proprietary to your business.

## Define What You Consider Confidential and Proprietary

A boilerplate employment or contractor agreement typically provides for a very broad definition of information that a business may deem confidential, however, there is nothing stopping you from specifically listing out specific types of information. For instance, if you believe a method of cleaning provides you with a competitive edge or you have gone to great lengths to assemble your list of customers, then call those items out in your employee and contractor agreements. This way, you make it clear to your employees and contractors as to what information you want to make sure is protected and remains confidential.

## Make Sure Confidential and Proprietary Information is Returned When Employment is Terminated

Courts will be hard-pressed to find your information confidential if you do not take reasonable steps to actually keep it confidential. For instance, make sure

*(continued on page 22)*



We control the Long Term cost of our clients' Commercial Insurance!

Let me show you how...



Joe Pilato  
VP, Commercial Insurance  
joe.pilato@cookmaran.com  
856.334.8847

[www.cookmaran.com](http://www.cookmaran.com)



THE FIRST NATIONAL  
**BANK OF ELMER**  
Since 1903

*Where we know  
our customers  
by name!*

As your locally owned, independent, community bank we are always here when you need us.

Our 5-Star Bauer Financial rating is a reflection of the bank's outstanding financial condition and strong capital ratio.

The First National Bank of Elmer has a long history dating back to 1903 with a reputation for being a stable bank providing exceptional customer service...

**let us be your bank!**



Robert R. Bender Chief Lending Officer      Brian W. Jones President/CEO

*Meet with a "Decision Maker" that understands your business*

- ◆ Personalized Service
- ◆ Competitive Rates
- ◆ Quick Turnaround
- ◆ Flexible Financing Solutions



[www.ElmerBank.com](http://www.ElmerBank.com)  
(856)358-8141



**FDIC**

## Protecting Your Secret Sauce No Matter the Industry *(continued from page 8)*

you have a clear policy on the return or destruction of your confidential and proprietary information when an employee's or contractor's engagement is finished, especially if you allow the storage of such information on an employee's or contractor's personal equipment.

### Avail Yourself of All Remedies

While the New Jersey Trades Secrets Act provides certain remedies for a business owner in the event of misappropriation, a business owner should also avail itself of the Defend Trade Secrets Act of 2016, a newly enacted federal law that can provide a business owner exemplary damages (2 times direct damages) plus attorney's fees. The federal law requires certain notices to be made to an employee in order to gain the benefits of the law. These notices can be placed in the employee agreement or in other policies like an employee handbook.

*Please note that the tips provided in this article are not an end-all, be-all for the protection of your business' secret sauce, however, they will put you in a better position to the extent an employee or contractor attempts to misappropriate your confidential or proprietary information. For assistance in drafting these agreements for your business, feel free to contact me via email at [rford@lauletta.com](mailto:rford@lauletta.com) or phone at 856.669.2571.*



## The Missing Piece.

Upgrade to energy efficiency with Direct Install and New Jersey's Clean Energy Program™ will pay

**70%**  
of the cost.



Direct Install is brought to you by the New Jersey Board of Public Utilities.

**HUTCHINSON™**  
Expertly better.  
**FOR BUSINESS**

**HIGH EFFICIENCY LIGHTING / HVAC  
WATER / SOLAR**

**888-777-4501 ■ [hutchbiz.com](http://hutchbiz.com)**

William A. Hutchinson Jr, LMP, Plumbing Lic. #5041, Edward P. Hutchinson, Master HVAC Contractor Lic. #22700, Hutchinson HVAC Reg. #13VH01747500.