

CAUSE NO. D-1-GN-10-001901

HILLCO PARTNERS	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
SNAPPER CARR, BRANDON	§	
AGHAMALIAN, and FOCUSED	§	
ADVOCACY, LLC	§	
Defendants	§	261 ST JUDICIAL DISTRICT

**DEFENDANT BRANDON AGHAMALIAN'S
ORIGINAL ANSWER AND COUNTERCLAIM**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant BRANDON AGHAMALIAN, by and through his attorney of record, in the above styled and numbered cause, and files this answer to the Plaintiff's Original Petition and would show the Court as follows:

A. GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies each and every, all and singular, the allegations contained in Plaintiff's Original petition, and demands strict proof thereof by a preponderance of evidence.

B. SPECIFIC DENIAL

2. Pleading further, if such be necessary, Defendant Aghamalian denies that he ever executed a Confidentiality Agreement or that a Confidentiality Agreement was ever presented to him by HillCo Partners.

3. Pleading further, if such be necessary, Defendant Aghamalian specifically denies any allegation that he at any time recruited candidates to seek election against any sitting member of the Texas Legislature.

4. Pleading further, if such be necessary, Defendant Aghamalian specifically denies he was ever in a fiduciary relationship with Plaintiff HillCo Partners.

5. Defendant Aghamalian specifically denies that all conditions precedent was performed or have occurred, as Plaintiff alleged in its original petition under Texas Rule of Civil Procedure 54.

6. Defendant Aghamalian specifically denies and has provided the Plaintiff with evidence that contradicts the assertions that he failed to responsibly carry out the duties of his employment with Plaintiff HillCo Partners, including evidence that illustrates continual efforts to maintain clients for the firm.

7. Defendant Aghamalian specifically denies that the Plaintiff HillCo Partners has suffered any irreparable harm.

8. Defendant Aghamalian specifically denies that Plaintiff HillCo Partners is entitled to injunctive relief since there is no immediate harm nor is it probable that Plaintiff HillCo Partners will ultimately prevail.

9. Defendant Aghamalian specifically denies, if such be necessary, that the status quo would be maintained by granting injunctive relief.

10. Defendant Aghamalian specifically denies the existence and applicability of Tex. Civ. Prac. & Rem. Code, Sec. 65.001(1), (2), (3) and (5).

C. AFFIRMATIVE DEFENSES

11. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that any former municipal clients of the Plaintiff HillCo Partners joined the firm after Defendant Aghamalian and Co-Defendant Carr formed a specialized local government practice at the firm and their needs were primarily serviced, as stated in

the client agreements, by Defendant Aghamalian and Co-Defendant Carr's municipal expertise.

12. All clients served by Defendant Aghamalian while employed by Plaintiff HillCo Partners were operating under "at will" agreements that provided those Clients with the right to terminate, with or without cause, their respective relationships with the Plaintiff. Specifically, the "at will" agreement contained 30 (thirty) day, no cause, cancellation provisions, which are common in the industry.

13. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that his employment relationship with Plaintiff HillCo Partners was an "at will" agreement that did not include a covenant not to compete. Specifically, the Plaintiff HillCo Partners' "Personnel Policy Guidelines" filed with the Court expressly states: "All employees are employed 'at will' for an indefinite period and are subject to termination at any time, for any reason, with or without cause or notice. At the same time, such employees may terminate their employment at any time for any reason".

14. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that Plaintiff HillCo Partners' "Personnel Policy Guidelines" does not constitute a valid Employment Contract. Specifically, the Plaintiff HillCo Partners' "Personnel Policy Guidelines" filed with the Court expressly states: "The Manual should not be read or otherwise interpreted as forming a contract, express or implied, or a promise of any nature that the guidelines and policies will be applied in any particular fashion or manner".

15. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that the justification and reason for leaving the employment of

Plaintiff HillCo Partners was due, in part, to the increasing and burdensome issues concerning conflicts and potential conflicts of interest between his municipal clients and Plaintiff HillCo Partners' private sector clients.

16. Pleading further, if such be necessary, despite assertions by Plaintiff HillCo Partners of a "standard HillCo agreement", Defendant Aghamalian denies that he ever utilized a "standard HillCo agreement" to draft contracts for clients and specifically denies that he inserted any language designed to "steal business" from HillCo.

17. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that the working environment at Plaintiff HillCo Partners was increasingly hostile and allowed firm management to continually use unprofessional, insensitive, and derogatory references to both clients and elected officials.

18. Pleading further, if such be necessary, Defendant Aghamalian affirmatively asserts that Plaintiff HillCo Partners' lack of attention and disregard for regulatory and ethical compliance contributed, in part, to his justification and rationale for the employment of Plaintiff HillCo Partners.

19. Defendant Aghamalian specifically asserts that the Plaintiff HillCo Partners' claims are meritless and the chances of recovery are remote. While the Plaintiff HillCo Partners' chances of prevailing are improbable, any remedy for the Plaintiff HillCo Partners, which is unlikely, is adequately addressed at law as opposed to equity.

20. Defendant Aghamalian affirmatively asserts the doctrine of estoppel.
21. Defendant Aghamalian affirmatively asserts the doctrine of waiver.
22. Defendant Aghamalian affirmatively asserts the doctrine of laches.
23. Defendant Aghamalian affirmatively asserts the doctrine of unclean hands.

24. Defendant Aghamalian pleads that all affirmative defenses asserted are specific denials and all specific denials are affirmative defenses.

25. Defendant Aghamalian affirmatively asserts that Plaintiff HillCo Partners has failed to mitigate its damages, if any.

D. VERIFIED DENIALS

26. Pleading further, Defendant Aghamalian pleads there has been a failure of consideration since the amount of employee compensation which he was promised was not paid.

27. Pursuant to Tex.R.Civ.P. 93, Defendant Aghamalian states there is a defect in the parties and specifically denies that Plaintiff HillCo Partners is entitled to recover in the capacity in which it sues.

E. COUNTER CLAIM

28. Defendant Brandon Aghamalian is entitled to recover court costs, and reasonable and necessary attorneys' fees as prevailing party for a suit brought under Chapter 134, Texas Civil Practice and Remedies Code.

29. Defendant Aghamalian respectfully reserves the right to amend this answer to Plaintiff HillCo Partners' Original Petition after he has had an opportunity to more closely investigate the claims, as is his right and privilege under the Texas Rule of Civil Procedure and the laws of the State of Texas.

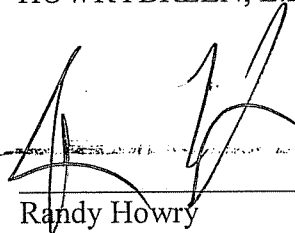
30. Defendant Aghamalian respectfully reserves the right to amend his counterclaim after he has had an opportunity to more closely investigate the claims, as is his right and privilege under the Texas Rule of Civil Procedure and the laws of the State of Texas.

31. Defendant Aghamalian incorporates by reference the answer and all amendments subsequent thereto of Co-Defendant Focused Advocacy, L.L.C. as if set forth at length.

WHEREFORE PREMISES CONSIDERED, the above answer is respectfully submitted to the Court and Jury by Defendant Aghamalian who asks that Plaintiff HillCo Partners take nothing; that Defendant Aghamalian be allowed to recover his costs; and that the court award Defendant Aghamalian such other and further relief as the Court may deem proper under the circumstances.

Respectfully submitted,

HOWRYBREEN, L.L.P.



Randy Howry
State Bar No. 10121690
1900 Pearl Street
Austin, TX 78705
512.474.7300
512.474.8557 fax
**ATTORNEY FOR DEFENDANT
BRANDON AGHAMALIAN**

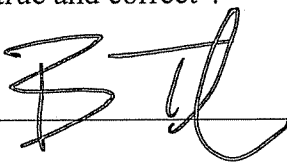
AFFIDAVIT

STATE OF TEXAS)
COUNTY OF TRAVIS)

Before me, the undersigned notary public, on this day personally appeared Brandon Aghamalian, who being by me first duly sworn, upon his oath stated as follows:

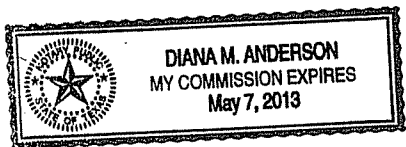
“I am Brandon Aghamalian. I am over the age of 18, am of sound mine, and am fully qualified in all respects to make this affidavit”.

“I have reviewed the allegations in Paragraph 26 and 27 of **Defendant Brandon Aghamalian’s Original Answer to Plaintiff’s Original Petition and Application of Temporary Injunction**, and the allegations therein are true and correct”.



AFFIANT

SUBSCRIBED AND SWORN THIS 6th DAY OF JULY, 2010.





NOTARY PUBLIC, STATE OF TEXAS

MY COMMISSION EXPIRES:
5-7-2013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing instrument has been served by certified mail, return receipt requested, facsimile, and/or e-filing to the following counsel of record in accordance with the Texas Rules of Civil Procedure on this the 6th of July, 2010.

J. Hampton Skelton
Skeleton & Woody
P.O. Box 1609
Austin, TX 78767-1609
512.651.7000

A handwritten signature in black ink, appearing to read 'Randy Howry', is written above a horizontal line. The signature is stylized and cursive.

Randy Howry