

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

-----X	:	
FIRST MANHATTAN CONSULTING GROUP, LLC,	:	Index No.:
	:	
Plaintiff,	:	
	:	
- against -	:	<b><u>COMPLAINT</u></b>
	:	
NOVANTAS, INC., ANDREW FRISBIE, PETER	:	
GILCHRIST AND JONATHAN WEST,	:	
	:	
Defendants.	:	
	:	
-----X	:	

Plaintiff, First Manhattan Consulting Group, LLC (“FMCG”), through its attorneys, Kane Kessler, P.C., as and for its complaint against defendants Novantas, Inc. (“Novantas”), Andrew Frisbie, Peter Gilchrist and Jonathan West (collectively, “Defendants”) alleges as follows:

**NATURE OF ACTION**

1. This is an action for breach of contract, tortious interference with a contract, unfair competition and misappropriation of confidential information/trade secrets arising out of Novantas Inc.’s egregious and ongoing acts of corporate raiding.

**THE PARTIES**

2. FMCG was founded in 1980 and provides premier strategy, risk management, deposit analytics and marketing services to financial institutions, other financial services companies and those serving financial institutions across the globe. FMCG is a Delaware corporation with its principal place of business located at 90 Park Avenue, 18th Floor, New York, NY 10016.

3. Upon information and belief, Novantas was founded in 1999 by former FMCG executives and since then has directly competed with FMCG in the financial services industry. Upon information and belief, Novantas is a Delaware corporation with its principal place of business located at 485 Lexington Avenue, New York, New York 10017.

4. Defendant Andrew Frisbie (“Frisbie”) was employed by FMCG beginning in June 2000 as a summer analyst and most recently as a Vice President in FMCG’s deposit analytics and strategy practices until he resigned on June 4, 2014 to join Novantas. Before his resignation, Frisbie was an officer of FMCG. Upon information and belief, Frisbie is a resident of New York County.

5. Defendant Peter Gilchrist (“Gilchrist”) was employed by FMCG beginning in August 2000 as a junior analyst and most recently as a Vice President in FMCG’s risk practice until he resigned on June 4, 2014 to join Novantas. Before his resignation, Gilchrist was an officer of FMCG. Upon information and belief, Gilchrist is a resident of Kings County.

6. Defendant Jonathan West (“West”) was employed by FMCG beginning in July 2006 as a junior analyst and most recently as a Senior Engagement Manager in FMCG’s deposit analytics and strategy practices until he resigned on June 9, 2014 to join Novantas. Upon information and belief, West is a resident of Kings County.

7. Frisbie, Gilchrist and West are collectively referred to as the “Individual Defendants.”

8. Non-party Ryan Schulz (“Schulz”) was employed by FMCG beginning in July 2010 as a junior analyst and most recently as a Consultant in FMCG’s risk practice until he resigned on June 11, 2014 to join Novantas.

9. Non-party Gregory Muenzen (“Muenzen”) was employed by FMCG beginning in August 2010 as a junior analyst and most recently as a Consultant in FMCG’s risk practice until he resigned on July 23, 2014 to join Novantas.

10. Non-party Emmanouil Davris Sampatakakis a/k/a Manolis Davris (“Davris”) was employed by FMCG beginning in August 2012 as junior analyst and most recently as a Senior Analyst in FMCG’s risk practice until he resigned on August 11, 2014 to join Novantas.

### **JURISDICTION AND VENUE**

11. Jurisdiction and venue in this Court are proper because the Defendants either have their principal place of business in New York County, reside in New York and/or transact business within New York, and the claims referred to herein arose in the County of New York, State of New York.

### **BACKGROUND**

12. Since 1980, FMCG has provided premier strategy, risk management, deposit analytics and marketing services to clients on six continents, including firms engaged in all aspects of financial services as well as private equity groups and vendors. FMCG is a medium-sized financial specialist firm that a leading industry publication, The Economist, described as the “world’s most successful consulting firm.”

13. FMCG has developed a number of practice areas, including its risk, deposit analytics and strategy practices. FCMG’s risk practice helps financial institutions understand risk and optimize risk/return tradeoffs. It is organized into six functional areas, including risk-adjusted profitability improvement, treasury and capital markets, risk/return governance, strategic finance, credit risk management and risk, finance and treasury administration.

14. In their roles as officers, Frisbie and Gilchrist held positions of trust. Moreover, all of the Individual Defendants were privy to confidential, proprietary and trade secret information belonging to FMCG, including the names and contact information for clients, identification and development of clients' needs, results of proprietary analysis, methods of presenting complex analysis and findings, models, as well as information regarding FMCG's expertise and compensation.

15. As a direct result of FMCG's investment in training the Individual Defendants, they developed specialized knowledge and unique expertise that were essential to the viability of FMCG's risk, deposit analytics and strategy practices.

16. Frisbie and Gilchrist worked closely with each other as vice presidents of the deposit analytics, strategy and risk practices, respectively, and those two practices were closely aligned. For example, Frisbie and Gilchrist worked together to develop for FMCG proprietary and confidential stress testing for deposits to comply with Comprehensive Capital Analysis and Review ("CCAR") government regulations for financial institutions.

#### **THE INDIVIDUAL DEFENDANTS' CONFIDENTIALITY AND NON-SOLICITATION AGREEMENTS**

17. On or about June 5, 2000, FMCG hired Frisbie as a summer analyst and on or about September 4, 2001, he returned to FMCG as a junior analyst.

18. On or about September 4, 2001, Frisbie signed a Confidentiality and Nonsolicitation Agreement for FMCG Employees in which he agreed to maintain in confidence FMCG's Confidential Information, as defined by the Agreement. The Agreement also contained a provision prohibiting Frisbie from soliciting FMCG employees while he was employed by

FMCG and for a period of two years thereafter. A copy of FMCG's 2001 Agreement with Frisbie is attached hereto as Exhibit A.

19. Section 3 of the Agreement, entitled "Non-solicitation" provides that:

During Employee's employment by FMCG and for a period of two years thereafter, Employee will not directly, or indirectly, solicit or counsel any person who was an FMCG employee at any time during Employee's employment by FMCG to terminate that employment or to become affiliated as employee, consultant, or otherwise with any other employer or organization, nor to assist others in doing so, nor in any way to facilitate the employment or affiliation of such an employee or former employee with any other organization or employers.

20. Between August 14, 2000 and July 24, 2006, Gilchrist worked for FMCG before leaving to attend law school. On or about September 1, 2009, Gilchrist returned to FMCG as an independent consultant. In connection with his work as an independent consultant, on or about September 1, 2009, Gilchrist signed an Employee, Independent Contractor, and Outside Group Confidentiality & Non-Compete Agreement.

21. On or about January 1, 2010, Gilchrist became a full time employee and signed a Confidentiality and Non-Solicitation Agreement for FMCG Employees. Gilchrist's Agreement also contains a non-solicitation clause. A copy of Gilchrist's 2010 Agreement with FMCG is attached hereto as Exhibit B.

22. Between July 10, 2006 and May 31, 2011, West was employed by FMCG before leaving to work for JP Morgan Chase and subsequently Citibank. In or around the end of 2013, Frisbie and Gilchrist convinced West to return to FMCG in the deposit analytics and strategy practices.

23. On or about March 31, 2014, when FMCG re-hired West, he signed a Confidentiality and Non-Solicitation Agreement for FMCG Employees, which contained a non-solicitation provision. A copy of West's Agreement with FMCG is attached hereto as Exhibit C.

24. In or around January 2013, FMCG asked its employees, including Frisbie and Gilchrist, to reaffirm their commitments to the provisions in the Confidentiality and Non-Solicitation Agreement for FMCG Employees by signing new Confidentiality and Non-Solicitation Agreements (collectively, all of the Individual Defendants' Confidentiality and Non-Solicitations Agreements are referred to as the "Agreements").

25. On or about February 7, 2013, Frisbie signed the new Agreement, which contained an identical non-solicitation provision as his 2001 Agreement with FMCG. A copy of Frisbie's 2013 Agreement with FMCG is attached hereto as Exhibit D.

26. Although Gilchrist refused to sign a new Agreement in 2013, his 2010 Agreement remains in effect and is enforceable.

27. Furthermore, upon each of the Individual Defendants' resignations, FMCG's human resources department asked each Individual Defendant to sign a statement (the "Proprietary Materials Statements") acknowledging that he did not remove any non-personal items for FMCG premises, acknowledging his responsibility to hold all proprietary information confidential and stating that he returned any client or FMCG confidential materials.

28. Although section 1, subsection d of the Agreements required each of the Individual Defendants to confirm delivery of confidential information in writing upon request, Frisbie and Gilchrist, wrongfully and without justification, have refused to sign and return their Proprietary Materials Statements after their resignations.

29. West, Schulz, Muenzen and Davris signed their Proprietary Materials Statements upon their respective resignations. A copy of West's Proprietary Materials Statement is attached hereto as Exhibit E.

**NOVANTAS ENGINEERS A SERIES OF RAIDS  
ON FMCG'S RISK, DEPOSIT ANALYTICS AND STRATEGY PRACTICES**

30. Upon information and belief, Novantas was founded in 1999 by former FMCG officers and has directly competes with at least some of FMCG's services. Since its founding, Novantas has deliberately engaged in a pattern and practice of poaching FMCG employees.

31. Upon information and belief, in or around May 2008, Robert Vokes, a former FMCG officer left FMCG to join Novantas as a managing director.

32. Shortly thereafter, in or around June 2008, Steve Turner, who was a managing director and head of FMCG's risk practice left FMCG to join Novantas. Similarly, in or around September 2008, Ken Alverson, also in FMCG's risk practice, left FMCG to join Novantas.

33. After the 2008 raid, on or about September 18, 2008, FMCG president and founder James McCormick wrote a letter to Richard Spitler, managing director at Novantas, informing him that these three former FMCG officers had confidentiality agreements with FMCG that prohibited them from using or disclosing FMCG's proprietary and confidential information. On or about November 9, 2008, Novantas wrote to FMCG acknowledging receipt of the September 18, 2008 letter.

34. Upon information and belief beginning in or around 2014, Novantas, with the assistance of Vokes, decided to resume its practice of raiding key FMCG employees. This time, interested in building its risk practice without having to devote the time and effort to train new high-level employees and acquire specialized knowledge that would enable them to more

effectively compete with FMCG, Novantas decided to target FMCG's risk, deposit analytics and strategy practices to pilfer key employees who possessed specialized knowledge.

35. In particular, upon information and belief, Novantas targeted Frisbie and Gilchrist for their unique knowledge of stress testing deposits and CCAR regulations. Consequently, upon information and belief, in or around May 2014, Novantas recruited Frisbie and Gilchrist to join Novantas with the knowledge and expectation that Frisbie and Gilchrist, in violation of their Agreements, would bring with them FMCG's confidential information related to stress testing deposits and CCAR regulations, as well as other confidential proprietary and trade secret information, including but not limited to the names and contact information for clients, identification and development of clients' needs, results of proprietary analysis, methods of presenting complex analysis and findings, models, as well as information regarding FMCG's expertise and compensation.

36. In furtherance of its scheme, upon information and belief, on or about May 23, 2014, Novantas offered both Frisbie and Gilchrist managing director positions. Novantas' offer letter to Frisbie was dated May 23, 2014 and signed by Novantas' managing director David Kaytes, and upon information and belief, was sent to Frisbie at FMCG's office on or about that date.

37. On or about May 30, 2014, Gilchrist informed FMCG's human resources department that he and Frisbie were deciding whether to continue with FMCG and stated that they had offers from another consulting firm.



38. Not satisfied with merely acquiring Frisbie's and Gilchrist's specialized knowledge and skills, Novantas further orchestrated a scheme to attempt to cripple FMCG by destroying its risk, deposit analytics and strategy practices.

39. Upon information and belief, Novantas knew and encouraged Frisbie and Gilchrist to further violate their Agreements by recruiting, either directly or indirectly, key employees in FMCG's risk, deposit analytics and strategy groups.

40. On or about June 4, 2014, Frisbie and Gilchrist announced that they were leaving FMCG. When asked whether Kendra Boohlie, their executive assistant, would be going with them, Gilchrist responded that "he would like her to and would like all of the team to join him."

41. Although Gilchrist stated that he had "talked to counsel" and knew what he could and could not do, any attempt by Gilchrist to solicit or counsel any FMCG employee, including an executive assistant, either directly or "indirectly," to leave FMCG is a violation of Gilchrist's Agreement with FMCG. See Exhibit B.

42. Gilchrist also asked FMCG about the process for transferring employees' H1B visas. Gilchrist did not have an H1B visa and, upon information and belief, had no legitimate reason to inquire about the procedure for transferring H1B visas. However, Davris, a senior analyst in FMCG's risk practice (who has since resigned to join Novantas), and another senior analyst in the deposit analytics and strategy practices (Sang Eun (Shannon) Kim) both have H1B visas.

43. After Frisbie and Gilchrist announced their resignations, FMCG's president and founder James McCormick spoke with West about the severe impact these resignations would have on the risk, deposit analytics and strategy practices. West was promoted to Head of

Analytics and Pricing and on or about Friday June 6, 2014, he was inquiring about his new role and title and appeared enthusiastic about it.

44. On or about Monday June 9, 2014, the next working day, West informed FMCG of his resignation. Less than a year before Frisbie and Gilchrist had recruited West to re-join FMCG and just a few months previously, in or around March 2014, West had accepted the offer to return to FMCG.

45. Unbeknownst to FMCG, on or about June 6, 2014, Vokes emailed Gilchrist and Frisbie (at Frisbie's FMCG email address) stating that he had been "reaching out into [his] MIT network and have surfaced a candidate." He stated that he would like Gilchrist's and Frisbie's input and asked them to call him. A copy of Vokes' email is attached hereto as Exhibit F. Upon information and belief, West graduated from MIT.

46. Upon information and belief, Novantas, with the assistance of the Individual Defendants, thereafter continued to accomplish its scheme to destroy FMCG's risk, deposit analytics and strategy practices by either directly or indirectly soliciting, in violation of the Individual Defendants' Agreements, other FMCG employees.

47. On or about June 11, 2014, a mere two days after West departed FMCG for Novantas, Schulz, a consultant in the risk practice, resigned from FMCG, stating that he was going to join Gilchrist. In or around 2010, Gilchrist had recruited Schulz to FMCG and, upon information and belief, was and remains personal friends with him.

48. Novantas' devastating raid on FMCG's risk practice continued unabated as, on or about July 23, 2014, Muenzen resigned from FMCG's risk practice; in response to a direct

question, Muenzen advised that he was not going to Novantas, but was going to another competitor. Upon information and belief, Muenzen lied to FMCG and joined Novantas.

49. On or about August 11, 2014, Davris, a senior analyst in the risk practice area, who had requested and received a transfer to marketing services after Gilchrist left FMCG, announced his resignation and joined Novantas.

50. Upon information and belief, Novantas and the Individual Defendants are continuing to solicit, either directly or indirectly and in violation of the Individual Defendants' Agreements, the remaining employees in FMCG's risk, deposit analytics and strategy practices with the goal of wholly destroying those practices,

51. Prior to Frisbie's and Gilchrist's resignations on or about June 4, 2014, FMCG's risk practice had six employees, of whom Gilchrist was the only officer. Currently, as a result of Novantas and the Individual Defendants' wrongful conduct, FMCG's risk practice has only two low-level employees and no officers:

	<u>Name</u>	<u>Most Recent Title</u>	<u>Date of First Hire</u>	<u>Date of Resignation</u>
1	<b>Peter Gilchrist</b>	<b>Vice President</b>	<b>8/14/00</b>	<b>6/4/14</b>
2	<b>Ryan Schulz</b>	<b>Consultant</b>	<b>7/9/10</b>	<b>6/11/14</b>
3	<b>Gregory Muenzen</b>	<b>Consultant</b>	<b>8/2/10</b>	<b>7/23/14</b>
4	Michael Smith-Bronstein	Consultant	11/8/10	Still employed
5	<b>Manolis Davris</b>	<b>Senior Analyst</b>	<b>8/6/12</b>	<b>8/11/14</b>
6	Tarun Sinha	Analyst	7/13	Still employed

(The employees who left FMCG for Novantas are in bold)

52. Likewise, Novantas' and the Individual Defendants' pirating of two high-level employees in the deposit analytics and strategy practices (Frisbie and West), including the only officer responsible for pricing (Frisbie), has severely hobbled FMCG's deposit analytics and strategy practices.

53. Upon information and belief, Novantas has wrongfully encouraged the Individual Defendants, as well as the other employees who left FMCG, to violate their Agreements to maintain the confidentiality of FMCG's information and has benefited and continues to benefit from confidential, proprietary and trade secret information that these FMCG employees brought with them from the first day Frisbie and Gilchrist arrived.

54. Before Novantas lured Frisbie and Gilchrist from FMCG, they had been working on a proposal for a prospective deposit analytics client, TD Bank. On or about May 13, 2014, Gilchrist informed FMCG that Frisbie and Gilchrist had lost the TD Bank opportunity and TD Bank had decided to use Novantas for the project instead. Upon information and belief, Frisbie received his offer letter from Novantas a mere 10 days later.

55. While Gilchrist was still employed with FMCG, in or around the end of 2013, Citibank had informed him that it had a need for a certain deposit analytics strategy. Frisbie and Gilchrist, on behalf of FMCG, commenced working on such a proposal for Citibank and were understood to be working on this proposal when they resigned. As a result of Frisbie's and Gilchrist's resignations, FMCG was forced to inform Citibank that it could not complete the proposal and was unable to bid for the Citibank opportunity.

56. On or about June 6, 2014, less than a week after Frisbie and Gilchrist announced their resignations from FMCG, Frisbie emailed Sherief Meleis, upon information and belief an

employee of Novantas, copying Gilchrist (at his FMCG email address), stating that he was “super excited to dig into TD as you mentioned...swing factor will be how big the pending CITI (hopefully \$1mm+) and RGN (a little smaller but still large) proposals settle.” Upon information and belief, “TD” refers to “TD Bank,” “CITI” refers to “Citibank” and “RGN” refers to “Regions Bank.”

57. Upon information and belief, Frisbie and Gilchrist deliberately deferred the Citibank and Regions Bank proposals, which they had been working on before their resignations, and thereby wrongfully usurped FMCG’s opportunities with these prospective clients for their own and Novantas’ benefit.

58. As demonstrated by this email, Frisbie expressed his intention to share FMCG’s confidential and proprietary information related to its clients with Novantas, including, upon information and belief, the insight he had gained while working at FMCG on the TD Bank proposal the previous month and the proposal that he had been working on for Citibank before he resigned from FMCG, as well as specialized confidential information relating to the identities of FMCG client contacts at each of TD Bank, Citibank and Regions Bank.

59. Frisbie further wrote to Meleis that he was “keen to have a mind meld and share some of the ideas we have previously employed on TDs and mortgage.” Upon information and belief, the reference to “TD” in this paragraph refers to “time deposits.” A copy of this email is attached hereto as Exhibit G.

60. By suggesting a “mind meld” and “sharing” some ideas that “we” have “previously employed on TDs and mortgage,” Frisbie has clearly demonstrated his willingness to share FMCG’s confidential and proprietary information and methods with Novantas in breach of

both his 2001 and 2010 Agreements with FMCG in which he agreed to refrain from disclosing such information.

61. This email clearly reflects Frisbie's and Novantas' bad faith and ill motive to utilize FMCG's confidential information, including client information, proprietary information and methods, for Novantas' benefit.

62. Moreover, upon information and belief, Frisbie and Gilchrist contacted FMCG's clients Union Bank and Regions Bank in violation of section 1, subsection a of their respective Agreements, which expressly includes the identities of FMCG clients to be confidential information.

63. Upon information and belief, Novantas has also benefited from Frisbie and Gilchrist's knowledge of FMCG's confidential, proprietary and trade secret information on stress testing and indeed has bragged about it.

64. In Novantas' June 10, 2014 press release touting the arrival of Frisbie and Gilchrist, Novantas boasted that by joining the company as managing directors, Frisbie and Gilchrist were "expanding and strengthening Novantas's capabilities in deposit analytics, banking strategy, risk management, and stress testing." Elsewhere, Novantas mentioned both Frisbie's and Gilchrist's knowledge of stress testing. Moreover, Novantas bragged that "both executives were previously at First Manhattan Consulting Group." A copy of Novantas' press release from their website is attached hereto as Exhibit H.

65. Novantas knew that Frisbie and Gilchrist had entered into the Agreements with FMCG because on or about June 6, 2014, counsel for FMCG wrote a letter to Richard Spitler, co-CEO and managing director of Novantas, informing him of Frisbie's and Gilchrist's

respective Agreements and their terms. A copy of counsel's letter to Novantas is attached hereto as Exhibit I.

66. Moreover, FMCG's counsel also sent separate letters to Frisbie and Gilchrist on or about June 6, 2014, enclosing copies of their respective Agreements, and advising them of their duties under those Agreements, including to maintain the confidentiality of FMCG's proprietary information, including the names of FMCG's clients, and demanding that they immediately cease and desist from using FMCG's confidential information. Richard Spitler of Novantas was sent a copy of these letters. A copy of counsel's letter to Frisbie is attached hereto as Exhibit J and a copy of counsel's letter to Gilchrist is attached hereto as Exhibit K.

67. After West's and Schulz's resignations, on or about June 9, 2014 and on or about June 11, 2014, respectively, counsel for FMCG sent similar letters to Novantas, West and Schulz advising of West's and Schulz's obligations under their respective Agreements.

**FIRST CAUSE OF ACTION**

*(Breach Of Contract Against The Individual Defendants  
For Breach Of The Agreements)*

68. FMCG repeats and re-allege every allegation set forth in paragraph 1 through 67 above with the same force and effect as if fully set forth herein.

69. The Agreements are valid and enforceable contracts.

70. Section 3 of Frisbie's and West's Agreements, entitled "Non-solicitation" provides that:

During Employee's employment by FMCG and for a period of two years thereafter, Employee will not directly, or indirectly, solicit or counsel any person who was an FMCG employee at any time during Employee's employment by FMCG to terminate that employment or to become affiliated as employee, consultant, or otherwise with any other employer or organization, nor to assist

others in doing so, nor in any way to facilitate the employment or affiliation of such an employee or former employee with any other organization or employers.

71. Although Gilchrist purported to cross out certain language throughout his 2010 agreement with FMCG, Gilchrist's agreement also contains a non-solicitation clause.

72. Section 1, subsection a of the Individual Defendants' Agreements defines Confidential Information and includes, "not only information disclosed or furnished by FMCG to Employee, but also information developed, created, learned or prepared by Employee...during the course or as a result of employment with FMCG or any engagement or project with FMCG's clients (each, an "Engagement")." The definition of Confidential Information also expressly includes the "identities and characteristics of FMCG clients."

73. Section 1, subsection c, entitled "Use and Protection of Confidential Information" provides in part that:

(i) At all times during the term of Employee's employment and thereafter, Employee shall hold in strictest confidence the Confidential Information and will not, directly or indirectly, disclose, publish, use or otherwise communicate the Confidential Information to any person or entity except as such disclosure, publication or use may be required for the benefit of FMCG or during the course of Employee's assigned duties in connection with any Engagement in which Employee is participating

74. FMCG substantially performed its duties and obligations under all of the Agreements.

75. The Individual Defendants materially breached their obligations under their respective Agreements by, upon information and belief, (a) soliciting either directly or indirectly FMCG employees in the risk, deposit analytics and strategy practices within a period of two years after their employment with FMCG terminated and (b) utilizing FMCG's confidential,



proprietary and trade secret information, including information related to stress testing deposits and CCAR regulations for purposes of luring clients away from FMCG and to Novantas.

76. Upon information and belief, Frisbie and Gilchrist further materially breached their respective Agreements by, (a) conspiring with Volkes to lure West to Novantas on or about June 6, 2014 and (b) contacting FMCG clients Union Bank and Regions Bank.

77. Upon information and belief, Frisbie further materially breached his Agreement by, *inter alia*, suggesting a “mind meld” and “sharing” some ideas that “we” have “previously employed,” to Novantas employee Meleis, in violation of section 1, subsection c of his Agreement.

78. The Individual Defendants’ material breaches were neither justified nor excused.

79. These breaches caused damage to FMCG in an amount to be proven at trial.

### **SECOND CAUSE OF ACTION**

*(Tortious Interference With The Individual Defendants’ Agreements Against Novantas)*

80. FMCG repeats and re-allege every allegation set forth in paragraph 1 through 79 above with the same force and effect as if fully set forth herein.

81. The Individual Defendants’ Agreements with FMCG were and are valid and enforceable contracts.

82. Novantas knew of the existence and terms of the Agreements. As described above, after three former officers left FMCG to join Novantas, FMCG sent a letter to Novantas advising it of the confidentiality agreements and on or about June 6, 2014, June 9, 2014 and June 11, 2014, counsel for FMCG sent letters to Novantas and each of the Individual Defendants advising them of the Agreements and their provisions.

83. Novantas knowingly, intentionally, improperly, tortiously and in bad faith, caused, induced and/or procured each of the Individual Defendants' breaches of their respective Agreements, or otherwise knowingly, intentionally, improperly, tortiously and in bad faith caused, induced and/or procured the Individual Defendants' breaches of their respective Agreements.

84. The Individual Defendants have in fact breached their respective Agreements and FMCG has thereby been damaged.

85. Novantas has engaged in the tortious conduct set forth herein and caused, induced and/or procured each Individual Defendants' breach of his respective Agreement without justification and has substantially profited thereby.

86. Novantas' tortious interference with the Individual Defendants' respective Agreements has caused damage to FMCG in an amount to be proven at trial.

87. In light of the malicious and egregious conduct of Novantas, FMCG is entitled to punitive damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION**  
*(Unfair Competition Against Novantas)*

88. FMCG repeats and re-allege every allegation set forth in paragraph 1 through 87 above with the same force and effect as if fully set forth herein.

89. Upon information and belief, Novantas has, in bad faith, employed unfair means, including but not limited to inducing the Individual Defendants to violate the non-solicitation provisions of their respective Agreements, to lure away high level officers and other key-employees in FMCG's risk, deposit analytics and strategy practices as part of a deliberate and malicious strategy to destroy FMCG's risk, deposit analytics and strategy businesses.

90. To date, Novantas has raided six FMCG employees, including two officers, and left only two low level employees in FMCG's risk practice, which had six employees prior to Novantas' raid.

91. Upon information and belief, Novantas has raided these employees as part of its scheme to gain access to confidential, proprietary trade secret information, including but not limited to information related to stress testing deposits, CCAR regulations client identities, including Union Bank and Regions Bank, and client opportunities, including but not limited to Citibank and Regions Bank. Upon information and belief, in concert with its new employees Frisbie and Gilchrist, Novantas has improperly and wrongfully acquired this information.

92. Novantas has no business justification for its actions and such actions were done in bad faith with the intent to harm FMCG.

93. Novantas' unfair competition has caused damage to FMCG in an amount to be proven at trial.

94. In light of the malicious and egregious conduct of Novantas, FMCG is entitled to punitive damages in an amount to be determined at trial.

#### **FOURTH CAUSE OF ACTION**

*(Misappropriation of Confidential Information/Trade Secrets Against All Defendants)*

95. FMCG repeats and re-allege every allegation set forth in paragraph 1 through 94 above with the same force and effect as if fully set forth herein.

96. As set forth above, FMCG's client names and contact information, identification and development of clients' needs, results of proprietary analysis, methods of presenting complex analysis and findings, models and information regarding FMCG's expertise and

compensation are confidential and proprietary and constitute valuable trade secrets of FMCG, which are not generally known.

97. Information that FMCG former employees Frisbie and Gilchrist developed during and pursuant to their employment by FMCG related to stress testing deposits, CCAR regulations client identities, including Union Bank and Regions Bank, and client opportunities, including but not limited to Citibank and Regions Bank, are also confidential, proprietary and constitute FMCG's valuable trade secrets and which are not generally known.

98. Likewise, as West acknowledged in his Proprietary Materials Statement, "information regarding FMCG's personnel's expertise, compensation" was also confidential, proprietary and constitutes FMCG's valuable trade secrets, which are not generally known.

99. Upon information and belief, the Individual Defendants breached provisions in their respective Agreements and common law obligations by disclosing the trade secrets described herein to Novantas.

100. Novantas, upon information and belief, wrongfully caused, induced and/or procured the Individual Defendants' disclosure of FMCG's trade secrets, as described above, in order to misappropriate them for its own use. Such actions, included but were not limited to, the June 6, 2014 email from Novantas' current employee Frisbie to Meleis and Gilchrist in which Frisbie offers to share confidential, proprietary and trade secret information with Novantas' employee Meleis and Frisbie and Gilchrist's contacts with FMCG clients Union Bank and Regions Bank.

101. As a result of the Defendants' misappropriation of FMCG's trade secrets, FMCG has sustained, and expects to further sustain, substantial financial harm in an amount to be proven at trial.

102. In light of the malicious and egregious conduct of Novantas, FMCG is entitled to punitive damages in an amount to be determined at trial.

**WHEREFORE**, FMCG demands judgment against Defendants as follows:

A. on the First Cause of Action, judgment in favor of FMCG and against the Individual Defendants in an amount to be proven at trial;

B. on the Second Cause of Action, judgment in favor of FMCG and against Novantas in an amount to be proven at trial, plus punitive damages;

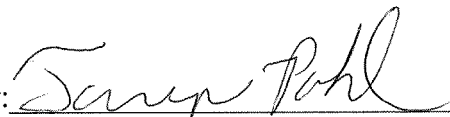
C. on the Third Cause of Action, judgment in favor of FMCG and against Novantas in an amount to be proven at trial, plus punitive damages;

D. on the Fourth Cause of Action, judgment in favor of FMCG and against all Defendants in an amount to be proven at trial plus punitive damages; and

E. on all causes of action, attorneys' fees, the costs and disbursements of this action and such other, further and different relief as to the Court seems just and proper.

Dated: New York, New York  
August 13, 2014

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