

VIRGINIA:

Before Justices Kinser and Lemons
and Senior Justice Russell.

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on* Friday *the* 24th *day of* August, 2007.

Michael Macchioni, et al., Appellants,
against Record No. 071657
Robert Half International, Inc., Appellee.

Upon a Petition under Code § 8.01-626

This matter is before the Court upon a Petition for Review pursuant to Code § 8.01-626.

Michael Macchioni ("Macchioni") and Staffing Now, Inc. appeal an order of the Circuit Court of Fairfax County entered on July 23, 2007 granting a temporary injunction prohibiting Macchioni from, among other things, being employed in any capacity by a staffing services firm, including Staffing Now, Inc., within a 50 mile radius of Robert Half International, Inc.'s ("RHI") Tysons Corner, Virginia offices and further prohibiting Macchioni from directly or indirectly "soliciting or inducing any other RHI employee to leave the employ of RHI or to become connected in any way with any staffing services firm or business in competition with RHI." Additionally, Macchioni was prohibited from "directly or indirectly contacting or soliciting the trade and patronage of RHI's clients and/or candidates."

The covenant not to compete at issue in this case provides as follows:

[F]or a period of twelve (12) months after the Termination Date (regardless of the reason for termination or whether such termination was by Employer or by the Employee), Employee agrees that Employee shall not, directly or

indirectly, own, manage, operate, control, be employed by, participate in, or be connected in any manner with the ownership, management, operation or control of, any Competitor in any part of the area encompassed within a radius of fifty (50) miles from any Applicable Office.

Macchioni maintains that the provisions of this covenant are substantively indistinguishable from the covenant we held overly broad and unenforceable in Modern Environments, Inc. v. Stinnett, 263 Va. 491, 561 S.E.2d 694 (2002). At this stage of the proceedings, we agree with Macchioni and hold that RHI has not demonstrated a substantial likelihood of prevailing on the merits.

Furthermore, the temporary injunction order is not confined to a 12-month period as recited in the covenant. Finally, the temporary injunction order does not comply with Code § 8.01-624 requiring the duration of temporary injunctions be fixed.

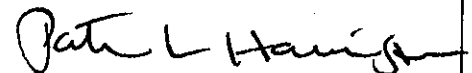
Accordingly, the provisions of the trial court's order of July 23, 2007 granting injunctive relief, specifically numbered paragraphs 1, 2, 3, 4, and 5 are vacated.

This case is remanded to the trial court for such further proceedings as may be necessary, consistent with this order.

This order shall be certified to the Circuit Court of Fairfax County.

A Copy,

Teste:



Clerk