IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND

STONE STREET CAPITAL, INC. 7316 Wisconsin Avenue Suite 500 Bethesda, MD 20814-2937 Plaintiff, v. ERIC G. [redacted] [redacted] Vienna, VA 22180 ANNUITY [redacted], LLC [redacted] Vienna, VA 22180 PETER C. [redacted] [redacted] Alexandria, VA 22311 Defendants.	)	Civil No. 267254

PLAINTIFF STONE STREET CAPITAL, INC.'S
EX PARTE MOTION FOR A
TEMPORARY RESTRAINING ORDER

COMES NOW Plaintiff Stone Street Capital, Inc., by and through counsel, and requests a temporary restraining order pursuant to Maryland Rule 15-504. The grounds for this Motion are that Plaintiff will suffer immediate, substantial, and irreparable harm if Defendants Eric G. [redacted] and Annuity [redacted] LLC continue to retain Plaintiff's trade secrets and other proprietary and confidential information, continue to use this information and contact Plaintiff's customers and sales leads, and continue to disclose

this information to individuals, corporations and other entities to broker structured settlement buyout transactions. Plaintiff has notified the Defendants, directly and through their attorney or registered agent, of this Ex Parte Motion and the Complaint for Damages and Injunctive Relief which has been filed contemporaneously. In support of this Motion, Plaintiff refers the Court to the attached Memorandum of Points and Authorities. In addition, the Court is referred to the Affidavit of Patricia A. LaBorde, attached hereto, and to the Verified Complaint for Damages and Injunctive Relief with Exhibits.

WHEREFORE, Plaintiff Stone Street Capital, Inc. respectfully requests that the Court grant its Ex Parte Motion for Temporary Restraining Order against Defendants Eric G. [redacted] and Annuity [redacted], LLC.

DATED: December 12, 2005

Respectfully submitted,

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND

STONE STREET CAPITAL, INC. 7316 Wisconsin Avenue Suite 500 Bethesda, MD 20814-2937	)	
Plaintiff,	)	Civil No. 267254
v.	)	
ERIC G. [redacted] [redacted] Vienna, VA 22180	)	
ANNUITY [redacted], LLC [redacted] Vienna, VA 22180	)	
PETER C. [redacted] [redacted] Alexandria, VA 22311	)	
Defendants.	)	

PLAINTIFF STONE STREET CAPITAL, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS EX PARTE MOTION FOR A TEMPORARY RESTRAINING ORDER

Plaintiff Stone Street Capital, Inc., by and through counsel, submits this Memorandum of Points and Authorities in Support of its Ex Parte Motion for a Temporary Restraining Order.

I. INTRODUCTION

Stone Street requests a Temporary Restraining Order (TRO) against Defendants Eric G. [redacted] and Annuity [redacted] LLC that will expire thirty-five (35) days after issuance. [redacted] and Annuity [redacted] are "non-residents" of Maryland. *See* Rule 15-504(c), permitting a TRO to last 35 days against non-residents. The extended time is also necessary because we are in the busy

December holidays season and Stone Street will need time to prepare for a Preliminary Injunction Hearing to be held in January 2006. Stone Street first learned during the week of December 5, 2005, about the acts and transactions which are the subject of this Motion and the Complaint for Damages and Injunctive Relief.

Stone Street requests a TRO that will provide the following relief to Stone Street:

(1) An Order enjoining [redacted] and Annuity [redacted] from engaging in and undertaking any business competitive with the business of Stone Street as required by the Employment, Non-Competition and Confidentiality Agreement which [redacted] signed on September 1, 2003 (hereafter "Employment Agreement").

(2) An Order enjoining [redacted] and Annuity [redacted] from brokering, using, disclosing, selling, sharing, assigning or otherwise providing Stone Street's trade secrets and other proprietary and confidential information, including but not limited to, customers, customer leads and prospects, customer lists, and sales prospects to other individuals, corporations or entities – including businesses which are competitors of Stone Street, as required by the Employment Agreement.

(3) An Order Enjoining [redacted] and Annuity [redacted] from contacting or soliciting Stone Street's customers or prospective customers, and from diverting or attempting to divert the business of customers or prospective customers of Stone Street away from Stone Street, as required by the Employment Agreement.

(4) An Order compelling [redacted] and Annuity [redacted] to return all originals and copies of documents and data in electronic format which contain any of Stone Street's trade secrets and other proprietary and confidential information and work product, as required by the Employment Agreement.

(5) An Order compelling [redacted] and Annuity [redacted] to notify in writing all businesses in the structured settlement industry whom they have contacted, solicited, transacted business with, or attempted to transact business with (a) of the pendency of this action, and (b) that any and all brokerage commissions and fees due or owing to [redacted] or Annuity [redacted] in the past or prospectively, should not be paid to them at this time but should be held in escrow pending the outcome of this action and a subsequent court order.

(6) An Order directing that the operation of the website [redacted] be suspended by the Defendants and the Internic, domain host and webmaster inasmuch as it is competitive with the business of Stone Street, which is an ongoing violation of the Employment Agreement, and it was launched while [redacted] was employed by Stone Street.

II. FACTUAL BACKGROUND

1. Stone Street, a Pennsylvania Corporation, is a financial firm which structures and provides present value payments for beneficiaries of structured settlements and lottery winners. In the highly competitive structured settlement purchasing industry, companies must expend a substantial amount of time, effort and money attracting potential customers. There is no specific source that purchasing companies can consult to identify holders of structured settlements. Stone Street has undertaken a broad advertising campaign to attract potential customers. Once a customer responds to a Stone Street advertisement, he or she is placed in Stone Street's data base of potential customers. These individuals are later contacted by Stone Street's sales force, who will discuss and may propose a purchasing transaction. As an alternative method of attracting customers, Stone Street and its competitors rely on a network of independent brokers who develop their own lists of potential customers and refer these customers to purchasing companies. Like Stone Street, independent brokers must expend a substantial amount of time,

effort and money attracting potential referrals. Independent brokers are paid a broker's commission for every individual referred to a settlement purchaser that enters into a transaction.

2. There is no publicly available list of structured settlement recipients. In order to conduct its business, Stone Street has to work to obtain leads for transactions. It does this primarily through national television advertising. Stone Street spends hundreds of thousands of dollars each year on this advertising. Structured settlement recipients see Stone Street's advertising and call an 800 number to inquire regarding the company's services. The identity of these leads is kept secret by Stone Street and is provided to sales persons for the sole purpose of concluding transactions with the leads. Stone Street also sources leads from the internet and it maintains a presence on the internet (and has done so for many years) at www.stonestreet.com.

3. Defendant Eric G. [redacted] worked as a salesperson in Stone Street's Structured Settlement Division from about September 1, 2003 until he was involuntarily terminated on November 11, 2005. His last day of work in the office was November 11th but he remained a paid employee through his separation date of November 23, 2005. As a salesperson, [redacted] had access to Stone Street's highly confidential data base of customers and potential customers.

4. On September 1, 2003, Defendant signed an Employment, Non-Competition and Confidentiality Agreement ("Employment Agreement") with Stone Street. [redacted] agreed to the following provisions in his Employment Agreement:

(1) While employed by Stone Street, [redacted] would not solely or jointly with others engage in, undertake or join any planning for any business competitive with the business of Stone Street. (*See* Employment Agreement, section 8, attached as Exhibit 1 to the Complaint);

(2) [redacted] would maintain in confidence all information and disclosures made to

[redacted] about customers, prospective customers and contacts of Stone Street, (including Stone Street's data bases of sales prospects), and that he would not use or disclose them to any person except in furtherance of Stone Street's business. (*See* Employment Agreement, section 9);

(3) [redacted] would keep confidential Stone Street's Trade Secrets1 and other proprietary and confidential information, including, but not limited to customer leads, customer lists, and computer data base information, and [redacted] would not use or disclose the trade secrets except as required in the course of his employment with Stone Street. (*See* Employment Agreement, section 11);

(4) [redacted] would return to Stone Street upon termination of employment all documents, disks or other computer media, or other material in his possession which may contain trade secrets and other proprietary and confidential information, including customer leads, customer lists, computer data base information. (Employment Agreement, section 12); and

(5) [redacted] would not during the course of employment or for a period of twenty-four (24) months commencing upon the expiration of employment, voluntarily or involuntarily, directly or indirectly as an employee, agent, owner, stockowner,

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1/ The Employment Agreement The Employment Agreement defines "Trade secrets and other proprietary and confidential information" as consisting of, "for example, and not intending to be inclusive, (i) customer leads, customer lists, computer data base information, computer processing systems, techniques, methodologies, formulae, processes, compilations of information, drawings, proposals, job notes, reports, records, and specifications, and (ii) information concerning any matters relating to the business of Employer, any of its customers, customer contacts, referral representatives, sales representatives, funding sources, the prices it obtains or has obtained for its products and services, or any other information concerning the business of the Employer and Employer's good will, which information is not readily available to the public in the form maintained by Employer."

partner, officer or director, compete with Stone Street. (Employment Agreement, Section 13).

(6) [redacted] would not in a manner adverse to Stone Street contact any customer or potential customer of Stone Street, or divert or attempt to divert any customer or potential customer of Stone Street (Employment Agreement, Section 15).

5. In reliance upon [redacted] agreement to abide by these contractual provisions, Stone Street entrusted him with highly valuable customer leads and gave him access to Stone Street's trade secrets, confidential and proprietary information.

6. During the week of December 5, 2005, Stone Street first learned that while [redacted] was still employed as a Stone Street sales representative, [redacted] was implementing a plan to compete against Stone Street and steal customer leads and other trade secrets from Stone Street. [redacted], working together with Defendant Peter C. [redacted], incorporated Annuity [redacted] LLC in the Commonwealth of Virginia on February 11, 2005. *See* Exhibit 2 to the Complaint. The principal address for Annuity [redacted], LLC is [redacted] 2/

7. Stone Street also has learned that, even before the state incorporation, [redacted] working together with Defendant [redacted] obtained the internet domain name for [redacted]. On January 6, 2005, [redacted] was first registered as a domain name. *See* Exhibit 3 to the Complaint. [redacted] working together with Defendant [redacted], obtained the domain registration while he was employed by Stone Street. The domain name and registration are under [redacted] dominion and control.

8. The website of [redacted] as of December 7, 2005, states that

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2/ The State Corporation Commission for the Commonwealth of Virginia lists the principal address as [redacted] *Ashburn*, Virginia 22180, which is a data entry mistake since the street address and zip code are for Vienna and are [redacted] residential street address and zip code.

Annuity [redacted] is a "newly founded company made up of professionals from the Structured Settlement and Lottery Industry." The website of [redacted] was up and running on August 7, 2005, if not earlier. The webpages attached as Exhibits 4 and 5 to the Complaint are from Google's cache, and they show the webpages that were posted on [redacted] as of November 21, 2005 and August 7, 2005, respectively. The website unabashedly solicited structured settlement business. The telephone number appearing on the website, 888-808-LUMP (5867), was obtained by [redacted] while he was an employee of Stone Street. These competitive activities were undertaken at least three (3) full months before Finke was terminated by Stone Street.

9. The business of [redacted], Annuity [redacted] LLC and [redacted] are in direct competition with the business of Stone Street.

10. While employed by Stone Street, [redacted] brought his personal laptop into his office at Stone Street where, upon information and belief, he downloaded information from Stone Street's confidential and proprietary database, including customers and prospective customers' names, contact information, structured settlement deals, and a veritable warehouse of proprietary contracts, forms and documents developed by Stone Street. Bringing a personal laptop into the office is a violation of Stone Street's policy.

11. While employed by Stone Street and/or upon his termination, [redacted] directly and indirectly through Annuity [redacted] LLC, began contacting customers, prospective customers and sales leads of Stone Street to divert their business away from Stone Street and to induce them to place their business with Annuity [redacted] LLC.

12. By way of background, the National Association of Settlement Purchasers (NASP) is a trade association for structured settlement industry, i.e., companies who purchase

and broker structured settlements and annuities from individuals. Stone Street is a member of NASP. The NASP protocol calls for companies to enter their structured settlement deals into NASP's anti-fraud database to prevent structured settlement owners or annuitants from selling and re-selling the same payment streams to different companies.

13. Stone Street had entered the name of Mr. James Edwards into the NASP anti-fraud database as it had previously purchased annuity payments from Mr. Edwards. On December 5, 2005, Stone Street received a routine notification from Novation Capital, LLC that it had entered into a contract with Mr. Edwards to purchase more annuity and lump sum payments from him. Having checked the NASP anti-fraud database, Novation requested to know whether the purchase was in conflict with Stone Street's prior purchase.

14. Mr. Edwards already had contacted Stone Street about purchasing these additional annuity and lump sum payments and he had agreed to sell them to Stone Street. In fact, Stone Street had delivered the contracts to Mr. Edwards and he had indicated that he would sign and return them. Defendant [redacted] as a representative of Stone Street, was working on the deal with Mr. Edwards before [redacted] was terminated. Upon information and belief, [redacted] contacted Mr. Edwards upon his employment termination and persuaded Mr. Edwards that he could get him a better deal if [redacted] brokered his annuity payments to Novation instead of Stone Street. [redacted] willfully, deliberately and tortiously interfered with Stone Street's prospective business advantage. As a result of [redacted] activities, Stone Street is likely to lose over $15,000 of profit on the Edwards transaction.

15. On December 5, 2005, Stone Street received another routine notification from Novation Capital, LLC, this time concerning Mr. Christopher Bowlby. Novation had seen Stone Street's entry about Mr. Bowlby in the NASD anti-fraud database, and Novation indicated that it

had entered into a contract with Mr. Bowlby to purchase some of his structured settlement annuity payments.

16. Mr. Bowlby had entered into a signed, written contract with Stone Street to sell his annuity payments, and the contract had been returned to Stone Street on November 14, 2005. [redacted] knew about Stone Street's transaction with Mr. Bowlby and he had access to the database containing the material terms and details of the deal. The day that the contract was received in Stone Street's office, Mr. Bowlby sent a cancellation letter to Stone Street. The letter "cc'd" Stone Street's outside counsel, a name which Mr. Bowlby would not have known about and an action he would not have considered taking unless he had been advised by [redacted] His stated reason for cancellation, though untrue, was that he was going to get a home equity loan. Upon information and belief, [redacted] or persons acting on behalf of [redacted] contacted Mr. Bowlby upon [redacted] employment termination and persuaded Mr. Bowlby that he could get a better deal if his annuity payments were brokered to Novation instead of Stone Street. [redacted] willfully, deliberately and tortiously interfered with Stone Street's prospective business advantage. As a result of [redacted] activities, Stone Street is likely to lose a substantial profit on the Bowlby transaction.

17. Using Stone Street's confidential and proprietary database and trade secrets, Defendants [redacted] and Annuity [redacted], LLC, including employees, independent contractors, representative and agents thereof, have contacted other customers, prospective customers, and sales leads of Stone Street for the purpose of diverting their business away from Stone Street and brokering their transactions to other companies to obtain sizable brokerage commissions.

18. [redacted] and Annuity [redacted] LLC have approached and will continue to approach other settlement purchasing companies to broker additional transactions. Stone Street has

already lost one deal – Christopher Bowlby – due to the wrongful activities of [redacted] and Annuity [redacted] LLC. Stone Street is likely to lose more deals if the Defendants' conduct is unabated. Stone Street has lost, or will loose, the opportunity to enter into transactions with every customer that [redacted] and Annuity [redacted] broker to Novation Capital, LLC or to other individuals, corporations, or entities.

19. As a sales representative, [redacted] had access to more than hundreds of customer leads. Upon information and belief, [redacted] has misappropriated a copy of each of these leads, and he will attempt to broker transactions between these customers and other settlement purchasing companies. As a direct result of the Defendants' actions, Stone Street could loose hundreds of thousands of dollars in profit on these transactions.

20. In the Employment Agreement, section 16, [redacted] agreed that "in the event of a breach or threatened breach" by him "of any of the provisions" of the Employment Agreement, Stone Street "shall be entitled to a permanent injunction in order to prevent or restrain any such breach by" [redacted] or by [redacted] ["Employee's] partners, agents, representatives, servants, employees, and/or any and all persons directly or indirectly acting for or with Employee."

21. Immediate, substantial and irreparable harm will result to Stone Street before a full adversary hearing can held on the propriety of a preliminary or final injunction. The Court is referred to the Affidavit of Patricia A. LaBorde, Division Counsel for the Structure Settlement Division of Stone Street Capital, Inc., which is attached hereto.

III. ARGUMENT

Maryland Rule 15-504 sets forth the requirements for obtaining a temporary restraining order as follows:

> A temporary restraining order may be granted only if it appears from specific facts shown by affidavit or other statement under

> oath that immediate, substantial, and irreparable harm will result to the person seeking the order before a full adversary hearing can be held on the propriety of a preliminary or final injunction.

In *Teferi v. Dupont Plaza Associates*, 77 Md. App. 566; 551 A.2d 477 (Md. Ct. Spec. App. 1989), the Court delineated four factors that are considered in determining whether an injunction, including a temporary restraining order, should be granted. These factors are: (1) the likelihood that the plaintiff will succeed on the merits; (2) the "balance of convenience" determined by whether greater injury would be done to the defendant by granting the injunction than would result from its refusal; (3) whether the plaintiff will suffer irreparable injury unless the injunction is granted; and (4) the public interest. *Teferi*, 77 Md. App. at 578, 551 A.2d at 484. In light of these factors, a temporary restraining order should be granted in this case.

A. Plaintiff Will Succeed On The Merits.

Pursuant to the Employment Agreement of September 1, 2003, [redacted] agreed to keep confidential Stone Street's trade secrets and proprietary and confidential information, and to return all material, documents and computer media and disks to Stone Street upon termination of his employment. By misappropriating Stone Street's customer leads and other trade secrets, and by using these leads to broker transactions for himself or in the name of Annuity [redacted] LLC to other individuals, corporations, and entities, [redacted] violated his contractual obligations. [redacted] further violated his Employment Agreement by contacting James Edwards and Christopher Bowlby, customers of Stone Street who had signed contracts or committed to signing contracts with Stone Street, and diverting their business away from Stone Street to Novation Capital, LLC.

[redacted] violated his Employment Agreement while he was employed by Stone Street, as he agreed that he would not solely or jointly with others engage in, undertake or join any planning for any business competitive with the business of Stone Street. Yet, he incorporated Annuity

[redacted] LLC, obtained the domain name [redacted] and launched the website promoting the business of Annuity [redacted] in direct competition to Stone Street -- all while employed by Stone Street.

[redacted] agreed in his Employment Agreement that he would not compete against Stone Street for a period of two (2) years from the date of his employment termination, directly or indirectly through another corporate entity or as an employee, agent, owner, stockowner, partner, officer or director. His activities under Annuity [redacted] LLC before and after his employment termination are a violation of his Employment Agreement.

[redacted] also agreed in his Employment Agreement that for a period of three (3) years, he would not contact or solicit any of Stone Street's customers or Prospective Customers (as defined). Less than one month after his termination, if not prior to his termination, he contacted and solicited many of Stone Street's customers and Prospective Customers, including but not limited to James Edwards and Christopher Bowlby.

[redacted] in conjunction with Annuity [redacted] LLC, know that their actions constitute a misappropriation of Stone Street's trade secrets, breach of contract, interference with Stone Street's business relationships, and conversion. [redacted] and Annuity [redacted], LLC cannot offer any justification for their flagrant, intentional and deliberate misappropriation and use of trade secrets and breach of contract. Their actions are indefensible, and for that reason among others, Plaintiff will succeed on the merits of its case.

Maryland has long recognized that an agreement not to compete is enforceable if it is reasonable in time and geographic scope given the business at issue. *See, e.g., Halloway v. Faw, Casson & Co.*, 319 Md. 324, 572 A.2d 510 (1990); *Fowler v. Printers II, Inc.*, 89 Md.App. 448, 598 A.2d 794 (1991). Restrictive covenants in an employment contract which prevent an

employee from competing with his employer upon leaving the employment are upheld in Maryland, provided that they are reasonably necessary for the protection of the employer. *Intellus Corp. v. Barton*, 7 F.Supp.2d 635 (D. Md. 1998). Maryland also follows the general rule that restrictive covenants may be applied and enforced against those employees who provide unique services or to prevent future misuse of trade secrets or lists of customers, or solicitation of customers. *Becker v. Bailey*, 268 Md. 93, 299 A.2d 835, 838 (1973).

On their face, the restrictive covenants in the Employment Agreement are necessary and reasonable. Therefore, Stone Street is entitled to the TRO. [redacted] carries the burden in any subsequent proceeding for a preliminary or permanent injunction to prove by means of evidence that the restrictions on unreasonable, if that is his position. *Millward v. Gerstung International Sport Education*, 268 Md. 483, 302 A.2d 14, 17 (1973). It is highly speculative, however, that [redacted] and his business arm, Annuity [redacted] LLC, will be able to convince any subsequent trier of fact that they have the right to steal and use Stone Street's trade secrets and customer leads.

B. Defendants Will Not Be Injured If The Ex Parte Temporary Restraining Order Is Granted.

The relief sought by Stone Street is set forth in the Introduction above, and is incorporated by reference.

The Defendants will not be deprived of any property or property interests which they own if the TRO compels them to return all originals and copies of documents and data in electronic format which contain any of Stone Street's trade secrets and other proprietary and confidential information and work product. The Defendants are not entitled to have possession of these trade secrets and information.

The Defendants will not be "injured" if the TRO compels them to maintain in confidence

and refrain from using and disclosing all information about customers, prospective customers and contacts of Stone Street, (including Stone Street's data bases of sales prospects, customer leads, customer lists, and computer data base information. These are trade secrets and property rights which belong to Stone Street. [redacted] even agreed in his Employment Agreement that he would not use or disclose these trade secrets as except as required in the course of his employment with Stone Street.

Likewise, the Defendants will not be injured if the TRO enjoins them from contacting and soliciting customers and Prospective Customers of Stone Street (as defined in the Employment Agreement) since [redacted] agreed that they are the confidential and proprietary property and trade secrets of Stone Street. [redacted] even agreed in his Employment Agreement that he would not contact or solicit customers or Prospective Customers. [redacted] and Annuity [redacted], LLC do not have any property interests or rights to the customers and Prospective Customers of Stone Street.

Stone Street is also requesting an Order enjoining [redacted] and Annuity [redacted], LLC from engaging in and undertaking any business competitive with the business of Stone Street as required by the Employment Agreement which [redacted] signed. [redacted] is not allowed to compete against Stone Street, directly or indirectly through Annuity [redacted], for two years. The TRO which would be for 35 days will not deprive the Defendants of any rights which they have to compete since [redacted] does not have the right to compete against Stone Street. As a condition of his employment, [redacted] agreed that when his employment with Stone Street was terminated, he would not compete against Stone Street for several years. In effect, [redacted] waived and relinquished his right to compete when he went to work for Stone Street. In exchange, Stone

Street gave him access to their trade secrets, confidential and proprietary manner of doing business.

Because [redacted] and Annuity [redacted], LLC are competing against Stone Street by using the website [redacted], Stone Street is seeking a TRO that will order them and the Internic, and their domain host and webmaster to suspend operation of the website until further order from this Court. Though they might have the right to use a website under the domain name [redacted] they do not have the right to use the website to advertise for structured settlement business and to compete against Stone Street.

Stone Street also seeks a TRO compelling [redacted] and Annuity [redacted] to notify in writing all businesses in the structured settlement industry whom they have contacted, solicited, transacted business with, or attempted to transact business with (a) of the pendency of this action, and (b) that any and all brokerage commissions and fees due or owing to [redacted] or Annuity [redacted] in the past or prospectively, should not be paid to them at this time but should be held in escrow pending the outcome of this action and a subsequent court order. [redacted] and Annuity [redacted] will not be injured because (1) they have no right to compete in the first place; therefore, they are not entitled to any brokerage commissions and fees from structured settlement business; and (2) if they are owed brokerage commissions and fees, their monies will be held in escrow for a short time until a preliminary hearing or permanent injunction hearing can be held. They will not suffer any financial harm since the payments that may be owed to them will not be irrevocably lost.

The interests of the Defendants also will be adequately protected by a bond imposed under Maryland Rule 15-503(a). The bond ensures that the Defendants could collect damages, if any, incurred by the entry of the TRO if this Court later finds that Stone Street is not entitled to

the Order. Stone Street, however, is not afforded these same protections since there is no procedural requirement for the Defendants to post a bond.

Greater injury will be incurred if the TRO is *not* granted than if it is granted. If the Defendants continue to (a) use Stone Street's trade secrets, (b) contact and solicit Stone Street's customers and Prospective Customers, and (c) compete against Stone Street using the instrumentalities of a limited liability company, internet domain name, internet website, and 800 telephone number which were illicitly obtained by [redacted] while employed by Stone Street, then Stone Street will be denied the use and enjoyment of its trade secrets, confidential and proprietary information, customers and Prospective Customers. Stone Street will be stripped of ongoing and additional business opportunities, and it will be forced to compete against a former employee who agreed as a condition of employment that he would not compete for Stone Street's business immediately upon his termination. On balance, the TRO should be issued against [redacted] and Annuity [redacted] LLC.

C. Plaintiff Will Be Irreparably Harmed If the Ex Parte Temporary Restraining Order Is Not Granted.

Unless the TRO is granted, the Defendants will continue to (a) use and disclose Stone Street's trade secrets, confidential and proprietary information; (b) contact and solicit Stone Street's customers and Prospective Customers; (c) divert and attempt to divert business away from Stone Street; and (d) compete against Stone Street in the structured settlement industry without taking their agreed upon "time out". Stone Street will be deprived of business property, i.e., customers and customer leads, which it developed at great time and effort. Unless the TRO is granted, the Defendants will be allowed to profit from their illicit activities as they will receive brokerage commissions and fees which should have been paid to Stone Street from transactions

with customers of Stone Street. As mentioned, Stone Street will be deprived of business opportunities which it developed but which will be forever lost to [redacted], Annuity [redacted] LLC or other competitors of Stone Street. Stone Street will be irreparably harmed if the TRO is not granted.

D. The Public Interest Would Be Served By Granting the Ex Parte Temporary Restraining Order.

Defendant [redacted] signed an Employment Agreement with Stone Street on September 1, 2003, which explicitly prohibits the very actions which [redacted] and his entity, Annuity [redacted], LLC, have been undertaking. The Defendants stand to profit from their illicit actions if they receive commissions from brokering transactions with customers of Stone Street. It is in the public interest to protect companies against employees who steal their trade secrets and other confidential and proprietary information. It is in the public interest to enforce non-competition and non-solicitation agreements between employer and employee. The public interest is not on the side of [redacted] and Annuity [redacted] LLC. The public interest is not served by allowing the Defendants to compete against Stone Street using trade secrets and other confidential information misappropriated from Stone Street. Furthermore, the public interest is not served by allowing the Defendants to compete against Stone Street while using a corporate entity, domain name, 800 telephone number, and internet website that were established when [redacted] was an employee of and under contract with Stone Street. The public interest is served be ensuring that individuals abide by their contractual agreements. In *Foster-Porters Enterprises, Inc. v. De Mare*, 198 Md. 20, 81 A.2d 325 (Md. Ct. App. 1951), the Court recognized this interest by issuing an injunction that required the defendant to abide by its contractual obligations. In this case, as it was in *Foster-Porters Enterprises*, the public interest would be served by granting the Temporary Restraining Order.

IV. BOND REQUIREMENT

Pursuant to Maryland Rule 15-503(a), Stone Street has made arrangements to post a bond in the amount of One Hundred Fifty Thousand ($150,000). Considering the facts above, it is inconceivable that [redacted] and Annuity [redacted] LLC would be entitled to any sum of money as damages if it is later determined that the TRO has been issued in error. However, Stone Street is offering this substantial bond to give adequate security for the Court to issue the TRO in the form requested.

DATED: December 12, 2005

Respectfully submitted,

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Counsel for Plaintiff Stone Street
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the Ex Parte Motion for Temporary Restraining Order, the Memorandum of Points and Authorities in Support Thereof, Affidavit of Patricia A. LaBorde, proposed Order, Complaint for Damages and Injunctive Relief, and Exhibits to the Complaint, were delivered on the 12th day of December by hand delivery as follows:

Eric G. [redacted] and Annuity [redacted], LLC
[redacted]
Vienna, Virginia 22180

Defendants

John E. Mallonee, Esq.
Simmons & Associates, Chtd.
4733 Bethesda Avenue, Suite 345
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Counsel for Eric G. [redacted]

Peter [redacted]
[redacted]
Alexandria, Virginia 22311
E-Mail: [redacted]

Defendant and Registered Agent for Annuity [redacted] LLC

In addition, these persons were notified in a cover letter that the Plaintiff intended to appear before the Court on Tuesday morning, at 9:00 a.m., to be heard on the Plaintiff's Ex Parte Motion for Temporary Restraining Order.

DANIEL A. BALL