

EXHIBIT C

AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration Tribunal

TRUMP 2012 PCA, Claimant, -- and -- SAMUEL NUNBERG, Respondent.	Case No. 01 16 0002 7835
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INTERIM AWARD ON CLAIMANT’S APPLICATION FOR INTERIM RELIEF

I, THE UNDERSIGNED EMERGENCY ARBITRATOR, having been designated by the American Arbitration Association (“AAA”) to hear and rule upon an application for Emergency Measures of Protection pursuant to Rule 38 of the AAA’s Commercial Arbitration Rules and Mediation Procedures (“Commercial Rules”) in the above-entitled arbitration commenced by Claimant, Trump 2012 PCA (“Claimant” or “Trump 2012”), against Respondent, Samuel Nunberg (“Respondent” or “Mr. Nunberg”), pursuant to an arbitration provision contained in an Agreement dated January 1, 2015 between Trump 2012 and Mr. Nunberg, and having been duly sworn, and having duly heard the proofs and allegations of Trump 2012, and Mr. Nunberg having failed to appear personally or through counsel at the hearing conducted on the application for Emergency Measures of Protection after receiving due notice of such hearing, all as more fully set forth below, issues this INTERIM AWARD, as follows.

I. **INTRODUCTION**

This arbitration was commenced on July 11, 2016 by the filing of Trump 2012’s Demand for Arbitration and Statement of Claim. That same day, Trump 2012 filed a letter application,

pursuant to Rule 38(b) of the Commercial Rules, seeking an emergency order of protection prohibiting Mr. Nunberg, during the pendency of this arbitration, from publicly disclosing any information constituting Confidential Information as that term is used and defined in a written confidentiality agreement between the parties (the "Rule 38 Application").

The undersigned Emergency Arbitrator was appointed on July 11, 2016 and the parties were notified of such appointment by the AAA. Commencing in the afternoon of July 11, 2016 and continuing through the morning of July 12, 2016, the AAA solicited the parties' availability to attend a hearing on Trump 2012's Rule 38 Application.

In the interim, at 10:07 a.m. ET on July 12, 2016, Mr. Nunberg's counsel informed Trump 2012's counsel by email that Mr. Nunberg intended to commence a civil action against Trump 2012 and Donald J. Trump for President, Inc. ("DJTFP") in the Supreme Court of the State of New York, County of New York, and that Mr. Nunberg simultaneously would move by Order to Show Cause ("OSC") for an order, pursuant to CPLR § 7503(c), staying this arbitration on the ground that a valid arbitration agreement had not been made between the parties. The email notification further informed Trump 2012's counsel that Mr. Nunberg's counsel intended to appear in Supreme Court, New York County at 9:30 a.m. on July 13, 2016 for the purpose of presenting Mr. Nunberg's OSC, and that since the OSC would be seeking an immediate order staying the administration and prosecution of this arbitration, counsel for Trump 2012 and DJTFP were invited to appear in opposition to the OSC.

At 10:27 a.m. ET on July 12, 2016, Trump 2012's counsel responded to Mr. Nunberg's counsel's email, and copied the AAA for the purpose of requesting that an immediate hearing be scheduled by the Emergency Arbitrator on Trump 2012's Rule 38 Application. That response

also stated Trump 2012's position that there is no need for Mr. Nunberg to commence a civil action to stay the arbitration as soon as July 13, 2016 unless he is intending to use that action as a vehicle for "intentionally disclos[ing] confidential information prior to the emergency arbitrator hearing our pending application and having an opportunity to rule."

At 12:19 p.m. ET on July 12, 2016, the AAA notified the parties by email that an in-person hearing on Trump 2012's Rule 38 Application had been scheduled for 3:00 p.m. ET that day at the offices of the AAA located at 150 East 42nd Street, New York, New York. A formal notice of hearing from the AAA followed by email at 1:07 p.m. ET that day. In that email, the AAA requested that Mr. Nunberg advise whether he would be represented by counsel at the in-person hearing. Mr. Nunberg did not respond to that inquiry. The AAA also telephonically notified Mr. Nunberg and his counsel of the forthcoming in-person hearing.¹

An in-person hearing was conducted, as scheduled, at 3:00 p.m. ET on July 12, 2016. Trump 2012 appeared through its counsel, Alan Garten, Esq. and Matthew R. Maron, Esq. Mr. Nunberg did not appear personally or through counsel. The Emergency Tribunal accepted into evidence the Rule 38 Application submitted by Trump 2012 and heard argument from its counsel in support of the Rule 38 Application.

At the conclusion of the hearing, the Emergency Arbitrator granted Trump 2012's counsel permission to make a supplementary submission by 7:00 p.m. ET that evening, setting

¹ Attorney Andrew T. Miltenberg of the firm of Nesenoff & Miltenberg, LLP had notified the AAA on July 11, 2016 that he had not been retained by Mr. Nunberg for purposes of this arbitration. The AAA nevertheless notified Mr. Miltenberg out of an abundance of caution because he had indicated in his 10:07 a.m. ET email that he would be presenting the OSC on behalf of Mr. Nunberg in Supreme Court, New York County on July 13, 2016, and it was unclear at that point whether Mr. Miltenberg would also be representing Mr. Nunberg at the in-person hearing on the Rule 38(b) Application.

forth the specific relief that it is requesting on its application. At 6:55 p.m. ET, Trump 2012's counsel made such a submission, which the Emergency Arbitrator notes was simultaneously forwarded to Mr. Nunberg and to the AAA. In that submission, Trump 2012 specified that it sought an Interim Award, *inter alia*, restraining Mr. Nunberg from disclosing any information of a private, proprietary or confidential nature concerning (i) the personal lives of Donald J. Trump, his spouse and children; (ii) the personal lives of all current and former employees of Trump 2012 and its successors, including Corey Lewandowski, Hope Hicks and Daniel Scavino; (iii) the business affairs of Mr. Trump and his affiliated companies (both current and former); and (iv) the strategies, policies, finances, relationships and business dealings of Trump 2012 and its successors.

II. THE CONFIDENTIALITY AGREEMENT

On or about January 1, 2015, Trump 2012 and Mr. Nunberg entered into a written agreement (the "Confidentiality Agreement"), a copy of which is attached as Exhibit A to Trump 2012's Statement of Claim in this arbitration.

The Confidentiality Agreement purports to have been signed by Mr. Donald J. Trump ("Mr. Trump"), as President of Trump 2012, and by Mr. Nunberg. The following language appears above Mr. Nunberg's signature: "I, Samuel Dan Nunberg, ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE TO COMPLY WITH THE FOREGOING WHICH I RECOGNIZE CREATES A VALID AND BINDING LEGAL OBLIGATION ON ME."

Section 1 of the Confidentiality Agreement, entitled "No Disclosure of Confidential Information," obligates Mr. Nunberg:

- “not to disclose, disseminate or publish or cause to be disclosed, dismissed or published, any Confidential Information;”
- “not to assist others in obtaining, disclosing, disseminating or publishing Confidential Information;” and
- “not to use any Confidential Information in any way detrimental” to, among others, Mr. Trump and Trump 2012.

Section 6(a) of the Confidentiality Agreement broadly defines “Confidential Information” as:

all information (whether or not embodied in any media) of a private, proprietary or confidential nature or that Mr. Trump insists remain private or confidential, including, but not limited to, any information with respect to the personal life, political affairs, and/or business affairs of Mr. Trump or any Family Member, including but not limited to, the assets, investments, revenue, expenses, taxes, financial statements, actual or prospective business ventures, contracts, alliances, affiliations, relationships, affiliated entities, bids, letters of intent, term sheets, decisions, strategies, techniques, methods, projections, forecasts, customers, clients, contacts, customer lists, contact lists, schedules, appointments, meetings, conversations, notes, and other communications of Mr. Trump, any Family Member, any Trump Company or any Family Member Company.

Section 6(e) of the Confidentiality Agreement defines a “Trump Company” as “any entity, partnership, trust or organization that, in whole or in part, was created by *or for the benefit of Mr. Trump* or is controlled or owned by Mr. Trump” (emphasis supplied). Section 6(g) of the Confidentiality Agreement defines a “Trump Person” as “each of Mr. Trump, each Family Member, each Trump Company (including but not limited to [Trump 2012], and each Family Member Company.”

Separate and apart from the confidentiality provisions, the Confidentiality Agreement contains a non-disparagement provision. Section 2 of the Confidentiality Agreement, entitled

“No Disparagement,” obligates Mr. Nunberg “not to demean or disparage publicly” Mr. Trump and Trump 2012, among others.

Section 7(a) of the Confidentiality Agreement, entitled “Consent to Injunction,” provides that “[a] breach of any of [Mr. Nunberg’s] promises or agreements under this agreement will cause [Trump 2012] irreparable harm,” and that in the event of such a breach, Trump 2012 would be entitled to an order “temporarily or permanently enjoining [Mr. Nunberg] from violating any of the terms on [his] part to be performed and observed.”

Section 8(b) of the Confidentiality Agreement, entitled “Arbitration,” provides that “any dispute arising under or relating to [the Confidentiality Agreement] may, at the sole discretion of each Trump Person, be submitted to binding arbitration in the State of New York pursuant to the rules for commercial arbitrations of the American Arbitration Association” The section further states that Mr. Nunberg “hereby agree[s] to and will not contest such submissions.”

Section 8(c), entitled “Prevailing Party Fees,” provides that “[a]ny court judgment or arbitration award shall include an award of reasonable legal fees and costs to the prevailing party.”

III. TRUMP 2012’S CLAIMS IN THIS ARBITRATION

Trump 2012 alleges in this arbitration that, during the past year, Mr. Nunberg has repeatedly publicly disclosed Confidential Information as that term is used and defined in the Confidentiality Agreement, and repeatedly has made disparaging public comments, in an effort to harm and/or embarrass, among others, Mr. Trump, Trump 2012 and Mr. Trump’s presidential campaign.

Trump 2012 further alleges that Mr. Nunberg was warned that his alleged disclosure of Confidential Information and disparaging remarks violated the Confidentiality Agreement, and that Mr. Nunberg was urged to cease and desist from engaging in any such conduct. Nevertheless, according to Trump 2012, despite such warning, Mr. Nunberg has continued to breach his confidentiality and non-disparagement obligations by, among other things, speaking on the record to various media outlets. Illustrations of some of the more colorful and graphic comments allegedly made by Mr. Nunberg, as published in the media, are set forth in the Statement of Claim.

Based upon these allegations, Trump 2012 asserts four (4) claims for relief. As and for a first cause of action, Trump 2012 alleges that Mr. Nunberg has misappropriated Confidential Information, as that term is used and defined in the Confidentiality Agreement, as well as Trump 2012's trade secrets. As and for a second cause of action, Trump 2012 alleges that Mr. Nunberg has violated the Confidentiality Agreement. On each of those two claims, Trump 2012 seeks compensatory damages "in an amount to be determined, but believed to be in excess of \$10 million."

As and for a third cause of action, Trump 2012 seeks the entry of an award enjoining Mr. Nunberg from committing any further violations of the Confidentiality Agreement. As and for a fourth cause of action, Trump 2012 seeks reimbursement of the attorneys' fees and expenses incurred in connection with the prosecution of this arbitration. Trump 2012 also seeks punitive damages and such other and further relief as the arbitration tribunal deems appropriate.

IV. PRIOR PROCEEDINGS

On or about May 28, 2016, DJTFP, an affiliate of Trump 2012, commenced an arbitration against Mr. Nunberg before the AAA (the "DJTFP Arbitration"). On June 13, 2016, Mr. Nunberg's counsel notified DJTFP's counsel by email that Mr. Nunberg intended to file a civil action against DJTFP in Supreme Court, New York County to stay the DJTFP Arbitration on the ground that a valid agreement to arbitrate had not been made. The email attached a copy of the proposed stay motion, a copy of which is attached as Exhibit B to Trump 2012's Rule 38 Application in this arbitration.

Upon reviewing the proposed stay motion, Trump 2012 concluded that the contemplated public filing of such motion was intended by Mr. Nunberg to serve as a vehicle through which he could publicly disclose Confidential Information that he was otherwise prohibited from disclosing pursuant to the Confidentiality Agreement.

The parties thereafter entered into a written standstill agreement which provided that the DJTFP Arbitration would be withdrawn, and such proceeding was in fact withdrawn on June 15, 2016. The standstill agreement further provided that neither party would initiate a proceeding against the other prior to July 1, 2016, a deadline that was thereafter extended to July 5, 2016. According to Trump 2012, Mr. Nunberg continued to violate his confidentiality obligations during the standstill period, in particular by making offensive statements on the record to *GQ* (formerly *Gentlemen's Quarterly*) for an article that was published on June 20, 2016.

V. TRUMP 2012'S RULE 38 APPLICATION

Trump 2012 asserts that Mr. Nunberg's stated intention to publicly file a motion to stay this arbitration on July 13, 2016 poses an imminent threat that Mr. Nunberg will use that motion

as a vehicle to publicly disclose Confidential Information. Trump 2012 asserts that Mr. Nunberg intends to publicly disclose Confidential Information in the same manner as Mr. Nunberg intended to do via his proposed stay motion in connection with the withdrawn DJTFP Arbitration. Accordingly, Trump 2012 seeks the entry of an Interim Award prohibiting Mr. Nunberg, during the pendency of this arbitration, from further violating the Confidentiality Agreement in the context of a stay motion filed in Supreme Court, New York County or otherwise.

Based upon these facts, and the absence of any countervailing evidence offered by Mr. Nunberg, the Emergency Arbitrator finds as follows.

1. The parties entered into a written Confidentiality Agreement on January 1, 2015.
2. The Confidentiality Agreement provides, in Section 8, that at the discretion of a "Trump Person," a dispute arising under that Agreement may be submitted to arbitration administered by the AAA under its Commercial Rules.
3. Trump 2012 is a "Trump Person" as that term is used and defined in the Confidentiality Agreement.
4. Rule 7(a) of the Commercial Rules provides that "[t]he arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim."
5. The claims asserted by Trump 2012 for damages for alleged misappropriation of trade secrets and breach of the Confidentiality Agreement, for an injunction

enjoining Mr. Nunberg from committing any further violations of the Confidentiality Agreement, and for prevailing party legal fees and expenses, are arbitrable under Section 8 of the Confidentiality Agreement.

6. Rule 38 is applicable to this arbitration because the Confidentiality Agreement containing the agreement to arbitrate was entered into on or after October 1, 2013. *See* Rule 38(a).

7. Rule 38(d) provides that “the emergency arbitrator shall have the authority vested in the tribunal under Rule 7, including the authority to rule on her/his own jurisdiction, and shall resolve any disputes over the applicability of this Rule 38.”

8. Trump 2012's Rule 38 Application satisfies the requirement of that Rule by notifying the AAA and Mr. Nunberg in writing of the nature of the relief sought, why Trump 2012 is entitled to such relief, and the reasons why such relief is required on an emergency basis.

9. Based upon (a) public statements previously made by Mr. Nunberg as set forth in the Statement of Claim, (b) statements made by Mr. Nunberg in his proposed public filing of a motion to stay the DJTFP Arbitration, (c) Mr. Nunberg's contemplated imminent public filing of a presumably similar motion to stay this arbitration, and (d) Mr. Nunberg's failure to appear at the in-person hearing or otherwise dispute the assertions within Trump 2012's Rule 38 Application (including that Mr. Nunberg has allegedly made, and will continue to make, impermissible disclosures of Confidential Information), Trump 2012 has adequately established that it will suffer immediate loss or damage in the absence of emergency relief. Mr. Nunberg has demonstrated a penchant for making public disclosures of information that could be determined to be protectable Confidential Information as that term is used and defined in the

Confidentiality Agreement and Mr. Nunberg has agreed, in Section 7(a) of the Confidentiality Agreement, that “[a] breach of any of [his] promises or agreements under this agreement will cause [Trump 2012] irreparable harm.”

10. If Mr. Nunberg is not restrained from disclosing information that could be determined to be protectable Confidential Information as that term is used and defined in the Confidentiality Agreement, the parties' agreement to arbitrate disputes arising under the Confidentiality Agreement at the discretion of a Trump Person as that term is used and defined in the Agreement will have been effectively rendered moot.

11. The determination of what information constitutes protectable Confidential Information under the Confidentiality Agreement is an arbitrable issue under the Confidentiality Agreement. That determination can only be made after careful consideration by the arbitration tribunal upon a full record. To be clear, the Emergency Arbitrator makes no finding regarding whether any particular information is Confidential Information entitled to protection under the Confidentiality Agreement, only that the issue is arbitrable and should be fully vetted by the arbitration tribunal.

VI. INTERIM AWARD

Upon careful consideration of the record on Trump 2012's Rule 38 Application, the Emergency Arbitrator awards as follows:

1. Pending further order of the arbitration tribunal, Mr. Nunberg is enjoined from disclosing any information of a private, proprietary or confidential nature concerning (i) the personal lives of Mr. Donald J. Trump, his spouse and children; (ii) the personal lives of all current and former employees of Trump 2012 and its successors, including Corey Lewandowski,

Hope Hicks and Daniel Scavino; (iii) the business affairs of Mr. Donald J. Trump and his affiliated companies (both current and former); and (iv) the strategies, policies, finances, relationships and business dealings of Trump 2012 and its successors; and

2. To the extent that either party commences any court actions or proceedings relating to this arbitration, or relating to any of the issues raised in this arbitration, including any motion or application to stay this arbitration, such party shall not publicly file such action or proceeding, but, instead, subject to the approval of the court, shall file all papers relating thereto under seal.

Dated: July 13, 2016

Richard H. Silberberg,
Emergency Arbitrator