

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

-----X
VALIANT ENTERTAINMENT, LLC,

Plaintiff,

v.

INDEX NO.

SUMMONS

JAMES C. SHOOTER,

Defendant.
-----X

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the verified complaint in this action and to serve a copy of your answer on the plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial; venue is based upon CPLR §§ 503 and 509 in that Plaintiff's principal office is located in New York County.

DATED: New York, New York
September 21, 2009

MITCHELL SILBERBERG & KNUPP LLP

By: 

Paul D. Montclare, Esq.

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Attorneys for Plaintiff

VALIANT ENTERTAINMENT, LLC

To: James C. Shooter

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

VALIANT ENTERTAINMENT, LLC,

Plaintiff,

v.

JAMES C. SHOOTER,

Defendant.

INDEX NO.

VERIFIED COMPLAINT

Plaintiff, VALIANT ENTERTAINMENT, LLC, by its attorneys, Mitchell Silberberg & Knupp LLP, as and for its Verified Complaint, alleges, as follows

Parties

1. The Plaintiff, VALIANT ENTERTAINMENT, LLC (“VALIANT”) is a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 420 Lexington Avenue, Suite 224, New York, NY 10170, and is authorized to do business in the City, County and State of New York.
2. The Defendant, JAMES C. SHOOTER, (“SHOOTER”) is an individual who, on information and belief, resides in the State of New York.

Background

3. VALIANT is an entertainment and media company, which among other things, is in the business of creating, owning, managing and exploiting a proprietary library of popular comic book characters in various media, including without limitation, comic books, graphic novels, video games, television, film, merchandise and various other media.
4. Effective as of December 3, 2008, VALIANT and SHOOTER entered into an employment relationship whereby SHOOTER was hired as an officer and Editor-in-Chief of VALIANT (the “Employment Relationship”).

5. Pursuant to the terms of the Employment Relationship, SHOOTER was hired as an officer of VALIANT on a full-time and exclusive basis to act as Editor-in-Chief (“Editor-in-Chief”) of VALIANT and to manage and oversee VALIANT’s comic book and graphic novel business.
6. Pursuant to the terms of the Employment Relationship, SHOOTER agreed to promote the interests of VALIANT, and to devote his full business time and energies to the business affairs of VALIANT, *provided*, however, that SHOOTER was permitted to do some work on behalf of a customs comic company known as Illustrated Media, provided further that such work did not materially interfere with the performance of SHOOTER’s duties for VALIANT, or in any way harm VALIANT or VALIANT’s reputation, compete with VALIANT, or usurp VALIANT’s business opportunities.
7. Pursuant to the terms of the Employment Relationship, SHOOTER was obligated to perform duties customary to the office of Editor-in-Chief of VALIANT, and reported directly to VALIANT’s Chief Executive Officer, who was SHOOTER’s direct supervisor, and retained the right, in his sole discretion, to approve all decisions and conduct of SHOOTER, as Editor-in-Chief.
8. SHOOTER’s duties as Editor-in-Chief, were, *inter alia*, to:
 - (i) provide management and creative services for VALIANT in the comic book and graphic novel publishing and licensing industry;
 - (ii) re-conceptualize and re-introduce the Valiant Universe line of comic titles that SHOOTER had himself introduced in the 1990’s through the Doctor Solar, Magnus and Turok characters, when SHOOTER was then Editor-In-Chief of a predecessor of VALIANT;

(iii) act on behalf of VALIANT to implement VALIANT's business plan to publish and exploit the revival of the Valiant Universe properties and characters in all media, including, *inter alia*, comic books, graphic novels, merchandising and other media (herein referred to as the "Valiant Universe Project")

(iv) re-conceptualize existing VALIANT characters storylines and plots;

(v) create and oversee the creation of new VALIANT characters;

(vi) write, and oversee the writing of, comics/graphic novels;

(vii) edit comics/graphic novels;

(viii) provide art consultation for comics/graphic novels;

(ix) write editorial and introduction pages;

(x) participate in special projects (*e.g.*, autographing comics and scripts, etc.);

(xi) at VALIANT's discretion to participate in the hiring and management of creative talent;

(xi) consult with management regarding publishing and marketing plans; and

(xii) contribute to marketing efforts (*e.g.*, interviews, convention appearances, quotes in press releases, etc.)

9. Pursuant to the terms of the Employment Relationship, so long as SHOOTER was employed by VALIANT, and faithfully and properly performed the duties of his employment, SHOOTER, as Editor-in-Chief, was to receive an agreed upon compensation package, which included a base salary and incentive-based compensation.
10. The terms of SHOOTER's Employment Relationship are set forth, in part, in a series of emails and other documents exchanged between SHOOTER and VALIANT in October through December 3, 2009, and are also confirmed and evidenced by the course of

dealing and the course of conduct between SHOOTER and VALIANT for the period of his employment which commenced as of December 3, 2008 and terminated on July 16, 2009.

11. Pursuant to the terms of the Employment Relationship, as set forth and confirmed in an exchange of emails, SHOOTER also expressly agreed that for the period of his employment, and for a period of three months following the termination of his employment, SHOOTER would not engage in, or become employed by, any business that competes with VALIANT.
12. On December 3, 2009, SHOOTER executed a written confidentiality agreement with VALIANT, dated November 21, 2008, ("Confidentiality Agreement"), whereby SHOOTER, *inter alia*, agreed to the following:

"VALIANT Entertainment, LLC ("VALIANT") and you are entering into an employment relationship (the "Relationship"). In this connection, VALIANT may be providing to you certain information which is confidential, proprietary or otherwise not generally available to the public, including, without limitation, business and operational plans, business opportunities and prospects, projections, technology, processes, and know-how, market information, financial information, and names of VALIANT's customers, suppliers, contractors and employees. As a condition to VALIANT disclosing such information, you ("SHOOTER") agree, as set forth below, to treat confidentially such information and any other information which VALIANT, or any of its respective representatives or agents may furnish to you as well as any and all summaries, projections, reports, studies, analyses or other documents prepared by or on your behalf which contain or are in any way prepared from or based upon, in or whole or in part, any such information furnished by VALIANT, (collectively the "Confidential Information").

You agree that the Confidential Information will not be disclosed or used by you except as expressly permitted hereby, and that you and your shareholders, officers, directors, advisors, (including counsel, accountants and financial advisors), agents and employees (collectively "Representatives") will maintain the

confidentiality of such Information, and that you and your Representatives will not, except as hereinafter provided, without VALIANT's prior written consent, disclose to any Person or use such Information, in any manner whatsoever, in whole or in part, other than for the sole and exclusive purpose of the Relationship; you specifically agree that neither you nor your Representatives shall use any Confidential Information to directly or indirectly compete with us in any way.

(Emphasis added)

13. SHOOTER was continuously employed by VALIANT as its Editor-in-Chief between December 3, 2008 and July 16, 2009.
14. During his employment, SHOOTER was paid and accepted salary and benefits in accordance with the terms of his Employment Relationship.
15. On or about December 3, 2008, and during the term of his employment, VALIANT disclosed to SHOOTER, as Editor-in-Chief of VALIANT, that a central part of the Valiant Universe Project business plan was to re-introduce Valiant Universe as a new line of comic books and graphic novels to be launched in 2010.
16. VALIANT disclosed to SHOOTER, as Editor-in-Chief of VALIANT, that an important component of the Valiant Universe Project was VALIANT's acquisition of certain intellectual property rights to three characters, Doctor Solar, Magnus and Turok, which had appeared in the Valiant Universe comic book line in the 1990's; these proprietary character rights were then controlled by a company known as Western Publishing and are now controlled by a company known as Classic Media, a successor company to Western Publishing.
17. Between December 3, 2008 and July 16, 2009, VALIANT disclosed to SHOOTER, while he was employed by VALIANT as Editor-in-Chief, the details of confidential negotiations that were being conducted between VALIANT and Classic Media regarding

VALIANT's efforts to acquire from Classic Media certain intellectual property rights that Classic Media held to the Doctor Solar, Magnus and Turok properties.

18. SHOOTER knew that the successful culmination of the negotiations with Classic Media for the Doctor Solar, Magnus and Turok character rights was important to VALIANT's confidential Valiant Universe Project, and VALIANT's plan to revive the Doctor Solar, Magnus and Turok characters.
19. VALIANT also disclosed to SHOOTER, that VALIANT intended to launch the Valiant Universe Project in 2010, with SHOOTER as Editor-in-Chief.
20. Between December 3, 2008 and July 16, 2009, VALIANT regularly disclosed to SHOOTER the details of VALIANT's negotiations with Classic Media regarding the acquisition of the rights to the Doctor Solar, Magnus and Turok characters.
21. VALIANT's business plan to reintroduce the Valiant Universe line of comic books and graphic novels and to reintroduce the Doctor Solar, Magnus and Turok characters into the VALIANT universe line was a valuable and confidential business opportunity developed by VALIANT.
22. While employed at VALIANT as Editor-in-Chief, SHOOTER knew that the acquisition of the Doctor Solar, Magnus and Turok characters from Classic Media was important to the Valiant Universe Project business plan.
23. By June 30, 2009, VALIANT and Classic Media had reached an agreement in principle, whereby Classic Media and VALIANT exchanged a series of e-mails indicating that, among other things, Classic Media, agreed to grant to VALIANT certain intellectual property rights, including publishing rights to the Doctor Solar, Magnus and Turok characters (hereinafter the "Classic Media Proposal"). Between June 30 and July 15,

2009, VALIANT and Classic Media had agreed to reduce the Classic Media Proposal to a formal term sheet and agreement.

24. The Classic Media Proposal was a confidential and proprietary business opportunity of VALIANT.
25. VALIANT disclosed the Classic Media Proposal and the substance of all negotiations with Classic Media to SHOOTER as VALIANT's Editor-In-Chief.
26. On or about July 10, 2009, while SHOOTER was still employed as the Editor-in-Chief of VALIANT, a representative of Classic Media informed VALIANT that a competitor of VALIANT, known as Dark Horse Comics ("Dark Horse") had told Classic Media that SHOOTER was working as Dark Horse's head writer with regard to the revival of the Doctor Solar, Magnus and Turok characters.
27. VALIANT advised Classic Media that SHOOTER was an exclusive employee of VALIANT under an exclusive Employment Relationship, and that SHOOTER was in fact VALIANT's Editor-in-Chief for the launching of the revived Valiant Universe line of comic books and graphic novels in 2010, with the Doctor Solar, Magnus and Turok characters to be acquired from Classic Media pursuant to the Classic Media Proposal.
28. On or about July 15, 2009, VALIANT management directed SHOOTER to write an e-mail to a representative of Classic Media acknowledging that SHOOTER was the Editor-in-Chief and head writer for VALIANT and was not working for Dark Horse or any other competitor.
29. After receiving and cashing his paycheck on July 15, 2009, SHOOTER refused to send such an email or advise Classic Media that he was the Editor-in-Chief of VALIANT for the Valiant Universe Project.

30. On July 16, 2009, SHOOTER advised VALIANT, without any prior notice, that he resigned from VALIANT effective immediately.
31. On or before July 15, 2009 SHOOTER, without the consent or acquiescence of VALIANT, removed from his office at VALIANT's premises key confidential documents, information, files and papers that were created in connection with the Valiant Universe Project and the Doctor Solar, Magnus and Turok characters, while SHOOTER was employed as Editor-in-Chief of VALIANT, and which were property owned by VALIANT, including but not limited to, the following:
- (i) All notes for comic plots and scripts;
 - (ii) All series concepts and plot and script outlines;
 - (iii) All artistic and character outlines and concepts including all reference materials;
 - (iv) All publishing plans and accompanying notes; and
 - (v) All lists of potential writers and artists.
32. On July 15, 2009, without the consent or acquiescence of VALIANT, SHOOTER removed from his office at VALIANT a laptop computer owned by VALIANT which, on information and belief, contained confidential information concerning the Valiant Universe Project, and the revival of the Doctor Solar, Magnus and Turok characters, which laptop was later returned by SHOOTER, with all files erased, after VALIANT demanded that the laptop be returned.
33. After July 15, 2009, Classic Media refused to conclude a final deal based on the terms of the Classic Media Proposal.

34. Unbeknownst to VALIANT, on information and belief, on or before July 10, 2009, while employed by VALIANT, SHOOTER disclosed confidential information to Dark Horse including, *inter alia* (i) VALIANT's plan to re-conceptualize, reintroduce and exploit a new Valiant Universe line of comic books and graphic novels to be launched in 2010, (ii) the terms of the Classic Media Proposal, and (iii) the status and particulars of negotiations between VALIANT and Classic Media regarding the acquisition of certain intellectual property rights to the Doctor Solar, Magnus and Turok characters.
35. Unbeknownst to VALIANT, on information and belief, on or before July 10, 2009, while employed by VALIANT, SHOOTER, in a series of meetings, or communications, or both, between SHOOTER and representatives of Dark Horse, SHOOTER misappropriated and converted to his own use and benefit VALIANT's confidential business plan, confidential business opportunity, confidential information, work product, creative concepts, data, marketing strategies and plans, regarding the revival of the Valiant Universe line of comic books and graphic novels and the acquisition of the rights to the Doctor Solar, Magnus and Turok characters in connection with the revival of these characters and VALIANT's Valiant Universe Project.
36. Unbeknownst to VALIANT, on information and belief, on or before July 10, 2009, while employed by VALIANT, in a series of meetings, or communications, or both, between SHOOTER and representatives of Dark Horse, SHOOTER, while accepting a salary and working for VALIANT as its Editor-in-Chief, surreptitiously, and without VALIANT's consent, engaged in a plan and scheme whereby SHOOTER interfered with the finalization of the Classic Media proposal so that SHOOTER could appropriate for himself and for the benefit of Dark Horse, the acquisition from Classic Media of certain

intellectual property rights, including publishing rights to the Doctor Solar, Magnus and Turok characters.

37. Unbeknownst to VALIANT, on information and belief, on or before July 10, 2009, while employed by VALIANT, SHOOTER, in a series of meetings, or communications, or both, while accepting a salary from VALIANT, and while VALIANT's Editor-in-Chief, surreptitiously, and without VALIANT's consent, engaged in a plan and scheme whereby Classic Media was informed by Dark Horse, SHOOTER, or both, that SHOOTER was working for Dark Horse as its head writer to oversee the revival of the Doctor Solar, Magnus and Turok characters while, in fact, SHOOTER was still employed as the Editor-in-Chief of VALIANT at the time, pursuant to his exclusive Employment Relationship.
38. On information and belief, SHOOTER, while still employed as the Editor-in-Chief of VALIANT was, at the same time, secretly working for the benefit of Dark Horse, a known competitor of VALIANT.
39. On information and belief, based on SHOOTER's disclosure of confidential information to Dark Horse and SHOOTER'S misappropriation to himself of VALIANT's business opportunity and confidential and proprietary information regarding the revival of the Doctor Solar, Magnus and Turok characters, SHOOTER, undermined the negotiations with Classic Media and intentionally and illegally interfered with VALIANT finalizing the Classic Media Proposal.
40. As a result of SHOOTER's conduct, Classic Media did not go forward with the Classic Media Proposal.
41. On information and belief, while SHOOTER was still employed as the Editor-in-Chief of VALIANT, Dark Horse agreed to hire or retain SHOOTER to oversee the reintroduction

of the Doctor Solar, Magnus and Turok characters, and act as Dark Horse's head writer for these characters.

42. On information and belief, Dark Horse intends to publish a universe comic book line series in mid 2010, using the new Doctor Solar, Magnus and Turok characters, based on confidential information and proprietary information developed and owned by VALIANT, and which had been misappropriated and converted by SHOOTER for his own use.
43. On information and belief, SHOOTER intends to utilize confidential, proprietary information, characters, and intellectual property developed by VALIANT while SHOOTER was Editor-in-Chief, for the benefit of himself and VALIANT's competitor, Dark Horse.
44. By the aforesaid conduct, SHOOTER interfered with VALIANT'S business opportunity to acquire from Classic Media rights to the Doctor Solar, Magnus and Turok characters.

AS AND FOR A FIRST CAUSE OF ACTION
FOR BREACH OF FIDUCIARY DUTY

45. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 44, hereof.
46. From December 3, 2008 through July 16, 2009, SHOOTER was the Editor-in-Chief of VALIANT and an officer of VALIANT.
47. As the Editor-in-Chief of VALIANT, SHOOTER owed a fiduciary duty and duty of loyalty to VALIANT, which at all times required him to act with the utmost good faith and highest and truest principles of morality and fair dealing.
48. As the Editor-in-Chief of VALIANT, SHOOTER owed a fiduciary duty and duty of loyalty to VALIANT to act in the best interests of VALIANT in connection with

VALIANT's business plan to develop and exploit, for the benefit of VALIANT, the revival of the Valiant Universe line of comic books and graphic novels, and the acquisition by VALIANT of intellectual property rights to the Doctor Solar, Magnus and Turok characters from Classic Media.

49. As the Editor-in-Chief of VALIANT, SHOOTER owed a fiduciary duty and duty of loyalty to VALIANT not to disclose to Dark Horse, or any other competitor of VALIANT, any part of VALIANT's business plan for the Valiant Universe Project including, but not limited to, the revival of the Doctor Solar, Magnus and Turok characters.
50. As the Editor-in-Chief of VALIANT, SHOOTER owed a fiduciary duty and duty of loyalty to VALIANT not to disclose to any competitor of VALIANT, or utilize for his own benefit, any data, concepts, strategies, ideas, intellectual property, marketing plans, contacts, or business plans developed by VALIANT or any of its agents or employees, including, but not limited to, SHOOTER.
51. As Editor-in-Chief of VALIANT, SHOOTER owed VALIANT a fiduciary duty and duty of loyalty to act with undivided loyalty toward VALIANT in connection with the development of the Valiant Universe Project and the reintroduction of the Doctor Solar, Magnus and Turok characters.
52. As Editor-in-Chief of VALIANT, SHOOTER owed VALIANT a fiduciary duty and duty of loyalty that required SHOOTER to refrain from acting or from engaging in conduct, which was adverse to, or incompatible with, VALIANT's business interests, opportunities or plans.

53. As Editor-in-Chief of VALIANT, SHOOTER owed VALIANT a fiduciary duty and duty of loyalty to keep confidential any and all business information provided to SHOOTER by VALIANT in connection with his employment, including, without limitation, information regarding the Valiant Universe Project and the planned acquisition of the Doctor Solar, Magnus and Turok character rights from Classic Media.
54. As Editor-in-Chief of VALIANT, SHOOTER owed a fiduciary duty and duty of loyalty to VALIANT to refrain from self-dealing in connection with the Valiant Universe Project and the acquisition and revival of the Doctor Solar, Magnus and Turok characters.
55. By acting as set forth herein, SHOOTER breached his fiduciary duty and duty of loyalty in that without the consent or acquiescence of VALIANT, SHOOTER:
- i. acted for the benefit of Dark Horse in connection with the revival of the Doctor Solar, Magnus and Turok characters while SHOOTER was still employed as Editor-in-Chief of VALIANT;
 - ii. engaged in self-dealing adverse to VALIANT in connection with the VALIANT Universe Project and revival of the Doctor Solar, Magnus and Turok characters, while he was Editor-in-Chief of VALIANT;
 - iii. usurped VALIANT's business opportunity in connection with the Valiant Universe Project, and the acquisition and development of the Doctor Solar, Magnus and Turok characters;

- iv. disclosed confidential and proprietary information, plans, data and ideas to Dark Horse and others concerning the Valiant Universe Project and the acquisition and development of the Doctor Solar, Magnus and Turok characters; and
- v. converted and misappropriated to his own use and benefit VALIANT's business opportunity in connection with the Valiant Universe Project and the Classic Media Proposal.

56. As a result of the aforesaid conduct, SHOOTER has caused and continues to cause VALIANT severe and substantial irreparable harm for which there is no adequate remedy at law.
57. As a result of SHOOTER'S breach of fiduciary duty and duty of loyalty, SHOOTER has caused, and continues to cause, VALIANT substantial money damages in an amount to be determined, but believed to exceed \$1,000,000.

AS AND FOR A SECOND CAUSE OF ACTION
FOR BREACH OF DUTY OF LOYALTY

58. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 – 57, herein.
59. SHOOTER, as an employee, officer and Editor-in-Chief of VALIANT, owed VALIANT a duty of loyalty to act solely for the benefit of VALIANT in all matters arising in connection with his employment.
60. SHOOTER, as Editor-in-Chief of VALIANT, performed significant management, oversight, discretionary, creative and performance duties for VALIANT.

61. SHOOTER, as Editor-in-Chief of VALIANT, owed VALIANT a duty of loyalty which prohibited him from exploiting his position for his own personal benefit.
62. SHOOTER, as Editor-in-Chief of VALIANT, owed VALIANT a duty of loyalty which prohibited SHOOTER from impairing VALIANT's ability to develop and further its business in connection with the Valiant Universe Project and the Classic Media Proposal.
63. By SHOOTER'S conduct as set forth herein, SHOOTER breached his duty of loyalty to VALIANT.
64. As a result of SHOOTER'S breach of loyalty, SHOOTER has caused and continues to cause VALIANT severe and substantial irreparable harm, for which there is no adequate remedy at law.
65. As a result of SHOOTER'S breach of duty of loyalty, SHOOTER has caused, and continues to cause, VALIANT substantial money damages in an amount to be determined, but believed to exceed \$1,000,000.
66. As a result of SHOOTER'S breach of duty of loyalty, SHOOTER forfeited any and all rights to all salary and compensation that he received as VALIANT's Editor-in-Chief, and is liable to the Plaintiff in an amount equal to the value of such salary and compensation, plus interest.

AS AND FOR A THIRD CAUSE OF ACTION
FOR BREACH OF RESTRICTIVE COVENANT

67. Plaintiff repeats and realleges the allegations set forth in paragraphs 1- 66, hereof.

68. As part of SHOOTER's Employment Relationship, SHOOTER agreed that for the period of his employment and for a period of three months following the termination of his employment for any reason, that SHOOTER would not engage in, or become employed by, any business that competes with VALIANT ("Restrictive Covenant").
69. The terms of the Restrictive Covenant were reasonable both as to time and scope.
70. SHOOTER terminated his employment voluntarily without notice to VALIANT as of July 16, 2009.
71. Pursuant to the terms of the Restrictive Covenant, SHOOTER is prohibited from engaging in, or being employed by, any business that competes with VALIANT until after October 15, 2009.
72. SHOOTER breached the Restrictive Covenant by engaging in business activities and being hired or retained by Dark Horse in connection with the revival of the Doctor Solar, Magnus and Turok characters.
73. At all times during the Employment Relationship, VALIANT complied with its obligations as SHOOTER's employer.
74. As a result of SHOOTER's breach of the Restrictive Covenant, VALIANT has suffered and will continue to suffer severe and substantial irreparable harm for which there is no adequate remedy at law.

AS AND FOR A FOURTH CAUSE OF ACTION
FOR BREACH OF CONFIDENTIALITY AGREEMENT

75. Plaintiff repeats and realleges the allegations set forth in paragraphs 1- 74, hereof.
76. On December 3, 2009, SHOOTER executed a written Confidentiality Agreement with VALIANT, dated November 21, 2008, ("Confidentiality Agreement"), the contents of which is incorporated herein by reference.

77. Pursuant to the Confidentiality Agreement SHOOTER, *inter alia*, agreed to the following:

“VALIANT Entertainment, LLC (“VALIANT”) and you are entering into an employment relationship (the “Relationship”). In this connection, VALIANT may be providing to you certain information which is confidential, proprietary or otherwise not generally available to the public, including, without limitation, business and operational plans, business opportunities and prospects, projections, technology, processes, and know-how, market information, financial information, and names of VALIANT’s customers, suppliers, contractors and employees. As a condition to VALIANT disclosing such information, you (“SHOOTER”) agree, as set forth below, to treat confidentially such information and any other information which VALIANT or any of its respective representatives or agents may furnish to you, as well as any and all summaries, projections, reports, studies, analyses, or other documents prepared by or on your behalf which contain or are in any way prepared from or based upon, in or whole or in part, any such information furnished by VALIANT, (collectively the “Confidential Information”).

You agree that the Confidential Information will not be disclosed or used by you except as expressly permitted hereby and that you and your shareholders, officers, directors, advisors, (including counsel, accountants and financial advisors), agents and employees (collectively “Representatives”) will maintain the confidentiality of such Information, and that you and your Representatives will not, except as hereinafter provided, without VALIANT’s prior written consent, disclose to any person or use such information in any manner whatsoever, in whole or in part, other than for the sole and exclusive purpose of the Relationship; you specifically agree that neither you nor your Representatives shall use any Confidential Information to directly or indirectly compete with us in any way.

(Emphasis added)

78. SHOOTER, pursuant to the Confidentiality Agreement also agreed to indemnify, and hold VALIANT harmless, as follows:

“You will indemnify and hold harmless Valiant and its directors, officers, employees, agents and attorneys from and after the date hereof, against any and all actions, causes of action, claims, suits,

proceedings, demands, assessments, settlement, judgments, damages, losses, costs and legal and other expenses arising out of or resulting from your breach of, or failure to comply with, any covenant or agreement made herein, or any applicable law, rule or regulation, including legal and other expenses of governmental inquiries or investigations and of enforcement of the terms hereof.”

79. SHOOTER breached his obligations under the Confidentiality Agreement by the conduct set forth in paragraphs 16 – 44, herein.
80. As a result of such conduct, SHOOTER has caused, and continues to cause, VALIANT severe and substantial irreparable harm for which there is no adequate remedy at law.
81. At all times during the Employment Relationship VALIANT complied with its obligations under the Confidentiality Agreement and in connection with its duties as SHOOTER’s employer.
82. As a result of SHOOTER’s breach of the Confidentiality Agreement, SHOOTER has also caused VALIANT substantial money damages in an amount to be determined, but believed to be in excess of \$1,000,000.

WHEREFORE, the Plaintiff, VALIANT ENTERTAINMENT, LLC, demands judgment against the Defendant, JAMES C. SHOOTER, as follows:

1. On Plaintiff’s First Cause of Action:
 - A. Permanently enjoining and restraining the defendant, his agents, and any person or entity acting on his behalf from:
 - i. Acting in any manner or capacity, directly or indirectly, on behalf of Dark Horse Comics, or any other competitor of VALIANT, in connection with the Doctor Solar, Magnus or Turok characters;

- ii. Disclosing to any person or entity, directly or indirectly, any confidential information obtained from VALIANT, or developed while SHOOTER was employed as VALIANT's Editor-in-Chief, including the Valiant Universe Project, or the Doctor Solar, Magnus or Turok characters, including without limitation, all concepts, business plans, marketing plans, creative ideas, character concepts, stories, re-conceptualization ideas, contacts, art and artists, potential employees, data, or any confidential information as defined in the Confidentiality Agreement;
 - iii. Being retained by, or engaging in any business on behalf of Dark Horse Comics, or any other competitor of VALIANT, directly or indirectly, in any manner whatsoever in connection with (a) the revival of the Doctor Solar, Magnus or Turok characters, or (b) any matter not in the best interests of VALIANT;
 - iv. Engaging, directly or indirectly, in any business for Dark Horse Comics concerning or relating to the revival of the Doctor Solar, Magnus or Turok characters;
 - v. Promoting, marketing, overseeing or participating in any activity on behalf of Dark Horse or any other person or entity in connection with the revival of the Doctor Solar, Magnus or Turok characters;
- B. Awarding VALIANT money damages in an amount to be determined but believed to be in excess of \$1,000,000, plus interest, and the costs incurred

by Plaintiff in connection with this action, including reasonable attorneys' fees;

C. Awarding such other and further relief as this Court may deem just and proper.

2. On Plaintiff's Second Cause of Action :

A. Permanently enjoining and restraining the defendant, his agents, and any person or entity acting on his behalf from:

- i. Acting in any manner or capacity, directly or indirectly, on behalf of Dark Horse Comics, or any other competitor of VALIANT, in connection with the Doctor Solar, Magnus or Turok characters ;
- ii. Disclosing to any person or entity, directly or indirectly, any confidential information obtained from VALIANT, or developed while SHOOTER was employed as VALIANT's Editor-in-Chief, including the Valiant Universe Project, or the Doctor Solar, Magnus or Turok characters, including without limitation, all concepts, business plans, marketing plans, creative ideas, character concepts, stories, re-conceptualization ideas, contacts, art and artists, potential employees, data, or any confidential information as defined in the Confidentiality Agreement;
- iii. Being retained by, or engaging in any business on behalf of Dark Horse Comics, or any other competitor of VALIANT, directly or indirectly, in any manner whatsoever in connection with (a) the

revival of the Doctor Solar, Magnus or Turok characters, or (b) any matter not in the best interests of VALIANT;

- iv. Engaging, directly or indirectly, in any business for Dark Horse Comics concerning or relating to the revival of the Doctor Solar, Magnus or Turok characters ;
- v. Promoting, marketing, overseeing or participating in any activity on behalf of Dark Horse or any other person or entity in connection with the revival of the Doctor Solar, Magnus or Turok characters;

B. Awarding VALIANT money damages in an amount to be determined but believed to be in excess of \$1,000,000, plus interest, and the costs incurred by Plaintiff in connection with this action, including reasonable attorneys' fees;

C. Awarding VALIANT money damages in an amount to be determined equal to the value of all compensation and benefits received by SHOOTER while employed as Editor-in-Chief of VALIANT plus interest;

D. Awarding such other and further relief as the Court may deem just and proper.

3. On Plaintiff's Third Cause of Action:

A. Permanently enjoining and restraining the defendant, his agent, and any person or entity acting on his behalf from directly or indirectly being hired

by, or accepting employment or compensation from, Dark Horse comics for any reason at any time period prior to October 16, 2009;

B. Permanently enjoining and restraining the defendant, his agents, and any person or entity acting on his behalf from directly or indirectly from, at all times prior to October 16, 2009, engaging in any business on behalf of Dark Horse Comics or any other competitor of VALIANT directly or indirectly in any manner whatsoever (i) in connection with Dark Horse's proposed revival of the Dr. Solar, Magnus and Turok characters or any universe series in competition with VALIANT's Valiant Universe series, or (ii) not in the best interests of VALIANT before October 16, 2009; and

C. Awarding such other and further relief as the Court may deem just and proper, plus the reimbursement of costs incurred by Plaintiff in connection with this action, including reasonable attorneys' fees.

4. On Plaintiff's Fourth Cause of Action:

A. Permanently enjoining and restraining the defendant, his agents, and any person or entity acting on his behalf, from disclosing to any person or entity any confidential information obtained from VALIANT, or developed while SHOOTER was employed as VALIANT's Editor-in-Chief, including the Valiant Universe Project, and the reintroduction of the Doctor Solar, Magnus and Turok characters, including without limitation, all concepts, business plans, marketing plans, creative ideas, character concepts, stories, reconceptualization ideas, contacts, art and

artists, potential employees, data or any other confidential information as define in the Confidentiality Agreement;

- B. Awarding VALIANT money damages in an amount to be determined, but believed to be in excess of \$1 million, plus interest and the reimbursement of the costs incurred by Plaintiff in connection with this action, including reasonable attorneys' fees.
- C. Awarding such other and further relief as the Court may deem just and proper.

DATED: New York, New York
September 21, 2009

MITCHELL SILBERBERG & KNUPP LLP

By: 

Paul D. Montclare, Esq.
Christine Lepera, Esq.
12 East 49th Street, 30th Floor
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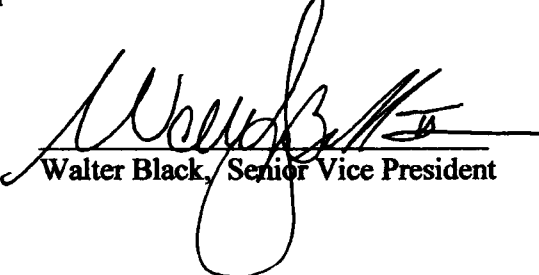
Attorneys for Plaintiff
VALIANT ENTERTAINMENT, LLC

VERIFICATION

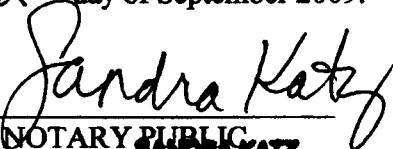
STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Walter Black, being duly sworn, deposes and says:

I am the Senior Vice President of the Plaintiff, Valiant Entertainment, LLC (the "Company"). I have read the foregoing Verified Complaint, the contents of which are true to the best of my knowledge, except as to the allegations set forth therein that are alleged on information and belief, which I believe to be true, based on documents, records and information maintained by, or on behalf of, the Company, or supplied to me as Senior Vice President.


Walter Black, Senior Vice President

Sworn to before me this
2nd day of September 2009.


NOTARY PUBLIC
SANDRA KATZ
Notary Public, State of New York
No. 01KA6174871
Qualified in Nassau County
Commission Expires Oct. 1, 2011