

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS  
CIVIL DIVISION

**TYSON FOODS, INC., a Delaware corporation**

**PLAINTIFF**

v.

CASE NO. \_\_\_\_\_

**BRIAN BAKER, an individual; and FOSTER  
FARMS, LLC, a California limited liability company**

**DEFENDANTS**

**VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff TYSON FOODS, INC. (“Tyson” or the “Company”), by and through its attorneys, Neal Gerber & Eisenberg LLP and Kendall Law Firm, PLLC, for its Verified Complaint for Injunctive and Other Relief against Defendants BRIAN BAKER (“Baker”) and FOSTER FARMS, LLC (“Foster Farms”) (collectively, “Defendants”), alleges as follows:

**Introduction**

1. This is an action brought to ensure fair competition in the poultry industry by ending Baker’s breach of his Non-Competition and Non-Solicitation Agreement with Tyson, his threatened and inevitable misappropriation of Tyson’s trade secrets and confidential information, Foster Farms’ tortious conduct, and Defendants’ unfair competition. Baker, a former employee of Tyson, and Foster Farms, a direct competitor of Tyson and Baker’s new employer, have engaged in a course of conduct designed to enrich themselves at the expense of Tyson.

**Parties**

2. Plaintiff Tyson is a Delaware corporation whose principal place of business is located at 2200 W. Don Tyson Parkway, Springdale, Arkansas 72762. Tyson is one of the world’s largest producers and processors of poultry, beef, pork, and other proteins.

3. On information and belief, Defendant Brian Baker, an individual, is a citizen and resident of Arkansas. Baker is a former employee of Tyson and is currently employed by or will soon be employed by Foster Farms, a direct competitor of Tyson.

4. Defendant Foster Farms is a California limited liability company whose principal place of business is located at 1000 Davis Street, Livingston, California 95334. Foster Farms, like Tyson, produces and processes poultry, and it directly competes with Tyson.

#### **Jurisdiction and Venue**

5. This Court has jurisdiction over this matter pursuant to ARK. CODE ANN. § 16-4-101 because Tyson is a resident of Washington County and has been injured in Washington County, Baker has agreed that the courts of Washington County “shall have exclusive jurisdiction” over “all disputes between” Tyson and him (*see* Exhibit A hereto at ¶ 6), and Foster Farms conducts business in Washington County.

6. Venue in this Court is proper under ARK. CODE ANN. § 16-60-109 because Tyson resided in Washington County at the time this action arose, and Baker has agreed to resolve all disputes between Tyson and him in this venue. *See* Exhibit A at ¶ 6.

#### **Allegations Common to All Counts**

7. Tyson produces and supplies poultry, beef, pork, deli meats, prepared foods, pizza toppings, soups, sauces, and related products to retail grocers, foodservice distributors and restaurants around the world. Tyson and its affiliated companies employ approximately 140,000 team members worldwide.

8. Tyson has invested a great deal of time and money growing the Company, including its poultry division. Tyson develops and maintains extensive information relating to its poultry division, including but not limited to information relating to its production processes,

methods and techniques, equipment designs and innovations, cut-up and deboning processes, feed formulations, packaging and labeling, maintenance systems, yield tracking systems, yield variances, crewing standards and staffing models, production goals, production data, input costs, gross margins, pricing, profit and loss statements, product mix, customer demands, business strategies, and merger and acquisition targets.

9. Tyson goes to great lengths to protect the foregoing information from its competitors. Such information is not shared with third parties outside of Tyson and its business relations, and it cannot be compiled and organized through public sources. Accordingly, this information is trade secret, proprietary and confidential to Tyson (the “Confidential Information”).

10. Tyson’s Confidential Information is regularly updated by the Company and is the product of countless hours of work by Tyson’s team members. Tyson’s Confidential Information has been created and developed at a substantial cost, and the Company derives economic value from the fact that its Confidential Information is not known outside of Tyson’s business and is not available through any public records and information sources.

11. Tyson’s Confidential Information cannot be independently developed by its competitors without great effort and expense.

12. Recognizing the economic value that it derives from its Confidential Information, as well as the potential value of this information to its competitors, Tyson requires that its Confidential Information be kept strictly confidential by its team members, and it restricts access to this information. Tyson has taken substantial steps and security measures to protect the confidentiality of its Confidential Information, including but not limited to the following:

- (a) Tyson protects access to its Confidential Information through computer user names and passwords;

- (b) Tyson limits the number of team members having access to its Confidential Information. Team members are given access to Tyson's Confidential Information on a "need to know" basis;
- (c) Tyson does not give access to its Confidential Information to non-employees;
- (d) Tyson maintains written policies and a Code of Conduct requiring team members to protect the confidentiality of its Confidential Information;
- (e) Certain Tyson team members (including Baker) are required to sign Non-Competition and Non-Solicitation Agreements as a condition of their employment (*see* Exhibit A), which expressly recognize, among other things, that Tyson develops and maintains Confidential Information and that such Confidential Information must be protected;
- (f) Other Tyson team members are required to sign non-disclosure and confidentiality agreements, the terms of which require them to protect the confidentiality of Tyson's Confidential Information;
- (g) Tyson team members are forbidden from copying, transferring or otherwise duplicating any of Tyson's Confidential Information;
- (h) Tyson requires each team member to return to Tyson all Confidential Information when he or she leaves the Company's employ; and
- (i) Creating and enforcing robust compliance programs including training team members to protect against sharing competitively sensitive information outside of Tyson.

#### **Baker's Employment with Tyson**

13. Baker began his employment with Tyson in March 2004. Baker most recently held the position of Vice President of Poultry Optimization, a role he assumed in October 2021. In that role, Baker was responsible for, among other duties, devising and executing the poultry division's pricing and profit margin strategies, and in so doing, he had intimate knowledge of and utilized a trove of Confidential Information.

14. Such Confidential Information includes, but certainly is not limited to, the costs associated with hatching, raising and processing chickens (from purchasing pullets to slaughter

to sale); strategies and data relating to Tyson's breeding program and live production (including projections, yields and future pullet orders); production data (both real-time production data and future projections); strategies and data relating to Tyson's future production plans; strategies and data relating to capital expenditure projects; technology and automation initiatives (including technology that has been developed internally by Tyson); supply chain-related data; strategies and data relating to employee recruitment, compensation and retention; strategies and data relating to third-party grower compensation and contract terms; information relating to research and development and new products; information relating to Tyson's greenfield and brownfield projects; and information relating to merger and acquisition targets.

15. Prior to assuming the Vice President of Poultry Optimization role in 2021, Baker held the position of Vice President of Business Operations. In that position, Baker was the "owner" of the profit and loss (P&L) function in the poultry division and made all business-related decisions in the group, including decisions bearing on production and pricing. As in his Vice President of Poultry Optimization role, Baker had intimate knowledge of and utilized Tyson's most sensitive Confidential Information in his Vice President of Business Operations role.

16. But for his employment with Tyson, Baker would not have had access to, and would not have been aware of, Tyson's Confidential Information.

17. Baker was highly compensated by Tyson. His most recent base salary was nearly \$300,000 annually, and his annual target bonus was more than \$134,000. Baker also received an "Executive Rewards Allowance" of \$12,000 per year, and he was eligible for long-term incentive compensation of \$135,000 annually. Accordingly, Baker's total direct compensation was more than \$580,000 per year. Cumulatively, as an executive of the Company, Baker

received annual grants of stock options and restricted stock worth hundreds of thousands of dollars.

18. On May 13, 2019, in consideration and as a condition of (a) his continued employment with Tyson, (b) his annual compensation (including but not limited to his eligibility for an annual performance bonus and his receipt of option and restricted stock grants), and (c) continued access to Tyson's Confidential Information, Baker signed a Non-Competition and Non-Solicitation Agreement (the "Non-Competition Agreement"), a copy of which is attached hereto as Exhibit A.

19. In the Non-Competition Agreement, Baker recognized that as a result of his employment with Tyson, he was involved in the development of, and had access to, Tyson's Confidential Information, and that if such information were to get into the hands of competitors of Tyson, it could do substantial and irreparable harm to Tyson.

20. Baker also agreed that, for a period of twelve (12) months after the separation of his employment from Tyson, he would not directly or indirectly be employed by "any person, company or entity which is in competition with Tyson, with which [he] would hold a position with responsibilities similar to any position [he] held with Tyson during the twenty-four (24) months preceding the date upon which [his] employment with Tyson terminate[d] ... or in which [he] would utilize or disclose confidential methodologies, techniques, customer lists or information of Tyson." Exhibit A at ¶ 1.

21. Baker acknowledged that "Tyson performs services throughout the United States and that [his] duties and services impact[ed] Tyson's performance of services throughout the United States." Exhibit A at ¶ 1. Accordingly, Baker agreed that "the need for [the non-

competition] restrictions contained in [the] Agreement [would] be without limitation as to location or geography within the United States.” *Id.*

22. Moreover, Baker agreed that, for a period of twelve (12) months after the separation of his employment from Tyson, he would “not directly or indirectly, on behalf of [himself] or any other person, company or entity, participate in the planning, research or development of any strategies or methodologies, similar to strategies or methodologies, utilized or developed during the thirty-six (36) months preceding” his separation. Exhibit A at ¶ 1.

23. Baker also agreed that, for a period of thirty-six (36) months after the separation of his employment from Tyson, he would not directly or indirectly raid, hire, solicit, encourage, or attempt to persuade any employee of Tyson who possesses or had access to Confidential Information of Tyson to terminate his or her relationship with Tyson; interfere with the performance by any such person of his or her duties for Tyson; or communicate with any such person for purposes of encouraging or persuading him or her to terminate his or her employment relationship with Tyson. Exhibit A at ¶ 2.

24. Baker acknowledged the importance of the non-competition and non-solicitation provisions of the Non-Competition Agreement. *See generally* Exhibit A. He “specifically acknowledge[d] and agree[d] that the purpose of the terms, restrictions and covenants contained in th[e] Agreement is to protect Tyson from unfair competition, including the improper use of confidential information, trade secrets or proprietary information of Tyson by [him], and that the terms, restrictions and covenants contained [in the Agreement] are reasonable with respect to both scope and duration of application.” *Id.* at ¶ 4.

25. Baker further acknowledged that “irreparable damage would result to Tyson if the terms, restrictions and covenants of th[e] Agreement are not specifically enforced, and that, in

addition to any other legal or equitable relief available ... Tyson shall be entitled to injunctive relief in the event of any failure [by him] to comply with the terms, restrictions and covenants of th[e] Agreement.” Exhibit A at ¶ 3. Baker also agreed to indemnify Tyson for all attorneys’ fees and related expenses which Tyson incurred in enforcing the terms of the Non-Competition Agreement. *Id.*

### **The Events Giving Rise to This Action**

26. On Monday, June 6, 2022, Baker voluntarily resigned his employment with Tyson to accept a job with Foster Farms.

27. Baker’s responsibilities for Foster Farms are similar to his former responsibilities for Tyson. Thus, in violation of the restrictions of Section 1 of the Non-Competition Agreement, Baker is working for a company (Foster Farms) “which is in competition with Tyson, with which [he holds] a position with responsibilities similar” to his former role with Tyson, and/or “in which [he will] utilize or disclose confidential methodologies, techniques, customer lists or information of Tyson.”

28. Baker is further breaching the terms of Section 1 of the Non-Competition Agreement by “participat[ing] in the planning, research and development of any strategies or methodologies” for Foster Farms which are “similar to [the] strategies or methodologies ... utilized or developed during the thirty-six (36) months preceding” his departure from Tyson.

29. On June 8, 2022, Tyson’s internal counsel sent separate letters to Baker and Foster Farms reminding them of their respective legal obligations to Tyson, expressing Tyson’s concerns about Baker’s employment with Foster Farms, and demanding that Baker and Foster Farms honor their legal obligations to Tyson by terminating their employment relationship.



Copies of the June 8 letters are attached hereto as group Exhibit B. To Tyson's knowledge, Baker and Foster Farms have refused to terminate their employment relationship.

**COUNT I**  
**(Breach of Non-Competition Agreement against Baker)**

30. Tyson realleges Paragraphs 1 through 29 above as though these Paragraphs were fully set forth herein.

31. Baker's Non-Competition Agreement with Tyson is a valid and enforceable contract.

32. Tyson has performed all of its obligations under the Non-Competition Agreement.

33. Baker has breached and/or will breach the terms of the Non-Competition Agreement by, among other misconduct: (a) working for Foster Farms, a direct competitor of Tyson, in a position (i) in which his responsibilities are similar to his former responsibilities with Tyson or (ii) in which he will utilize or disclose confidential methodologies, techniques, customer lists or information of Tyson, and (b) in which he will participate in the planning, research and development of strategies or methodologies for Foster Farms which are similar to the strategies or methodologies utilized or developed during the thirty-six (36) months preceding his resignation from Tyson.

34. Tyson has substantial and legitimate business interests in protecting its goodwill with its customers, Confidential Information, relationships with its team members, and the integrity of its Non-Competition Agreements, and in preventing and protecting against unlawful and unfair competition.

35. As a direct result of Baker's breach and/or threatened breach of his Non-Competition Agreement, Tyson's goodwill and Confidential Information have been or will be compromised. Moreover, armed with Tyson's Confidential Information, Baker, for the benefit

of himself and Foster Farms, is at risk of interfering with Tyson's long-standing relationships with its customers.

36. Tyson has no adequate remedy at law in that Baker's violation of his Non-Competition Agreement is continuing and will continue until he is enjoined, and monetary damages are currently difficult to quantify.

**COUNT II**  
**(Violation of the Arkansas Trade Secrets Act against Baker and Foster Farms)**

37. Tyson realleges Paragraphs 1 through 29 as though these Paragraphs were set forth fully herein.

38. Tyson derives economic value from the fact that its Confidential Information is not commonly known to its competitors, and it has taken reasonable steps to safeguard the secrecy of its Confidential Information. Tyson's Confidential Information therefore constitutes "trade secrets" under the Arkansas Trade Secrets Act, ARK. CODE ANN. § 4-75-601 *et seq.*

39. Through his actions set forth more fully herein, Baker has, without Tyson's consent and as an agent of Foster Farms, acquired by improper means, disclosed and/or used, or has threatened to acquire by improper means, disclose and/or use Tyson's Confidential Information, knowing that his knowledge of the Confidential Information was acquired in the course of his employment with Tyson and under circumstances giving rise to his duties to maintain the secrecy of the Confidential Information.

40. Additionally, Baker will not be able to compartmentalize his knowledge of Tyson's Confidential Information. When called upon to perform his job responsibilities for Foster Farms, Baker will inevitably draw upon his vast and intimate knowledge of Tyson's Confidential Information.

41. Baker has acquired by improper means, disclosed and/or used, or has threatened to disclose and/or use, or will inevitably disclose and/or use, Tyson's Confidential Information for his own benefit and the benefit of Foster Farms and to the detriment of Tyson.

42. Defendants' actions constitute actual and/or threatened misappropriation of Tyson's Confidential Information under Arkansas law.

43. As a result of Defendants' actions, Tyson has suffered irreparable harm for which it has no adequate remedy at law. Unless enjoined, Defendants will continue to harm Tyson's business, causing further irreparable harm for which there is no adequate remedy at law.

44. As a result of Defendants' actions, Tyson has also been, and continues to be, substantially injured or damaged. Defendants' misappropriation of Tyson's Confidential Information is willful and malicious.

**COUNT III**  
**(Tortious Interference with Contract against Foster Farms)**

45. Tyson realleges Paragraphs 1 through 29 above as though these Paragraphs were fully set forth herein.

46. Until the events giving rise to this action, Tyson had maintained a valid contractual relationship with Baker in the form of his Non-Competition Agreement. Tyson had a reasonable expectation that Baker would fulfill his obligations under the Non-Competition Agreement.

47. Foster Farms knew of Tyson's contractual relationship with Baker but intentionally interfered with the relationship by causing Baker to: (a) work for Foster Farms, a direct competitor, in a position (i) in which his responsibilities are similar to his former responsibilities with Tyson or (ii) in which he will utilize or disclose confidential methodologies, techniques, customer lists or information of Tyson, and (b) in which he will participate in the

planning, research and development of strategies or methodologies for Foster Farms which are similar to the strategies or methodologies utilized or developed during the thirty-six (36) months preceding his departure from Tyson.

48. As a result of Foster Farms' actions, Baker has breached the terms of his Non-Competition Agreement.

49. Tyson has been injured, irreparably and otherwise by Foster Farms' actions, as alleged herein.

**COUNT IV**  
**(Civil Conspiracy against Baker and Foster Farms)**

50. Tyson realleges Paragraphs 1 through 29 above as though these Paragraphs were fully set forth herein.

51. Prior to the commencement of Baker's employment with Foster Farms, Baker and Foster Farms acted in concert to: (a) induce Baker to breach the terms of his Non-Competition Agreement with Tyson, and (b) take, disclose, use, and/or misappropriate or threaten to take, disclose, use, and/or misappropriate Tyson's Confidential Information.

52. Defendants' actions are unlawful in that they have violated their contractual, statutory, and common law obligations to Tyson.

53. Furthermore, Defendants' actions have injured Tyson, irreparably and otherwise, as alleged herein.

**PRAYER FOR RELIEF, INCLUDING EX PARTE INJUNCTIVE RELIEF**

54. Tyson realleges Paragraphs 1 through 53 above as though these Paragraphs were fully set forth herein.

55. Tyson has sent communications to Baker and Foster Farms in an effort to ensure their compliance with their legal obligations to Tyson, including Baker's compliance with the

terms of the Non-Competition Agreement. *See* Exhibit B hereto. In its communications, Tyson notified Baker and Foster Farms of its intent to enforce its rights through litigation should Defendants not change their position regarding Baker's employment with Foster Farms. In response, Defendants have not changed their position.

56. Further notice is not required in this matter because delay will result in additional irreparable harm. An emergency temporary restraining order is necessary to preserve the status quo until the issues raised by Tyson's complaint can be determined. Tyson has no adequate remedy at law, and the harm to Tyson, if injunctive relief is not granted, will outweigh the harm to Defendants if such relief is granted.

57. ARK. CODE ANN. § 4-75-101(e)(2) provides that "immediate harm associated with the breach of a covenant not to compete agreement shall be considered irreparable to establish the appropriateness of a preliminary injunction." Upon information and belief, Defendants are committing and will continue to commit the acts sought to be enjoined before the issuance of the Court's restraining order and such acts result in irreparable harm to Tyson.

58. Every day that Baker and Foster Farms operate in violation of the Non-Competition Agreement, Tyson is subjected to continued irreparable harm. The issue is not only one of irreparable harm, but irreparable harm that accrues prior to the notice to the adverse party or its counsel. As such, prior notice should not be required to the extent that it would allow Baker and Foster Farms additional time to continue the violations and resulting irreparable harm.

WHEREFORE, Plaintiff Tyson Foods, Inc. respectfully requests that this Court enter judgment in its favor and against Defendants Brian Baker and Foster Farms, LLC and enter an order:

- (a) granting immediate injunctive relief barring Baker from directly or indirectly working for Foster Farms in his current role, or a similar role, in violation of Section 1 of the Non-Competition Agreement;
- (b) granting immediate injunctive relief barring Baker from directly or indirectly participating in the planning, research or development of any strategies or methodologies, similar to the strategies or methodologies utilized or developed by him during the most recent 36-month period of his employment with Tyson, as stated in Section 1 of the Non-Competition Agreement;
- (c) granting immediate injunctive relief barring Defendants from obtaining, seeking to obtain, misappropriating, or attempting to misappropriate, Tyson's Confidential Information;
- (d) awarding Tyson any other damages it has sustained as a result of Defendants' misconduct, including but not limited to compensatory, punitive and exemplary damages, and royalties;
- (e) ordering Defendants to reimburse Tyson its attorneys' and experts' fees and costs incurred in connection with this lawsuit, including but not limited to fees and costs pursuant to ARK. CODE ANN. § 16-22-308 and ARK. CODE ANN. § 4-75-607; and
- (f) granting Tyson any such other and further relief that this Court deems just and proper.

Dated: June 8, 2022

Respectfully submitted,

**TYSON FOODS, INC.**

By: /s/ Susan Keller Kendall  
One of Its Attorneys

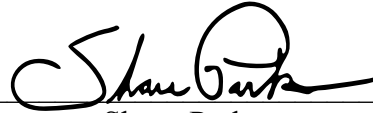
Chad W. Moeller (*pro hac vice* application forthcoming)  
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**Verification**

I, Shane Parks, am Senior Vice President of Business Operations of Tyson Foods, Inc. Under the penalties of perjury, I verify that the allegations contained in the foregoing Verified Complaint for Injunctive and Other Relief are true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Shane Parks". The signature is written in a cursive style with a large initial "S".

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Shane Parks

Dated: June 8, 2022



## NON-COMPETITION AND NON-SOLICITATION AGREEMENT



This Non-Competition and Non-Solicitation Agreement (this "Agreement") is entered into by and between Tyson Foods, Inc., a Delaware corporation, and any of its subsidiaries and affiliates (hereinafter collectively referred to as "Tyson"), and Brian Baker (hereinafter referred to as "you"). This Agreement shall be effective as of the date that you first perform services as an officer of Tyson (the "Effective Date").

WHEREAS, Tyson is engaged in a very competitive business, where the development and retention of extensive confidential information, trade secrets and proprietary information as well as customer relationships and goodwill are critical to future business success and, by virtue of your employment with Tyson, you are involved in the development of, and have access to, Tyson's confidential information, trade secrets and proprietary information, and, if such information were to get into the hands of competitors of Tyson, it could do substantial business harm to Tyson; and

WHEREAS, you acknowledge the importance of the non-competition and non-solicitation provisions of this Agreement and, having reviewed this Agreement as a whole, are willing to commit to the restrictions and covenants set forth therein.

NOW THEREFORE, in consideration of the above and other good and valuable consideration, including your promotion to an officer of Tyson, as well as access to the confidential information, trade secrets and proprietary information of Tyson and its customers, suppliers, vendors or affiliates to which you would not have access in the absence of such non-competition and non-solicitation provisions, you and Tyson mutually agree as follows:

1. Non-Competition. You acknowledge that Tyson performs services throughout the United States and that your duties and services impact Tyson's performance of services throughout the United States. Accordingly, you acknowledge the need for certain restrictions contained in this Agreement to be without limitation as to location or geography within the United States. You agree that at any time during the course of your employment with Tyson, and for a period of twelve (12) months following the termination of your employment with Tyson for any reason, you will not directly or indirectly, on behalf of yourself or in conjunction with any other person, company or entity, own (other than less than five percent (5%) ownership in a publicly traded company), manage, operate, or participate in the ownership, management, operation, or control of, or be employed by or a consultant to any person, company or entity which is in competition with Tyson, with which you would hold a position with responsibilities similar to any position you held with Tyson at any time during the twenty-four (24) months preceding the date upon which your employment with Tyson terminates (your "Termination Date") or in which you would utilize or disclose confidential methodologies, techniques, customer lists or information of Tyson. You agree that at any time during the course of your employment with Tyson and for a period of twelve (12) months following the termination of your employment with Tyson for any reason you will not directly or indirectly, on behalf of you or any other person, company or entity, participate in the planning, research or development of any strategies or methodologies, similar to strategies or methodologies, utilized or developed by Tyson, excluding general industry knowledge, for which you had access to, utilized or developed during the thirty-six (36) months preceding your Termination Date.

Further, you understand and agree that at any time during the course of your employment with Tyson and the restricted time periods thereafter designated in this Agreement, while you may gather information to investigate other employment opportunities, you shall not make plans or prepare to compete, solicit or take on activities which are in violation of this Agreement. Should you leave Tyson and accept employment or a consulting position with a competitor, you are required beforehand to

inform Tyson of the identity of your new employer and your responsibilities for the new employer. You are also required to show this Agreement to all new employers prior to accepting new employment and Tyson shall also be permitted to show this Agreement to all new employers as well.

2. Non-Solicitation. You agree that at any time during the course of your employment with Tyson and for a period of thirty-six (36) months following the termination of your employment with Tyson for any reason, you will not, nor will you assist any third party to, directly or indirectly (a) raid, hire, solicit, encourage or attempt to persuade any employee or independent contractor of Tyson, or any person who was an employee or independent contractor of Tyson at any time during the six (6) months preceding your Termination Date, who possesses or had access to any confidential information, trade secrets or proprietary information of Tyson, to leave the employ of or terminate a relationship with Tyson; (b) interfere with the performance by any such persons of their duties for Tyson; (c) communicate with any such persons for the purposes described in Section 1 of this Agreement; or (d) solicit, encourage or attempt to persuade any customer or vendor of Tyson at any time during the six (6) months preceding your Termination Date to terminate or modify its relationship with Tyson.
3. Effect of Breach. You acknowledge and agree that, in the event of any breach by you of any of the terms, restrictions and covenants of this Agreement, your accrued benefits under certain benefit plans and compensation programs of Tyson may be discontinued or forfeited pursuant to the terms of such plans and programs, in addition to any other rights and remedies Tyson may have at law or in equity including but not limited to those set forth in any policy or any successors thereto, as such policy or its successors may be amended from time to time, whether in existence as of the Effective Date or later adopted, established by Tyson that provides for the clawback or recovery of amounts that were paid to you under circumstances requiring clawback or recovery as described in such policy. You acknowledge that irreparable damage would result to Tyson if the terms, restrictions and covenants of this Agreement are not specifically enforced, and that, in addition to any other legal or equitable relief available, and notwithstanding any alternative dispute resolution provisions that have been or may be agreed to between Tyson and you, Tyson shall be entitled to injunctive relief in the event of any failure to comply with the terms, restrictions and covenants of this Agreement. If you violate any of the terms, restrictions or covenants of this Agreement, you will indemnify Tyson for the expenses, including but not limited to reasonable attorneys' fees, incurred by Tyson in enforcing this Agreement.
4. Enforcement and Severability. You specifically acknowledge and agree that the purpose of the terms, restrictions and covenants contained in this Agreement is to protect Tyson from unfair competition, including the improper use of confidential information, trade secrets or proprietary information of Tyson by you, and that the terms, restrictions and covenants contained herein are reasonable with respect to both scope and duration of application. Notwithstanding the foregoing, if any court determines that any of the terms, restrictions or covenants herein are unreasonable, invalid or unenforceable, the court may interpret, alter, amend or modify any or all of the terms, restrictions and covenants to include as much of the scope, time period and intent as will render the restrictions enforceable, and then as modified, enforce the terms, restrictions and covenants. Each term, restriction and covenant contained in this Agreement is independent of each other such term, restriction and covenant, and if any such term, restriction or covenant is held for any reason to be invalid, unenforceable and incapable of corrective modification, then the invalidity or unenforceability of such covenant or restriction shall not invalidate, affect or impair in any way the validity and enforceability of any other such term, restriction or covenant.
5. This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to

exist or bind either of the parties hereto. This Agreement cannot be modified except by a writing signed by both parties.

6. You acknowledge that your job duties are performable at various locations throughout the United States and specifically performable wholly or partly within the State of Arkansas and consent to the validity, interpretation, performance and enforcement of this Agreement being governed by the internal laws of said State of Arkansas, without giving effect to the conflicts of laws provisions thereof. The courts of Washington County, Arkansas shall have exclusive jurisdiction and be the venue of all disputes between you and Tyson, whether such disputes arise from this Agreement or otherwise. In addition, you expressly waive any right that you may have to sue or be sued in the county of your residence and consent to venue in Washington County, Arkansas.
7. This Agreement shall be binding upon you, your heirs, executors and personal representatives and upon Tyson, its successors and assigns. You may not assign, transfer or pledge your rights or delegate your duties or obligations under this Agreement, in whole or in part.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

BY SIGNING BELOW, YOU ACKNOWLEDGE THAT YOU HAVE COMPLETELY READ THE ABOVE, HAVE BEEN ADVISED TO CONSIDER THIS AGREEMENT CAREFULLY, AND HAVE BEEN FURTHER ADVISED TO REVIEW IT WITH LEGAL COUNSEL OF YOUR CHOOSING BEFORE ACKNOWLEDGING AND ACCEPTING THIS AGREEMENT. YOU FURTHER ACKNOWLEDGE THAT YOU ARE ACKNOWLEDGING AND ACCEPTING THIS AGREEMENT VOLUNTARILY, AND WITHOUT DURESS, COERCION, OR UNDUE INFLUENCE AND THEREBY AGREE TO ALL OF THE TERMS, RESTRICTIONS AND COVENANTS CONTAINED HEREIN.

Accepted and agreed to by:

Brian Baker

Signed: 

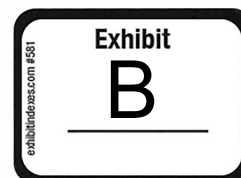
Date: 5/13/19

TYSON FOODS, INC

Signed: 

Printed Name: Rodney Wages

Date: 5-13-19



June 8, 2022

Foster Farms  
ATTN:  
Randall Boyce  
Senior Vice President and General Counsel  
and  
Marcia Fish  
Chief Human Resource Officer  
1000 Davis St.  
Livingston, CA 95334

**Re: Restrictive covenants and confidentiality obligations of Brian Baker**

Dear Mr. Boyce and Ms. Fish

I am counsel for Tyson Foods, Inc. (“Tyson”), and I understand that Brian Baker has been offered employment with Foster Farms. I write to inform you of Mr. Baker’s non-compete and non-solicitation obligations, and his continuing duties of confidentiality to Tyson.

Tyson has invested valuable time and expense in developing its confidential and proprietary information, and if Mr. Baker revealed this information to anyone outside of Tyson, it would substantially damage the company. Tyson has gone and will go to great effort and expense to protect this information. We have contacted Mr. Baker to remind him of his continuing obligations. Enclosed please find a copy of the letter Tyson sent to Mr. Baker earlier today. We are certain that Foster Farms share’s Tyson’s interest in antitrust compliance and is aware of the concerns created by the movement of such a high-ranking officer of this company to a leadership role with Foster Farms. Accordingly, should Foster Farms continue to have any contact with Mr. Baker, we ask that Foster Farms ensure Mr. Baker honors his duties to protect Tyson’s proprietary and confidential information gained during his employment with Tyson

Additionally, you should be aware that Mr. Baker also has a non-competition and non-solicitation agreement that prevents him being employed by a competitor with Tyson in a role with responsibilities similar to any position he held with Tyson at any time during the twenty-four (24) months preceding his termination. It is Tyson’s position that the offered position of Vice President – Treasury is such a role and Mr. Baker’s acceptance of the role would be a violation of his agreement. Any refusal by Mr. Baker to honor his non-compete obligations would cause Tyson

immediate and irreparable harm.

Finally, if Foster Farms continues the offer of employment to Mr. Baker, it may be interfering with the contractual relationship between Mr. Baker and Tyson. Therefore, Tyson requests that any employment of Mr. Baker be delayed until his contractual obligations to Tyson are addressed. If you have any questions about Tyson's position on these matters, please contact me immediately.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Wallace", with a long horizontal flourish extending to the right.

Bradley W. Wallace  
Principal Counsel



June 8, 2022

Brian Baker  
142 Carver Dr.  
Springdale, AR 72762

**RE: Restrictive Covenants and Tyson Foods, Inc.  
Confidential/Proprietary/Trade Secret Information**

Dear Mr. Baker

As you are aware, you are subject to a non-competition and non-solicitation agreement (the "Agreement") signed by you on or about May 13, 2019. By the terms of that Agreement, you are prohibited from being employed by or acting as a consultant to any company in competition with Tyson Foods, Inc. ("Tyson"), "with which you would hold a position with responsibilities similar to any position you held with Tyson at any time during the twenty-four (24) months preceding" your termination. Additionally, you are prohibited from participating in any "planning, research or development of any strategies or methodologies, similar to strategies or methodologies, utilized or developed by Tyson," during the thirty-six (36) months prior to your termination. The role you are proposing to take with Foster Farms violates the terms and conditions of the Agreement. More specifically, the role requires you to assess "changes in market conditions," "provide strategic guidance" in support of Foster Farms growth needs, and provide "various ad-hoc analysis" and "analytical support to the CFO and Senior Management, as needed." Any refusal to comply with the terms and conditions of the Agreement will cause Tyson immediate and irreparable harm

Your most recent roll at Tyson, VP Poultry Optimization, exposed you to highly strategic information, including but not limited to Tyson's overall poultry strategy, the poultry planning manual, access to information about greenfield projects, and pricing and competitiveness data. In fact, you were instrumental in developing much of this information and strategy. Quite simply, regardless of title, it is impossible for you to take a leadership role with a primary competitor like Foster Farms without assisting in the development of strategies and methodologies similar to those utilized and developed by Tyson in the recent past. It is Tyson's expectation that you immediately inform Foster Farms of your non-compete

obligations and your intention to honor those obligations by rejecting any employment offer until the end of your non-compete period. This action must take place immediately. If you have not confirmed your rejection of the Foster Farms job offer of Vice President – Treasurer within 24 hours, Tyson will take action to enforce the terms and conditions of the Agreement.

In addition to your non-compete obligations you also have non-solicitation obligations which clearly remain applicable to you in your proposed role at Foster Farms. In that regard, you understand that for a period of thirty-six (36) months following the termination of your employment with Tyson,

“...you will not, nor will you assist any third party to, directly or indirectly (a) raid, hire, solicit, encourage or attempt to persuade any employee or independent contractor of Tyson, or any person who was an employee or independent contractor of Tyson at any time during the six (6) months preceding your Termination Date, who possesses or had access to any confidential information, trade secrets or proprietary information of Tyson, to leave the employ of or terminate a relationship with Tyson; (b) interfere with the performance by any such persons of their duties for Tyson; (c) communicate with any such persons for the purposes described in Section 1 of [the] Agreement; or (d) solicit, encourage or attempt to persuade any customer or vendor of Tyson at any time during the six (6) months preceding your Termination Date to terminate or modify its relationship with Tyson.”

These obligations to not solicit Tyson team members are applicable during your twelve (12) month non-compete period and for an additional twenty-four (24) month period following.

Finally, during your near 20 years of Tyson employment, you had access to proprietary and confidential information of Tyson, most recently as the Vice President Poultry Optimization. Your role with Foster Farms, as stated above, as described in the job descriptions you provided, and in reality, will likely involve many of the same types of products, services, and customers that you worked with during your years of service with Tyson. As you begin work with Foster Farms, you



may find yourself in a situation where Tyson's information may be useful. Tyson has invested valuable resources and expense in developing this information. Please understand you have continuing legal duties to keep such Tyson information in confidence and not to use such information directly or indirectly.

While it is impractical to provide a listing of all confidential, proprietary or trade secret information ("Confidential Information") to which you had access during your Tyson employment, the following list attempts to identify the broad categories of such Confidential Information with which you either worked or developed, or had knowledge or access:

- Poultry Strategy (supply demand fundamentals specific to Tyson; S&OP capabilities, mix and margin management)
- Pricing and competitiveness data
- The Poultry Planning Manual
- Pullet orders through 2024
- Information regarding greenfield projects
- Information on brownfield projects
- Technology planning including utilization, limitations, and adoption
- New technology developed by Tyson to automate front half debone
- Pay strategies as well as team member retention plans
- Grower base growth plan including pay strategy
- Capital plan for the next several years
- Knowledge of M&A targets

As you acknowledged in an Agreement Relating to Confidentiality of Company Information, this Confidential Information is not generally known to Tyson's competitors, and gives Tyson a competitive, commercial advantage over others who do not possess such information.

You also have a duty to return to Tyson, all of its Confidential Information. If you are in possession of any Confidential Information, and have not yet returned it, you must immediately return to Tyson any and all originals, copies, duplicates,



reproductions and/or excerpts, in any form or media, as well as any related reports, notes, files, memoranda, records, software and other physical or personal property which you received, prepared or helped prepare in connection with your Tyson employment.

Please confirm your intention to honor your Agreement immediately and by no later than the close of business today. If you have any questions you may reach out to me at any time.

Sincerely,



Bradley W. Wallace, Principal Counsel  
Law Department  
Tyson Foods  
2200 Don Tyson Pkwy  
Springdale, AR 72762  
(desk) 479-290-1603  
(mobile) 479-856-9178  
Bradley.wallace@tyson.com

cc: Randall Boyce, Senior Vice President and General Counsel

Marcia Fish, Chief Human Resources Officer

Foster Farms  
1000 Davis St. Livingston, CA 95334

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