Checklist for Reporting a Theft of Trade Secrets Offense

If you or your company have become the victim of a theft of trade secrets offense, please fill out the information indicated below and contact a federal law enforcement official to report the offense. An insert with contact information for law enforcement officials in your area should be included at the end of this guide.

NOTE ON CONFIDENTIALITY: Federal law provides that courts "shall enter such orders and take such action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws." 18 U.S.C. § 1835. Prosecutors utilizing any of the information set forth below will generally request the court to enter an order to preserve the status of the information as a trade secret and prevent its unnecessary and harmful disclosure.

Background and Contact Information

1. Victim's Name:

2. Primary Location and Address:

3. Nature of Primary Business:

4. Law Enforcement Contact:

Phone: Fax:

Email: Pager/Mobile:

Description of the Trade Secret

5. Generally describe the trade secret (e.g., source code, formula):

Provide an estimated value of the trade secret identifying ONE of the methods and indicating ONE of the ranges listed below:

Method

___Cost to Develop the Trade Secret;

___Acquisition Cost (identify date and source of acquisition); or

___Fair Market Value if sold.

Estimated Value:

___Under $50,000;

___Between $50,000 and $100,000;

___Between $100,000 and $1 million;

___Between $1 million and $5 million; or

___Over $5 million

Identify a person knowledgeable about valuation, including that person's contact information:

General Physical Measures Taken to Protect the Trade Secret

6. Describe the general physical security precautions taken by the company, such as fencing the perimeter of the premises, visitor control systems, using alarming or self-locking doors or hiring security personnel.

7. Has the company established physical barriers to prevent unauthorized viewing or access to the trade secret, such as "Authorized Personnel Only" signs at access points? (See below if computer stored trade secret.) ___YES ___NO

8. Does the company require sign in/out procedures for access to and return of trade secret materials? ___YES ___NO

9. Are employees required to wear identification badges? ___YES ___ NO

10. Does the company have a written security policy? ___YES ___NO

a. How are employees advised of the security policy?

b. Are employees required to sign a written acknowledgment of the security policy? ___YES ___NO

c. Identify the person most knowledgeable about matters relating to the security policy, including title and contact information.

11. How many employees have access to the trade secret?

12. Was access to the trade secret limited to a "need to know" basis? ___YES ___NO

Confidentiality and Non-Disclosure Agreements

13. Does the company enter into confidentiality and non-disclosure agreements with employees and third-parties concerning the trade secret? ___YES ___NO

14. Has the company established and distributed written confidentiality policies to all employees? ___YES ___NO

15. Does the company have a policy for advising company employees regarding the company's trade secrets? ___YES ___NO

Computer-Stored Trade Secrets

16. If the trade secret is computer source code or other computer-stored information, how is access regulated (e.g., are employees given unique user names and passwords)?

17. If the company stores the trade secret on a computer network, is the network protected by a firewall? ___YES ___NO

18. Is remote access permitted into the computer network? ___YES ___NO

19. Is the trade secret maintained on a separate computer server? ___YES ____NO

20. Does the company prohibit employees from bringing outside computer programs or storage media to the premises? ___YES ___NO

21. Does the company maintain electronic access records such as computer logs? ___YES ___NO

Document Control

22. If the trade secret consisted of documents, were they clearly marked "CONFIDENTIAL" or "PROPRIETARY"? ___YES ___NO

23. Describe the document control procedures employed by the company, such as limiting access and sign in/out policies.

24. Was there a written policy concerning document control procedures, and if so, how were employees advised of it? ___YES ___NO

25. Identify the person most knowledgeable about the document control procedures, including title and contact information.

Employee Controls

26. Are new employees subject to a background investigation? ___YES ___NO

27. Does the company hold "exit interviews" to remind departing employees of their obligation not to disclose trade secrets? ___YES ___NO

Description of the Theft of Trade Secret

28. Identify the name(s) or location(s) of possible suspects, including the following information:

Name (Suspect #1):

Phone number:

Email address:

Physical address:

Employer:

Reason for suspicion:

Name (Suspect #2):

Phone number:

Email address:

Physical address:

Employer:

Reason for suspicion:

29. Was the trade secret stolen to benefit a third party, such as a competitor or another business? ___YES ___NO

If so, identify that business and its location:

30. Do you have any information that the theft of trade secrets were committed to benefit a foreign government or instrumentality of a foreign government? ___YES ___NO

If so, identify the foreign government and describe that information.

31. If the suspect is a current or former employee, describe all confidentiality and non-disclosure agreements in effect.

32. Identify any physical locations tied to the theft of trade secret, such as where it may be currently stored or used.

33. If you have conducted an internal investigation into the theft or counterfeiting activities, please describe any evidence acquired:

Civil Enforcement Proceedings

34. Has a civil enforcement action been filed against the suspects identified above? ___YES ___NO

a. If so, identify the following:

i. Name of court and case number:

ii. Date of filing:

iii. Names of attorneys:

iv. Status of case:

b. If not, is a civil action contemplated? What type and when?

35. Please provide any information concerning the suspected crime not described above that you believe might assist law enforcement.

LAW ENFORCEMENT CONTACTS IN YOUR AREA: