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Dilip Chokshi and  
Pharmachem Laboratories, Inc.

**FILED**  
JUL 19 2010  
Ellen L. Koblitz  
P.J.Ch.

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GROW COMPANY, INC.,	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIV.: BERGEN COUNTY
Plaintiff,	:	
	:	
- vs -	:	GENERAL EQUITY PART
	:	
DILIP CHOKSHI,	:	DOCKET NO. BER-C-280-05
PHARMACHEM LABORATORIES, INC.,	:	
and JOHN AND JANE DOES 1-5,	:	CIVIL ACTION
and XYZ COMPANIES 1-5, unknown	:	
entities (fictitious names),	:	
	:	
Defendants.	:	

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**FINAL JUDGMENT**

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This matter having been tried as a bench trial before The Honorable Ellen L. Koblitz, P. J. Ch. on October 5, 6, 7, 13, 14, 19, 20, 21, 26, 27, 28, and November 9, 10, 16, 17, of 2009, with Written Summations submitted under seal, on December 24, 2009, by Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein (Dennis F. Gleason, Esq., and Carl R. Woodward, Esq., appearing), attorneys for Grow Company, Inc. ("Grow") and Hartman & Winnicki, P.C. (Richard L. Ravin, Esq., appearing) and Greenberg Traurig,

LLP, (Michael A. Nicodema, Esq., appearing), attorneys for Defendants Dilip Chokshi ("Chokshi") and Pharmachem Laboratories, Inc. ("Pharmachem") (collectively "Defendants");

WHEREAS, the Court having rendered its written opinion dated March 19, 2010 after the trial, finding (i) no liability against either Defendant on Grow's First Amended Complaint, (ii) finding in favor of Chokshi on his Counterclaim, (Counts Two and Five), for declaratory judgment that the July 1982 confidentiality agreement with Grow was void as against public policy and unenforceable for being an unreasonable restraint on competition, and (iii) finding Defendants may be entitled to attorneys' fees, expenses and costs for Grow's breach of the Covenant Not To Sue contained in the Release, Covenant Not To Sue and Settlement Agreement, dated December 21, 2001 ("Release"), pending further submissions by the parties;

WHEREAS, after considering the submissions of the parties and the arguments of counsel on the issue of whether Defendants were entitled to an award of attorneys' fees, expenses, and costs, the Court rendered an oral decision placed on the record on May 17, 2010, ruling that Defendants were entitled to an award of attorneys' fees, expenses and costs, in an amount to be determined by the court, following further submission of the parties;

WHEREAS, the Court having entered an order dated May 19, 2010, appointing Gerald Salerno as Court Appointed Expert to prepare a report and recommend reasonable attorneys' fees within the parameters set forth by the Court's decision rendered on the record on May 17, 2010;

WHEREAS the Court Appointed Expert having filed his report with the Court and served it on the parties (which was later marked in evidences as Exhibit "C-1" on July 7, 2010), and the parties having submitted responses thereto, and the Court having held a hearing on July 7, 2010, whereupon the court heard the arguments of counsel and presentation by the Court Appointed Expert, and the Court having considered all of the foregoing papers, arguments and presentation, the Court rendered an oral decision from the bench placed on the record, finding Grow liable on Defendants' counterclaims for Grow's breach of the Covenant Not To Sue contained within the Release in the amount of \$892,492.00 for attorneys' fees, expenses and costs for work performed through May 31, 2010, plus 80% of attorneys' fees, expenses and costs for work performed from June 1, 2010 through July 12, 2010. The Court also ruled that the final judgment shall include post judgment interest at the rate prescribed by law;

WHEREAS, Defendants have submitted to the Court and served on counsel for Grow, (i) First Supplemental Certification of Richard L. Ravin, Esq., in Support of Determination of Amount of Attorneys' Fees, Expenses and Costs, Pursuant To Order Dated May 19, 2010, and (ii) Certifications of Richard L. Ravin, Esq. in support of award of attorneys' fees, expenses and costs Pursuant to Order Dated July 7, 2010, and Grow having submitted to the court and served on counsel for Defendants a response thereto, and the Court having considered, the foregoing submissions by the parties and arguments of counsel, if any;

NOW THEREFORE, for good cause having been shown, and for the reasons stated on the record on July 7, 2010, and July 19, 2010,

It is on this 19<sup>th</sup> day of July, 2010,

ORDERED AND ADJUGED AS FOLLOWS:

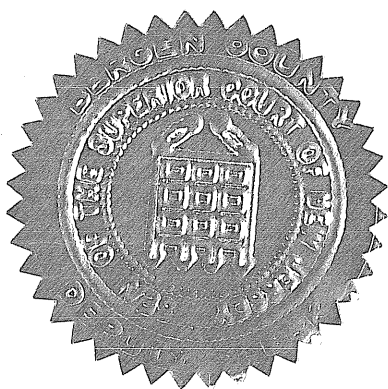
1. On Plaintiff Grow Company Inc.'s First Amended Complaint, the court finds Defendants are not liable and that there is no cause of action. Judgment is hereby entered against Plaintiff Grow Company, Inc., and in favor of Defendants Dilip Chokshi and Pharmachem Laboratories, Inc., as to all counts of the First Amended Complaint.
2. On Counts Two and Five of Defendant Dilip Chokshi's counterclaim (contained in First Amended Answer, Separate Defenses and Counterclaim on Behalf of Defendant Dilip Chokshi to Plaintiff's First Amended Complaint ("Chokshi's Counterclaim")), declaratory judgment is hereby entered against Plaintiff Grow Company, Inc., and in favor of Defendant Dilip Chokshi, that the confidentiality agreement entered into between Defendant Dilip Chokshi and Plaintiff Grow Company, Inc., dated July 12th, 1982 (a copy of which was admitted into evidence at trial as Plaintiff's Trial Exhibit P-40 and is attached hereto as Exhibit "A"), is void as it is overly broad and unenforceable as an unreasonable restraint on competition. Counts Three and Four of Defendant Dilip Chokshi's Counterclaim are hereby dismissed with prejudice and without costs.

3. On Defendants' respective counterclaims for Grow's breach of the Release, Covenant Not To Sue and Settlement Agreement, dated December 21, 2001, Grow is liable to Defendants in the amount of \$999,186.00, allocated between the Defendants as follows:
  - (a) On Defendant Dilip Chokshi's counterclaim for breach of the Release, Covenant Not To Sue and Settlement Agreement, dated December 21, 2001 (Chokshi's Counterclaim, Count One),
    - (i) judgment is hereby entered against Plaintiff Grow Company, Inc., and in favor of Defendant Dilip Chokshi, in the amount of \$474,593.00, and
    - (ii) post-judgment interest in the amount of 1.5% per annum shall accrue thereon from the date of entry of this final judgment until the final judgment is paid in full, pursuant to New Jersey Rule of Court 4:42-11(a)(ii).
  - (b) On Defendant Pharmachem Laboratories, Inc.'s sole counterclaim contained in its Answer, Affirmative Defenses And Counterclaim to Plaintiff's First Amended Complaint, for breach of the Release, Covenant Not To Sue and Settlement Agreement, dated December 21, 2001,
    - (i) judgment is hereby entered against Plaintiff Grow Company, Inc., and in favor of Defendant Pharmachem Laboratories, Inc., in the amount of \$524,593.00, and

- (ii) post-judgment interest in the amount of 1.5% per annum shall accrue thereon from the date of entry of this final judgment until the final judgment is paid in full, pursuant to New Jersey Rule of Court 4:42-11(a)(ii).

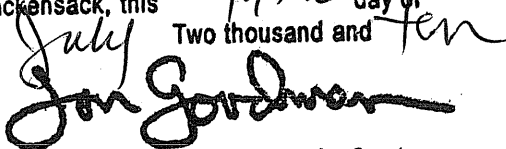
IT IS FURTHER ORDERED that counsel for Defendants shall serve a copy of this final judgment on counsel for Grow Company, Inc., within seven days of the date herein.

  
Honorable Ellen L. Koblitz, P.J. Ch.



I, Jon Goodman, Deputy Clerk of the Superior Court of New Jersey, the same being a Court of Record, do hereby certify that the foregoing is a true copy of the *Final Judgment* now of the file in my office.

IN TESTIMONY WHEREOF, I Have hereunto set my hand and affixed the seal of said Court at Hackensack, this *19<sup>th</sup>* day of

*July* Two thousand and *ten*  
  
Deputy Clerk of the Superior Court

ALL STATE LEGAL  
PLAINTIFF'S  
EXHIBIT  
P-40  
evl 10/5/09

THIS AGREEMENT made this 17<sup>th</sup> day of July, 1982  
by and between GROW COMPANY, INC., a New Jersey corporation,  
hereinafter referred to as the Employer, and DILIP CHOKSI  
hereinafter referred to as the Employee, *for*

W I T N E S S E T H:

WHEREAS, the Employee has and will have access to  
certain product formulations, customer lists, cost data and  
other confidential information of the Employer; and

WHEREAS, the Employer desires to restrict the Employee  
with respect to the use and/or divulgence of product  
formulations, customer lists, data and other confidential  
information, to which he will have access in the course of  
his employ; and

WHEREAS the Employee acknowledges that the improper  
use and/or divulgence of such information would be of irreparable  
damage and harm to the Employer, and said Employee therefore  
wishes to protect the Employer from any use or divulgence of  
the aforementioned information not in the best interests of  
the Employer, and thereby to assure his employment with  
the Employer together with all benefits accruing therefrom; and

WHEREAS the Employee acknowledges that he has received  
and will continue to receive from the Employer valuable training

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P-46  
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and assistance to enable him to carry out the duties undertaken by him hereunder;

NOW, THEREFORE, in consideration of the employment of the Employee by the Employer under the terms and conditions agreed upon between them, it is agreed as follows:

1. The Employer hereby employs the Employee. The particular duties to be performed by the Employee and his compensation shall be such as shall be fixed from time to time by the Board of Directors of the Employer or any of its duly authorized officers.

2. The Employee accepts the employment upon the terms and conditions in this agreement and agrees that he will not at any time, either during the period of his employment with the employer or at any time thereafter in any fashion, form or manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information of any kind, nature or description concerning any matters affecting or relating to the business of Employer, including, without limiting the generality of the foregoing, all product formulations and other trade secrets, the names of any of its customers, the prices it obtains or has obtained or at which it sells or has sold its products, or any



other information of, about or concerning the business of Employer, its manner of operation, its plans, processes, or other data of any kind, nature or description without regard to whether any or all of the foregoing matters would be deemed confidential, material or important, the parties hereto stipulating that as between them, the same are important material and confidential, and gravely affect the effective and successful conduct of the business of the Employer, and its goodwill, and that breach of the terms of this paragraph is a material breach thereof.

3. The Employee agrees that any and all product formulations which were or are to be developed at Grow Company or by Grow Company Employees are the sole property of Grow Company, Inc. This applies to all formulations which the Employee has knowledge, whether he worked directly on them or not. It is also understood and agreed that no other company or third party has a right to any information concerning the production, pricing, selling or testing of these products without the written permission of Grow Company, Inc.

IN WITNESS WHEREOF the Employer has caused these presents to be signed by its duly authorized corporate officers and its corporate seal to be hereunto affixed and the Employee

has hereunto affixed his hand and seal the day and year first  
above written.

ATTEST:

*Richard Salcy*  
Secretary

GROW COMPANY, INC. Employer

By:

*[Signature]*  
President

Witness:

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*Dilip S. Choksi*  
Employee

*Dilip Choksi*