

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

PRESENT: HON. MARGARET A. CHAN PART 49M

Justice

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EXCEL SPORTS MANAGEMENT, LLC,
Plaintiff,

INDEX NO. 654269/2024

MOTION DATE 08/20/2024

MOTION SEQ. NO. 001

- v -

GIDEON COHEN, WILLIAM PETOK, KATHERINE CUTLER
Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 13, 14, 15, 16, 18 were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR

Pursuant to the annexed Consent Order, plaintiff's motion for a preliminary injunction with a temporary restraining order (MS 001) is denied as moot and the action is discontinued without prejudice.

8/27/2024
DATE


MARGARET A. CHAN, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT

OTHER

APPLICATION:

CHECK IF APPROPRIATE:

REFERENCE

At ~~155~~ Part 44 of the Supreme Court of the State of New York held in and for the County of New York at the Courthouse located at 60 Centre Street, New York, NY, on the 27 day of August, 2024.

PRESENT:

MARGARET A. CHAN

Hon.

J.S.C.

Justice.

EXCEL SPORTS MANAGEMENT, LLC

Plaintiff,

v.

GIDEON COHEN, WILLIAM PETOK, and
KATHERINE CUTLER,

Defendants.

Index No. 654269/2024

Motion Seq. No. 1

CONSENT ORDER

[So ORDERED]

WHEREAS, on August 20, 2024, this action was commenced by Plaintiff Excel Sports Management, LLC (“Excel”) against its former employees Gideon Cohen, William Petok and Katherine Cutler (collectively, the “Former Employees”) (Excel and the Former Employees are referred to herein collectively as the “Parties”) to enforce through injunctive relief certain post-employment restrictive covenants in the respective employment agreements and related documents between the Former Employees and Excel (the “Dispute”);

WHEREAS, the Former Employees deny breaching any post-employment restrictive covenants in the respective employment agreements and related documents between the Former Employees and Excel, but nevertheless the Former Employees are moving with Excel for entry of this Consent Order to facilitate an amicable resolution to the Dispute; and

WHEREAS, the Parties have met and conferred to resolve the Dispute and have advised the Court that they have come to an agreement with respect to the Dispute, which includes a separate letter agreement and entry of this Order on consent of the Parties as set forth herein. Accordingly, it

is hereby:

ORDERED that the Former Employees shall not, directly or indirectly, individually or collectively or in concert with others, solicit, encourage, or induce any client or prospective client of Excel (defined as, with respect to each Former Employee, any person or entity that (i) was a client of Excel at any time between February 18, 2024 and August 18, 2024 and with whom such Former Employee had dealings while employed by Excel, or (ii) was a prospective client of Excel who was actively solicited by Excel at any time between February 18, 2024 and August 18, 2024 with such Former Employee having participated in such solicitation) to terminate their relationship in whole or in part or agreements in whole or in part with Excel, or for prospective clients not to enter into a contract with Excel, except with respect to certain Excel clients and prospective clients as set forth in the Parties' letter agreement, for a period of six (6) months from the date of this Order; and it is further

ORDERED that this action is dismissed without prejudice, with the Court retaining jurisdiction to enforce the terms of this Consent Order.

ALSTON & BIRD LLP

By: /s/ Adam J. Kaiser

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Attorneys for Plaintiff Excel Sports Management, LLC

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By: /s/ Daniel B. Grossman

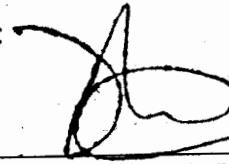
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Attorneys for Defendants Gideon Cohen, William Petok and Katherine Cutler

DATED: New York, New York
August 27, 2024

ENTER:



HON. Margaret Pui Yee Chan, J.S.C.

INDEX NO. 654269/2024

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