

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

-----X  
KYLE CONNAUGHTON,

Plaintiff,

**Index No.**

-against-

**SUMMONS**

CHIPOTLE MEXICAN GRILL, INC. and STEVEN ELLS,

Date of Purchase  
of Index No.:

Defendants.

-----X

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer within twenty [20] days after the service (or within thirty [30] days after the 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, judgement will be taken against you by default for the relief demanded in the complaint.

The plaintiff designates **New York County** as the place of trial which is the county in which **the acts and omissions giving rise to the allegations made in the complaint occurred.**

Dated: New York, New York  
May 31, 2013

KAISER SAURBORN & MAIR, P.C.  
Attorneys for Plaintiff

By: \_\_\_\_\_  
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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

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KYLE CONNAUGHTON,

Plaintiff,

-against-

CHIPOTLE MEXICAN GRILL, INC. and STEVEN ELLS,  
Defendants.  
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**Index No.**

**COMPLAINT**

Plaintiff, Kyle Connaughton, by his attorneys Kaiser Saurborn & Mair, P.C., as and for his complaint against defendants, alleges as follows:

**PARTIES, JURISDICTION, AND NATURE OF ACTION**

1. Plaintiff, Kyle Connaughton (“plaintiff” or “Connaughton”), is a former employee of Chipotle Mexican Grill, Inc.
2. Upon information and belief, defendant, Chipotle Mexican Grill, Inc. (“defendant” or “Chipotle”), is a publically traded restaurant company owning and franchising Mexican food restaurants across the nation.
3. Defendant, Steven Ells (“defendant” or “Ells”), is the founder, Chief Executive Officer, and largest shareholder of Chipotle.
4. Venue is properly laid in this court in that the causes of action arose in New York County.
5. Defendants fraudulently induced plaintiff into accepting employment with Chipotle by failing to disclose a material fact that entirely compromised the business purpose for which plaintiff was hired by Chipotle. If defendants had disclosed the material fact, plaintiff

would never had accepted employment with Chipotle. Instead, plaintiff relied upon the fact that defendants had made proper disclosure and invested a year and a half of his time with Chipotle, resulting in substantial financial injury and irreparable damage to his professional career.

6. The material fact, as more fully detailed in this complaint, related to a prior business dealing between Chipotle and Momofuku, a company owning Ramen restaurants in New York City, which rendered the work plaintiff was hired to perform impossible to complete. Chipotle's failure to disclose these prior business dealings was purposeful and designed to induce plaintiff to accepting employment with Chipotle.

## **BACKGROUND**

### **I.**

#### **MR. CONNAUGHTON'S EMPLOYMENT HISTORY**

7. Mr. Connaughton is a well regarded Chef who has been employed by some of the most prestigious restaurants in the world.

8. Mr. Connaughton's employment history includes, but is not limited to: 1) Head Chef for The Fat Duck Restaurant in Bray, England: Voted "Best Restaurant in the World" 2006, 2007 under his leadership; 2) Chef Tournant for Michel Bras, Toya, Japan: consistently ranked in the "Best 10 Restaurants in the World"; and 3) co-author of several highly acclaimed books and co-presenter on several television programs in the UK.

9. It is Mr. Connaughton's stellar reputation as a Chef that prompted defendants to solicit him for employment with Chipotle.

## **II.**

### **MR. CONNAUGHTON'S DEVELOPMENT OF THE RAMEN CONCEPT**

10. During 2010, Mr. Connaughton conceived of and developed a restaurant concept based upon ramen food products.

11. He envisioned a chain of fast food type restaurants that would serve high quality ramen cuisine.

12. In or about August 2010, Mr. Connaughton prepared and presented his ramen concept to Lettuce Entertain You Enterprise and to Maverick Cuisine. Maverick Cuisine assisted Mr. Connaughton in preparing the ramen concept for sale to a restaurant group, developing a business plan with him, particularly a kitchen design to his specifications.

13. Several restaurant groups, including Chipotle, expressed interest in Mr. Connaughton's ramen concept.

14. When Mr. Ells, however, requested to extend an exclusive offer, Mr. Connaughton focused on consummating a deal with Chipotle.

## **III.**

### **THE AGREEMENT BETWEEN MR. CONNAUGHTON AND MR. ELLS**

15. In November 2010, the owners of Maverick Cuisine introduced Mr. Connaughton to Mr. Ells.

16. At this initial meeting, Mr. Connaughton described in detail his ramen concept. Mr. Ells, in turn, expressed his significant interest.

17. In the following weeks, Mr. Connaughton prepared a confidential business plan under the registered domain name "Ramen Yokocho" conceived around the existing Chipotle

service platform.

18. On November 20, 2010, the plan was submitted to Mr. Ells.

19. Maverick Cuisine provided detailed kitchen schematics to Mr. Connaughton's specifications based upon Chipotle's service platform.

20. Between November 2010 and January 2011, Mr. Connaughton and Mr. Ells had several meetings and documented communications to discuss the menu, the service platform, and generally the ramen concept.

21. On January 2, 2011, Mr. Ells communicated to Mr. Connaughton a formal request to purchase the ramen concept. In connection with the offer, Mr. Connaughton obtained legal and personal counsel.

22. Mr. Ells' proposed that Mr. Connaughton be compensated for the ramen concept through the vehicle of an employment contract in which he would be paid a substantial amount of equity in the form of company stock (RSU and SAR grants).

23. Initially, Mr. Connaughton was not interested because he preferred to be freelance and thus able to continue work on other non-ramen-related consulting projects. Mr. Ells told him that was not possible because the contemplated stock grants required that he be an employee.

24. Mr. Connaughton agreed to the employment contract, and it was signed in February 2011. While his contract explicitly permitted him to engage in certain outside work, Mr. Connaughton was specifically no longer permitted to engage in the ramen concept for anyone but defendants or to work on any other ramen-related projects outside of Chipotle.

25. The equity in the employment contract was explicitly paid in exchange for Mr. Connaughton's work on the ramen project, vesting over two and three years (for the initial

grants) and continuing annually to the extent that he remained employed and working on the ramen project.

26. Mr. Connaughton was given the title of “Culinary Director,” a new position within the company, in principle respect to execute the new ramen concept.

27. His name and likeness was used in several publications including Wall Street Journal, Fortune Magazine, Time Magazine to promote the hiring of a high level chef as marketing material for the Chipotle Mexican Grill and ShopHouse brand.

28. He was also asked to speak with journalists and appear publically in Chipotle-sponsored events to give demonstrations and talks to promote Chipotle and ShopHouse.

29. The principle reason for utilizing his likeness and name was to prepare the groundwork for the launching of the ramen restaurants.

#### **IV.**

#### **MR. CONNAUGHTON BEGAN IMPLEMENTATION OF HIS RAMEN CONCEPT**

30. Throughout 2011, Mr. Connaughton continued development work on the ramen concept.

31. In December 2011, Mr. Connaughton, along with a development team, toured Japan visiting ramen restaurants and ingredient suppliers to prepare them specifically for the ramen project.

32. In February 2012, Mr. Connaughton received his first annual review from Mr. Ells. The review was entirely positive, and he received his full bonus.

33. He received additional stock grants. Mr. Ells states to Mr. Connaughton that this is the year to open ramen restaurants.

34. In May 2012, Mr. Connaughton returned to Japan, along with a development team and Mr. Ells, to again visit ramen restaurants and suppliers.

35. Also, on this Japan trip, he took a one-week private course that he arranged and co-developed with ramen noodle equipment manufacturer Yamato.

36. Upon his return from Japan, Mr. Connaughton began intensively working on the ramen concept. Mr. Ells reiterated in several communications that he was excited about opening ramen restaurants.

37. Mr. Connaughton scheduled several ramen tastings, purchased development equipment, began development of proprietary ramen service equipment and systems, and prepared samples with suppliers.

38. In September 2012, a lease was executed for a potential flagship ramen concept located on 12<sup>th</sup> Street and University in Manhattan. The site was approved by both Mr. Connaughton and Mr. Ells for a ramen restaurant.

## V.

### **THE PRIOR BUSINESS DEALINGS BETWEEN MOMOFUKU AND CHIPOTLE**

39. In October 2012, Mr. Connaughton along with Mark Crumpaker, Chief Marketing Officer, and Tim Wildin, New Concept Development Director, had dinner at Momofuku Noodle Bar to taste food and meet the outgoing head chef whom Mr. Connaughton had proposed as a possible hire in the development of the ramen concept.

40. At this dinner, Mr. Crumpaker confided in Mr. Connaughton that Chipotle would not hire any former Momofuku employees and that Momofuku will sue Chipotle when the ramen concept opens but that Mr. Ells made a decision to proceed anyway.

41. This was the first instance in which Mr. Connaughton was notified of a prior professional relationship between Momofuku and Chipotle.

42. At this dinner, Mr. Connaughton learned that David Chang, the owner of Momofuku, and Mr. Ells in 2008 entered into a confidential business dealing whereby Mr. Chang agreed to develop a ramen concept.

43. The ramen concept plan was identical in its basic business purpose and design as the one Mr. Ells contracted with Mr. Connaughton to design.

44. Mr. Ells signed a non-disclosure agreement which required him to maintain as confidential the details of Mr. Chang's ramen concept, including menus and other business development ideas.

45. Further, Momofuku also worked on the design for Chipotle's Dupont Circle property that later became the flagship restaurant for ShopHouse.

46. Mr. Chang never consented to the use of his design work for the opening of ShopHouse. Chipotle simply converted his work for its own utilization without any compensation paid. Mr. Chang also did not authorize the use of any of his confidential work with Chipotle for the purpose of opening a ramen specific restaurant.

47. Mr. Connaughton also learned that when it became apparent that Mr. Chang and Mr. Ells could not agree upon financial terms for implementation of the ramen concept, he demanded that Mr. Chang tear up the non-disclosure agreement.

48. Mr. Chang refused to do so.

49. Mr. Connaughton only learned this following his termination.



## VI.

### **DEFENDANTS FAILURE TO DISCLOSE THEIR BUSINESS DEALINGS WITH MOMOFUKU PRIOR TO THE COMMENCEMENT OF PLAINTIFF'S EMPLOYMENT WAS A MATERIAL OMISSION AND FRAUDULENT**

50. Mr. Ells never disclosed his prior business dealings with Mr. Chang to Mr. Connaughton when he entered into a business/employment relationship with him for his ramen concept.

51. His prior business dealings with Mr. Chang were a material fact that substantially impacted Mr. Connaughton's ability to implement his own ramen concept with Mr. Ells. 52.

During his Chipotle employment, Mr. Connaughton regularly exchanged information directly with Mr. Ells, and other Chipotle staff, concerning his Ramen concept ideas, including menus, kitchen design, service platform, restaurant interior, and packaging specific to ramen.

53. Likewise, Mr. Ells, and other Chipotle staff, communicated their own ideas concerning menu items, kitchen designs, service platform, restaurant interior, and packaging specific to ramen to Mr. Connaughton as part of the collaborative process.

54. Upon information and belief, the information communicated by Chipotle staff to Mr. Connaughton was information communicated to Chipotle by Momofuku.

55. Any implementation of Mr. Connaughton of his ramen concept while employed by Chipotle would inevitably violate the non-disclosure agreement between Chipotle and Momofuku.

56. At a minimum, Mr. Connaughton and Chipotle, after implementation of the ramen concept, would be accused by Momofuku of violating its non-disclosure agreement with

Chipotle and thereby stealing its ramen concepts.

57. Mr. Ells had a plain duty to fully disclose to Mr. Connaughton, prior to commencement of his employment, his prior business dealings with Mr. Chang since it materially and adversely impacted the fundamental business purpose for hiring him.

58. If Mr. Connaughton forged ahead and implemented his ramen concept at Chipotle despite the prior business dealings with Momofuku, his professional reputation would be ruined.

59. He could never escape the accusation that he had stolen Momofuku's ramen concepts.

60. If Chipotle's prior business dealings had been disclosed, Mr. Connaughton could have properly weighed the employment opportunity with Chipotle and decided whether he could realistically pursue his ramen proposal with Chipotle.

## VII.

### **MR. CONNAUGHTON CONFRONTED MR. ELLS CONCERNING HIS MOMOFUKU BUSINESS DEALINGS**

61. In October 2012, Mr. Connaughton, without speaking to Mr. Chang or anyone else in the Momofuku organization, confronted Mr. Ells with the information he acquired from Mr. Crumpacker concerning his prior agreement with Mr. Chang.

62. Mr. Ells did not deny the pre-existing business dealings.

63. Instead, he ordered Mr. Connaughton to proceed anyway with the ramen concept, perfectly willing to drag Mr. Connaughton into a lawsuit despite the grave risks to him.

64. Mr. Connaughton was stunned that Mr. Ells simply brazenly ordered him to proceed when he knew it would result in litigation.

65. On November 17, 2012, Mr. Ells, in the presence of Mr. Wildin, communicated to

Mr. Connaughton that his employment was terminated.

66. He advised him that he was being fired because 1) he was working for other clients [which was untrue but in any event was permitted by his employment agreement] and 2) he no longer had confidence in the ramen concept.

67. Mr. Ells certainly had good cause to no longer have confidence in the ramen concept.

68. The revelation of his undisclosed deal with Mr. Chang destroyed any chance that he could successfully fraudulently induce Mr. Connaughton into unlawfully implementing the ramen concept.

69. Mr. Connaughton was terminated because he confronted Mr. Ells concerning the fraud in which he had engaged.

70. Mr. Connaughton was fraudulently induced into entering into an employment relationship with defendants.

71. Mr. Connaughton reasonably relied upon defendants' misrepresentations to his material detriment.

72. Defendants' failure to disclose its prior business dealings with Momofuku was purposeful and designed to induce Mr. Connaughton into working for Chipotle and, in particular, induce Mr. Connaughton in working on his ramen concept for Chipotle.

#### **CAUSE OF ACTION I**

73. Plaintiff repeats and reiterates the allegations contained in paragraphs "1" through "72" as if incorporated and realleged herein.

74. Defendants fraudulently induced plaintiff into working for Chipotle and sharing

and implementing his ramen concept for Chipotle.

75. Plaintiff reasonably relied, to his detriment, upon defendants' omissions.

76. By reason thereof, plaintiff has been damaged in an amount to be determined at trial, including, but not limited to, the value of his Chipotle equity and lost business opportunities in connection with his ramen concept.

## **CAUSE OF ACTION II**

77. Plaintiff repeats and reiterates the allegations contained in paragraphs "1" through "72," "74," and "75" as if incorporated and realleged herein.

78. Defendant, Chipotle, has been unjustly enriched.

79. Chipotle has received the benefit of plaintiff's ramen concept and has not compensated him for it.

80. By reason thereof, plaintiff has been damaged in an amount to be determined at trial, including, but not limited to, the value of his ramen concept that he communicated to defendants.

**WHEREFORE**, plaintiff demands judgment against defendants as follows:

(i) On the First Cause of Action, assessing compensatory damages in an amount to be determined at trial and punitive damages in an amount to be determined at trial;

(ii) On the Second Cause of Action assessing compensatory damages in an amount to be determined at trial and punitive damages in an amount to be determined at trial;

(iii) Attorney fees and disbursements; and

(iv) For such other relief as the Court deems just and proper.

Dated: New York, New York  
May 31, 2013

**KAISER SAURBORN & MAIR, P.C.**

By: \_\_\_\_\_

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