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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Ameriprise Financial Services LLC,

10 Plaintiff,

11 v.

12 Jared Bryce Roskelley, et al.,

13 Defendants.  
14

No. CV-25-00455-PHX-SMB

**ORDER**

15 This lawsuit arises out of Plaintiff Ameriprise Financial Services LLC’s  
16 (“Ameriprise”) former employees’, Defendants Jared Roskelley, Kyle Robertson, and  
17 Matthew Tinyo (the “Individual Defendants”), resignation and transition to Ameriprise’s  
18 competitor, Defendant LPL Financial Services (“LPL”) (collectively, the “Defendants”)  
19 (Doc. 1). Ameriprise alleges Defendants, in varying capacities, solicited and took  
20 confidential information related to Ameriprise’s clients (*id.*). Ameriprise now moves for a  
21 temporary restraining order (“TRO”), a preliminary injunction, and expedited discovery  
22 (Doc. 2 (Motion for a Temporary Restraining Order, Preliminary Injunction and an Order  
23 Permitting Expedited Discovery)). Ameriprise also filed a Memorandum of Law  
24 supporting its Motion (Doc. 3). The parties have briefed the Motion following the Court’s  
25 Order expediting the schedule to address the TRO (Doc. 15 (Order Expediting Schedule);  
26 Doc. 19 (LPL’s Response); Doc. 21 (Individual Defendants’ Response); Doc. 22  
27 (Ameriprise’s Reply to LPL); Doc. 24 (Ameriprise’s Reply to the Individual Defendants)).  
28 The Court also held oral argument on February 21, 2025. Having reviewed Ameriprise’s

1 briefs, oral arguments, and the applicable law, the Court will deny its Motion.

2 **I. BACKGROUND**

3 Ameriprise is an SEC-registered broker-dealer and member of the Financial  
4 Industry Regulatory Authority (“FINRA”). (Doc. 1 at 6 ¶ 27.) The Individual Defendants  
5 joined Ameriprise in 2023 as FINRA-registered financial advisors, and worked as a team  
6 of financial advisors with Roskelley leading the team. (*Id.* at 2 ¶ 2, 6–7 ¶¶ 28–30; Doc. 3  
7 at 2; Doc. 3-3 at 2.) Roskelley and Robertson had around \$350 million in assets under  
8 management, generating roughly \$2 million in revenue a year for Ameriprise. (Doc. 3-3  
9 at 4; Doc. 1 at 8 ¶ 37.) A large portion of these assets were under their management prior  
10 to joining Ameriprise. (Doc. 21-1 at 2; Doc. 21-2 at 1.)

11 On January 27, 2025, the Individual Defendants resigned from Ameriprise and  
12 joined LPL, which is also an SEC-registered broker-dealer and member of FINRA. (Doc.  
13 1 at 2 ¶ 2, 7 ¶ 31.) Two of the team members remained with Ameriprise after the Individual  
14 Defendants’ departure. (Doc. 24-1 at 3; Doc. 3-3 at 11.) After they left, Ameriprise met  
15 with a client, who informed Ameriprise that Roskelley indicated to her, prior to the  
16 Individual Defendants’ resignation, that they were leaving Ameriprise. (Doc. 3 at 8; Doc.  
17 3-6 at 2.) The client also noted that she had told the Individual Defendants that she intended  
18 to open a college savings plan for her grandchildren, to which Roskelley told her to wait to  
19 open the accounts until he joined his new firm. (Doc. 3-6 at 2.)

20 Ameriprise also discovered through a forensic examination that in the week  
21 preceding their resignation, the Individual Defendants began collecting client account  
22 reports. (Doc. 3 at 2.) On January 22, 2025, Tinyo printed 1,157 pages of documents  
23 containing client information. (Doc. 1 at 11 ¶ 53; Doc. 3-2 at 3.) The following day, he  
24 printed another 1,138 pages and Robertson printed 4,384 pages of documents. (Doc. 1  
25 at 11 ¶ 54.) Robertson and Tinyo also began uploading the client reports to their client’s  
26 sites. (Doc. 3-2 at 6.) On Friday, January 24, 2025, Tinyo and Robertson printed 762 and  
27 1,456 pages of documents, respectively. (*Id.* at 12 ¶ 55.) Neither had printed a single page  
28 in the six months prior. (*Id.* ¶ 56.) But the Individual Defendants had printed volumes

1 exceeding these amounts in the years prior and around this time of the year while at their  
2 prior firms. (Doc. 21-2 at 2.) Robertson and Tinyo both continued to upload client  
3 documents through the weekend and sent reports to their clients. (Doc. 1 at 12 ¶ 56.) Some  
4 of these documents allegedly included PowerPoint presentations regarding high-net-worth  
5 clients that, according to Ameriprise, appeared to have been made for the purpose of  
6 upcoming meetings and excel spread sheets with clients' private information, including  
7 their social security numbers and asset information. (Doc. 3 at 3; Doc. 3-3 at 10–11.)  
8 Defendants Robertson and Tinyo also mailed the unidentified documents to their clients  
9 during this time. (Doc. 3 at 8.) Both Defendants were seen on camera in the Ameriprise  
10 office carrying large stacks of documents allegedly containing confidential client  
11 information. (Doc. 3-2 at 4–6.)

12 The Individual Defendants had employment agreements with Ameriprise that  
13 contained confidentiality and non-solicitation covenants that generally prohibited  
14 solicitation of clients they serviced while working for Ameriprise for a year following their  
15 departure and prohibited misuse, removal, and retention of Ameriprise's confidential trade  
16 secret information. (Doc. 3 at 2, 6–7; Doc. 3-1 at 2–16.) LPL and Ameriprise are  
17 signatories to a "Protocol for Broker Recruiting" (the "Protocol"), a governing document  
18 regarding use of client information upon moving to a new financial firm affording  
19 protections to the firms and transferees. (Doc. 3 at 6; Doc. 1 at 2–3 ¶¶ 3–6.) The Protocol  
20 provides that the Individual Defendants may solicit clients upon departure, but only after  
21 they have joined the new firm and if they otherwise comply with the Protocol. (Doc. 3  
22 at 6.) The Individual Defendants may take some client information, but only that which  
23 includes client names, addresses, phone numbers, email addresses, and account titles, but  
24 not any other documents or information. (See Doc. 3-4 at 2–4.) The protections are  
25 contingent on compliance with the other requirements of the Protocol, including the  
26 Individual Defendant's pricing notice of resignation, providing a list of client information  
27 being taken, and exercising good faith in assembling said list, and for LPL to exercise good  
28 faith in limiting use of the new client information for only Protocol-compliant purposes.

1 (*Id.*) FINRA Rules, the Gramm-Leach-Bliley Act (“GLBA”), and SEC Regulation S-P  
2 generally mandate confidentiality of client information and are referenced in the Protocol.  
3 (*Id.*; Doc. 3 at 4; Doc. 1 at 15 ¶ 74.)

4 Based on this conduct and the Employment Agreements, the Protocol, and other  
5 governing rules, Ameriprise requests the Court enter a TRO and preliminary injunction and  
6 allow limited expedited discovery to prevent present and future economic loss. (Doc. 3  
7 at 8.) Further, under FINRA Rules, the parties’ dispute will ultimately be resolved in  
8 arbitration, where Ameriprise is seeking a permanent injunction. (*Id.* at 9; Doc. 2 at 2 ¶ 3.)  
9 Ameriprise contends that the injunctive relief from this Court is proper in the meantime  
10 pending an arbitration decision pursuant to FINRA Rule 13804. (Doc. 3 at 9.)

## 11 **II. LEGAL STANDARD**

12 Under Federal Rule of Civil Procedure 65, a party may seek injunctive relief if it  
13 believes it will suffer irreparable harm during the pendency of an action. The purpose of a  
14 TRO is to “preserv[e] the status quo and prevent[] irreparable harm just so long as is  
15 necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Brotherhood of*  
16 *Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974) (footnote omitted). “If the  
17 nonmovant has received notice of a motion for a temporary restraining order, the standard  
18 for issuing such order is the same as that for issuing a preliminary injunction.” *Al Otro*  
19 *Lado v. Gaynor*, 513 F. Supp. 3d 1253, 1259 (S.D. Cal. 2021). “A preliminary injunction  
20 is ‘an extraordinary and drastic remedy, one that should not be granted unless the movant,  
21 by a clear showing, carries the burden of persuasion.’” *Lopez v. Brewer*, 680 F.3d 1068,  
22 1072 (9th Cir. 2012) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis  
23 omitted)); *see also Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (“A  
24 preliminary injunction is an extraordinary remedy never awarded as of right.”).

## 25 **III. DISCUSSION**

### 26 **A. Injunctive Relief**

27 A plaintiff seeking a preliminary injunction must show that: (1) he is likely to  
28 succeed on the merits; (2) he is likely to suffer irreparable harm without an injunction; (3)

1 the balance of equities tips in his favor; and (4) an injunction is in the public interest.  
2 *Winter*, 555 U.S. at 20. “But if a plaintiff can only show that there are ‘serious questions  
3 going to the merits’—a lesser showing than likelihood of success on the merits—then a  
4 preliminary injunction may still issue if the ‘balance of hardships tips sharply in the  
5 plaintiff’s favor,’ and the other two *Winter* factors are satisfied.” *Shell Offshore, Inc. v.*  
6 *Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013) (quoting *All. for the Wild Rockies*  
7 *v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)). Under this “serious questions” variant  
8 of the *Winter* test, “[t]he elements . . . must be balanced, so that a stronger showing of one  
9 element may offset a weaker showing of another.” *Lopez*, 680 F.3d at 1072. “Serious  
10 questions are substantial, difficult and doubtful, as to make them a fair ground for litigation  
11 and thus for more deliberative investigation.” *Republic of the Philippines v. Marcos*, 862  
12 F.2d 1355, 1362 (9th Cir. 1988) (cleaned up).

13 Ameriprise contends that it meets all of the injunctive relief requirements. (Doc. 3  
14 at 10.) But as the Court will explain, that is not the case.

15 1. Likelihood of Success on the Merits

16 Ameriprise does not specify which of its eight claims it argues to demonstrate  
17 meritorious success. Ameriprise’s arguments appear broadly premised on “breach of  
18 contract, breach of statutory duties, or common law duties” without addressing what claims  
19 are applicable to specific Defendants. (Doc. 3 at 10–14.) Ameriprise first argues the  
20 restrictive covenants in the Individual Defendants’ employment agreements prohibit their  
21 conduct. (*Id.* at 11–12.) But LPL is not a party to those agreements, nor does Ameriprise  
22 assert breach of contract claims against LPL. Second, Ameriprise contends that the  
23 Defendants have used and will continue to use Ameriprise’s confidential information, akin  
24 to a trade secret but under a contractual obligation. (*Id.* at 13–14.)

25 *i. Claims Against LPL*

26 At bottom, Ameriprise alleges that the Individual Defendants engaged in the  
27 misconduct with the support and knowledge of LPL, i.e., LPL encouraged the Individual  
28 Defendants to violate their employment agreements and the Protocol. (*Id.* at 5, 8.)

1 According to Ameriprise, the Protocol obligates LPL to ensure the Individual Defendants  
2 do not improperly use confidential information, and other courts' injunctions against LPL  
3 demonstrate a pattern of misconduct. (Doc. 3 at 5, 11; *see, e.g.*, Doc. 3-3 at 8, 14.) LPL  
4 argues that Ameriprise has failed to tailor any arguments against it, and the general  
5 reference to two injunctions without explanation is insufficient and they are distinguishable  
6 from this case. (Doc. 19 at 17–18 & n.16.) Ameriprise replies that LPL is prohibited from  
7 using the confidential information, arguing that LPL cautiously contends that it has not  
8 received any confidential information from the Defendants, rather than it has not received  
9 such information from the clients themselves. (Doc. 22 at 3.)

10 Ameriprise's allegations are conclusory and thus insufficient to show success on the  
11 merits of the claims against LPL. LPL disclaims possession of any confidential  
12 information originating from Ameriprise. (Doc. 3 at 17 (citing Doc. 19-1 at 15–16 (“To  
13 be clear, LPL is not in possession of any Protocol Information, or any other customer, from  
14 Individual Defendants retained from Ameriprise.”)).) The Protocol requires LPL to limit  
15 the use of client information and not permit improper uses. (Doc. 3-4 at 2.) Ameriprise  
16 makes no factual allegations to support its assertions that LPL encouraged the Individual  
17 Defendants to solicit clients or to improperly retain client information, nor has it made any  
18 factual allegations that LPL continues to do so. *See, e.g., Carpenter v. Ryan*, No.  
19 CV-18-01631-PHX-DGC (JFM), 2019 WL 2525361, at \*5 (D. Ariz. June 19, 2019) (noting  
20 that allegations of past harm or speculations of future harm are insufficient for a plaintiff  
21 to carry its burden in demonstrating likelihood of success on the merits); *see also Pac.*  
22 *Radiation Oncology, LLC v. Queen's Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015)  
23 (explaining that courts only have the power to issue injunctions based on claims pleaded  
24 in the complaint). Instead of establishing evidence to support its conclusory allegations,  
25 Ameriprise relies on injecting inaccurate ambiguity into LPL's representation about  
26 receiving information, when LPL affirmatively states that it has not received information  
27 that originated from Ameriprise. Ameriprise's arguments fail to elevate its allegations  
28 beyond mere speculation.

1           The injunctions in other cases issued against LPL are also insufficient to  
2 demonstrate success on the merits of the claims in this case. Ameriprise cites *Ameriprise*  
3 *Fin. Servs., LLC v. McCann et al.*, No. 2:24-CV-11471 (E.D. Mich. July 1, 2024), in which  
4 the court granted a preliminary injunction against LPL. Ameriprise contends the conduct  
5 is similar, without substantiating it in anyway, and the court’s order contains no facts to  
6 allow this Court to compare LPL’s conduct in that case to its conduct in this case. (*See*  
7 *Doc. 3-7 at 2–4.*) Ameriprise also cites *Ameriprise Fin. Servs., LLC v. Kenoyer et al.*, No.  
8 2:24-CV-01675 (W.D. Wash. Oct. 25, 2024), in which the court issued a temporary  
9 restraining order against LPL after finding the defendants did not raise a dispute other than  
10 whether the individual defendant could claim protections under the Protocol. (*See Doc.*  
11 *3-8 at 2–9.*) The court did not provide any findings specific to LPL’s conduct, preventing  
12 the Court from using it as a tool of comparison. Here, LPL has disputed Ameriprise’s  
13 factual support, or lack thereof, for demonstrating success on the merits. These cases are  
14 unavailing.

15           Therefore, the Court finds that Ameriprise has failed to demonstrate a likelihood of  
16 success on the merits of its claims against LPL. Further, Ameriprise has not raised any  
17 arguments to support that there are serious questions going to the merits of its claims aside  
18 from a citation to the legal rule without any connecting analysis. Thus, Ameriprise has not  
19 carried its burden to entitle it to injunctive relief against LPL. *Lopez*, 680 F.3d at 1072.

20                           *ii. Claims Against the Individual Defendants*

21           Unlike for LPL, Ameriprise has established the Individual Defendants are under  
22 contractual obligations based on their employment agreements. The Individual Defendants  
23 frame the issue as whether the Protocol applies, which affords protections from liability  
24 where there is substantial compliance in retaining the pertinent client information and a  
25 good faith effort in assembling the list given to their former firm. (*Doc. 21 at 8; see also*  
26 *Doc. 3-4 at 2* (requiring “good faith in assembling the list and substantial compliance with  
27 the requirement that only Client Information related to clients [they] serviced while at the  
28 firm be taken with [them]”).) The Individual Defendants do not deny that they printed and

1 sent the documents to the clients. According to the Individual Defendants, printing,  
2 preparing, and mailing or uploading the documents was consistent with their longstanding  
3 practice, predating their employment with Ameriprise. (Doc. 21 at 6, 10; Doc. 21-1 at 4.)  
4 The Individual Defendants similarly printed and sent reports in the years prior. (Doc. 21  
5 at 6; Doc. 21-1 at 4.) They also note that the Ameriprise Branch Manager authorized them  
6 to do so because it was part of their client servicing system, despite being outside of  
7 Ameriprise’s general practices. (Doc. 21-1 at 4.) The Individual Defendants submitted  
8 affidavits attesting to the fact that they sent all of the printed materials to the clients and  
9 otherwise did not retain any documents. (Doc. 21-1 at 4–6; Doc. 21-2 at 2; Doc. 21-3 at 2.)  
10 They believe that the PowerPoints Ameriprise references relate to “eMeeting Reports,”  
11 which they also deny retaining. (Doc. 21 at 6; Doc. 21-1 at 5.) Likewise, the Individual  
12 Defendants believe that the excel spreadsheets relate to IRS reports that they did not print  
13 out, give to clients, or retain. (Doc. 21 at 10; Doc. 21-2 at 2; Doc. 21-3 at 2.) In reply,  
14 Ameriprise contends that regardless of the Protocol protections, which they maintain do  
15 not apply, the employment agreements contractually obligated them not to retain the  
16 information they kept. (Doc. 24 at 4–5.) Ameriprise further notes that the Protocol does  
17 not authorize pre-solicitation of clients and only affords the protections where the former  
18 employee is in compliance with the Protocol and the solicitation occurs “after they have  
19 joined their new firms.” (Doc. 24 at 4; *see also* Doc. 3-4 at 3.)

20 Ameriprise seems to premise its theory on the allegation that the Individual  
21 Defendants mailed all of the information and documents to their clients, including the  
22 spreadsheets, so that they could later recapture the information after their departure.  
23 However, the Individual Defendants claim to have only sent information regarding a client  
24 to that specific client and deny retaining information not allowed under the Protocol. (Doc.  
25 21-1 at 3–4; Doc. 21-2 at 3; Doc. 21-3 at 2.) Ameriprise speculates that these mailings  
26 were sent so that the Individual Defendants could later recapture the documents to  
27 circumvent the Protocol. But the Court cannot conclude that the Individual Defendants  
28 sending their clients their own account information absent more than speculation is in

1 breach of the Protocol or not allowed as part of their employment with Ameriprise. Further,  
2 Ameriprise does not dispute that its Branch Manager authorized mailing these reports to  
3 the clients, he only told them it was unnecessary. (*See* Doc. 24-1 at 3.)

4 Ameriprise points to a FINRA Acceptance, Waiver, and Consent Letter (No.  
5 2012031496901), to establish likelihood of success but its reliance is misplaced. There, an  
6 employee transferred client data onto a USB and sent it to his clients with the expectation  
7 of recapturing it after his resignation and after joining a new firm. (*See* Doc. 3-3 at 40–41.)  
8 Here, the Individual Defendants had permission to share information with their clients and  
9 there is no direct evidence that they had an expectation that they would recapture the  
10 information upon joining LPL. Ameriprise simply speculates that its assertions are true  
11 without factual support.

12 Regarding the spreadsheets, they contain client information that exceeds the five  
13 categories allowed under the Protocol, which included social security numbers, dates of  
14 birth, and other account information. (*See, e.g.*, Doc. 22 at 5.) Ameriprise accuses  
15 Robertson and Tinyo of “apparently” printing them evidently because they were seen  
16 carrying unidentified stacks of paper and the spreadsheets were in a “print folder.” (Doc.  
17 3-2 at 6–7; Doc. 3-3 at 11–13.) But both Robertson and Tinyo submitted affidavits denying  
18 that they printed, retained, or sent the spreadsheets to anyone. (Doc. 21-2 at 2; Doc. 21-3  
19 at 2.) Notably, two other members of the Individual Defendants’ team remained with  
20 Ameriprise and other staff assisted with compiling the client reports. (Doc. 24-1 at 3; Doc.  
21 3-3 at 11.) Ameriprise has not provided any of their affidavits to refute the Individual  
22 Defendants’ claims that they did not mail or retain the spreadsheets. Instead, Ameriprise,  
23 again, speculates to an ulterior motive.

24 Alternatively, Ameriprise appears to reason, and indicated at oral argument, that the  
25 only possibilities are that the Individual Defendants either mailed the spreadsheets, which  
26 does not serve a purpose for Ameriprise’s business or its clients, or that they did not mail  
27 the spreadsheets, seemingly inferring that the Individual Defendants retained them.  
28 Ameriprise bases the retention assumption on the fact that the amount mailed did not match

1 the volume of the amount printed, i.e., the weight of the paper printed was greater than the  
2 amount mailed. During Ameriprise's post-departure investigation, however, their  
3 examiner only documented pulling UPS shipping labels. (Doc. 3-2 at 3.) The Individual  
4 Defendants indicated that, depending on the weight of the client reports, they either sent  
5 the reports via UPS or USPS, which tends to explain the weight discrepancy. (Doc. 21-1  
6 at 4; Doc. 21-2 at 3.) Again, rather than providing evidence that the spreadsheets were  
7 printed and mailed or retained, Ameriprise relies on speculation and has not shown a  
8 likelihood that the Individual Defendants breached the Protocol or their employment  
9 agreements by retaining any documents or sending unauthorized client reports.

10 The Individual Defendants have not disputed the pre-solicitation allegation against  
11 Roskelley where he contacted an Ameriprise client prior to the team's departure and  
12 suggested that she wait to open an account until after they moved firms. This conduct  
13 would violate the employment agreements, which prohibit soliciting, encouraging,  
14 inducing or attempting to induce a client to limit her relationship with Ameriprise. (*See*,  
15 *e.g.*, Doc. 3-1 at 7–8.) The Individual Defendants note that solicitation is a fact-based  
16 inquiry and Ameriprise's general allegations are insufficient, but rather than address the  
17 facts for the Court to evaluate their positions, they posit that the arbitration will adequately  
18 address whether solicitation occurred. (Doc. 21 at 15 n.4.) In review of Ameriprise's  
19 evidentiary support, it is not clear that all of the Individual Defendants were involved in  
20 the pre-solicitation. (*See* Doc. 3-6 at 2.) Ameriprise provides one of its Vice President's  
21 declarations about what the client had told to him, and she only identified Roskelley as  
22 telling her to hold off on opening an account until he joined a new firm. (*Id.*) Hearsay  
23 concerns aside, this evidence is insufficient to support claims against the Individual  
24 Defendants, collectively, and Ameriprise has made no effort to tailor its arguments or relief  
25 sought to particular Individual Defendants. The Protocol would still protect Robertson and  
26 Tinyo. Therefore, the Court finds that Ameriprise has failed to carry its burden in showing  
27 a likelihood of success on the merits of its claims. And even if the Court were to consider  
28 the pre-solicitation as raising serious questions about the Individual Defendants

1 collectively breaching their employment agreements, as the Court will explain, there is no  
2 irreparable harm and the balance of equities and public interest do not weight in  
3 Ameriprise's favor.

4 2. Irreparable Harm

5 Ameriprise claims that money damages, loss of goodwill, and diminished client  
6 confidence constitute irreparable harms absent an injunction against retention of the  
7 protected client information and solicitation. (Doc. 3 at 14–15.) LPL argues that money  
8 damages are not irreparable harms and remedied without injunctive relief, Ameriprise's  
9 participation in the Protocol conceded permissible solicitation, and otherwise future  
10 solicitation is purely speculative. (Doc. 19 at 14–17.) The Individual Defendants make  
11 similar points, arguing the money damages are readily quantifiable and not irreparable  
12 absent an injunction, the restrictive covenants do not allow Ameriprise to commandeer  
13 their goodwill nor clients, both of which predate their employment with Ameriprise,  
14 Ameriprise's participation in the Protocol acknowledges solicitation may occur, even if  
15 they did not comply, thereby precluding a finding of irreparable harm, and any  
16 post-departure solicitation and loss of clients are insufficient speculative future harms.  
17 (Doc. 21 at 12–15.) Ameriprise responds to LPL, arguing that maintaining privacy of client  
18 information and goodwill associated with the client relationship are legitimate business  
19 interests, the loss of which are irreparable harms. (Doc. 22 at 3–4.) Next, Ameriprise  
20 responds to the Individual Defendants, arguing not only are the loss of clients and goodwill  
21 irreparable harms, ongoing injury from these losses absent an injunction are difficult to  
22 accurately calculate, and equates the protected client information to trade secret  
23 misappropriation, which can cause an irreparable harm. (Doc. 24 at 5–7.)

24 Irreparable harm is harm for which there is no adequate remedy at law, such as an  
25 award of money damages for intangible injuries. *Ariz. Dream Act Coal. v. Brewer*, 757  
26 F.3d 1053, 1068 (9th Cir. 2014); *see also Rent-A-Ctr., Inc. v. Canyon Television &*  
27 *Appliance Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991) (“It is true that economic injury  
28 alone does not support a finding of irreparable harm, because such injury can be remedied

1 by a damage award.”). Intangible injuries may include damages to goodwill. *Rent-A-Ctr.*,  
2 944 F.2d at 603. “The purpose of a preliminary injunction is not to remedy past harm but  
3 to protect plaintiffs from irreparable injury that will surely result without their issuance.  
4 Demonstrating irreparable harm is not an easy burden to fulfill.” *DTC Energy Grp., Inc.*  
5 *v. Hirschfeld*, 912 F.3d 1263, 1270 (10th Cir. 2018) (cleaned up). A “plaintiff must  
6 establish that irreparable harm is *likely*, not just possible. *Alliance for the Wild Rockies v.*  
7 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (emphasis in original).

8 While the Court recognizes that goodwill can qualify as irreparable harm, *see*  
9 *Rent-A-Ctr.*, 944 F.2d at 603, the Court finds no such irreparable harm has been established  
10 here. Ameriprise has provided no evidence any clients actually lost goodwill or that its  
11 reputation was diminished beyond its conclusory statement that its true. It is not clear if  
12 the client whom Roskelley allegedly pre-solicited actually left the firm or that any clients  
13 have complained or expressed any critique of Ameriprise for the Court to find there was  
14 any damage to its goodwill, reputation, or business relationships. Additionally, Ameriprise  
15 has not substantiated any loss of goodwill due to violating clients’ privacy interests as the  
16 information printed and sent pertained to the clients’ own account information, there does  
17 not appear to be third-party dissemination.

18 The Court also recognizes that, in some cases, loss of investment clients can cause  
19 an irreparable harm, although it is a difficult task to quantify losses. *See J.P. Morgan Sec.*  
20 *LLC v. Krich*, No. CV-15-00979-PHX-DGC, 2015 WL 3604199, at \*4 (D. Ariz. June 8,  
21 2015) (collecting cases); *see also Kenoyer*, 2024 WL 4591258, at \*3 (finding that the  
22 variable of how long reimbursement is necessary was not known or estimated, therefore  
23 irreparable harm resulted from the losses related to the plaintiff’s reputation, goodwill, and  
24 business relationships). The only possible loss related to a client Ameriprise has provided  
25 relates to an undetermined possibility that she would leave Ameriprise, but the alleged  
26 pre-solicitation alone is not a basis to infer the Defendants have engaged in any other  
27 solicitation pre- or post-departure. *See, e.g., Hayden Royal LLC v. Hoyt*, No. CV-20-  
28 02388-PHX-JJT, 2021 WL 2637501, at \*7 (D. Ariz. Jan. 22, 2021) (finding evidence of a

1 pre-solicitation as inadequate to justify finding the defendant would act according to that  
2 behavior again). There is only evidence of Roskelley’s pre-solicitation, and the protections  
3 of an injunction would not apply to the Robertson or Tinyo. The Court agrees with the  
4 Individual Defendants that participation in the Protocol precludes finding irreparable harm,  
5 even if the Protocol does not apply to a particular Defendant, because participation tacitly  
6 recognizes the fluid nature of the industry, which involves financial advisors frequently  
7 moving firms and taking their clients with them. *See, e.g., UBS Fin. Servs. Inc. v. Fiore*,  
8 No. 17-CV-993 (VAB), 2017 WL 3167321, at \*19 (D. Conn. July 24, 2017) (collecting  
9 cases).

10 Ameriprise seemingly argues its rights to the client information is contractual, rather  
11 than a trade secret (Doc. 3 at 13–14), but also claims the information is a trade secret and  
12 cites strings of cases addressing trade secrets. (Doc. 22 at 2; Doc. 24 at 5–7.) The Court  
13 is cognizant of the apparent inconsistent characterization, and even so, Ameriprise fails to  
14 establish that its clients’ information is actually a trade secret. A particular use of client  
15 information may violate an employer’s protectable interest, and a client list can be a trade  
16 secret under certain circumstances. *See Amex Distrib. Co. v. Mascari*, 724 P.2d 596, 603  
17 (Ariz. Ct. App. 1986); *Calisi v. Unified Fin. Servs., LLC*, 302 P.3d 628, 631 (Ariz. Ct. App.  
18 2013). Ameriprise’s participation in the Protocol precludes a finding that the client list is  
19 a trade secret because the Individual Defendants are allowed to take a list of their clients  
20 and to use that information to solicit the clients after their departure. The purported client  
21 list “trade secret” is not a secret held by a single firm. But rather, the Protocol enables  
22 financial advisors to move between firms and take client lists, allows them to utilize client  
23 lists, and provides protections for a client’s privacy interests in her sensitive information.  
24 *See, e.g., UBS Fin. Servs. Inc.*, 2017 WL 3167321, at \*15. Roskelley and Robertson have  
25 attested to following the Protocol and not retaining any protection information, and similar,  
26 Tinyo has avowed that he did not retain any printed information. (Doc. 21-1 at 3; Doc.  
27 21-2 at 3; Doc. 21-3 at 2.) The internal policies of a firm do not necessarily supersede the  
28 Protocol, and its protections may still apply. *Id.* at 16.

1 Even if the Court were to conclude that the Individual Defendants violated their  
2 employment agreements or the Protocol, establishing a violation of a protected interest may  
3 give rise to a presumption that irreparable injury will follow if the interest is not protected,  
4 but the presumption is not mandatory. *See TDBBS LLC v. Ethical Prods. Inc.*, No.  
5 CV-19-01312-PHX-SMB, 2019 WL 1242961, at \*6 (D. Ariz. Mar. 18, 2019); *see also*  
6 *Calence, LLC v. Dimension Data Holdings, PLC*, 222 F. App'x 563, 566 (9th Cir. 2007).  
7 As the Individual Defendants point out, a large portion of the information contained in the  
8 printed documents may have been acquired by them before they joined Ameriprise. (Doc.  
9 21 at 3–4; Doc. 21-1 at 1–4.) Ameriprise argues that the information the Individual  
10 Defendants brought over is stale and they agreed not to supplement that information or use  
11 any of their prior databases. (*See* Doc. 24 at 3.) Even so, Ameriprise's evidence  
12 contemplates that the Individual Defendant's storage systems may still contain the data or  
13 that it was required to be deleted after transferring the data to Ameriprise. (*See id.*; Doc.  
14 21-1 at 8, 13, 19.) Ameriprise has not provided the Court with a means to determine what  
15 information retained or sent contains protected information not compiled before the  
16 Individual Defendants joined Ameriprise. Further compounding the issue, Ameriprise has  
17 not established that the Individual Defendants have shared that information with anyone  
18 but their clients prior to their departure. Ameriprise has not persuaded the Court that it  
19 would suffer any damages that are not purely monetary absent an injunction. *See Lydo*  
20 *Enters., Inc. v. City of Las Vegas*, 745 F.2d 1211, 1213 (9th Cir. 1984) (“Purely monetary  
21 damages are not normally considered irreparable.”). Therefore, based on these facts,  
22 Ameriprise has not shown it will suffer irreparable harms absent an injunction, thus it has  
23 not carried its burden for injunctive relief.

### 24 3. Balance of Equities

25 “In each case, a court must balance the competing claims of injury and must  
26 consider the effect on each party of the granting or withholding of the requested relief.”  
27 *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 542 (1987); *see also Stormans, Inc. v.*  
28 *Selecky*, 586 F.3d 1109, 1138 (9th Cir. 2009) (“In assessing whether the plaintiffs have met

1 this burden, the district court has a ‘duty . . . to balance the interests of all parties and weigh  
2 the damage to each.’” (quoting *L.A. Mem’l Coliseum Comm’n v. Nat’l Football League*,  
3 634 F.2d 1197, 1203 (9th Cir. 1980)).

4 Ameriprise argues that preventing the Defendants from soliciting clients and using  
5 client information would safeguard its business interests, discourage other employees from  
6 breaching their agreements, and avoid permitting the Defendants from profiting from  
7 wrongful conduct. (Doc. 3 at 15–16.) LPL argues that Ameriprise’s requested injunction  
8 would deprive it of their new hires’ ability to contact customers and develop business and  
9 prevent the Individual Defendants from utilizing a client base they cultivated prior to  
10 joining Ameriprise. (Doc. 19 at 24–25.) The Individual Defendants’ arguments are  
11 essentially the same as LPL’s. (*See* Doc. 21 at 16.) The Defendants have a point.  
12 Disallowing use of the client information, to whatever degree, prevents them from using  
13 information learned during their employment with Ameriprise and even prior. The  
14 business depends on client relationships and the information, while it may assist the  
15 Defendants in efficiently offering its services to the clients, it could also be rediscovered  
16 through the fruits of their own labor. Therefore, the Court finds the equities way in the  
17 Defendants’ favor.

#### 18 4. Public Interest

19 “In exercising their sound discretion, courts of equity should pay particular regard  
20 for the public consequences in employing the extraordinary remedy of injunction.” *Winter*,  
21 555 U.S. at 24 (quoting *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982))  
22 (quotation marks omitted). It is true that “[c]ourts have held that the public interest is  
23 served by protecting a company’s right to proprietary information, business operations, and  
24 contractual rights,” and that “enforcing these covenants is consistent with the public policy  
25 of protecting a company’s interest in its customer base from unfair competition.” *Compass*  
26 *Bank v. Hartley*, 430 F. Supp. 2d 973, 983 (D. Ariz. 2006). However, it is also true that  
27 “Arizona law does not look kindly upon restrictive covenants.” *Unisource Worldwide, Inc.*  
28 *v. Swope*, 964 F. Supp. 2d 1050, 1063 (D. Ariz. 2013). Indeed, in Arizona, “[r]estrictive

1 covenants that tend to prevent an employee from pursuing a similar vocation after  
2 termination of employment” are especially disfavored. *GlobalTranz Enters. Inc. v.*  
3 *Murphy*, No. CV-18-04819-PHX-ROS, 2021 WL 1163086, at \*4 (D. Ariz. 2021) (quoting  
4 *Bryceland v. Northey*, 772 P.2d 36, 39 (Ariz. Ct. App. 1989)); *see also Unisource*  
5 *Worldwide*, 964 F. Supp. 2d at 1063.

6 While enforcement of restrictive covenants and protections from contract  
7 interference serve a public interest, Ameriprise has not shown irreparable harm, an  
8 injunction would serve no public interest. *See Super Chefs, Inc. v. Second Bit Foods, Inc.*,  
9 No. CV-15-00525-SJO (FFMx), 2015 WL 12914441, \*5 (C.D. Cal. June 11, 2015)  
10 (“[G]iven that Plaintiff has not shown irreparable harm, the Court finds that a preliminary  
11 injunction has not been shown to be in the public interest.”); *Sunbelt Rentals, Inc. v. Victor*,  
12 No. C 13-4240 SBA, 2014 WL 492364, \*11 (N.D. Cal. Feb. 5, 2014) (finding that “the  
13 public interest will not be served by entering an injunction to prevent conduct which [the  
14 plaintiff] has not shown has or is likely to occur”). Additionally, Ameriprise has not shown  
15 that LPL has actually encouraged the Individual Defendants to violate their agreements.

#### 16 **B. Expedited Discovery**

17 Federal Rule of Civil Procedure 26(d) allows for discovery prior to a Rule 26(f)  
18 conference. *Synopsys, Inc. v. AzurEngine Techs., Inc.*, 401 F. Supp. 3d 1068, 1076 (S.D.  
19 Cal. 2019). In the Ninth Circuit, courts use a “good cause” standard to determine if  
20 expedited discovery is warranted. *Id.* (citation omitted); *see also BioD, LLC v. Amnio*  
21 *Tech., LLC*, No. 2:13-CV-1670-HRH, 2013 WL 11826541, at \*1 (D. Ariz. Nov. 18, 2013).  
22 “Good cause may be found where the need for expedited discovery, in consideration of the  
23 administration of justice, outweighs the prejudice to the responding party.” *Semitool, Inc.*  
24 *v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002). In determining whether  
25 good cause justifies expedited discovery, courts consider the following factors in  
26 determining whether good cause exists: “(1) whether a preliminary injunction is pending;  
27 (2) the breadth of the discovery requests; (3) the purpose for requesting the expedited  
28 discovery; (4) the burden on the defendants to comply with the requests; and (5) how far

1 in advance of the typical discovery process the request was made.” *American LegalNet,*  
2 *Inc. v. Davis*, 673 F.Supp.2d 1063, 1067 (C.D. Cal. 2009).

3 The Court will deny Ameriprise’s request for expedited discovery. Ameriprise has  
4 not established good cause, given that it has failed to establish it will suffer an irreparable  
5 harm and further the dispute will go to FINRA arbitration to resolve the parties’ dispute.

6 **IV. CONCLUSION**

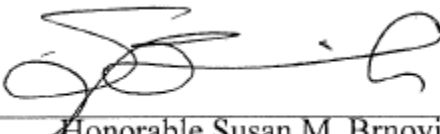
7 Accordingly,

8 **IT IS HEREBY ORDERED denying** Plaintiff’s Motion for a Temporary  
9 Restraining Order, Preliminary Injunction and an Order Permitting Expedited Discovery  
10 (Doc. 2).

11 **IT IS FURTHER ORDERED dismissing** Plaintiff’s Complaint for injunctive  
12 relief (Doc. 1).

13 **IT IS FURTHER ORDERED** directing the Clerk of the Court to terminate this  
14 case.

15 Dated this 25th day of February, 2025.

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20 Honorable Susan M. Brnovich  
21 United States District Judge  
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