

When Your Employee Becomes the Competition

Source: [The Business Owner](http://www.thebusinessowner.com) (<http://www.thebusinessowner.com>)

The company

Reseller of copy machines. Annual revenue of \$1.3 million.

Situation

The key salesman resigned to start his own business. He immediately began selling to his former employer's customers. He took \$250,000 in annualized business from his former employer within the first six months.

Lesson

Sometimes, as bad as the situation is, you cannot prove your case in court. This owner spent about \$15,000 and much time trying to prove that the salesman copied the customer list before starting his own business. The salesman's contention was that the list was "in his mind" and that he had every right to use this personal knowledge to build his business. His former employer was forced to drop the lawsuit due to insufficient evidence.

Solution

Negotiate a noncompete agreement with valuable employees specifying a reasonable period of time (say, two to three years after leaving the company) and a reasonable geographic area. Include a prohibition on contacting your customers. That way you have some legal recourse. Don't be too restrictive, however. The courts have thrown out noncompete agreements that were unreasonable in length of time and geographic area. Some also have stated that such agreements cannot prevent an individual from earning a living.