

FOR THE EXCLUSIVE USE OF
SHAYDEN@ANTHONYANDPARTNERS.COM

From the Tampa Bay Business Journal:

[https://www.bizjournals.com/tampabay/news/2024/03/06/power-design-lawsuit-non-compete-musolino.html?](https://www.bizjournals.com/tampabay/news/2024/03/06/power-design-lawsuit-non-compete-musolino.html?utm_source=ma&utm_medium=dr&utm_campaign=rss&utm_content=general)

[utm_source=ma&utm_medium=dr&utm_campaign=rss&utm_content=general](https://www.bizjournals.com/tampabay/news/2024/03/06/power-design-lawsuit-non-compete-musolino.html?utm_source=ma&utm_medium=dr&utm_campaign=rss&utm_content=general)

SUBSCRIBER CONTENT:

Banking & Financial Services

Power Design sues former CEO over non-compete, claiming he took 'sensitive' documents



Power Design is among the largest private companies in this region, with \$1.25 billion in annual revenue and 2,775 employees across the U.S.

POWER DESIGN



By **Christina Georgacopoulos** – Reporter, Tampa Bay Business Journal
Mar 6, 2024

 Listen to this article 5 min



Power Design and its CEO Mitch Permuy are suing the company’s former CEO Frank Musolino on claims that he is violating a non-compete agreement and took thousands of sensitive documents from the company.

Musolino was appointed CEO of Texas-based TD Industries in December 2023, around seven months after he left the St. Petersburg electrical contractor following professional disagreements with Permuy, according to a sworn affidavit filed in Hillsborough County Circuit Court on Feb. 26.

Those disagreements escalated beginning in late 2022, and “it was obvious that the Permuy’s were not happy with Power Design’s financial results or the lack of communication,” according to the affidavit.

An attorney for Musolino declined comment.



Frank Musolino joined Power Design in 2007 as a business development representative and ascended through various roles until his appointment as COO in 2017 and as CEO in 2020.

NOLA LALEYE

Musolino held various executive positions during his 16-year tenure at Power Design before the relationship broke down. The conflict arose over his refusal to promote Permuy's son to a position on the company's executive steering committee and to award Permuy's daughter an incentive bonus, he claims in a response to a request for an injunction.

Those actions would not only have treated them more favorably than the executives to whom they reported but would also have been detrimental to the interests of the company, Musolino claims.

Musolino alleges he was fired without cause, not due to any violations of his employment agreement or duties to the company. He further alleges the current legal dispute arose because he refused to capitulate to demands that he accept a low valuation for the payout of shares he owned in Power Design following **his departure**, he claims in his response.

Power Design and Musolino still have not settled on a mutually agreeable valuation for his payout, according to court documents.



Mitch Permy and his wife, Dana, founded Power Design in 1989. He reclaimed the role of CEO following Musolino's departure in May.

NOLA LAYELE

Power Design “chose to concoct a scheme to obtain a massively low valuation to buy Musolino’s shares, to create a fake story that [he was terminated] for cause knowing that was false, and to threaten to publicly file suit with that fake story if Musolino refused to accept its low value,” Musolino’s attorneys allege in court documents.

A spokesperson for Power Design declined to discuss specifics of the case but said the company felt a responsibility to pursue litigation to protect the interests of stakeholders and ensure fair business practices.

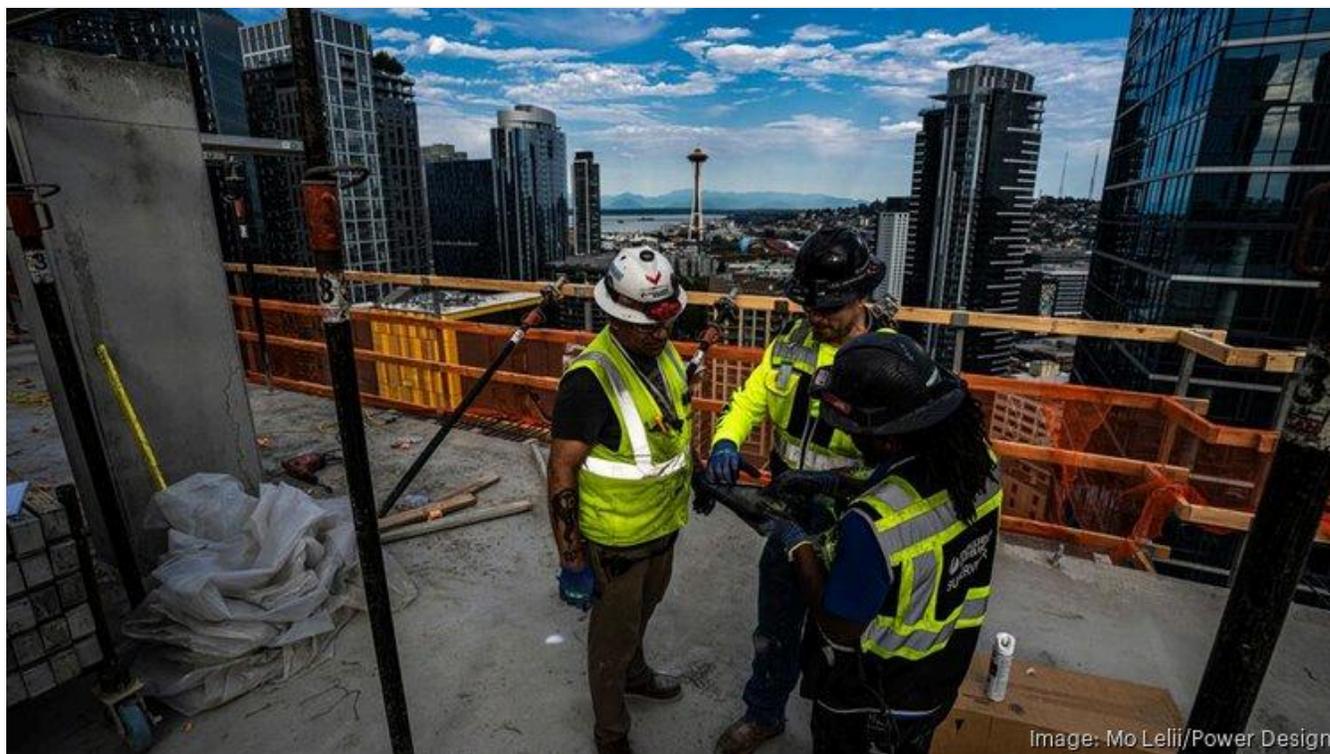
Power Design is seeking a temporary injunction that would effectively remove Musolino from his current role as TDI CEO.

An attorney for TDI did not return a request for comment.

Power Design highlighted serious concerns about certain confidential and sensitive company information supposedly in Musolino's possession in its request for the injunction. An investigation by its human resources department revealed that he allegedly downloaded nearly 15,000 documents between the time his termination was anticipated in March last year and after he departed from the company two months later in May, according to the affidavit.

The trove of documents contained information about Power Design's financial performance, details on transactions and projects, reports on employees, strategic plans, proprietary methodologies and other sensitive data. Among the most concerning files he took was data on former employee departures, according to the affidavit. The so-called termination report had information about the resignations of more than 2,000 former employees, which Power Design claims would give TDI "turnkey intelligence" for poaching its top executives.

Musolino claims he gathered and reviewed the documents in order to determine a fair valuation for his shares after Power Design did not provide the information needed or requested for an appraisal, according to court documents.



Around \$240 million of Power Design's annual revenue comes from business that directly competes with TDI, according to claims in the affidavit.

TDI claims it is not a competitor because it does not currently do business in Florida, nor does it have a substantial multifamily construction practice, which is the majority of Power Design's work, according to court documents. TDI performs mechanical and plumbing work primarily on commercial and industrial projects, like data centers, manufacturing facilities, sports venues and health care and government facilities, according to court documents.

Power Design, however, argues that Musolino, who still resides in this region, could leverage his extensive knowledge and experience in this market to build TDI's operations here, according to the affidavit. The company also claims the extensive intellectual capital Musolino gained during his tenure, along with the trade secrets and information he took with him afterward, are critical assets that pose a unique risk to its business, according to the affidavit.

Power Design has requested an evidentiary hearing to present its case before a judge and ultimately secure a temporary injunction.

"This presently appears to be the best non-compete [and] trade secrets case I've ever seen, from a plaintiff employer's perspective," according to Tampa attorney John Anthony, who is representing Power Design in the case. "Our team is in robust and thoughtful pursuit, and we are eager for our day in court."