

Can I Flout the Terms of a Non-Compete if I am Willing to Accept the Penalties?

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Question: An employee signed a non-compete, agreeing to pay a fine if he engages in certain behaviors. He later wishes to flout the agreement, and is willing to take the penalty. Is he allowed to do this?

Answer: Generally, if one is in any way negatively affecting his old employer, it is forbidden to flout an agreement. If, however, one knows that he is not hurting the employer at all, and the non-compete agreement simply puts him at an unfair disadvantage, it is permissible to go against it and take the fine, if one so wishes.

If we're talking about a legal non-compete, the employee has the right to buy his way out by paying the employer the market value of the non-compete. I recently had a case where I asked the employer to set a price that he felt would be fair to buy out the non-compete, and they were able to reach an amicable agreement.