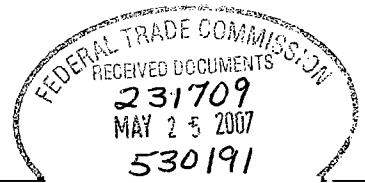


ORIGINAL

UNITED STATES OF AMERICA



In the Matter of
REALCOMP II LTD.,
a corporation.

Docket No. 9320

Murray Consulting, Inc.'s Motion for *In Camera* Treatment

I. Introduction

It is the understanding of third-party Murray Consulting, Inc. ("Murray Consulting") that

Complaint Counsel and Respondent Realcomp II Ltd. intend to use a study conducted by Murray

II. Legal Standard

A party seeking *in camera* treatment "must make a clear showing that the information contained [within the relevant document] is sufficiently secret and sufficient material to [its] business that disclosure would result in serious competitive injury." *In re Volkswagen of America, Inc.*, 103 F.T.C. 536, 538 (1984) (internal citation omitted); see also *In re H.P. Hood &*

disclosure ... will result in a clearly defined, serious injury to the person or corporation whose records are involved").

The secrecy and materiality of an applicant's documents are evaluated according to the standards articulated by the Commission in *In re Bristol-Meyers Co.*:

- (1) the extent to which the information is known outside of his business;
- (2) the extent to which it is known by employees and others involved in his business;
- (3) the extent of measures taken by him to guard the secrecy of the information;
- (4) the extent of competition in the industry.

Consulting provides consulting services to residential real estate brokerages, multiple listing services and associations of real estate professionals. (Murray Dec. ¶ 1.) A substantial portion of Murray Consulting's business activities are devoted to the preparation, production and sale of proprietary studies that analyze the residential real estate industry, such as the *Consumer Tsunami* study. (Murray Dec. ¶ 1.)

Murray Consulting invested significant amounts of time and money in producing the

~~study. The study is a proprietary study that it would be able to create under conditions~~

[REDACTED]

product of Murray Consulting and cannot easily be duplicated by others. (Murray Dec. ¶ 10.)

The *Consumer Tsunami* study is an important competitive advantage that Murray Consulting enjoys over its competitors, none of whom have performed or commissioned similar studies.

was only released in August 2006, is fresh and would be of value to Murray Consulting's competitors. (Murray Dec. ¶¶ 8 - 9) *See in re Amway Corp., Inc.*, 1977 FTC LEXIS 24, at * 7-8 (Nov. 11, 1977) (granting *in camera* status to studies less than two years old).

Murray Consulting has taken significant steps to protect the secrecy of the *Consumer Tsunami* study. As already discussed, access to the *Consumer Tsunami* study is restricted to clients of Murray Consulting who have paid for such access. These clients are obligated

substantial expected revenue associated with the sale of the study. (Murray Dec. ¶¶ 5, 9.)

Moreover, because Murray Consulting regularly produces studies like the *Consumer Tsunami* and makes those studies available only for a fee, the public disclosure of the *Consumer Tsunami* study could adversely impact future sales of other studies if clients become unwilling to pay for

studies that subsequently become available for free. (Murray Dec. ¶ 9.)

These prospective pecuniary losses qualify as the “clearly defined, serious injury”

III. Time Frame of Proposed *In Camera* Treatment

Murray Consulting hereby requests *in camera* treatment for the *Consumer Tsunami* study

Consulting who have purchased the study to keep its findings and analyses confidential will expire. (Murray Dec. ¶ 8.) Until that time, however, Murray Consulting anticipates additional

... disclosure of the *Consumer Tsunami* study, however that are contingent


CERTIFICATE

Pursuant to Paragraph 5 of the Scheduling Order, I hereby certify that I have conferred with counsel for Realcomp II Ltd. and Complaint Counsel for the Federal Trade Commission.

~~I have also conferred on objection to the Murray Consulting, Inc.'s Motion for In Camera~~

Treatment.

Date: May 24, 2007


Stephen H. Murray

CERTIFICATE OF SERVICE

This is to certify that on May 24, 2007, I caused a copy of Murray Consulting, Inc.'s

_____ 11" 1" 11" _____ 64- _____

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