
Thomas Brakefield; CX 1621-A contains the business cell phone call log for Larry Rybacki; CX 1624-A contains the business cell phone call log for Mitchell Rona; CX 1625-A contains the business cell phone call log for Matt Minameyer; and, CX 1626-A contains the business cell phone call log for Jerry Jansen. These Phone Records would not be available to the public absent a subpoena.

ARGUMENT

Because the Phone Records contain sensitive personal information under Rule 3.45(b), this Court should grant *in camera* treatment for all Phone Records for a period of ten years. Rule 3.45(b) of the Federal Trade Commission's Rules of Practice explicitly allows for *in camera* treatment of evidence that "constitutes sensitive personal information." 16 C.F.R. § 3.45(b). Sensitive personal information under Rule 3.45(b) includes numbers and records "identifiable by individual." *Id.* On September 14, 2012, this Court "determined that phone records, especially those that are subpoenaed, constitute sensitive personal information under the FTC Rules." Sept. 14, 2012 Rough Tr. at 270.

Under Rule 3.45(b)'s definition, and this Court's September 14, 2012 finding, the Phone Records constitute sensitive personal information eligible for *in camera* treatment. The Phone Records list phone calls to and from specific employees of McWane, Sigma and Star, and are thus identifiable by individual. *See* 16 C.F.R. § 3.45(b). Additionally, this Court's September 14, 2012 finding regarding sensitive personal information explicitly references one of the Phone Records produced pursuant to subpoena in this case and at issue in this motion, CX 1621. *See* Sept. 14, 2012 Rough Tr. at 270

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2012, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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Secretary
Federal Trade Commission
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I also certify that I delivered via electronic mail and hand delivery a copy of the foregoing document to:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
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I further certify that I delivered via electronic mail a copy of the foregoing document to:

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TAB 1

CX 1618-A

TAB 2

CX 1621-A

TAB 3

CX 1624-A

TAB 4

CX 1625-A

TAB 5

CX 1626-A

TAB 6

CX 1860-A