

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the Matter of )  
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Traffic Jam Events, LLC, )  
a limited liability company, ) Docket No. 9395  
 )  
and )  
 )  
David J. Jeansonne II, individually and as an )  
officer of Traffic Jam Events, LLC, )  
 )  
Respondents. )  

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**ORDER GRANTING MOTION FOR CERTIFICATION TO THE COMMISSION OF  
REQUEST FOR COURT ENFORCEMENT OF NONPARTY SUBPOENA**

Complaint Counsel to nonparty Platinum Plus Printing, LLC (“PPP”) (“Subpoena”).  
a response opposing the Motion on December 22, 2020 (“Opposition”).

On December 28, 2020, the Commission issued an Order Withdrawing Matter from  
adjudication for the Purpose of Considering a Proposed Consent Agreement. On May 3, 2021,  
the Commission issued an Order Returning the Matter to Adjudication and Setting a New  
Hearing Date.

as set forth



to continue negotiations. Declaration of Thomas J. Widor (“Widor Decl.”) ¶ 21; Motion Ex. H. PPP’s Opposition does not dispute these statements.

**III.**

“Parties may obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent.” 16 C.F.R. § 3.31(c)(1). The FTC Rules also require that discovery be limited when the Administrative Law Judge determines that:

- (i) The discovery sought from a party or third party is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
- (ii) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
- (iii) The burden and expense of the proposed discovery on a party or third party outweigh its likely benefit.

*Id.*

The Subpoena to PPP was issued pursuant to Rule 3.34(b)ubpoe 4s162Cil.ulb)



therefore, PPP may have relevant documents that are not in possession of Respondents. *See* Widor Decl., 22.<sup>4</sup>

#### IV.

Based on review and consideration of the Motion, the Opposition, the exhibits thereto and the record in this case, the information sought through the Subpoena is relevant. The record indicates that PPP had a role in distributing the alleged deceptive advertisements referenced in the Complaint. Widor Decl. ¶ 7; Motion Ex. E; Complaint ¶ 9 (Exhibits A-C). Furthermore, Complaint Counsel states that as part of discovery, Complaint Counsel issued nonparty subpoenas to auto dealers and printers concerning the advertising and marketing challenged in the Complaint, and that one of the nonparty printers reported that it dealt directly with PPP and not with Respondents. Widor Decl. ¶ 22. In addition, the registered agent for PPP, Jim Whelan (Motion Ex. G) has, according to Complaint Counsel, been listed by Respondents in their Initial Disclosures and on Respondents' Preliminary Witness List, thus indicating that information from PPP is relevant. Widor Decl. ¶ 9. Finally, Respondent Jeansonne is a manager of PPP (Motion Ex. F) and PPP and TJE share a business address. Widor Decl. ¶ 10. The foregoing is sufficient to establish that the requested documents are relevant within the meaning of Rule 3.31(c). *See also In re Basic Research, LLC*, Docket No. 9318, 2004 FTC Lexis 272, at \*4-5 (Aug. 18, 2004) (holding that nonparty documents regarding compensation received from each respondent for, *inter alia*, marketing, advertising, or promoting the challenged products were discoverable because the documents might lead to information about the relationships between the corporate respondents, "which may be relevant to determining liability or drafting an appropriate remedy").

Furthermore, the fact that discovery indicates that one of the nonparty printers subpoenaed by Complaint Counsel reported that it dealt directly with PPP and not with Respondents rebuts the assertion that PPP's business records will necessarily be duplicative of those of TJE. In addition, the specifications of the Subpoena are stated with reasonable particularity, as required under Rule 3.34.

The record further shows that PPP has, to date, failed to comply with the Subpoena. As noted above, PPP did not serve any formal response to the Subpoena or serve objections to the specific RFPs. PPP also did not file a motion to quash or limit the Subpoena, as permitted by FTC Rules. *See* 16 C.F.R. § 3.34(c) ("Any motion by the subject of a subpoena to limit or quash the subpoena shall be filed within the earlier of 10 days after service thereof or the time for compliance therewith. Such motions shall set forth all assertions of privilege or other factual and legal objections to the subpoena, including all appropriate arguments, affidavits and other supporting documentation . . .").

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<sup>4</sup> Complaint Counsel argues that PPP has waived any claim that Complaint Counsel can more easily or conveniently obtain the subject documents from Respondents because PPP failed to raise the objection when its response to the Subpoena was originally due or, according to Complaint Counsel, during meet and confer negotiations. PPP did, however, raise this argument in its Response to Complaint Counsel's Motion to Compel PPP's compliance with the Subpoena, referenced above. Under these circumstances, the argument will not be deemed waived for purposes of the instant Motion.

