

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,	)	Case No. 03-C-3904
)	
v.	)	Hon. Robert W. Gettleman
)	
KEVIN TRUDEAU,)	
)	
Defendant,)	
)	
WINSTON & STRAWN LLP,)	
)	
Respondent,)	
)	
THE LAW OFFICES OF MARC LANE, PC,)	
)	
Respondent,)	
)	
WEBSITE SOLUTIONS USA, INC.,)	
)	
Respondent.)	
)	

**MOTION TO COMPEL WINSTON & STRAWN, THE LAW OFFICES OF MARC
LANE, AND WEBSITE SOLUTIONS USA TO COMPLY WITH SUBPOENAS**

MOTION TO COMPEL WINSTON & STRAWN, THE LAW OFFICES OF MARC LANE, AND WEBSITE SOLUTIONS USA TO COMPLY WITH SUBPOENAS

Pursuant to Federal Rules 45 and 69, and Paragraph XVI of the Stipulated Final Order (Sept. 3, 2004) (DE56), Plaintiff FTC moves to compel Winston & Strawn (“W&S”), the Law Offices of Marc Lane (“Lane”), and Trudeau-affiliated entity Website Solutions USA (“WSU”) to comply with subpoenas seeking information relevant to the FTC’s pending motion to hold Defendant Kevin Trudeau (“Trudeau”) in contempt. Specifically, the FTC asks the Court to order Winston & Strawn, Lane, and WSU to comply with the FTC’s document requests within three business days, and that WSU produce a corporate designee no more than one week thereafter. The accompanying brief (and the exhibits thereto) support this Motion.

Dated: January 18, 2013

Respectfully Submitted,

David O’Toole (dotoole@ftc.gov)
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603-5001
Phone: (312) 960-5601
Fax: (312) 960-5600

/s/ Jonathan Cohen
Michael Mora (mmora@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave., N.W. M-8102B
Washington, DC 20580
Phone: 202-326-3373; -2551
Fax: 202-326-2558

CERTIFICATE OF SERVICE

I, Jonathan Cohen, hereby certify that on January 18, 2013, I caused to be served true copies of the foregoing by electronic means, by filing such documents through the Court's Electronic Case Filing System, which will send notification of such filing to:

Kimball Richard Anderson
kanderson@winston.com

Thomas Lee Kirsch, II
tkirsch@winston.com

Katherine E. Crowell
kcrowell@winston.com

I further certify that, on January 18, 2013, I caused to be served true copies of the foregoing by Federal Express to:

Marc J. Lane
The Law Offices of Marc Lane, PC
180 North LaSalle Street
Chicago, IL 60601

Nataliya Babenko & Suneil Sant
c/o Website Solutions USA, Inc.
130 Quail Ridge Drive
Westmont, IL 60559

Michael Dow
c/o Mary Patricia Benz, Esq.
111 West Washington, Suite 1150
Chicago, IL 60602

/s/ Jonathan Cohen
Jonathan Cohen (jcohen2@ftc.gov)
Attorney for Plaintiff
Federal Trade Commission

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)	
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**BRIEF IN SUPPORT OF OMNIBUS MOTION TO COMPEL WINSTON & STRAWN,
THE LAW OFFICES OF MARC LANE, AND WEBSITE SOLUTIONS USA TO
COMPLY WITH SUBPOENAS**

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I. INTRODUCTION

Pursuant to Federal Rules 37, 45 and 69, and Paragraph XVI of the Stipulated Final Order (Sept. 3, 2004) (DE56), Plaintiff FTC moves to compel Winston & Strawn, the Law Offices of Marc Lane (“Lane”), and Trudeau-affiliated entity Website Solutions USA (“WSU”) to comply with subpoenas seeking information related to Kevin Trudeau (“Trudeau”). Following the December status conference, the FTC sought additional information to add to the already substantial evidence that Trudeau controls multiple companies and has significant hidden assets. As part of this effort, the FTC served subpoenas on Winston & Strawn and Lane seeking discovery regarding their fees. Although this information is relevant and not privileged, Trudeau’s attorneys have made clear that they will not disclose Trudeau’s likely substantial payments to them without a Court order. The FTC also subpoenaed WSU to obtain corporate testimony and basic financial records. But WSU has not produced any documents, nor will WSU communicate regarding deposition dates. Rather, WSU submitted “boilerplate” objections to the FTC’s subpoena and granted itself a three-week extension to provide an unspecified “response.”

As the Court is aware, the various persons and entities associated with Trudeau routinely adopt frivolous legal positions intended to hinder or delay discovery relevant to Trudeau’s alleged inability to pay. The five prior judicial decisions addressing Trudeau’s obstinate discovery tactics have rejected them.¹ Trudeau’s strategy here is no different, and the result should be the same.

¹ See DE475 (May 24, 2012) (denying motions filed by Trudeau and Nataliya Babenko to quash subpoena to Rivers Casino); DE466 (Apr. 19, 2012) (denying motions to quash filed by Trudeau-affiliated entities WSU, GIN USA, and KT Radio Network (“KTRN”); *see also* PXA:1, *GIN USA v. FTC*, No. 1:12-mc-022, 2012 WL 6100472 (N.D. Ohio Dec. 7, 2012) (DE21), at 1 (denying GIN USA’s motion to quash; “The FTC has provided sufficient evidence establishing that GIN’s bank account records are relevant to its investigation into Trudeau’s undisclosed assets and are sought for good cause.”) (mag. op.); PXA:2, *FTC v. Trudeau*, No. 5:12MC35, 2012 WL 5463829, 5 (N.D. Ohio Nov. 8, 2012) (denying motion to quash; “The record evidence suggests that movants [WSU, GIN USA, and KTRN] are not business pursuits created totally independent from Trudeau, but may have been created to evade the contempt sanction and conceal Trudeau’s assets.”) (citation omitted) (mag. op.); PXA:3, *Babenko v. FTC*, No. 1:12-mc-00006 (S.D. Ohio Mar. 22, 2012) (denying motion to quash subpoena for Babenko’s bank records) (mag. op.).

II. BACKGROUND

A. This Court's Most Recent Order and the FTC's Subsequent Discovery Effort

On July 13, 2012, the FTC moved to hold Trudeau in contempt.² Motion (DE481). On December 6, the Court held that “there is no question that the FTC has met its initial burden, establishing a prima facie showing of contempt.” Order (DE535) at 2. The Court further stated that Trudeau’s “failure to make any payments prior to the filing of the [contempt] motion by the FTC demonstrates a lack of good faith.” *Id.* The evidence Trudeau submitted “falls woefully short” of demonstrating his alleged inability to pay “or that he has made all reasonable efforts to comply.” *Id.* Because “[t]his all-reasonable-efforts standard is construed strictly,” “even a showing of diligent and substantial efforts” is not enough, and Trudeau has the burden to show “categorically and in detail” why he purportedly cannot comply. *Id.* (citation omitted).

Although the burden to produce this evidence is Trudeau’s, the Court expressed interest in supplementing the record regarding the assets Trudeau controls. *See, e.g.,* Tr. (Nov. 20, 2012), PXA:4 at 5:24 (“I would like to get to the bottom of this.”)³ The FTC already has presented substantial evidence that Trudeau controls significant assets, including:

- **Trudeau controls GIN USA and various associated entities.** Millions of dollars have flowed through GIN USA’s accounts and those of associated entities, including WSU and KTRN. *See* FTC Contempt Opening Br. (July 13, 2012) (DE481) (July 12, 2012) (“Opening Br.”) at 9-11. Trudeau admits that he founded GIN. *See id.* at 8. He also serves as its chief spokesperson. *See id.* In fact, when GIN USA moved to quash a prior subpoena seeking earlier bank records, GIN USA could not establish that anyone other than Trudeau controls GIN. *See FTC v. Trudeau*, 2012 WL 6100472, at *5 (“[T]he FTC’s evidence indicating that Trudeau is a ‘founder’ and ‘council’ member of GIN who exercises control over GIN remains unrebutted.”) (S.D. Ohio Dec. 7, 2012) (emphasis added) (mag. op.), PXA:1. WSU and KTRN pay GIN’s operating expenses, and Trudeau controls these entities through Babenko and Suneil Sant, his “right hand man.” *See* Opening Br. at 7-9.
- **Trudeau funded the \$2 million escrow account with GIN-related monies.** The \$2 million came from GIN USA, which received the money from WSU, which itself received the money from GIN USA’s Nevis-based parent entity, GIN FDN. *See* FTC Contempt Reply (Oct. 15, 2012) (DE517) (“Reply”) at 12 n.16.

² As the Court is very familiar with this litigation, we include only background germane to the instant dispute.

³ Citations herein to the FTC’s exhibits and attachments are abbreviated as “PX_:.”

- **Trudeau uses the entities he controls to pay for his lavish lifestyle.** Beginning in 2009, various Trudeau-affiliated entities made every dollar of nearly \$3 million in payments to American Express for Trudeau's credit card bills, including hundreds of thousands of dollars in obviously personal charges. Trudeau also lived in an expensive suburban home and enjoyed the services of two personal chefs and a butler – all at KTRN's expense. *See id.* at 8-9.

To bolster this and other evidence even further, the FTC served (or attempted to serve) subpoenas seeking testimony⁴ and/or documents from:

- **Winston & Strawn.** The FTC seeks nonprivileged information regarding Trudeau's payments to Winston & Strawn. Winston & Strawn has not produced any documents.
- **Lane.** Lane specializes in "asset protection," which (according to Lane) means "protect[ing] [his] clients assets from creditors and lawsuits while, at the same time, allowing them to retain control over the assets and the income they produce." PXA:5. Lane formed and represents many of the entities Trudeau controls. PXA:6; PXA:7. The FTC seeks nonprivileged information regarding Trudeau's payments to Lane. Lane has not produced any documents.
- **WSU.** The FTC seeks corporate testimony and basic financial information from this Westmont-based Trudeau-affiliated entity. PXA:8. WSU has not produced documents or responded to repeated requests for deposition dates.
- **KTRN.** The FTC seeks corporate testimony and basic financial information from this Westmont-based Trudeau-affiliated entity. PXA:9. KTRN has not produced documents or responded to repeated requests for deposition dates.
- **GIN USA.** The FTC seeks corporate testimony and basic financial information from this Westmont-based Trudeau-affiliated entity. PXA:10. GIN USA has not produced documents or responded to repeated requests for deposition dates.⁵
- **Nataliya Babenko.** The FTC seeks Babenko's testimony and documents regarding assets she purports to control. Trudeau married Babenko shortly before the judgment at issue, PXA:12, and she was then installed as the owner of WSU, GIN USA and KTRN, *see* Trudeau's Opp. to Contempt Motion (Sept. 25, 2012) (DE508) at 5. Babenko is also the sole director of APC Trading, a Belize IBC that owns Website Solutions Switzerland, which is Trudeau's purported current employer. *See* Reply at 3 n.3. Trudeau's counsel have argued that Babenko is a "successful businesswoman in her own right." Contempt Opp. (DE508) at 5. Despite an extensive effort to serve her (including attempts at two addresses associated with Babenko), the FTC cannot find her. None of her husband's

⁴ *See* Tr. (Nov. 20, 2012), PXA:4 at 5:10-13 (suggesting the importance of depositions in addition to document discovery).

⁵ The FTC originally served GIN USA and KTRN through their registered agents in South Dakota and Delaware, respectively. Because both entities are based in Westmont, however, the FTC has re-served them within this District to reduce the expense associated with the anticipated need to move to compel these Trudeau-affiliated entities to comply.

lawyers will accept service on her behalf, inform the FTC who represents her, or explain where she is. The FTC will continue attempting to serve her.⁶

- **Michael Dow.** Dow is WSU's CFO and apparently serves a similar role for various other Trudeau-affiliated entities including GIN USA and KTRN. PXA:11. The FTC seeks testimony regarding the Trudeau-affiliated entities' finances, and Trudeau's control. Dow has separate counsel, and the FTC reached an agreement with his attorney regarding his deposition. The FTC likely will depose Dow after it receives WSU's document production.
- **Golden Lion Mint.** The FTC's subpoena covers records regarding gold bar purchases from Golden Lion. The FTC recently received a response, which the FTC is reviewing. Preliminarily, it appears Trudeau purchased \$100,000 in Golden Lion gold bars in 2008, and kept them until October, 2011, when Sant personally visited Asheville, North Carolina to exchange them for gold bars another entity manufactured.⁷ See PXA:30.
- **Rivers Casino.** The FTC sought records reflecting Trudeau's financial transactions at the casino over the past eight months. Rivers Casino responded very recently, and the FTC has not yet had the opportunity to review the production thoroughly, but Trudeau continues to use the casino to launder money.⁸

Additionally, the Court ordered Trudeau to submit a financial statement and appear at a contempt hearing the Court will set. Order (Dec. 6, 2012) (DE535) at 3.

B. The Winston & Strawn Subpoena

The Winston & Strawn subpoena seeks three very limited categories of documents:

- (1) “[A]ll Retainer Agreements Referring or Relating to compensation for work or services performed for or provided to any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity.”⁹
- (2) “[A]ll documents . . . created on or after June 2, 2010 . . . evidencing payment received or promised, or the source of payment received or promised, for work or services performed or to be performed for any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity.”

⁶Babenco is an NYU film school student. As part of its effort to serve Babenco, the FTC has asked NYU for her address and class schedule. NYU has provided responsive information.

⁷Trudeau exchanged the original bars for Scotia Bank gold bars. See PXA:30. Most likely, Trudeau preferred Scotia Bank bars because they are more easily transferable.

⁸The FTC also has served subpoenas on American Express and BMO Harris (Diner's Club) seeking updated credit card charge information.

⁹“Trudeau-Affiliated Person” and “Trudeau-Affiliated Entity” are broadly defined to include Trudeau, Babenco, and the various other persons and entities associated with Trudeau. See PXA:14 at 1-2.

- (3) “[D]ocuments sufficient to establish the balance of funds at all times . . . in any account controlled directly or indirectly by [your firm] for the benefit of or on behalf of any Trudeau-Affiliated Entity or Trudeau-Affiliated Person.”

PXA:14 at 5. Significantly, the requests included the following limitation exempting any privileged material:

LIMITATIONS - REQUESTS TO PRODUCE DOCUMENTS

The subpoena Specifications below do not cover, and the Federal Trade Commission does not seek, any information regarding anyone’s motive for seeking legal representation, Trudeau’s litigation strategy (or that of his counsel), the specific nature of any legal services provided, or the substance of any attorney-client communication other than the limited financial portions of any Retainer Agreement that do not reveal anyone’s motive in seeking representation, litigation strategy or the specific nature of the services provided or to be provided.

Id. The request also invited Winston & Strawn to redact from the documents produced “all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.” *Id.*

On December 21, FTC counsel asked Winston & Strawn attorneys to accept email service of the subpoena. PXA:13. Winston & Strawn attorneys did not respond to the request that the firm accept service as a courtesy. As a result, the FTC engaged a process server to serve Winston & Strawn on December 26. *See* PXB. At approximately 4:30 p.m., the server was informed that no one at the firm was available to accept service. *Id.* at ¶ 3 (server’s affidavit). The following morning, December 27, an assistant to a Winston & Strawn attorney informed the server: “I’ve been instructed to tell you that Winston & Strawn will not accept service of this subpoena.”¹⁰ PXC at ¶ 4 (server’s affidavit).

On December 28, after the FTC instructed its server to leave the subpoena in the firm’s lobby, Winston & Strawn begrudgingly accepted service. In its subsequent response to the subpoena, Winston & Strawn complains that it was served “late on Friday, December 28, 2012, when our offices were closed for [the] holidays[.]” PXA:15 at 3. Actually, it was served at

¹⁰In disbelief, the server repeated this sentence back to the Winston & Strawn representative, who “confirmed it.” PXC at ¶ 4.

12:23 p.m., and there was no indication that the Winston & Strawn office was closed at that time. See PXD at ¶¶ 3-4 (server's affidavit).

C. The Lane Subpoena

On December 21, the FTC asked Lane to accept email service of a similar subpoena to his firm.¹¹ PXA:17. Lane did not respond to the email. Unlike Winston & Strawn, however, Lane accepted service from the FTC's server on December 26. PXE. The following day, Lane requested an extension until January 31 to respond (a three-week extension beyond the two weeks the subpoena already provided). PXA:16. Later that afternoon, the FTC expressed its willingness to "grant a reasonable extension" if Lane would coordinate with the FTC regarding discovery from various Trudeau-affiliated entities that Lane represents (WSU, GIN USA, and KTRN). PXA:19. FTC counsel also attempted to reach Lane by phone, and left a message inviting Lane to call him. *See id.*

On December 30, Winston & Strawn sent a terse email asking again that Lane receive a three-week extension.¹² PXA:21. The FTC declined because neither Lane nor Winston & Strawn "provided any reason whatsoever that possibly could justify extending the response date for three weeks" (to a total of five weeks), especially given the narrowly-tailored requests and that the FTC sought to obtain this information prior to the scheduled February 1 status conference. PXA:22. The FTC also declined the proposed extension because neither Lane nor Winston & Strawn had responded to the FTC's requests that the parties coordinate with respect

¹¹ Like the Winston & Strawn subpoena, the Lane subpoena contains a very clear limitation exempting any privileged material. *See* PXA:18 at 5.

¹² The FTC takes the Court's recent remarks regarding professionalism very seriously. The FTC was willing (and remains willing) to negotiate reasonable extensions or other accommodations. *See, e.g.*, PXA:13 ("[We] have cleared our calendars to the extent possible to facilitate scheduling."); PXA:20 ("[W]e don't mean for anyone to have to work over the holidays. . . . [P]ropose some (near-term) [deposition] dates to us, and then we'll work together to resolve whatever timing issues there are with respect to the document production."); PXA:22 ("[I]f you explain why Marc or his clients need additional time to make their productions, we'll consider what you have say."); PXA:19 ("We're willing to grant a reasonable extension, but we need to know where things stand regarding the depositions before we can address document production."). Additionally, the FTC has quickly and informally resolved discovery issues involving parties other than those whose conduct Trudeau controls.

to discovery generally, including depositions of Trudeau-affiliated entities.¹³ *See id.* The FTC had (nine days earlier) proposed to Winston & Strawn thirteen mid-to-late January dates to hold these depositions. PXA:13. But Winston & Strawn had not responded – and, indeed, Winston & Strawn never responded.

D. The WSU Subpoena

The WSU subpoena seeks testimony from a corporate designee along with two narrowly-tailored document requests designed to limit any burden and facilitate a rapid response:¹⁴

1. Provide bank statements from all banks or other financial institutions of any sort, for any account held by or in the name of any Trudeau-Affiliated Entity, from January 1, 2012 through the date of full and complete compliance with this subpoena.
2. Provide Financial Statements for all Trudeau-Affiliated Entities from January 1, 2010 through the date of full and complete compliance with this subpoena.

PXA:8 at 7. Thus, the FTC seeks only financial and bank statements.

E. Meet & Confer Attempts

On January 3, Lane objected to the subpoenas to his firm, WSU, GIN USA, and KTRN. PXA:7. The following morning, the FTC requested a prompt “meet and confer.” PXA:24. On January 7, Lane responded that Winston & Strawn now represented his firm, so the FTC would have to arrange any “meet and confer” concerning his firm with Winston & Strawn. *See* PXA:25 (“Winston and Strawn is representing The Law Offices of Marc J. Lane, P.C., in this matter.”). Furthermore, Lane stated that other (unidentified) counsel would be representing the Trudeau-affiliated entities, so the FTC would have to arrange any meet and confer regarding their objections at an unspecified future time. *See id.* As of this writing, Lane has not provided any

¹³ *See also* PXA:20 (asking Lane for dates); PXA:19 (asking “where things stand regarding the depositions”); PXA:22 (“Despite our repeated requests, neither you nor Marc has provided us with deposition dates in mid-January.”).

¹⁴ The FTC originally served the WSU subpoena with attachments seeking both documents and testimony, although the subpoena itself was issued on form AO88B (seeking only documents). Counsel noticed the error and asked Lane to accept a corrected subpoena (Lane is both WSU’s attorney and its registered agent, *see* PXA:23). Lane refused, so the FTC served a new but otherwise identical subpoena by re-serving Lane as WSU’s registered agent.

information regarding who represents the Trudeau-affiliated entities, or with whom the FTC can meet and confer.¹⁵

Also on January 7, Winston & Strawn served objections to its subpoena.¹⁶ PXA:15. Among other things, Winston & Strawn represented that it has no retainer agreement or other similar document “referring or relating to compensation for work or services performed for or provided to [Trudeau].” *See id.* at 1; PXA:14 at 5. The FTC then requested a prompt “meet and confer” with Winston & Strawn regarding both the Winston & Strawn subpoena and the Lane subpoena.¹⁷ PXA:26. The parties spoke on Saturday afternoon, January 12. PXA:29. Winston & Strawn reiterated that it has no written contract covering services provided to Trudeau, and that it would not produce other responsive documents unless ordered to do so. *Id.* Winston & Strawn also informed the FTC, for the first time, that it was not yet representing Lane and could not “meet and confer” on his behalf.¹⁸ *Id.*

III. LEGAL STANDARD

Under Rule 69, “[t]he scope of post judgment discovery under the Federal Rules is broad,” and the FTC “is entitled to utilize the full panoply of federal discovery measures.” *Trudeau*, 2012 WL 5463829 at *4. This includes discovery “from any person,” FRCP 69(a)(2), “of any matter that is relevant to the claim or defense of any party,” *Trudeau*, 2012 WL 5463829

¹⁵ Specifically, on January 7, Lane informed the FTC that he would promptly identify the counsel with whom the FTC should meet and confer regarding the WSU subpoena. PXA:25 (“I will advise you as soon as such counsel is engaged, presumably within the next few days.”).

¹⁶ Any objection not clearly made is waived. *See, e.g., Ott v. City of Milwaukee*, 682 F.3d 552, 558 (7th Cir. 2012) (“Rule 45 requires the recipient of a subpoena to raise all objections at once, rather than in staggered batches, so that discovery does not become a game.”) (quotation omitted). Likewise, any objection not made “before the earlier of the time specified for compliance or 14 days after the subpoena is served” is waived. *See* FRCP 45(c)(2)(B).

¹⁷ Winston & Strawn proposed 3:00 p.m. on January 10, which the FTC quickly accepted. PXA:27. On January 10, however, Winston & Strawn canceled the call. PXA:28. Winston & Strawn offered alternative times on Saturday afternoon, January 12, and the following Monday. *See id.* The FTC accepted Saturday afternoon because it was the earliest option.

¹⁸ At 9:30 PM EST on January 17, hours before the FTC planned to file this motion, Winston & Strawn emailed the FTC, stated that it now represented Lane, and would confer on his behalf. This communication came almost two weeks after the FTC requested a meet and confer with Lane. PXA:24. Despite this late offer, the FTC will confer with counsel promptly.

at *4 (citing Rule 26(b)(2)); *see also JP Morgan Chase Bank, N.A. v. PT Indah Kiat Pulp & Paper Corp.*, No. 02-C-6240, 2011 WL 6753984, *4 (N.D. Ill. Dec. 22, 2011) (denying motion to quash post-judgment subpoena seeking “retainer agreements and records regarding payments from defendants to [their counsel], including but not limited to any records relating to any funds held by [counsel] on behalf of defendants in a trust account or otherwise”).

Because Winston & Strawn, Lane and WSU have objected to the FTC’s document requests, the FTC may move “for an order compelling production[.]” FRCP 45(c)(2)(B)(i). Because WSU also has not responded to the FTC’s deposition subpoena seeking testimony in this District, the FTC may move to compel WSU to appear. *See* FRCP 37(a)(1)-(2).

IV. ARGUMENT

This section addresses: (i) Winston & Strawn’s implausible position that it has no retainer agreement or other similar contract related to Trudeau (request 1); (ii) Winston & Strawn’s baseless objections to request 2 (payment information) and Lane’s related (and equally specious) objections;¹⁹ (iii) the firms’ incomplete responses with respect to request 3 (escrow sums); and (iv) WSU’s “boilerplate” objections and refusal to respond regarding a deposition.

A. Winston & Strawn’s Position With Respect to Request 1 That It Has No Retainer Agreement Related To Trudeau Is Implausible.

Winston & Strawn denies that it has any retainer agreement or other similar contract related to Trudeau. PXA:15. The request states: “Provide all Retainer Agreements Referring or Relating to compensation for work or services performed for or provided to any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity.”²⁰ PXA:14 at 5. The subpoena defines “Retainer Agreement” broadly to include “any contract governing the payment for legal or other professional services.” *Id.* at 1. Taken together, “Trudeau-Affiliated Entity” and “Trudeau-Affiliated Person” include Trudeau himself along with Babenko and the various other persons

¹⁹ Winston & Strawn asserts objections with respect to request 2 only.

²⁰ As with its other requests, the FTC invited Winston & Strawn to redact portions of documents produced “that reveal the motive in seeking legal representation, litigation strategy, or the specific nature of the services provided or to be provided.” PXA:14 at 5.

and entities associated with Trudeau. Simply put, there is no reasonable way to interpret this request in a manner that does not cover whatever documents govern the compensation Winston & Strawn has received for its work on Trudeau's behalf.

The idea that Winston & Strawn has no such documents is not something that any attorney familiar with modern "big firm" practice can accept easily. Most major law firms have policies that require written retainers regarding rates, the scope of the representation, conflict waivers and other key terms. *Cf.* Ill. RPC 1.5(b) (the agreement with the client should "preferably [be] in writing"). It is implausible that a prominent global law firm has represented Trudeau through four years of intense civil and criminal work based on an oral agreement. Notwithstanding whatever crabbed interpretation of the request Winston & Strawn employs to justify its "we have no documents" response, the Court should order Winston & Strawn to produce (within three business days) all documents governing the compensation Winston & Strawn has received for its work related to Trudeau.²¹

B. Winston & Strawn's Objections to Request 2 and Lane's Objections Are Baseless.

1. The Attorney-Client Privilege Does Not Apply to Fee Information.

Winston & Strawn and Lane have the burden to establish that the information at issue is privileged. *See, e.g., United States v. BDO Seidman*, 337 F.3d 802, 811 (7th Cir. 2003). Because the attorney-client privilege "'has the effect of withholding relevant information,' courts construe the privilege to apply only where necessary to achieve its purpose." *Id.* at 810-11 (quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976)). The purpose is to encourage confidential communications between attorney and client, *see, e.g., Swidler & Berlin v. United States*, 524 U.S. 399, 403 (1998), and, consequently, "information regarding a client's fees is not protected by the attorney-client privilege because the payment of fees is not a confidential communication between the attorney and client," *Matter of Witnesses*, 729 F.2d 489, 491 (7th

²¹ Notably, the request is extremely clear, and Winston & Strawn does not even offer a "boilerplate" "vague and ambiguous" objection with respect to request 1.

Cir. 1984) (citation omitted); *see also Matter of Walsh*, 623 F.2d 489, 494 (7th Cir. 1980) (“As a general rule, matters involving the receipt of fees from a client are not privileged as they do not involve confidential communications.”) (citations omitted).²²

Notably, although Trudeau’s payments to his lawyers are not confidential communications, they are very probative of whether Trudeau is impoverished as he claims. When – as in this case – payments to attorneys can be disclosed without revealing confidential communications, they are “[l]ike any other expenditure, . . . a legitimate subject of inquiry,” and evidence of substantial payments to attorneys is no different than “evidence that the defendant had bought a Rolls-Royce for cash (*i.e.*, a substantial expenditure).” *Matter of Witnesses*, 729 F.2d at 492 (quoting *Jeffers*, 532 F.2d at 1115). Indeed, the Court recently listed Trudeau’s likely substantial payments to his lawyers as one of the many facts raising questions about Trudeau’s claimed poverty.²³

Neither firm’s objection gives a “straight answer” regarding why these important payments cannot be disclosed.²⁴ The objections avoid referring to “privilege,” but they both mention “the attorney’s rule of confidentiality” or the protections afforded “confidential client information.” PXA:15 at 2; PXA:7 at 2. In particular, Winston & Strawn relies on *In re Decker*, 606 N.E.2d 1094 (Ill. 1993), which explains that a client “‘confidence’ refers to information

²² In this circuit, the only narrow exception to the “general rule” that fee information must be produced is when disclosing such information “would disclose confidential communications between the attorney and client.” *Matter of Witnesses*, 729 F.2d at 492; *see also United States v. Jeffers*, 532 F.2d 1101, 1115 (7th Cir. 1976) (refusing to apply privilege to fee information even when the disclosure would incriminate the client), *vacated in part on other grounds*, 432 U.S. 137 (1977). Neither firm argues that disclosing fee information also would disclose attorney-client communications.

²³ PXA:5 at 4:16-20 (“There [are] certainly a lot of questions raised, [Trudeau’s] credit cards, the way he lives, the way he travels. I don’t know whether these people are his butlers or his cooks or anything else. I don’t know how he’s paying Mr. Anderson. I don’t think this is one of your *pro bono* cases, Mr. Anderson.”).

²⁴ The firms also contend that Trudeau has not authorized them to release the information. PXA:7 at 2 (“[The subpoena] calls for the production of confidential client information for which we have no authorization from the client to release.”); PXA:15 at 2. “A client’s expectation of confidentiality, however, is not sufficient by itself to establish attorney-client privilege from disclosure.” *JP Morgan*, 2011 WL 6753984 at *3. Whether Trudeau elects to “authorize” his lawyers to release the information is irrelevant to their duty to comply.

protected by the attorney-client privilege under applicable law.” *Id.* at 615 (quoting Ill. RPC 1.6(a)). However, as explained above, fee information is not privileged “under applicable law.”

2. Illinois RPC 1.6 Is Inapplicable.

Winston & Strawn also wrongly cites Ill. RPC 1.6 to support its refusal to comply. PXA:15 at 2. Although Rule 1.6 generally prohibits disclosing client confidences or secrets,²⁵ such disclosures are always permissible when necessary to “comply with other law[.]” Ill. RPC 1.6(b)(6); *see also SEC v. Sassano*, 274 F.R.D. 495, 497 (S.D.N.Y. 2011) (explaining that Rule 45 “constitutes a ‘law’” under Rule 1.6). Consequently, “Rule 1.6 is not intended to, and does not apply to judicial proceedings in which a lawyer may be required to produce evidence concerning a client.” *Avoletta v. Danforth*, No. 3:11CV1126, 2012 WL 3113151, *1 (D. Conn. July 30, 2012); *see also Burke v. Messerli & Kramer, P.A.*, No. 09-1630, 2010 WL 2520615, *2 (D. Minn. June 15, 2010) (“Rule 1.6 is inapplicable to discovery requests and deposition questions.”) (mag. op.); *Hope for Families & Cmty. Serv. v. Warren*, No. 3:06-CV-1113, 2009 WL 174970, *33 (M.D. Ala. Jan. 26, 2009) (finding that Rule 1.6 cannot be used “to oppose Plaintiffs’ motion seeking a court order directing disclosure”).

3. Fee Information Is Significant and Cannot Be Obtained Elsewhere.

Winston & Strawn contends that it is “rarely appropriate to subpoena an adversary’s law firm.”²⁶ PXA:15 at 2. Courts in this District use two largely similar tests to evaluate discovery issued to opposing counsel. Winston & Strawn cites neither test and, in any event, the FTC satisfies both.²⁷ Under the first formulation, discovery from opposing counsel is permitted “if there is no other reasonable means to obtain relevant and significant information that the attorney possesses.” *Fields v. City of Chi.*, No. 10 C 1168, 2012 WL 4892392, at *3 (N.D. Ill. Oct. 15,

²⁵ A client “secret” is “information gained in the professional relationship, that the client has requested be held inviolate or the revelation of which would be embarrassing to or would likely be detrimental to the client.” Ill. RPC, Introduction; *see also Decker*, 606 N.E. at 315.

²⁶ Lane’s objection does not mention this issue. *See* PXA:7.

²⁷ Most decisions involve either proposed depositions of opposing counsel, or both depositions and document requests. The FTC’s subpoenas to counsel seek only documents.

2012) (citation omitted). Other courts permit discovery from counsel when (1) there is no other means to obtain the information, (2) the information is relevant and nonprivileged, and (3) the information is crucial to the preparation of the case. *See e.g., Miyano Mach. USA, Inc. v. Miyanohtec Mach., Inc.*, 257 F.R.D. 456, 464 (N.D. Ill. 2008).²⁸ Under either phrasing, discovery from Trudeau’s counsel is necessary because there is no other practical way to obtain the information. Requesting it from Trudeau himself is a useless exercise, the people and entities Trudeau controls have demonstrated repeatedly they will not cooperate with discovery, and subpoenas to banks have not disclosed how Trudeau pays his lawyers.²⁹ As explained above, the information is non-privileged and extremely important given that Trudeau has the burden to demonstrate his complete inability to pay. Trudeau cannot contend that he does not control any assets while continuing to benefit from legal work likely costing millions.³⁰ Accordingly, the Court should order both firms to comply fully with request 2 within three business days.

²⁸The second test comes from *Shelton v. American Motors Corp.*, 805 F.2d 1323, 1327 (8th Cir. 1987). To the extent *Shelton* creates a heavier burden than *Fields*, multiple courts in this District have declined to follow *Shelton*. *See Shire LLC v. McAndrews Held & Malloy, Ltd.*, No. 11 C 7730, 2011 U.S. Dist. LEXIS 141585, at *5 (N.D. Ill. Dec. 9, 2011) (“[The Court] will not apply *Shelton* — at least not in the strict way advocated by respondents[.]”); *Wilson v. O’Brien*, No. 07 C 3994, 2010 WL 1418401, *2 (N.D. Ill. Apr. 6, 2010) (declining to apply *Shelton* and instead adopting “[t]he alternative position,” which is “one of flexibility and consideration of all the circumstances presented in a particular case, permits discovery to proceed until a clear obstacle is encountered”); *aaiPharma, Inc. v. Kremers Urban Dev. Co.*, 361 F. Supp. 2d 770, 775 (N.D. Ill. 2005) (declining to follow *Shelton*); *Qad.inc. v. ALN Assocs., Inc.*, 132 F.R.D. 492, 495 (N.D. Ill. 1990) (explaining that the *Shelton* test, “stated as a rule of law . . . must be viewed as wrong”).

²⁹Winston & Strawn contends that the fee information at issue “is cumulative of other payment information that the FTC already has obtained by subpoenaing Mr. Trudeau’s banks and already presented to the court.” PXA:15 at 2. The FTC only has possibly incomplete information regarding payments to lawyers made between August 2008 and January 2009.

³⁰Both Winston & Strawn and Lane assert miscellaneous “boilerplate” objections (“unduly burdensome, vague, ambiguous,” and so forth). PXA:7 at 2; PXA:15 at 2. Neither provides any support for these “boilerplate” objections, which the Court should disregard. *See, e.g., Johnson v. Dovey*, No. 1:08-CV-00640, 2011 WL 5374958, *3 (E.D. Cal. Nov. 7, 2011) (overruling “boilerplate objections” to subpoena); *Sabol v. Brooks*, 469 F. Supp.2d 324, 329 (D. Md. 2006) (finding objections to subpoena waived when non-party “used the boilerplate objections that this Court repeatedly has warned against”).

C. The Court Should Order the Firms To Provide Unequivocal Responses to Request 3.

Both Winston & Strawn and Lane give incomplete responses to the FTC's request seeking amounts they hold (or have held) for benefit of Trudeau, his corporate entities, or his associates (including his wife, Babenko). PXA:14 at 5 (request 3); PXA:18 at 5 (same). Lane does not deny that he has responsive documents, but states instead that he "holds no cash or other assets owed to, or belonging to, the judgment debtor [Trudeau]." PXA:7 at 2. Lane conspicuously fails to mention whether he previously held such funds, or whether he holds (or held) funds on behalf of Trudeau's corporate entities, Babenko, or other associates.

For its part, Winston & Strawn denies having any documents responsive to request 3, but includes a similar caveat: "We are not [now] holding any funds" on Trudeau's behalf, or on behalf any Trudeau-affiliated entity. PXA:15 at 3. The Winston & Strawn response is vague regarding whether Winston & Strawn previously held funds on Trudeau's behalf (or on behalf of his entities), or whether it ever held funds on behalf of one of Trudeau's associates.³¹ Because the subpoenas seek this information, the Court should order Trudeau's lawyers to give unequivocal responses within three business days.

D. WSU's "Boilerplate" Objections Are Baseless, and the Court Should Order WSU To Produce Documents and a Corporate Designee Promptly.

The FTC's subpoena to WSU is very limited, seeking only three years of financial statements, one year of bank records, and corporate testimony. Through Lane, WSU submits nothing beyond "boilerplate" objections to the document requests.³² See PXA:7. Lane also has refused to communicate regarding deposition dates. *Cf. In re Barnicle*, 800 F. Supp. 1021, 1023-24 (D.N.H. 1992) ("Evasion of a deposition subpoena constitutes an obstruction of the administration of justice."). Accordingly, the FTC seeks an order that WSU comply fully with

³¹ In fairness, during the "meet and confer," Winston & Strawn appeared to withdraw these caveats. If Winston & Strawn has no documents responsive to request 3, an order requiring Winston & Strawn to comply with this request will not burden the firm.

³² WSU has not objected to the 30(b)(6) deposition. See PXA:7.

the document request within three business days and produce a well-prepared 30(b)(6) designee at a mutually convenient time no more than one week after its document production.

V. CONCLUSION

The baseless objections and other obstructionist tactics outlined above illustrate the futility of conventional discovery efforts involving Trudeau. For this reason, and because there is already a sound legal basis to support immediate coercive sanctions, *see* Opening Br. at 16-17, Reply at 11-12, the FTC again urges the Court to consider imposing coercive incarceration, or expediting the hearing regarding such sanctions. Put simply, coercive incarceration is the only means to achieve a full accounting of Trudeau's assets. At minimum, to move this process forward incrementally, the Court should order that Winston & Strawn, Lane, and WSU comply with the FTC's document request within three business days, and that WSU produce a corporate designee no more than one week thereafter.

Dated: January 18, 2013

Respectfully Submitted,

David O'Toole (dotoole@ftc.gov)
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603-5001
Phone: (312) 960-5601
Fax: (312) 960-5600

/s/ Jonathan Cohen
Michael Mora (mmora@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave., N.W. M-8102B
Washington, DC 20580
Phone: 202-326-3373; -2551
Fax: 202-326-2558

CERTIFICATE OF SERVICE

I, Jonathan Cohen, hereby certify that on January 18, 2013, I caused to be served true copies of the foregoing by electronic means, by filing such documents through the Court's Electronic Case Filing System, which will send notification of such filing to:

Kimball Richard Anderson
kanderson@winston.com

Thomas Lee Kirsch, II
tkirsch@winston.com

Katherine E. Crowell
kcrowell@winston.com

I further certify that, on January 18, 2013, I caused to be served true copies of the foregoing by Federal Express to:

Marc J. Lane
The Law Offices of Marc Lane, PC
180 North LaSalle Street
Chicago, IL 60601

Nataliya Babenko & Suneil Sant
c/o Website Solutions USA, Inc.
130 Quail Ridge Drive
Westmont, IL 60559

Michael Dow
c/o Mary Patricia Benz, Esq.
111 West Washington, Suite 1150
Chicago, IL 60602

/s/ Jonathan Cohen
Jonathan Cohen (jcohen2@ftc.gov)
Attorney for Plaintiff
Federal Trade Commission

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,	)	Case No. 03-C-3904
)	
v.	)	Hon. Robert W. Gettleman
)	
KEVIN TRUDEAU,)	
)	
Defendant,)	
)	
WINSTON & STRAWN LLP,)	
)	
Respondent,)	
)	
THE LAW OFFICES OF MARC LANE, PC,)	
)	
Respondent,)	
)	
WEBSITE SOLUTIONS USA INC.,)	
)	
Respondent.)	
)	

**EXHIBITS IN SUPPORT OF PLAINTIFF’S MOTION TO COMPEL WINSTON &
STRAWN, THE LAW OFFICES OF MARC LANE, AND WEBSITE SOLUTIONS USA
TO COMPLY WITH SUBPOENAS**

FTC EXHIBIT PXA

DECLARATION OF JONATHAN COHEN IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL WINSTON & STRAWN, THE LAW OFFICES OF MARC LANE, AND WEBSITE SOLUTIONS, USA TO COMPLY WITH SUBPOENAS

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the following is true and correct:

- (1) I am co-counsel for Plaintiff Federal Trade Commission ("FTC") in the above-captioned action, and I have personal knowledge of the matters contained herein.
- (2) Attached hereto as **Attachment 1** is a true and correct copy of *Global Information Network USA v. FTC*, No. 1:12-mc-022, 2012 WL 6100472 (N.D. Ohio Dec. 7, 2012).
- (3) Attached hereto as **Attachment 2** is a true and correct copy of *FTC v. Trudeau*, No. 5:12MC35, 2012 WL 5463829 (N.D. Ohio Nov. 8, 2012).
- (4) Attached hereto as **Attachment 3** is a true and correct copy of *Babenko v. FTC*, No. 1:12-mc-00006 (S.D. Ohio Mar. 22, 2012).
- (5) Attached hereto as **Attachment 4** is a true and correct copy of an excerpt from a hearing transcript in the above-captioned action, dated November 20, 2012.
- (6) Attached hereto as **Attachment 5** is a true and correct copy of a page on the website of the Law Offices of Marc Lane, P.C., viewed on January 16, 2013.
- (7) Attached hereto as **Attachment 6** is a true and correct copy of attachment A to Mary Rose Luceri's July 11, 2012 declaration filed as Exhibit 2 to the FTC's motion to hold Trudeau in contempt (DE281).
- (8) Attached hereto as **Attachment 7** is a true and correct copy of a letter from Marc Lane to Michael Mora, dated January 3, 2013.
- (9) Attached hereto as **Attachment 8** is a true and correct copy of a subpoena to Website Solutions USA, Inc., dated December 27, 2012.
- (10) Attached hereto as **Attachment 9** is a true and correct copy of a subpoena to KT Radio Network Inc., dated January 17, 2013.
- (11) Attached hereto as **Attachment 10** is a true and correct copy of a subpoena to GIN USA, dated January 17, 2013.
- (12) Attached hereto as **Attachment 11** is a true and correct copy of Michael Dow's LinkedIn web resume attached to Ronald Lewis' July 11, 2012 declaration filed as Exhibit 1 to the FTC's motion to hold Trudeau in contempt (DE281).
- (13) Attached hereto as **Attachment 12** is a true and correct copy of an article appearing on the website of *The Salem News*, dated June 27, 2008.
- (14) Attached hereto as **Attachment 13** is a true and correct copy of an email from Jonathan Cohen to Winston & Strawn, dated December 21, 2012.

(15) Attached hereto as **Attachment 14** is a true and correct copy of a subpoena to Winston & Strawn LLP, dated December 21, 2012.

(16) Attached hereto as **Attachment 15** is a true and correct copy of a letter from Kimball Anderson to Michael Mora, dated January 7, 2013.

(17) Attached hereto as **Attachment 16** is a true and correct copy of an email from Marc Lane to Jonathan Cohen, dated December 27, 2012.

(18) Attached hereto as **Attachment 17** is a true and correct copy of an email from Jonathan Cohen to Marc Lane, dated December 21, 2012.

(19) Attached hereto as **Attachment 18** is a true and correct copy of a subpoena to the Law Offices of Marc Lane, P.C., dated December 21, 2012.

(20) Attached hereto as **Attachment 19** is a true and correct copy of an email from Jonathan Cohen to Marc Lane, dated December 27, 2012, 4:52 PM EST.

(21) Attached hereto as **Attachment 20** is a true and correct copy of an email from Jonathan Cohen to Marc Lane, dated December 27, 2012, 10:24 AM EST.

(22) Attached hereto as **Attachment 21** is a true and correct copy of an email from Kimball Anderson to Jonathan Cohen, dated December 30, 2012.

(23) Attached hereto as **Attachment 22** is a true and correct copy of an email from Jonathan Cohen to Kimball Anderson, dated January 2, 2012.

(24) Attached hereto as **Attachment 23** is a true and correct copy of an Illinois Secretary of State website page, viewed on January 16, 2013.

(25) Attached hereto as **Attachment 24** is a true and correct copy of an email from Jonathan Cohen to Marc Lane, dated January 4, 2013.

(26) Attached hereto as **Attachment 25** is a true and correct copy of an email from Marc Lane to Jonathan Cohen, dated January 7, 2013.

(27) Attached hereto as **Attachment 26** is a true and correct copy of an email from Jonathan Cohen to Kimball Anderson, dated January 7, 2013.

(28) Attached hereto as **Attachment 27** is a true and correct copy of an email from Jonathan Cohen to Kimball Anderson, dated January 8, 2013.

(29) Attached hereto as **Attachment 28** is a true and correct copy of an email from Kimball Anderson to Jonathan Cohen, dated January 10, 2013.

(30) Attached hereto as **Attachment 29** is a true and correct copy of an email from Jonathan Cohen to Kimball Anderson, dated January 12, 2013.

(31) Attached hereto as **Attachment 30** is a true and correct copy of various documents the FTC received earlier this month from Golden Lion Mint.

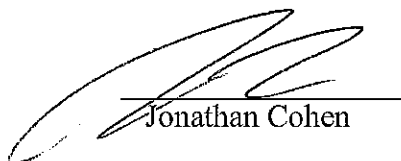
(32) Pursuant to FRCP 37(a)(1) and LR 37.2, I certify that I engaged in a telephonic meet and confer with Winston & Strawn attorneys Kimball Anderson and Thomas Kirsch on January 12, 2013.

(33) On January 4, 2013, I asked Lane to schedule a meet and confer. Lane stated that Winston & Strawn represented his firm, and that I would have to arrange any meet and confer with Winston & Strawn. I immediately contacted Winston & Strawn, which agreed to meet and confer on Lane's behalf. However, when the meet and confer began on January 12, 2013, Winston & Strawn informed me, for the first time, that it did not yet represent Lane and could not meet and confer on his behalf.

(34) On January 17, 2013, at 9:30 PM EST, almost two weeks after I had asked Lane to meet and confer, Winston & Strawn emailed the FTC, stated that it now represented Lane, and would conference on his behalf.

(35) Pursuant to FRCP 37(a)(1) and LR 37.2, I certify that I attempted to meet and confer with Lane, but was unable to do so within a reasonable time. However, the FTC will meet and confer as soon as such a conference can be arranged.

(36) Pursuant to FRCP 37(a)(1) and LR 37.2, I certify that I attempted to meet and confer with WSU, but was unsuccessful. On January 4, 2013, the day after Lane served an objection on WSU's behalf, I asked Lane to meet and confer regarding WSU's objection. On January 7, 2013, Lane responded that WSU would engage other counsel for that purpose, "presumably within the next few days," and that he would inform me when that occurred. To date, Lane has not provided any information regarding who represents WSU or with whom the FTC can meet and confer.



Jonathan Cohen

Executed on January 18, 2013 in Washington, D.C.

FTC EXHIBIT PXA:1



Slip Copy, 2012 WL 6100472 (S.D. Ohio)
(Cite as: **2012 WL 6100472 (S.D. Ohio)**)

Only the Westlaw citation is currently available.

United States District Court,
S.D. Ohio,
Western Division.
FEDERAL TRADE COMMISSION, Plaintiff,
v.
Kevin TRUDEAU, et al., Defendants,
v.
Global Information Network, Movant.

No. 1:12-mc-022.
Dec. 7, 2012.

Stephen Dowdell, Washington, DC, for Plaintiff.

[Daniel John Donnellon](#), [Kenjiro David Lecroix](#),
[Faruki Ireland](#) and [Cox PLL](#), Cincinnati, OH, for
Defendants.

ORDER

[KAREN L. LITKOVITZ](#), United States Magistrate
Judge.

*1 This case originated the United States District Court for the Northern District of Illinois. *See F.T.C. v. Trudeau*, No. 03-cv-3904 (N.D.Ill). Plaintiff, the Federal Trade Commission (FTC), filed a civil contempt action against Kevin Trudeau (Trudeau), resulting in a \$37.5 million sanction against Trudeau. As part of its investigation into Trudeau's assets and in an attempt to collect on the judgment against Trudeau, the FTC filed a subpoena to Fifth Third Bancorp (Fifth Third) seeking production of the bank records of movant Global Information Network (GIN).

This matter is before the Court on GIN's motion to quash the FTC's subpoena to Fifth Third to produce GIN's financial documents (Doc. 1); the FTC's response in opposition (Doc. 3); GIN's reply memorandum (Doc. 4); the FTC's notice of supplemental authority (Doc. 8); and GIN's response. (Doc. 9). Pursuant to GIN's request, oral argument

was held on June 4, 2012. (Doc. 11). Following the hearing, the Court held the record open until July 2, 2012 to allow the parties to submit additional authority and information in support of their respective arguments. (Docs.11, 16). The FTC filed its supplemental brief on June 18, 2012 (Doc. 13); GIN filed its supplemental brief on July 2, 2012. (Doc. 17). GIN submitted additional evidence on September 12, 2012, regarding a related arbitration ruling. (Doc. 18). The FTC objected to GIN's late supplementation as untimely. (Doc. 19). Nevertheless, the FTC further supplemented the record on November 14, 2012, after the deadline set by the Court. (Doc. 20).

At the outset, the Court determines that while GIN's September 2012 supplementation (Doc. 18) was beyond the date set by the June 20, 2012 Order (Doc. 16), the late supplementation will be considered in the interest of having a complete record and deciding this matter on the merits. For these reasons, the Court will likewise consider the FTC's November 2012 supplementation in making its ruling.

I. Background

In September 2007, the FTC filed a civil contempt proceeding against Trudeau for violating a permanent injunction. *See F.T.C. v. Trudeau*, No. 03-cv-3904 (N.D.Ill.). Under the terms of the injunction, Trudeau is prohibited from "producing or disseminating infomercials ... [,]" other than advertising or promoting his own books or publications, provided he "[does] not misrepresent the content of the book." *F.T.C. v. Trudeau*, 567 F.Supp.2d 1016, 1017-18 (N.D.Ill.2007). Trudeau was subsequently found to be in violation of this order and held in contempt for materially misrepresenting the contents of a diet book he authored. *Id.* at 1023. Following briefing and oral argument, the district court ordered Trudeau to pay a fine in excess of \$37 million to compensate consumers of the book. *F.T.C. v. Trudeau*, No. 03-cv-3904, 2008 WL 7874195, at *3 (N.D.Ill.Dec.11, 2008). The ruling and sanction

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(Cite as: 2012 WL 6100472 (S.D. Ohio))

were eventually affirmed by the Seventh Circuit. *F.T.C. v. Trudeau*, 662 F.3d 947 (7th Cir.2011), cert denied, — U.S. —, 133 S.Ct. 426, — L.Ed.2d — (Oct. 9, 2012).

*2 Following Trudeau's assertion that he was unable to pay the sanction, the FTC initiated post-judgment discovery in the form of a subpoena to Fifth Third. The subpoena commands Fifth Third to produce documents related to bank accounts "held by or titled in the name of: (1) Kevin M. Trudeau, and any account held for his benefit or for which he is a signatory or authorized user; (2) Global Information Network FDN ...; and (3) Nataliya Babenko ... and any account held for her benefit or for which she is a signatory or authorized user." ^{FNI} (Doc. 9, Ex. 2 at 10). In response to the subpoena, GIN filed the instant motion to quash. (Doc. 1).

^{FNI}. Neither GIN nor Nataliya Babenko is a party to *F.T.C. v. Trudeau*, No. 03-CV-3904 (N.D. Ill.). GIN is a multi-form foundation formed in the country of Nevis-St. Kitts; Ms. Babenko is Trudeau's spouse. Notably, in February 2012, Ms. Babenko filed a similar motion to quash which was denied by this Court. See *Babenko v. F.T.C.*, No. 1:12-mc-6 (S.D. Ohio Mar. 22, 2012) (Bowman, M.J.).

II. Standard of Review

Rule 45 of the Federal Rules of Civil Procedure governs motions to quash subpoenas. Fed.R.Civ.P. 45. Courts must quash subpoenas requiring "disclosure of privileged or other protected matter, if no exception or waiver applies...." Fed.R.Civ.P. 45(c)(3)(A)(iii). "[T]he burden of persuasion in a motion to quash a subpoena ... is borne by the movant." *U.S. v. Int'l Bus. Mach. Corp.*, 83 F.R.D. 97, 104 (S.D.N.Y.1979). See also *In re Smirman*, 267 F.R.D. 221, 223 (E.D.Mich.2010); *Recycled Paper Greetings, Inc. v. Davis*, No. 1:08-mc-13, 2008 WL 440458, at *3 (N.D. Ohio Feb.13, 2008). In reviewing a motion to quash, the court may consider "whether (i) the subpoena was issued primarily for the purposes of harassment, (ii) there are

other viable means to obtain the same evidence, and (iii) to what extent the information sought is relevant, nonprivileged, and crucial to the moving party's case." *Bogosian v. Woloohojian Realty Corp.*, 323 F.3d 55, 66 (1st Cir.2003) (citing cases). "If the documents sought by the subpoena are relevant and are sought for good cause, then the subpoena should be enforced unless the documents are privileged or the subpoenas are unreasonable, oppressive, annoying, or embarrassing." *Recycled Paper Greetings*, No. 1:08-mc-13, 2008 WL 440458, at *3 (internal quotations and citations omitted).

III. Analysis

GIN seeks to quash the instant subpoena asserting that it exceeds the permissible scope of post-judgment discovery and, further, that the information sought is irrelevant as Trudeau "is not, and never has been, an owner, manager, officer or director of GIN." (Doc. 1 at 3). GIN asserts that, as a non-party, the Federal Rules of Civil Procedure do not permit discovery of its assets. *Id.* at 4. Further, GIN contends that the FTC has exceeded the sanctioned boundaries of post-judgment discovery by issuing the subpoena and is engaging in a fishing expedition aimed at gathering information to damage GIN. *Id.* GIN asks this Court to quash the subpoena; enjoin the FTC from issuing further post-judgment discovery requests without providing it notice; and compel the FTC to disclose all other post-judgment discovery requests issued in connection with the *Trudeau* litigation.

In response, the FTC argues that the subpoena should be enforced in light of evidence demonstrating that Trudeau and his wife, Ms. Babenko, have significant financial ties to GIN. In support, the FTC cites to evidence that: Ms. Babenko is a signatory on GIN's bank account with Fifth Third; Trudeau is a founding member of GIN and a member of its council; and that Trudeau exercises control over GIN to the extent that he has authority to waive membership and/or initiation fees. Given this evidence, the FTC contends that the information sought by the subpoena is relevant to its investiga-

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tion into Trudeau's purported inability to pay his contempt sanction. Further, the FTC asserts that, as a non-party, GIN is not entitled to advance notice of its post-judgment discovery requests regarding Trudeau.

A. GIN is not entitled to prior notice of the FTC's discovery requests.

*3 GIN claims that the FTC's failure to serve it with notice of the subpoena deprived it of the right to object before Fifth Third produced the requested information. In support of this argument, GIN cites to Rule 45, which requires that a copy of the subpoena be delivered "to the named person..." Fed.R.Civ.P. 45(b)(1). Further, GIN contends that because the FTC failed to serve it with a copy of the subpoena prior to its return date, the time requirements provided by Rule 45 for filing a motion to quash are inapplicable. GIN's arguments are not well-taken.

Rule 45 provides that "[s]erving a subpoena requires delivering a copy to the *named person*" and that prior notice must be given to *each party* where a subpoena commands the production of documents. Fed.R.Civ.P. 45(b)(1) (emphasis added). Here, GIN did not learn about the subpoena until after the requested documents had been produced by Fifth Third. However, the "named person" in the subpoena is Fifth Third and not GIN. In addition, by its own assertion, GIN is not a party to the underlying action. Thus, by the Rule's plain language, GIN was not entitled to notice of the subpoena. See *F.T.C. v. Trudeau*, 5:12MC35, 2012 WL 5463829, at *3 (N.D. Ohio Nov. 8, 2012) ("[N]othing in the rules required the FTC to serve movants with the subpoena or give them notice thereof. In any event, even if movants were entitled to notice or service, they have failed to demonstrate any legally cognizable basis upon which they could have challenged the subpoena").

Assuming, *arguendo*, that GIN was entitled to notice, GIN's assertion of untimely notice does not require the subpoena be quashed. "Rather, where a party has failed to comply with the notice require-

ments of Rule 45(b)(1), courts have declined to quash subpoenas or to exclude materials where the aggrieved party was not prejudiced by the delay." *GMAC Mortg., LLC v. McKeever*, No. 08-459-JBC, 2010 WL 1141226, at *2 (E.D. Ky. Mar. 22, 2010).

GIN has failed to provide any evidence that it was prejudiced by the lack of notice from the FTC regarding the instant subpoena. GIN admits that it received actual notice of the subpoena from a second-hand source. See Doc. 1 at 5 (GIN learned about the subpoena "through second-hand information."). Further, GIN has had an opportunity to be heard on its objections to the subpoena as evidenced by the instant ruling. In light of these facts, the Court is unable to conclude that GIN was prejudiced by the lack of notice from the FTC and GIN's motion to quash the subpoena for lack of notice is denied.

B. The subpoena should be enforced as it seeks documents relevant to the FTC's investigation into Trudeau's assets.

GIN contends the subpoena must be quashed as it exceeds the permissible scope of post-judgment discovery by seeking information relating to its financial affairs that is irrelevant to the litigation against Trudeau. GIN's argument is premised upon the assertion that Trudeau does not have sufficient ties with GIN to justify the discovery as "Trudeau is not, and never has been, an owner, manager, officer or director of GIN." (Doc. 1 at 3). For the following reasons, the undersigned finds that GIN's claims are insufficient to warrant quashing the subpoena.

*4 "In aid of the judgment or execution, the judgment creditor ... may obtain discovery *from any person* ... as provided in these rules..." Fed.R.Civ.P. 69(a)(2) (emphasis added). "In the absence of any contrary agreement between the parties, the scope of post-judgment discovery is broad ... and includes the right to obtain discovery from non-parties." *GATX Corp. v. Appalachian Fuels, LLC*, No. 09-41, 2011 WL 4015573, at *2

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(E.D.Ky. Sept.9, 2011) (citing *U.S. v. Conces*, 507 F.3d 1028, 1040 (6th Cir.2007)). Judgment creditors are entitled to “utilize the full panoply of federal measures provided for under federal and state law to obtain information from parties and non-parties alike, including information about assets on which execution can issue or about assets that have been fraudulently transferred.” *Magnaleasing, Inc. v. Staten Island Mall*, 76 F.R.D. 559, 561 (S.D.N.Y.1977). However, there are limits to post-judgment discovery regarding third parties and “[t]he party seeking such discovery must make ‘a threshold showing of the necessity and relevance’ of the information sought.” *Michael W. Dickinson, Inc. v. Martin Collins Surfaces & Footings, LLC*, No. 5:11-CV-281, 2012 WL 5868903, at *2 (E.D.Ky. Nov.20, 2012) (quoting *Trs. of N. Fla. Operating Eng'rs Health & Welfare Fund v. Lane Crane Serv., Inc.*, 148 F.R.D. 662, 664 (M.D.Fla.1993)). Although discovery of non-party assets is ordinarily not contemplated by Rule 69(a), such discovery is permitted where “the relationship between the judgment debtor and the non-party is sufficient to raise a reasonable doubt about the bona fides of the transfer of assets between them.” *Id.* (quoting *Magnaleasing, Inc.*, 76 F.R.D. at 562).

Here, the FTC contends that the subpoenaed documents relating to GIN's financial accounts are relevant to its investigation into Trudeau's finances because both Trudeau and his wife have strong ties, financial and otherwise, to GIN. The FTC has provided the following evidence to support its contention: (1) Trudeau is a founder of GIN (Doc. 3, Ex. 2, ¶ 5) (Declaration of FTC Investigator Ronald Lewis)^{FN2}; (2) Trudeau has represented that he is a member of the GIN council in emails to prospective GIN members and in radio interviews (*Id.* at 8–9 (Trudeau's email No. 1); *Id.* at 21–22 (transcription of Trudeau's radio interview)); (3) Trudeau exercises financial control over GIN by having authority to waive its initiation fees (*Id.* at 10–12) (Trudeau email No. 2); (4) Trudeau has knowledge of GIN's supposedly anonymous members (*Id.* at 13–14) (email from GIN discussing

Trudeau's speaking appearance at a GIN event); and (5) Ms. Babenko is an authorized signatory on GIN's bank account (Doc. 3, Ex. 1) (documents from Fifth Third's submitted in response to the subpoena). Further, in its first record supplementation, the FTC submitted evidence of money transfers from GIN accounts to the accounts of other business entities controlled by Trudeau. (Doc. 13, Ex. 2) (financial records from Fifth Third demonstrate that checks in the amounts of \$8,000, \$103,000, and \$150,000 were written from GIN's account and that on these same days deposits for identical amounts were made into accounts controlled by Trudeau).

FN2. Mr. Lewis is a Supervisory Investigator at the FTC working in the Enforcement Division of the FTC's Bureau of Consumer Protection in Washington D.C. *Id.*, ¶ 1. In conjunction with this work, Mr. Lewis is involved in the FTC's investigation of Trudeau and businesses with which he is associated, including GIN. *Id.*, ¶ 2.

*5 GIN argues that the FTC's evidence fails to demonstrate Trudeau's financial ties with GIN are sufficient to justify the subpoena. In its July 2012 supplementation, GIN submitted the affidavit of Marc J. Lane, its attorney.^{FN3} Pursuant to the Nevis Multiform Foundation Ordinance, a multiform foundation like GIN must have: (1) a registered agent; (2) a management board; and (3) a secretary. (Doc. 17, Ex. 1 at 7–99). Mr. Lane attests that Trudeau is not and never has been a registered agent of GIN, a member of its management board, or its secretary as demonstrated by the provided flowcharts. (Doc. 17, Ex. 1 at 2–4, ¶¶ 3, 8). Relying on this evidence, GIN argues that the FTC's evidence purporting to show that Trudeau has control over GIN is “baseless.” The undersigned disagrees.

FN3. Attached to Mr. Lane's affidavit are the following exhibits: documents outlining the laws of Nevis governing the formation of multiform foundations (Doc. 17, Ex. 1 at 7–99); June 2012 correspond-

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ence between the FTC and GIN's counsel regarding the FTC's refusal to participate in the Nevis arbitration (*Id.* at 101–107); the St. Christopher and Nevis Arbitration Act (*Id.* at 109–11); the United Kingdom Arbitration Act (*Id.* at 113–44); and several one-page flowcharts respectively titled “GIN Structure,” “GIN Checks,” “Babenko Transactions,” and “GIN Transactions.” (*Id.* at 138–44).

First, the Court notes that at oral argument, counsel for GIN was unable to define or identify the organizational structure of GIN, explain any of the mechanisms regarding its formation, or identify who owns and/or controls it. (Doc. 11 at 3). While GIN's supplementation provides the governing laws for forming a multiform foundation in Nevis, *see* Doc. 17, Ex. 1 at 7–99, the Court is unable to conclude from the provided materials that Trudeau has no control over GIN's financial dealings. The flowcharts provided by GIN fail to provide any illumination as to who owns or controls GIN except to identify that Trudeau is not a registered agent, secretary, or board member of GIN. *See* Doc. 17, Ex. 1 at 138. None of the information provided by GIN addresses Trudeau's role in GIN or the role of GIN's “council,” of which Trudeau is a self-described member. In the absence of any evidence or even explanation about the ownership, control or management of GIN, the FTC's evidence indicating that Trudeau is a “founder” and “council” member of GIN who exercises control over GIN remains un rebutted.

GIN also takes issue with the admissibility of the FTC's evidence regarding Trudeau's self-acclaimed status as a founding GIN member and financial records demonstrating asset transfers between GIN-controlled and Trudeau and/or Babenko-controlled bank accounts. (Doc. 17 at 6–7, 7–13). To the extent that GIN argues this evidence is unpersuasive because it is unauthenticated and inadmissible,^{FN4} this argument misses the mark. The instant matter concerns the discoverability of

the information sought by the subpoena. At this stage, it is not necessary that the evidence presented be admissible. *See* Fed.R.Civ.P. 26(b)(1) (“Relevant information need not be admissible ... if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.”). *See also F.T.C. v. Trudeau*, 2012 WL 5463829, at *5. The evidence submitted by the FTC is relevant to its investigation and is likely to lead to the discovery of admissible evidence. Consequently, GIN's evidentiary argument is not well-taken.

FN4. In its July 2012 supplementation, GIN attacks the evidence submitted by the FTC obtained from Fifth Third pursuant to the subpoena on the basis that it is inadmissible under Fed.R.Evid. 901 based on lack of authentication. *See* Doc. 17 at 5–6. Federal Rule of Evidence 901(a) provides that “the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” GIN has not set forth any reasons for questioning the authenticity of the bank records submitted by the FTC. The circumstances surrounding their production, *i.e.*, pursuant to a subpoena to Fifth Third, as well as their appearance and content, persuade the Court that the documents are what they purport to be. *See* Fed.R.Evid. 902(9) (“Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law” are self-authenticating); Fed.R.Evid. 901(b)(4) (documents can be authenticated by their “appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with the circumstances”); *Alexander Dawson, Inc., v. NLRB*, 586 F.2d 1300, 1302 (9th Cir.1978) (holding “the content of a document, when considered with the circumstances surrounding its discovery, is an ad-

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equate basis for [its authentication]”).

GIN also argues that the FTC's evidence of money transfers between GIN's bank account and other business accounts is merely evidence of monetary transactions made in the ordinary course of business. However, GIN has provided no evidence to support this claim or to contradict the FTC's supported inference that Trudeau has unreported GIN-related assets that it may rightfully discover. The FTC has provided evidence which raises a “reasonable doubt about the relationship between movant[] and Trudeau and his companies and the bona fides of the transfers between these entities.” *F.T.C. v. Trudeau*, 2012 WL 5463829, at *5. Specifically, the evidence demonstrating same-day monetary transfers in identical amounts from GIN accounts to accounts controlled by Trudeau, his wife, and/or Trudeau-controlled business entities raises a reasonable doubt about the bona fides of Trudeau's unreported financial dealings with GIN. *Id.* See also *Magnaleasing, Inc.*, 76 F.R.D. at 562. ^{FN5} The FTC's evidence implies that GIN's business transactions with those entities are not “totally independent from Trudeau, but may have been created to evade the contempt sanction and conceal Trudeau's assets.” *F.T.C. v. Trudeau*, 2012 WL 5463829, at *5. Therefore, GIN's bank records are relevant to determining whether Trudeau has used GIN to conceal his assets. *Id.*

FN5. The minimalistic flowcharts provided by GIN fail to contradict the FTC's evidence; rather, they seem to serve no purpose aside from illustrating the evidence received by the FTC regarding these account transfers. See Doc. 17, Ex. 1 at 4–5, ¶¶ 8–11; Doc. 17, Ex. 1 at 138–44.

*6 GIN has also provided evidence of an arbitration ruling against Mr. Lewis in Nevis holding that Mr. Lewis violated the terms of GIN's membership agreement by failing to disclose that he was an FTC investigator in seeking to join GIN. (Docs. 9, 18). To the extent that GIN seeks to quash the instant subpoena or exclude documents obtained by

Mr. Lewis on the basis of the Nevis arbitration ruling against him, GIN's request is denied. GIN has cited no authority to support a finding that an arbitration ruling from Nevis is binding on this Court. Likewise, GIN's argument that the investigatory materials obtained by Mr. Lewis should be excluded from the instant proceedings on a “fruit-of-the-poisonous-tree” rationale as they were obtained in violation of GIN's membership agreement is of no consequence. GIN has not provided any legal authority supporting the application of a criminal evidentiary doctrine in a civil proceeding such as this. Moreover, the Supreme Court has “repeatedly declined to extend the exclusionary rule to proceedings other than criminal trials.” *Perm. Bd. of Probation and Parole v. Scott*, 524 U.S. 357, 363–64, 118 S.Ct. 2014, 141 L.Ed.2d 344 (1998). Consequently, the undersigned is not persuaded that the materials submitted by GIN require the Court to quash the subpoena.

In consideration of the briefings and arguments of the parties and upon review of the complete record, the Court finds that the FTC has demonstrated that there is “reasonable doubt about the bona fides” of Trudeau's relationship with GIN. *Magnaleasing, Inc.*, 76 F.R.D. at 562. The FTC has provided sufficient evidence establishing that GIN's bank account records are relevant to its investigation into Trudeau's undisclosed assets and are sought for good cause. See *Recycled Paper Greetings*, No. 1:08–mc–13, 2008 WL 440458, at *3. Accordingly, GIN's motion to quash is denied.

IV. Conclusion

For the above reasons, GIN's motion to quash the subpoena (Doc. 1) is **DENIED**. Further, GIN's request for an order enjoining the FTC from issuing further post-judgment discovery requests without providing GIN notice and compelling the FTC to provide them with any and all related post-judgment discovery requests in connection with the *Trudeau* litigation is **DENIED**.

IT IS SO ORDERED.

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END OF DOCUMENT

FTC EXHIBIT PXA:2



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Only the Westlaw citation is currently available.

United States District Court,
 N.D. Ohio,
 Eastern Division.
 FEDERAL TRADE COMMISSION, Plaintiff,
 v.
 Kevin TRUDEAU, et al., Defendants,
 v.
 Global Information Network USA, Inc., et al.,
 Movants.

No. 5:12MC35.
 Nov. 8, 2012.

Michael P. Mora, U.S. Federal Trade Commission,
 Washington, DC, for Plaintiff.

Daniel J. Donnellon, Kenjiro D. LeCroix, Faruki
 Ireland & Cox, Cincinnati, OH, for Movants.

MEMORANDUM OPINION AND ORDER
 SARA LIOI, District Judge.

*1 Before the Court is a motion to quash filed by non-party movants Global Information Network USA, Inc. (“GIN USA”), KT Radio Network, Inc. (“KT Radio”), and Web Site Solutions USA, Inc. (“Web Site Solutions”) (collectively “movants”). (Doc. No. 1.) This matter arises from the issuance of a subpoena by plaintiff Federal Trade Commission (“FTC”) to First Merit Bank, NA (“First Merit”), seeking post judgment production of movants’ corporate bank account records pursuant to Fed.R.Civ.P. 69(a). (Doc. No. 1–1.) The FTC’s subpoena stems from a civil contempt action against defendant Kevin Trudeau (“Trudeau”) in the United States District Court for the Northern District of Illinois, which found Trudeau in contempt of an injunction and ordered him to pay a \$37.6 million compensatory sanction. For the reasons that follow, the motion to quash is **DENIED**.

I. BACKGROUND

In September 2007, the FTC initiated civil contempt proceedings in the United States District Court for the Northern District of Illinois, against Trudeau for violating a 2004 permanent injunction. The 2004 injunction prohibited Trudeau “generally from producing or disseminating infomercials ... [.]” except those related to the “advertising or promotion of publications such as books, provided he ‘[did] not misrepresent the content of the book.’ ” *F.T.C. v. Trudeau*, 567 F.Supp.2d 1016, 1017–18 (N.D.Ill.2007). On November 16, 2007, the district court held Trudeau in contempt of the injunction for making infomercials that materially misrepresented the contents of a weight loss book he had published.^{FN1} *Id.* at 1023. After further briefing and an evidentiary hearing, the district court ordered Trudeau to pay \$37,616,161.00 to the FTC to compensate injured consumers. *F.T.C. v. Trudeau*, No. 03 C 3904, 2008 WL 7874195, at *3 (N.D.Ill.Dec.11, 2008).

^{FN1}. Specifically, Trudeau published a book entitled *The Weight Loss Cure “They” Don’t Want You to Know About*, which he marketed through a series of infomercials, proclaiming that the diet described in the book was “easy” and that after completing the regimen described, “you can eat anything you want” and “you’ll keep the weight off forever.” *Trudeau*, 567 F.Supp.2d at 1018–20. In fact, the diet regimen required “daily hormone injections, colonics, and a calorie intake restriction requiring a doctor’s supervision[]” and prohibited the consumption of a myriad of foods for the rest of the dieter’s life. *Trudeau*, 567 F.Supp.2d at 1022. The district court held that a civil contempt citation was warranted because Trudeau had “misled thousands of consumers.” *Id.* at 1023.

Trudeau appealed the contempt ruling and sanction. The Seventh Circuit affirmed the district

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court's contempt holding, but reversed the sanction award, finding that the district court had not sufficiently explained how it calculated the \$37.6 million sanction. *F.T.C. v. Trudeau*, 579 F.3d 754, 768 (7th Cir.2009). On remand, the district court again imposed a \$37.6 million compensatory sanction and explained in detail how it calculated the sanction. *F.T.C. v. Trudeau*, 708 F.Supp.2d 711, 716 (N.D.Ill.2010). The court also granted the FTC's motion to modify the final order to require Trudeau to post a \$2 million performance bond or escrow account before he could produce or publish any infomercials concerning his publications. *Id.* at 721. Trudeau again appealed and the Seventh Circuit upheld the district court's order. *F.T.C. v. Trudeau*, 662 F.3d 947 (7th Cir.2011), *petition for cert. filed*, 81 U.S.L.W. 3008 (U.S. June 28, 2012) (No. 11A1005, 12–6).

According to the FTC, Trudeau has failed to comply with the district court's order requiring him to pay the contempt sanction, claiming an inability to pay. (Doc. No. 3 at 31.) In an effort to collect the sanction, the FTC has initiated post judgment discovery, serving a subpoena upon First Merit on February 10, 2012. The subpoena commands the bank to produce certain documents relating to accounts held by or titled in the name of Trudeau, K.T. Corp. Ltd., International Pool Tour, Inc., KT Capital Corp., Natural Cures Health Institute, TRUCOM, LLC, Trustar Productions, Inc., Trudeau Approved Products, Inc., Alliance Publishing Group, Inc., Natural Cures Holdings, Inc., and movants KT Radio, Web Site Solutions, and GIN USA. (Doc. No. 1–1 at 19.) In response, KT Radio, Web Site Solutions, and GIN USA filed the instant motion to quash the subpoena on March 20, 2012. (Doc. No. 1.)

II. DISCUSSION

A. Standard of Review

*2 Fed.R.Civ.P. 45(c)(3)(A) provides, in relevant part, that upon a timely motion, the Court must quash a subpoena that “requires disclosure of priv-

ileged or other protected matter, if no exception or waiver applies [.]” Fed.R.Civ.P. 45(c)(3)(A) (iii). “A nonparty seeking to quash a subpoena bears the burden of demonstrating that the discovery sought should not be permitted. *In re Smirman*, 267 F.R.D. 221, 223 (E.D.Mich.2010) (citing *Concord Boat Corp. v. Brunswick Corp.*, 169 F.R.D. 44, 48 (S.D.N.Y.1996); *Irons v. Karceski*, 74 F.3d 1262, 1264 (D.C.Cir.1995)). Generally, “[i]f any documents sought by the subpoena are relevant and are sought for good cause, then the subpoena should be enforced unless the documents are privileged or the subpoena is unreasonable, oppressive, annoying, or embarrassing.” *Waldemar E. Albers Revocable Trust v. Mid-America Energy, Inc.*, Nos. 5:08–cv–274, 3:07–cv–421, 2008 WL 4544438, at *1 (E.D.Ky. Oct.10, 2008) (citing *Bariteau v. Krane*, 206 F.R.D. 129 (W.D.Ky.2001)).

B. Analysis

Movants seek to quash the FTC subpoena served on First Merit on several grounds. They assert that post judgment discovery of non-parties is impermissible, that the documents and information requested are irrelevant and unrelated to the pending civil action between the FTC and Trudeau, and that the FTC failed to provide movants with notice of the subpoena. Movants contend the FTC is engaging in a “fishing expedition,” is “seeking random discovery of unrelated parties” on the basis of “unreliable evidence, with no foundation,” and that the requested discovery could potentially interfere with the non-parties’ “orderly business operations.” (Doc. No. 1 at 2–3.) Movants seek an order preventing the FTC from conducting further discovery regarding movants and compelling the FTC to reveal all post judgment subpoenas and other discovery requests it has issued related to its litigation against Trudeau, as well as the contents of information it has received regarding movants.

The FTC argues that the Court should deny the motion for several reasons. First, the FTC asserts that movants lack standing to bring their motion to quash. Second, the FTC argues that the motion is

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untimely. Finally, the FTC contends that the information sought is highly relevant to post judgment discovery because Trudeau directly or indirectly controls movants.

1. Prior Notice and Standing

The movants argue that they have standing to challenge the subpoena issued to First Merit, that they were entitled to service of notice of the subpoena, and that they have been prejudiced by the production of their financial records by First Merit to the FTC.

Federal Rule of Civil Procedure 45(b)(1) provides that serving a subpoena requires delivering a copy to the *named person*. Further, the rule provides that each *party* must be provided with prior notice of any commanded documents. Fed.R.Civ.P. 45(b) (1). Untimely notice on its own, however, “does not automatically trigger quashing a subpoena without consideration of prejudice to the aggrieved party.” *Zinter Handling, Inc. v. Gen. Elec. Co.*, No. 04CV500(GLS/DRH), 2006 WL 3359317, at *2 (N.D.N.Y. Nov.16, 2006) (citations omitted).

*3 Here, First Merit is the “named person” commanded to produce the requested documents. Further, it is undisputed that movants are not parties to the underlying action. Therefore, nothing in the rules required the FTC to serve movants with the subpoena or give them notice thereof. In any event, even if movants were entitled to notice or service, they have failed to demonstrate any legally cognizable basis upon which they could have challenged the subpoena had they received prior notice and, therefore, have not demonstrated any prejudice by the lack of notice.

“Generally, only the party or person to whom the subpoena is directed has standing to move to quash or otherwise object to a subpoena.” *Transcor, Inc. v. Furney Charters, Inc.*, 212 F.R.D. 588, 590 (D.Kan.2003) (citation omitted). “The Sixth Circuit has observed that “[o]rdinarily, a party has no standing to seek to quash a subpoena issued to

someone who is not a party to the action unless the party claims some personal right or privilege with regard to the documents sought.” *Johnson v. Guards Mark Sec.*, No. 4:04 CV 2447, 2007 WL 1023309, at *1 (N.D. Ohio Mar.31, 2007) (quoting *Mann v. Univ. of Cincinnati*, Nos. 95–3195, 95–3292, 1997 WL 280188, at *4 (6th Cir. May 27, 1997)).

Here, movants claim a right to privacy in their financial affairs, including their banking records held by First Merit. However, numerous courts, including the Sixth Circuit, have “rejected the idea there is a general constitutional right of nondisclosure of personal information.” *Jenkins v. Rock Hill Local Sch. Dist.*, 513 F.3d 580, 591 (6th Cir.2008) (no privacy interest in personal financial affairs) (citing *Overstreet v. Lexington–Fayette Urban County Gov’t*, 305 F.3d 566, 575 (6th Cir.2002); *State Farm Mut. Ins. Co. v. Policherla*, No. 08–13939, 2009 WL 2170183, at *3 (E.D.Mich. July 20, 2009). ^{FN2} Accordingly, movants do not have standing to move to quash the subpoena issued to First Merit, nor can they demonstrated any harm or prejudice flowing from the release of banking records in which they have no privacy interest. Consequently, the motion to quash must be denied on these grounds. Moreover, even if movants had standing to object to the FTC’s subpoena, as outlined below, their motion to quash must also be denied because it is untimely and because they have failed to carry their burden of demonstrating that the discovery sought should not be permitted.

FN2. See also, e.g., *United States v. Gordon*, 247 F.R.D. 509, 510 (E.D.N.C.2007) (holding bank records are business records of the bank, in which an account holder has no personal right) (citing *Clayton Brokerage Co., Inc. v. Clement*, 87 F.R.D. 569, 571 (D.Md.1980); cf. *United States v. Miller*, 425 U.S. 435, 442, 96 S.Ct. 1619, 48 L.Ed.2d 71 (1976) (holding that bank customer has no “legitimate ‘expectation of privacy’ ” in the contents of checks, de-

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posit slips, and other banking documents)); *Doe v. United States*, CIV A 06-95, 2007 WL 1521550 (W.D.Pa. May 23, 2007) (no standing to contest validity of subpoena for bank records); *Auto-Owners Ins. Co. v. Se. Floating Docks, Inc.*, 231 F.R.D. 426, 429 (M.D.Fla.2005), *rev'd on other grounds*, 571 F.3d 1143 (11th Cir.2009); *United States v. Cimino*, 219 F.R.D. 695, 696 (N.D.Fla.2003) (no Fourth Amendment privacy interest or common law privilege in records held by bank) (collecting cases) (citing *Jenkins v. Rock Hill Local Sch. Dist.*, 513 F.3d 580, 591 (6th Cir.2008); *Overstreet v. Lexington—Fayette Urban Cnty. Gov't*, 305 F.3d 566, 575 (6th Cir.2002)).

Moreover, the Right to Financial Privacy Act, 12 U.S.C. § 3401, *et seq.*, which Congress passed in response to *Miller*, *supra*, does not cover the financial records of movants because movants are corporations, and the RFPA applies only to individuals or partnerships of less than 5 individuals 28 U.S.C. § 3401(4); *Pittsburgh Nat'l Bank v. United States*, 771 F.2d 73, 75 (3d Cir.1985); *Spa Flying Serv., Inc. v. United States*, 724 F.2d 95, 96 (8th Cir.1984).

2. Timeliness

The FTC urges that movant's motion to quash should also be denied because it is untimely. Rule 45(c)(3)(A) requires that a motion to quash be “timely” filed. “It is well settled that, to be timely, a motion to quash a subpoena must be made prior to the return date of the subpoena.” *Estate of Ungar v. Palestinian Auth.*, 451 F.Supp.2d 607, 610 (S.D.N.Y.2006) (citations omitted). Here, it is undisputed that the movants' motion to quash was filed after the subpoena's return date and after First Merit had already produced documents to the FTC. Thus, the motion is unquestionably untimely. “However, in unusual circumstances and for good

cause shown, failure to make timely objection to a subpoena ... will not bar consideration of objection.” *Halawani v. Wolfenbarger*, No. 07-15483, 2008 WL 5188813, at * 4 (E.D.Mich. Dec.10, 2008).

*4 In determining whether “unusual circumstances” and “good cause” exist, a court should examine whether “(1) the subpoena is overbroad on its face and exceeds the bounds of fair discovery; (2) the subpoenaed witness is a non-party acting in good faith; and (3) counsel for [affected person] and counsel for subpoenaing party were in contact concerning the [affected person's] compliance prior to the time the [affected person] challenged legal basis for the subpoena.” *Concord Boat Corp. v. Brunswick Corp.*, 169 F.R.D. 44, 48 (S.D.N.Y.1996) (citations and internal quotation marks omitted).

The Court concludes that the necessary “unusual circumstances” do not exist in this case. First, while movants are non-parties to the litigation between the FTC and Trudeau, there is insufficient information to determine whether they are acting in good faith in this matter. Second, although there is some indication that movants' counsel and counsel for the FTC were in contact concerning this subpoena during the course of similar proceedings in the Southern District of Ohio, yet there is no indication in the record that movants objected to the FTC subpoena prior to the filing of the instant motion to quash. Lastly, as discussed more fully below, movants have not demonstrated that the subpoena is overbroad on its face or that it exceeds the bounds of fair discovery.

3. Relevance

Finally, the motion to quash must also be denied because movants have failed to demonstrate that the discovery sought should not be permitted. Fed.R.Civ.P. 69 governs the procedure for enforcing a judgment and permits a “judgment creditor ... [to] obtain discovery from *any* person—including the judgment debtor—as provided in [the Federal] rules....” Fed.R.Civ.P. 69(a)(2)

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(Cite as: 2012 WL 5463829 (N.D. Ohio))

(emphasis added). The scope of post judgment discovery under the Federal Rules is broad. *United States v. Conces*, 507 F.3d 1028, 1040 (6th Cir.2007) (citations omitted). A judgment “creditor is entitled to ‘utilize the full panoply of federal discovery measures’ provided for under federal and state law to obtain information from parties and non-parties alike....” *Andrews v. Raphaelson*, No. 5:09-CV-077-JBC, 2009 WL 1211136, at *3 (E.D.Ky. Apr.30, 2009) (quoting *Magnaleasing, Inc. v. Staten Island Mall*, 76 F.R.D. 559 (S.D.N.Y.1977)). The FTC “has apparently elected to proceed in accordance with federal discovery practice, and is thus free to use any of the discovery devices provided in Rules 26 through 37 of the Federal Rules of Civil Procedure.” *OHM Res. Recovery Corp. v. Indus. Fuels & Res., Inc.*, No. S90-511, 1991 WL 146234, at *2 (N.D.Ind. July 24, 1991).

Rule 26(b)(1) provides that a party is entitled to take discovery of any matter that is relevant to the claim or defense of any party, even if not admissible itself, if such discovery is reasonably calculated to lead to admissible evidence. Particularly relevant to post judgment discovery is “information about assets [of parties and non-parties alike,] on which execution can issue or about assets that have been fraudulently transferred.” *Andrews*, 2009 WL 1211136, at *3 (quoting *Magnaleasing, Inc.*, 76 F.R.D. at 560 n. 1) (judgment creditor entitled to discover portions of a settlement agreement relating to the existence or transfer of defendants' assets, where it was alleged that the agreement involved improper transfers of such assets)); *see also*, *OHM Res. Recovery Corp.*, 1991 WL 146234 at *2 (“a judgment creditor [may] obtain discovery not only of the debtor's current assets, but also information relating to past financial transactions which could reasonably lead to the discovery of concealed or fraudulently transferred assets”) (collecting cases). While judgment creditors typically cannot compel nonparties to disclose their assets, “[i]nquiry into the assets of third persons is permissible where ‘the relationship between [the judgment debtor and third person(s)] is sufficient to raise a reasonable doubt

about the bona fides of any transfer of assets between them.’ ” *Aetna Group USA, Inc. v. AIDCO Int'l, Inc.*, No. 1:11-mc-023, 2011 WL 2295137, at *5 (S.D. Ohio June 8, 2011) (citations omitted) (alterations in original); *see also*, *Credit Lyonnais, S.A. v. SGC International, Inc.*, 160 F.3d 428, 431 (8th Cir.1998); *Falicia v. Advanced Tenant Servs., Inc.*, 235 F.R.D. 5, 7-8 (D.D.C.2006).

*5 The FTC asserts that movant's corporate bank records are highly relevant to post judgment discovery because, it asserts, it is evident that Trudeau controls movants, either directly or indirectly. The FTC argues that the following facts support its position: (1) movants were each incorporated post judgment; (2) Trudeau's wife is the president and director of KTRN, the president of GIN USA, and is a signatory on GIN USA's bank account at First Merit; (3) Suneil Sant, an officer of Trudeau's other companies, is an officer and director of WSU and KTRN and is a signatory on both of those companies' accounts at First Merit; (4) movants share the same business address as Trudeau's other companies and were each incorporated by Trudeau's long-time corporate counsel; ^{FN3} (5) WSU, through its legal counsel, responded to an FTC compliance request on behalf of Trudeau ^{FN4} and transferred \$2 million to Trudeau's escrow account, ^{FN5} which Trudeau established in lieu of posting the \$2 million performance bond required by the 2010 contempt order; ^{FN6} (6) bank records obtained from First Merit show that, from September to October 2011, movants GIN USA and KTRN transferred over \$3 million from their accounts to WSU's account and, during the same period, WSU transferred \$1.2 million from its account to the accounts of KTRN and Trudeau “affiliates” Natural Cures Holdings, Inc. and Trudeau Approved Products, Inc.; ^{FN7} and (7) Trudeau recently stated in a videotaped radio show that he is a founder and/or member of GIN, which he purportedly referred to as “my club, the Global Information Network.” ^{FN8}

FN3. (Doc. No. 3-1.)

Slip Copy, 2012 WL 5463829 (N.D. Ohio)
 (Cite as: 2012 WL 5463829 (N.D. Ohio))

FN4. (Doc. No. 3–2.)

FN5. (Doc. No. 3–3 at 61.)

FN6. (Doc. No. 3–3 at 60.)

FN7. (Doc. No. 3–4.)

FN8. (*Id.*)

Although movants deny that Trudeau is, or ever has never been, an officer, owner, manager or director of movant, and while they indicate that the transfer of funds between themselves and entities allegedly affiliated with Trudeau are nothing more than business transactions, movants' contentions are wholly unsupported by any evidence, such as affidavits or declarations. Rather, the unrefuted facts presented by the FTC are sufficient to raise a reasonable doubt about the relationship between movants and Trudeau and his companies and the bona fides of the transfers between these entities. The record evidence suggests that movants are not business pursuits created totally independent from Trudeau, but may have been created to evade the contempt sanction and conceal Trudeau's assets. See *Falicia*, 235 F.R.D. at 9 (evidence raised “colorable suspicion” regarding relationship between non-party corporations and judgment debtor, where, among other things, non-parties were created post judgment and were controlled by judgment debtor's immediate family members). Consequently, discovery of movants' bank records is relevant to determine if Trudeau has used movants to conceal his assets. Accordingly, because movants have not demonstrated that the discovery sought does not come within the broad scope of relevance defined in Rule 26 or the broad scope of discovery permitted by Rule 69, movants' bank account records are discoverable and their motion to quash is denied for this additional reason.^{FN9}

FN9. Movants raise several evidentiary objections to the FTC's submissions, arguing that the FTC has submitted improper summary documents containing hearsay, based

upon unauthenticated records, and objecting that movants are unable to confirm the accuracy of the FTC declarants' summaries or the underlying documents. This argument is irrelevant for purposes of the present motion, however, as the FTC's submissions are relevant information that “appears reasonably calculated to lead to discovery of admissible evidence” and “need not [themselves] be admissible....” Fed.R.Civ.P. 26(b)(1).

III. CONCLUSION

*6 For the foregoing reasons, the motion to quash is **DENIED**. Further, for the same reasons, movants' request that the Court “force” the FTC to disclose all post judgment subpoenas and other discovery requests regarding movants and prevent the FTC from conducting further discovery related to movants in connection with the Trudeau litigation is also **DENIED**.

IT IS SO ORDERED.

N.D. Ohio, 2012.
 F.T.C. v. Trudeau
 Slip Copy, 2012 WL 5463829 (N.D. Ohio)

END OF DOCUMENT

FTC EXHIBIT PXA:3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

NATALIYA BABENKO,

Movant,

v.

FEDERAL TRADE COMMISSION,

Defendant.

Case No. 1:12-mc-006

Weber, J.
Bowman, M.J.

MEMORANDUM ORDER

On February 24, 2012, Nataliya Babenko, through counsel, (“Movant”) filed a Motion seeking to quash a Subpoena issued to Fifth Third Bank by the Federal Trade Commission (“FTC”). Nataliya Babenko is married to Kevin Trudeau, a telemarketer and “informercialist.” Mr. Trudeau is currently under order from the Northern District of Illinois to pay the FTC \$37.6 million as a civil contempt sanction, based upon his violation of a final order entered by that court in 2004. See *FTC v. Trudeau*, 708 F. Supp.2d 711 (N.D. Ill. 2010), *aff’d* 662 F.3d 947 (7th Cir. 2011). The FTC represents that Trudeau has made no payments to date, based upon a disputed inability to pay.

The Subpoena that Movant seeks to quash seeks documents “referring to or relating to the Subject Account,” defined as “any bank account in the name of: (1) Kevin M. Trudeau, and any account for his benefit or for which he is a signatory or authorized user; (2) Global Information Network FDN...; and (3) Nataliya Babenko...and any account held for her benefit or for which she is a signatory or authorized user.” (Doc. 2-1 at 11). Movant filed her motion pursuant to Section 1110 of the Right to Financial Privacy Act of 1978 (“RFPA”), 12 U.S.C. §3410, in order to prevent the FTC from obtaining access to Movant’s

personal financial records.

The referenced statute permits a customer to move to quash a subpoena to prevent the Government authority from obtaining financial records, upon a showing by “affidavit or sworn statement” that “the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this chapter.” 12 U.S.C. §3410(a)(2). Movant attached a sworn statement to her motion, but sought and was initially granted leave by this Court to file that statement under seal based upon Mr. Trudeau’s assertion of “spousal privilege.”

In its response to Movant’s motion to quash, the FTC - which has been prevented from reviewing Movant’s sworn statement- vehemently contests the applicability of any spousal privilege. After further review, the Court agrees that no spousal privilege applies to Movant’s sworn statement that would entitle it to remain under seal. The spousal privilege, like all privileges, is strictly construed. Only the marital communications spousal privilege, and not the testimonial spousal privilege, has any potential application here. See *United States v. Porter*, 986 F.2d 1014, 1018 (6th Cir. 1993)(only a testifying spouse can assert the adverse testimony spousal privilege, whereas the confidential communications privilege can be asserted by either spouse).

The marital communications privilege applies only to utterances or expressions intended by one spouse to convey a message to the other, made in confidence. *Id.*; see also *Pereira v. United States*, 347 U.S. 1, 6 (1954). The privilege may not apply to objective facts related to third parties. See *United States v. Klayer*, 707 F.2d 892, 894 (6th Cir. 1983)(conviction on insurance fraud did not violate privilege where wife testified that they did not own a silver tea tray, because privilege did not apply to objective fact

concerning ownership). Bank documents, which constitute communications to a third party, generally are not considered to be subject to the spousal communications privilege. See *Aetna Group USA, Inc. v. AIDCO Int'l, Inc.*, 2011 WL 2295137 (S.D. Ohio June 8, 2011)(holding that financial documents were not subject to privilege); compare *Nimmer v. U.S. S.E.C.*, 2011 WL 3156791 (D. Neb. July 26, 2011)(denying motion to quash subpoena for bank records under RFPA and holding such records are not subject to attorney-client privilege).

In addition, larger public policy concerns justify limits on the privilege. See *United States v. Sims*, 755 F.2d 1239(6th Cir. 1985)(reasoning that “the goals of protecting marital privacy and of encouraging frank marital communications do ‘not justify assuring a criminal that he can enlist the aid of his spouse in a criminal enterprise without fear that by recruiting an accomplice or co-conspirator he is creating another potential witness.’”)(citation omitted); see also *Ranney-Brown Distributors, Inc. v. E.T. Barwick Indus., Inc.*, 75 F.R.D. 3, 5 (S.D. Ohio 1977)(“A claim of privilege cannot be used as a means to conceal assets to prevent execution of judgment.”)(citation omitted). Based upon the Court’s conclusion that the spousal privilege does not apply, the Court will unseal Movant’s sworn statement. See also, generally, *In re Knoxville News-Sentinel Co., Inc.*, 723 F.2d 470, 476 (6th Cir. 1983)(“Only the most compelling reasons can justify non-disclosure of judicial records.”); see also *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1179 (6th Cir. 1983), *cert. denied*, 465 U.S. 1100 (1984)).

The Court further finds that the motion to quash the subpoena must be denied. The sole basis provided by Movant for quashing the subpoena is her contention that her personal financial records are not relevant to the FTC’s investigation of her husband. In her affidavit, Ms. Babenko represents that bank records in her name reflect an account

held exclusively in her name and used for her personal purposes, that no payments have been made from the account to Kevin Trudeau or to any company he owns, and that no monies have been deposited into the account from Trudeau or any company he owns. (Doc. 3).

The Movant bears the initial burden of showing the records are not relevant, see *Karlis v. S.E.C.*, 613 F. Supp.2d 150, 153 (D. Mass. 2009). However, to the extent that the mere filing of a motion to quash shifts the burden to the FTC, I find that the FTC has more than satisfied its burden to demonstrate relevance. See *Carillo Huettel v. U.S. S.E.C.*, (S.D. Cal. Feb. 11, 2011)(implying that government bears the burden to establish relevance in response to motion).

Pursuant to the statute, the Court must deny the motion to quash if “there is a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief [exists] that the records sought are relevant to that inquiry.” 12 U.S.C. §3410(c). Ms. Babenko does not deny that she is Mr. Trudeau’s spouse, whose records are sought by the same subpoena. As in *Karlis v. S.E.C.*, another case in which a wife claimed to have no involvement in her husband’s illicit financial dealings, I conclude that the evidence submitted by the FTC here is more than adequate to prove the subpoena is based upon a legitimate law enforcement inquiry relating to Mr. Trudeau, and the FTC’s reasonable belief that the records sought are relevant.

The FTC has submitted information that Movant provided one or more loans to Mr. Trudeau (see Doc. 6, Page ID# 59 and 64), and that she serves as president of one of Mr. Trudeau’s companies (Id. at Page ID# 58), in addition to having a close familial relationship as his spouse. See generally *Nat’l Union Fire Ins. Co. of Pittsburgh v. Van Waeyenberghe*, 148 F.R.D. 256, 256-257 (N.D. Ind. 1993)(“[I]t should be beyond question that a judgment

creditor is allowed to ask a judgment debtor for asset and financial information relating to the debtor's spouse or other family members."). Mr. Trudeau and Ms. Babenko were married in June of 2008, after he had been held in contempt but just before the \$37.6 million contempt sanction was first entered against him. The FTC does not need concrete proof of intermingling of finances or transfers between Ms. Babenko and Mr. Trudeau, but only such proof as to evidence a "reasonable belief" that Movant's records are relevant to the *investigation* of her husband's debt. *Accord, U.S. S.E.C. v. DiBella*, 2009 WL 1561596 (D. Conn. June 1, 2009)(holding that the fact that wife is not a party has no direct bearing on the relevance of her bank account to the investigation of her husband).

Accordingly, for the reasons stated herein, **IT IS ORDERED:**

1. Movant Nataliya Babenko's Motion for Order Quashing Subpoena (Doc. 1) is **DENIED;**
2. This miscellaneous case shall be **closed**.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

FTC EXHIBIT PXA:4

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
	)	No. 03 C 3904
vs.	)	Chicago, Illinois
	)	November 20, 2012
KEVIN TRUDEAU,	)	9:30 a.m.
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE ROBERT W. GETTLEMAN

APPEARANCES:

For the Plaintiff:	FEDERAL TRADE COMMISSION 600 Pennsylvania Avenue, NW Washington, DC 20580 BY: MR. MICHAEL MORA MR. JONATHAN COHEN
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FEDERAL TRADE COMMISSION 55 West Monroe Street Suite 1825 Chicago, Illinois 60603 BY: MR. DAVID O'TOOLE

For the Defendant:	WINSTON & STRAWN LLP 35 West Wacker Drive Chicago, Illinois 60601 BY: MR. KIMBALL R. ANDERSON
--------------------	--

Official Reporter:	JENNIFER S. COSTALES, CRR, RMR 219 South Dearborn Street Room 1706 Chicago, Illinois 60604 (312) 427-5351
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1 (Proceedings in open court.)

2 THE CLERK: 03 C 3904, FTC versus Kevin Trudeau.

3 MR. ANDERSON: Good morning, Your Honor.

4 Kimball Anderson for Mr. Trudeau.

5 MR. MORA: Good morning, Your Honor.

6 Michael Mora for the Federal Trade Commission. Also
7 with me is Jonathan Cohen from the FTC.

8 MR. COHEN: Good morning, Your Honor.

9 THE COURT: Good morning.

10 You're forgetting Mr. O'Toole back there.

11 MR. MORA: And Mr. O'Toole. He's always here.

12 THE COURT: All right. There is a number of things up
13 today. But I just want to start this out by saying that I
14 respect both of you fellows a great deal, and I really hope that
15 you can put your personal feelings aside and behave towards each
16 other professionally and courteously. That series of e-mails
17 that I saw between you about what I consider a routine
18 continuance was very disheartening, and I really would prefer not
19 to ever see that again, particularly with lawyers of your
20 quality. So let's deal with the issues we have. They're hard
21 enough to deal with as it is without the type of personal
22 animosity that's somehow arisen in this case.

23 with that lecture aside, we have the FTC's motion to
24 hold Mr. Trudeau in contempt. There is a motion to strike the
25 reply brief because it has new material in it; in the

1 alternative, to allow Mr. Trudeau an opportunity to respond to
2 that new material. I agree with Mr. Anderson that there is new
3 material in it, and I would give him that opportunity.

4 There is another motion to strike your brief, Mr. Mora.
5 And I've reviewed all of that. And my reaction to that is as
6 follows: First of all, in a Rule 37 type affidavit, very often
7 it's the lawyer is the only person who really can attest to
8 certain facts supporting an affidavit or supporting a motion like
9 that, for instance, failure to respond to discovery, failure to
10 show up at a deposition, failure to answer requests to admit.
11 That sort of thing is usually in the lawyer's exclusive
12 knowledge. Attesting to documents that have been produced, I
13 think a lawyer can do that without jeopardizing his standing as
14 counsel.

15 I do agree, however, with Mr. Anderson that parts of
16 your affidavit, your declaration, Mr. Mora, go beyond that and
17 are argumentative. I will strike those and ignore them.

18 As far as attaching documents and that sort of thing,
19 and that includes the other declarations as well, I think that
20 they're perfectly acceptable.

21 Remember, this is not a trial. This is really more a
22 post-judgment discovery. And the rules of evidence don't
23 necessarily apply at that stage of discovery. And I think that
24 we're getting that concept lost in all of the briefs that I've
25 seen.

1 As far as the documents and the summaries that are
2 attached, I think they're perfectly admissible for purposes of
3 post-judgment discovery of assets. So I am not going to strike
4 any of the other affidavits. I'm going to strike the portions of
5 Mr. Mora's affidavit that are argumentative that are not based on
6 factual matters within his knowledge. And I'm not going to
7 disqualify him. I'll let you, if you want to file a reply brief,
8 I'll let you do that.

9 I'm not prepared to incarcerate Mr. Trudeau now, because
10 I think that these materials that I've seen regardless of all of
11 the arguments you've made certainly raise questions in my mind
12 about where these assets are, whether the assets are within
13 Mr. Trudeau's control, whether or not he has successfully avoided
14 collection proceedings, and whether or not his lifestyle supports
15 a finding of contempt as sought by the FTC.

16 There is certainly a lot of questions raised, his credit
17 card bills, the way he lives, the way he travels. I don't know
18 whether these people are his butlers or his cooks or anything
19 else. I don't know how he's paying Mr. Anderson. I don't think
20 this is one of your pro bono cases, Mr. Anderson.

21 So, you know, there are fair questions raised by the FTC
22 with respect to Mr. Trudeau and his ability to pay the \$37
23 million judgment that is now final against him. But it is so
24 complicated, I could order him in here, and we could -- I want to
25 ask you a question first. I'm going to stop talking for a

1 moment. Has Mr. Trudeau ever appeared for a citation to discover
2 assets?

3 MR. MORA: No, Your Honor.

4 THE COURT: Have you ever sought to have him appear for
5 such a proceeding?

6 MR. MORA: No, we didn't, Your Honor. We did discovery
7 through document discovery, third-party document discovery.

8 THE COURT: well, you know, I think that's some of the
9 problems. I mean, you have a very aggressive opponent here,
10 okay, and a very competent one. So, you know, I think that doing
11 that simply through documents is a pretty difficult way to
12 actually come to any type of conclusion on my part as to whether
13 or not he is in contempt or whether or not there are assets to
14 attach.

15 I am more interested -- I'll get to you, Mr. Anderson --
16 I am more interested in getting the remedy that the judgment is
17 intended to accomplish than to start talking about incarcerating
18 Mr. Trudeau, because as I think Mr. Anderson correctly points
19 out, that type of result is meant to give the keys to his freedom
20 to the person who is holding them. And I don't know how that
21 would, from what I've seen so far, how that would really do that,
22 to incarcerate him other than to basically scare him into doing
23 something that he hasn't yet done. And that's not the purpose of
24 it. I would like to get to the bottom of this.

25 So you wanted to say something, Mr. Anderson.

1 MR. ANDERSON: Yes. I wanted to make a practical
2 suggestion. Mr. Trudeau and his attorneys are interested in
3 effecting the remedy that the Court ordered. And there is a
4 practical path towards that remedy that I think is doable. We
5 have been unable to engage the FTC in even discussions of that,
6 and so here's my suggestions. I know the Court, I've just been
7 listening to other court calls, and I know the Court, you know,
8 is going to be off the bench for much of December. My suggestion
9 is that Magistrate Judge Mason, who I know to be a very skillful
10 mediator and jurist, if he could be available to meet with the
11 parties, I'm pretty confident that we can reach an agreed
12 remediation plan here, one that will fulfill the Court's remedy
13 and be obtainable.

14 THE COURT: Is he the assigned magistrate judge?

15 MR. ANDERSON: You know, the case is so old, I'm not --

16 THE COURT: Judge Bobrick is on my list, and he hasn't
17 been sitting now for many years.

18 MR. ANDERSON: Okay. Well --

19 THE COURT: And I can't, you know, I can't pick the
20 magistrate. We have a random assignment system.

21 THE CLERK: It shows Mason.

22 THE COURT: It shows Mason. Well, you got lucky.

23 MR. ANDERSON: That's what I thought, but I wasn't sure.

24 THE COURT: Okay. Well, let me suggest something. Let
25 me make one other suggestion before you -- okay. I'll let you

1 finish. Go ahead.

2 MR. ANDERSON: Okay. I think your observation about the
3 lawyers getting paid, partially, partially on point, and there is
4 a severe concern there. So I think at least in terms of my own
5 continued involvement in the case and the practical ability to
6 effect a resolution, rather than spending more money on this
7 notion of incarcerating Mr. Trudeau, let's sit down with a
8 skilled jurist and see if we can reach an agreed and practical
9 remediation plan. I think there is one to be had if we can get
10 engaged with the FTC.

11 THE COURT: what do you think?

12 MR. MORA: May I be heard, Your Honor?

13 THE COURT: Mr. Mora.

14 MR. MORA: Your Honor, we don't think that would be
15 fruitful at all, not with this defendant, not with the lengths he
16 has gone to conceal and dissipate his assets.

17 what we think should happen is we agree with the Court
18 that we want to get to the bottom of this. And the "this" is the
19 pending motion to hold him in contempt. If the Court would like
20 to have Mr. Trudeau examined before the Court similar to a
21 citation to discover assets under Illinois law, that could be the
22 main subject of the contempt proceeding in this case. The Court
23 can order Trudeau to appear and to be examined with regard to his
24 assets.

25 Now, at this point as far as we know the facts are that

FTC EXHIBIT PXA:5



Capabilities

- For Individuals
- For Businesses
 - Business Design and Organization
 - Tax Planning
 - Asset Protection Planning
 - Business Succession Planning
 - Corporate Governance/Compliance
 - Intellectual Property Protection
 - Corporate Financial Planning
 - Compensation Planning
 - Executive Financial Planning
 - Risk Management
 - International Planning
- For Nonprofit Organizations
- For Social Enterprises

Asset Protection Planning

Asset protection planning strategies are designed to address particular dangers which pose a threat to your financial security. These dangers are primarily lawsuits and claims against you which can arise from many possible sources. The attorneys at The Law Offices of Marc J. Lane, a Professional Corporation, utilize advanced strategies to legally position assets beyond the reach of lawsuits and creditors. By implementing sophisticated planning techniques, we protect our clients' assets from creditors and lawsuits while, at the same time, allowing them to retain control over the assets and income they produce.

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FTC EXHIBIT PXA:6

Corp Name	Principal Corp Address	Corp Phone	Off./Dir./Mgr./Pres.	Incorporator	Incorp Date	State
Alliance Publishing Group, Inc.	130 Quail Ridge Drive Westmont, IL	(630) 468-2460	Neil Sant (O, D)	Jenner & Block LLP	Oct-03	DE
GIN USA, Inc.	130 Quail Ridge Drive Westmont, IL	(630) 468-2460	Nataliya Babenko (O)	Joshua Kreitzer/M. Lane	Jun-11	SD
Global Information Network FDN	3 Grant Square #302 Hinsdale, IL	Unknown	Unknown	Marc J. Lane	Unknown	St. Kitts & Nevis
International Pool Tour, Inc.	130 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O, D) Suniel Sant (Pres)	Marc J. Lane	Oct-05	DE
KT Corporation LTD	130 Quail Ridge Drive Westmont, IL	None listed	Not listed	Equatorial Trust Company Limited	Jun-94	Isle of Man
KT Capital Corporation	130 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O, D)	Marc J. Lane	Aug-06	DE
KT Radio Network, Inc.	130 Quail Ridge Drive Westmont, IL	(630) 468-2460	Nataliya Babenko (O, D) Suneil Sant (O, D)	Marc J. Lane	Jun-09	DE
Natural Cures Health Institute	130 Quail Ridge Drive Westmont, IL	None listed	Suneil Sant (O,D) Kevin Trudeau (D)	Marc J. Lane	Jul-05	IL
Natural Cures Holdings, Inc.	131 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O)	Jenner & Block LLP	Jun-04	DE
Natural Cures, Inc.	132 Quail Ridge Drive Westmont, IL	(630) 468-2460	Suneil Sant (O, D)	Marc J. Lane	Feb-11	DE
The Whistle Blower, Inc.	133 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O,D)	Jenner & Block LLP	Oct-03	DE
TRUCOM, LLC	134 Quail Ridge Drive Westmont, IL	None listed	Kevin Trudeau (Mgr)	Jenner & Block LLP	Nov-98	NV
Trudeau Approved Products, Inc.	135 Quail Ridge Drive Westmont, IL	(630) 468-2460	Neil Sant (O, D)	Marc J. Lane	Apr-11	DE
TruStar Marketing Corporation	136 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O, D)	Jenner & Block LLP	May-03	DE
Trustar Productions, Inc.	137 Quail Ridge Drive Westmont, IL	(630) 468-2460	Kevin Trudeau (O, D)	Jenner & Block LLP	May-03	DE
Website Solutions USA, Inc.	138 Quail Ridge Drive Westmont, IL	(630) 468-2460	Suneil Sant (O, D)	Joshua Kreitzer/M. Lane	Mar-10	IL

FTC EXHIBIT PXA:7

The Law Offices of
MARC J. LANE
A PROFESSIONAL CORPORATION

180 North LaSalle Street
Chicago, IL 60601-2701
(312) 372-1040
(800) 372-1040
Fax (312) 346-1040
www.MarcLane.com

OBJECTION TO SUBPOENAS

January 3, 2013

Via E-mail: jcohen2@ftc.gov and
Certified Mail/Return Receipt Requested
Article #7009 1680 0001 1113 4813

Via E-mail and mmora@ftc.gov and
Certified Mail/Return Receipt Requested
Article #7009 1680 0001 1113 4820

Mr. Jonathan Cohen
Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B
Washington, D.C. 20580

Mr. Michael Mora
Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B
Washington, D.C. 20580

RE: Federal Trade Commission v. Kevin Trudeau, No. 03-C-3904

Gentlemen:

We write in response to the flurry of subpoenas and amended subpoenas issued to our clients GIN USA Inc., Website Solutions USA Inc., and KT Radio Network Inc., and to The Law Offices of Marc J. Lane, a Professional Corporation, during the Christmas holidays, including Christmas Eve. As I stated in my email to you dated December 26, 2012:

In light of the intervening holidays, it will not be possible for legal counsel to advise these companies and serve responses by January 10, 2013, their designated due date. Accordingly, I am writing on the companies' behalf to request a twenty-one (21)-day extension to serve responses. Their responses would thus be due on or before January 31, 2013.

On January 2, 2013, you declined my request for extension of time to respond. We are disappointed that the FTC continues to refuse requests for the most common professional courtesies -- all the while asking for, and receiving, similar courtesies from us. Under the circumstances, we have no alternative but to lodge objections to the subpoenas pursuant to Rule 45, Federal Rules of Civil Procedure.

Specifically, we object on behalf of the above-named entities to inspecting, copying, testing, or sampling all of the requested materials and to producing electronically stored information in the forms requested, pursuant to the subpoenas, on the grounds that the



Marc J. Lane Wealth Group describes separate, but affiliated firms including The Law Offices of Marc J. Lane, a Professional Corporation, a professional services corporation registered to practice law in the state of Illinois; Marc J. Lane Investment Management, Inc., an SEC-registered investment advisor; Marc J. Lane & Company, a registered broker-dealer and SIPC member; and Marc J. Lane Risk Management, Inc., an Illinois licensed surety agency.

PXA:7

The Law Offices of
MARC J. LANE
A PROFESSIONAL CORPORATION

Mr. Jonathan Cohen
and Mr. Michael Mora
January 3, 2013
Page 2

subpoenas are unduly burdensome, vague, ambiguous, not reasonably calculated to lead to the discovery of admissible evidence, cumulative of previous subpoenas issued by the FTC, and harassing.

The subpoena issued to GIN USA Inc. is also objectionable because it was not issued from the court for the district where the deposition is to be taken or where the production or inspection is to be made.

Additionally, the subpoena to The Law Offices of Marc J. Lane, a Professional Corporation, is objectionable because it calls for the production of confidential client information for which we have no authorization from the client to release. We can tell you, however, that The Law Offices of Marc J. Lane, a Professional Corporation, holds no cash or other assets owed to, or belonging to, the judgment debtor.

Serving burdensome discovery requests during the holidays and making unreasonable demands for compliance within a few days violates Rule 45(c), Federal Rules of Civil Procedure, which provides as follows:

(c) Protecting a Person Subject to a Subpoena.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

Subject to, and without waiving, the foregoing objections, we are working diligently with our clients to provide further responses, as promised, by January 31, 2013.

Very truly yours,


MARC J. LANE

PXA:7

FTC EXHIBIT PXA:8

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

FEDERAL TRADE COMMISSION

Plaintiff

v.

KEVIN TRUDEAU

Defendant

Civil Action No. 03-C-3904

(If the action is pending in another district, state where:)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Website Solutions USA Inc. c/o Marc J. Lane, 180 N LaSalle St. #2100, Chicago, IL 60601

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Please see attached Schedule A

Table with 2 columns: Place (Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603) and Date and Time (01/10/2013 9:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Please see attached Schedule B

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/27/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) FEDERAL TRADE COMMISSION, who issues or requests this subpoena, are:

Michael Mora/Jonathan Cohen
Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580
(202) 326-3373; -2551; mmora@ftc.gov; jcohen2@ftc.gov

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 03-C-3904

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Subpoena to WSU

Pursuant to Federal Rules of Civil Procedure 30(b)(6), 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), plaintiff Federal Trade Commission incorporates these schedules as part of its subpoena. The specifications and sets of instructions below apply to the subpoena. Additionally, the following definitions apply to the specifications in both Schedules:

DEFINITIONS

- A. **“And,”** as well as **“or,”** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Specification all information that otherwise might be construed to be outside the scope of the specification
- B. **“Any”** shall be construed to include **“all,”** and **“all”** shall be construed to include the word **“any.”**
- C. **“Asset”** includes any real property, any personal property (including, without limitation, any vehicles, jewelry, coins, artwork, antiques, collectibles, bullion and gold bars), any currency or other legal tender (of any country), money market accounts, savings accounts, checking accounts, other financial accounts of any sort, certificates of deposit, uncashed checks, money orders, promissory notes, commercial paper of any sort, stocks, stock options, mutual funds, other securities of any sort, corporate bonds, public bonds, other bonds of any sort, insurance policies with any cash surrender value, trademarks, copyrights, patents, other intellectual property, interests in any companies or corporate entities (in any form), partnership interests, trust interests, and any interest of any sort in any of the foregoing, or rights to any interest, of any sort, in any of the foregoing.
- D. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document”** shall also include Electronically Stored Information.
- E. **“Document Retention Policy”** means any rule, guideline, policy, or practice regarding the retention, storage or destruction of Documents.
- F. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, text messages, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. **“ESI”** also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

- G. **“Financial Statements”** include balance sheets, annual income statements, year-to-date income statements, and any other type of financial statement.
- H. **“WSU”** refers to Website Solutions USA Inc.
- I. **“Include”** and **“including”** mean “without limitation,” or “including but not limited to,” so as to avoid excluding any documents or information that might otherwise be construed to be within the scope of any specification.
- J. **“Transfer”** includes the delivery, receipt, giving, taking, sale, purchase, acquiring, distributing or other movement of any tangible or intangible thing from one party or set of parties to another party or set of parties.
- K. **“Trudeau-Affiliated Entities”** include Alliance Publishing Group, Inc., APC Trading Ltd., Global Information Network FDN, Global Information Network USA, Inc., International Pool Tour, Inc., K.T. Corporation Limited, KT Radio Network, Inc., KMT Fiduciary Trust, KT Capital, KT Corp., Natural Cures Health Institute, Natural Cures Holdings, Inc., Natural Cures, Inc., Sales Solutions International A.G., Shop America (USA), L.L.C., Shop America Marketing Group LLC, The Whistle Blower, Inc., TruCom LLC, Trustar Global Media Limited, Trustar Productions, Inc., Website Solutions, GmbH, Website Solutions, USA, and any other entity of any sort directly or indirectly owned or controlled (in whole or in part) at any time by any Trudeau-Affiliated Person.
- L. **“Trudeau-Affiliated Persons”** include Kevin Trudeau, Nataliya Babenko, any member of the immediate families of Kevin Trudeau or Nataliya Babenko (including, without limitation, Robert Trudeau, Sr., Mary Trudeau, Robert Trudeau, Jr., and Olga Babenko), Suneil Sant, and Michael Dow.
- M. **“Referring to,” “relating to,”** or **“related to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.
- N. **“Suneil Sant”** refers to Suneil Sant a/k/a Neil Sant.
- O. **“You”** and **“Your”** means WSU, as defined herein.

SCHEDULE A – INSTRUCTIONS

1. **General Instructions.** Pursuant to Federal Rules of Civil Procedure 30(b)(6), 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), WSU has a duty to designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf regarding the Specifications set forth below. The persons designated must testify about information known or reasonably available to WSU.

2. **Applicable time period.** Unless otherwise directed in the Schedule A Specifications, the applicable time period for each Schedule A Specification is from January 1, 2010, until the date of full and complete compliance with this subpoena.

SCHEDULE A – SPECIFICATIONS

1. Your financial affairs, including, without limitation, Financial Statements, cash flow, internal controls, risk management, Your overall accounting functions, the deployment of accounting policies and procedures, banking relations, due diligence, external audits, and Your financial relationship with other Trudeau-Affiliated Entities (including, without limitation, Transfers of Assets worth more than \$5,000 between Trudeau-Affiliated Entities).
2. Your corporate governance, directors, officers, management, and organizational structure.
3. Your commercial and business relationship with other Trudeau-Affiliated Entities.
4. Transfers of Assets worth more than \$5,000 involving Kevin Trudeau or Nataliya Babenko.
5. Direct or indirect control of WSU's business and financial affairs by (i) Kevin Trudeau or anyone acting on his behalf (including, without limitation, Suneil Sant or Marc Lane), (ii) Nataliya Babenko or anyone acting on her behalf (including, without limitation, Suneil Sant or Marc Lane), and (iii) any other Trudeau-Affiliated Entities.
6. Any and all means of compensation of any kind paid or to be paid by You directly or indirectly to Kevin Trudeau, Nataliya Babenko, Suneil Sant, Michael Dow, Marc Lane, and Winston & Strawn.
7. Nataliya Babenko's background, credentials, and business experience, including, without limitation, whether Nataliya Babenko is a successful businesswoman in her own right.
8. The relationship between You, Website Solutions Switzerland GmbH, Sales Solutions International A.G., and APC Trading Ltd.
9. Kevin Trudeau's book regarding his gambling theories, including, without limitation, Kevin Trudeau's use of Your funds to gamble as part of his research associated with this book.
10. The payment or reimbursement of expenses or charges of any kind incurred by Kevin Trudeau, Nataliya Babenko, or anyone performing services that directly or indirectly benefit or benefited Kevin Trudeau or Nataliya Babenko (including, without limitation, butler, cooking, and chauffeur services performed by David Leigh, Curtis Wozny, or Matthew Green).
11. Your Document Retention Policies, and the search and retrieval of all Documents related to the Schedule B Specifications in this subpoena.
12. Kevin Trudeau's ability to comply with Section VII of the Court's June 2, 2010 Order (a copy is attached hereto as Exhibit A).

SCHEDULE B – INSTRUCTIONS

- A. **Sensitive Personally Identifiable Information:** If any material called for by these Specifications contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production or whether it would be appropriate to redact the sensitive information.

For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- B. **Scope of Search:** This subpoena covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, partners, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.

- C. **Document Production:** You shall produce the documentary material at the place of production identified. Alternatively, you may elect to send all responsive documents to Jonathan Cohen, Federal Trade Commission, 600 Pennsylvania Ave., NW, M-8102B, Washington, DC 20580. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by email or telephone to Jonathan Cohen, jcohen2@ftc.gov/(202) 326-2551, at least five days prior to the return date. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- D. Documents that may be responsive to more than one specification of this subpoena need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this subpoena have been previously supplied to the Commission, you may comply with this subpoena by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.

- E. **Production of Copies:** Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this subpoena. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request.
- F. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the request. The document shall not be edited, cut, or expunged in any way and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.
- G. Each request includes any and all copies of the responsive document and, to the extent applicable, preliminary drafts or documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).
- H. In the event that any document covered by this subpoena was in your possession or actual or constructive custody or control and has been lost or destroyed, the document is to be identified in writing as follows: addressee, person who prepared or authored the document, date of preparation or transmittal, substance of the document and its subject matter, number of pages, attachments, or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, and, if destroyed, the manner of destruction, the reason for destruction, the persons authorizing destruction, and the persons who destroyed the document.
- I. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion of that document not subject to objection should be produced with the portion objected to redacted and clearly indicated as redacted.
- J. All objections to these requests or to any individual request must be raised in the initial response or are otherwise waived.
- K. If you assert a claim of privilege in responding to or objecting to any request, you shall provide a privilege log including the following information:
 - 1. The custodian of the document;
 - 2. The type of document (e.g., letter, memorandum);
 - 3. The date of the document;
 - 4. The general subject matter of the document;
 - 5. The sender, author, and all recipients of the document; and
 - 6. The basis on which you contend you are entitled to withhold the document from production.

If only a part of a responsive document is privileged, all non-privileged parts must be submitted.

SCHEDULE B – SPECIFICATIONS – REQUESTS TO PRODUCE DOCUMENTS

1. Provide bank statements from all banks or other financial institutions of any sort, for any account held by or in the name of any Trudeau-Affiliated Entity, from January 1, 2012 through the date of full and complete compliance with this subpoena.
2. Provide Financial Statements for all Trudeau-Affiliated Entities from January 1, 2010 through the date of full and complete compliance with this subpoena.

**DECLARATION OF WSU RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, _____, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for Website Solutions USA Inc. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On _____ 2013, in response to a subpoena dated December 21, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of _____ pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

4. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

5. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on _____, 2013.

Signature

Printed name

Title of records custodian

FTC EXHIBIT PXA:9

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

FEDERAL TRADE COMMISSION

Plaintiff

v.

KEVIN TRUDEAU

Defendant

Civil Action No. 03-C-3904

(If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: KT Radio Network Inc., c/o Marc J. Lane as Illinois registered agent
180 North LaSalle Street, # 2100, Chicago IL 60601

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Please see attached Schedule A

Table with 2 columns: Place (Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603) and Date and Time (02/07/2013 9:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Please see attached Schedule B. To be produced on or before January 31, 2013 at: Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/17/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

FEDERAL TRADE COMMISSION, who issues or requests this subpoena, are:

Jonathan Cohen
Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580
(202) 326-2551; jcohen2@ftc.gov

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 03-C-3904

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.**(1) Producing Documents or Electronically Stored Information.**

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Subpoena to KTRN

Pursuant to Federal Rules of Civil Procedure 30(b)(6), 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), plaintiff Federal Trade Commission incorporates these schedules as part of its subpoena. The specifications and sets of instructions below apply to the subpoena. Additionally, the following definitions apply to the specifications in both Schedules:

DEFINITIONS

- A. **“And,”** as well as **“or,”** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Specification all information that otherwise might be construed to be outside the scope of the specification
- B. **“Any”** shall be construed to include **“all,”** and **“all”** shall be construed to include the word **“any.”**
- C. **“Asset”** includes any real property, any personal property (including, without limitation, any vehicles, jewelry, coins, artwork, antiques, collectibles, bullion and gold bars), any currency or other legal tender (of any country), money market accounts, savings accounts, checking accounts, other financial accounts of any sort, certificates of deposit, uncashed checks, money orders, promissory notes, commercial paper of any sort, stocks, stock options, mutual funds, other securities of any sort, corporate bonds, public bonds, other bonds of any sort, insurance policies with any cash surrender value, trademarks, copyrights, patents, other intellectual property, interests in any companies or corporate entities (in any form), partnership interests, trust interests, and any interest of any sort in any of the foregoing, or rights to any interest, of any sort, in any of the foregoing.
- D. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document”** shall also include Electronically Stored Information.
- E. **“Document Retention Policy”** means any rule, guideline, policy, or practice regarding the retention, storage or destruction of Documents.
- F. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, text messages, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. **“ESI”** also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

- G. **“Financial Statements”** include balance sheets, annual income statements, year-to-date income statements, and any other type of financial statement.
- H. **“KTRN”** refers to KT Radio Network Inc.
- I. **“Include”** and **“including”** mean “without limitation,” or “including but not limited to,” so as to avoid excluding any documents or information that might otherwise be construed to be within the scope of any specification.
- J. **“Transfer”** includes the delivery, receipt, giving, taking, sale, purchase, acquiring, distributing or other movement of any tangible or intangible thing from one party or set of parties to another party or set of parties.
- K. **“Trudeau-Affiliated Entities”** include Alliance Publishing Group, Inc., APC Trading Ltd., Global Information Network FDN, GIN USA, Inc., International Pool Tour, Inc., K.T. Corporation Limited, KT Radio Network, Inc., KMT Fiduciary Trust, KT Capital, KT Corp., Natural Cures Health Institute, Natural Cures Holdings, Inc., Natural Cures, Inc., Sales Solutions International A.G., Shop America (USA), L.L.C., Shop America Marketing Group LLC, The Whistle Blower, Inc., TruCom LLC, Trustar Global Media Limited, Trustar Productions, Inc., Website Solutions, GmbH, Website Solutions, USA, and any other entity of any sort directly or indirectly owned or controlled (in whole or in part) at any time by any Trudeau-Affiliated Person.
- L. **“Trudeau-Affiliated Persons”** include Kevin Trudeau, Nataliya Babenko, any member of the immediate families of Kevin Trudeau or Nataliya Babenko (including, without limitation, Robert Trudeau, Sr., Mary Trudeau, Robert Trudeau, Jr., and Olga Babenko), Suneil Sant, and Michael Dow.
- M. **“Referring to,” “relating to,”** or **“related to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.
- N. **“Suneil Sant”** refers to Suneil Sant a/k/a Neil Sant.
- O. **“You”** and **“Your”** means KTRN, as defined herein.

SCHEDULE A – INSTRUCTIONS

1. **General Instructions.** Pursuant to Federal Rules of Civil Procedure 30(b)(6), 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), KTRN has a duty to designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf regarding the Specifications set forth below. The persons designated must testify about information known or reasonably available to KTRN.

2. **Applicable time period.** Unless otherwise directed in the Schedule A Specifications, the applicable time period for each Schedule A Specification is from January 1, 2010, until the date of full and complete compliance with this subpoena.

SCHEDULE A – SPECIFICATIONS

1. Your financial affairs, including, without limitation, Financial Statements, cash flow, internal controls, risk management, Your overall accounting functions, the deployment of accounting policies and procedures, banking relations, due diligence, external audits, and Your financial relationship with other Trudeau-Affiliated Entities (including, without limitation, Transfers of Assets worth more than \$5,000 between Trudeau-Affiliated Entities).
2. Your corporate governance, directors, officers, management, and organizational structure.
3. Your commercial and business relationship with other Trudeau-Affiliated Entities.
4. Transfers of Assets worth more than \$5,000 involving Kevin Trudeau or Nataliya Babenko.
5. Direct or indirect control of KTRN's business and financial affairs by (i) Kevin Trudeau or anyone acting on his behalf (including, without limitation, Suneil Sant or Marc Lane), (ii) Nataliya Babenko or anyone acting on her behalf (including, without limitation, Suneil Sant or Marc Lane), and (iii) any other Trudeau-Affiliated Entities.
6. Any and all means of compensation of any kind paid or to be paid by You directly or indirectly to Kevin Trudeau, Nataliya Babenko, Suneil Sant, Michael Dow, Marc Lane, and Winston & Strawn.
7. Nataliya Babenko's background, credentials, and business experience, including, without limitation, whether Nataliya Babenko is a successful businesswoman in her own right.
8. The residential property at 3108 White Oak Lane, Oak Brook, Illinois, and the services associated with or performed at that address (including, without limitation, butler, cooking, and chauffeur services performed by David Leigh, Curtis Wozny, or Matthew Green).
9. Your severance with Matthew Green.
10. The payment or reimbursement of expenses or charges of any kind incurred by Kevin Trudeau, Nataliya Babenko, or anyone performing services that directly or indirectly benefit or benefited Kevin Trudeau or Nataliya Babenko (including, without limitation, butler, cooking, and chauffeur services performed by David Leigh, Curtis Wozny, or Matthew Green).
11. Your Document Retention Policies, and the search and retrieval of all Documents related to the Schedule B Specifications in this subpoena.
12. Kevin Trudeau's ability to comply with Section VII of the Court's June 2, 2010 Order.

SCHEDULE B – INSTRUCTIONS

- A. **Sensitive Personally Identifiable Information:** If any material called for by these Specifications contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production or whether it would be appropriate to redact the sensitive information.

For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- B. **Scope of Search:** This subpoena covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, partners, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.
- C. **Document Production:** You shall produce the documentary material at the place of production identified. Alternatively, you may elect to send all responsive documents to Jonathan Cohen, Federal Trade Commission, 600 Pennsylvania Ave., NW, M-8102B, Washington, DC 20580. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by email or telephone to Jonathan Cohen, jcohen2@ftc.gov/(202) 326-2551, at least five days prior to the return date. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- D. Documents that may be responsive to more than one specification of this subpoena need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this subpoena have been previously supplied to the Commission, you may comply with this subpoena by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.

- E. **Production of Copies:** Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this subpoena. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request.
- F. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the request. The document shall not be edited, cut, or expunged in any way and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.
- G. Each request includes any and all copies of the responsive document and, to the extent applicable, preliminary drafts or documents that differ in any respect from the original or final draft or from each other (*e.g.*, by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).
- H. In the event that any document covered by this subpoena was in your possession or actual or constructive custody or control and has been lost or destroyed, the document is to be identified in writing as follows: addressee, person who prepared or authored the document, date of preparation or transmittal, substance of the document and its subject matter, number of pages, attachments, or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, and, if destroyed, the manner of destruction, the reason for destruction, the persons authorizing destruction, and the persons who destroyed the document.
- I. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion of that document not subject to objection should be produced with the portion objected to redacted and clearly indicated as redacted.
- J. All objections to these requests or to any individual request must be raised in the initial response or are otherwise waived.
- K. If you assert a claim of privilege in responding to or objecting to any request, you shall provide a privilege log including the following information:
 - 1. The custodian of the document;
 - 2. The type of document (*e.g.*, letter, memorandum);
 - 3. The date of the document;
 - 4. The general subject matter of the document;
 - 5. The sender, author, and all recipients of the document; and
 - 6. The basis on which you contend you are entitled to withhold the document from production.

If only a part of a responsive document is privileged, all non-privileged parts must be submitted.

SCHEDULE B – SPECIFICATIONS – REQUESTS TO PRODUCE DOCUMENTS

1. Provide bank statements from all banks or other financial institutions of any sort, for any account held by or in the name of (a) KTRN and (b) any other Trudeau-Affiliated Entity, from January 1, 2012 through the date of full and complete compliance with this subpoena.

2. Provide Financial Statements for (a) KTRN and (b) all other Trudeau-Affiliated Entities from January 1, 2010 through the date of full and complete compliance with this subpoena.

**DECLARATION OF KTRN RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, _____, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for KT Radio Network Inc. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On _____ 2013, in response to a subpoena dated December 21, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of _____ pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

4. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

5. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on _____, 2013.

Signature

Printed name

Title of records custodian

FTC EXHIBIT PXA:10

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

FEDERAL TRADE COMMISSION

Plaintiff

v.

KEVIN TRUDEAU

Defendant

Civil Action No. 03-C-3904

(If the action is pending in another district, state where:)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: GIN USA Inc., c/o Nataliya Babenko, President, c/o Marc Lane per 2012 South Dakota Annual Report 180 NORTH LASALLE # 2100, CHICAGO, IL 60601

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Please see attached Schedule A

Table with 2 columns: Place (Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603) and Date and Time (02/07/2013 9:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Please see attached Schedule B. To be produced on or before January 31, 2013 at: Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/17/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) FEDERAL TRADE COMMISSION, who issues or requests this subpoena, are:

Jonathan Cohen
Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580
(202) 326-2551; jcohen2@ftc.gov

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 03-C-3904

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

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(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

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(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

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(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

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(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

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(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Subpoena to GIN USA

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DEFINITIONS

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- B. “**Any**” shall be construed to include “**all**,” and “**all**” shall be construed to include the word “**any**.”
- C. “**Asset**” includes any real property, any personal property (including, without limitation, any vehicles, jewelry, coins, artwork, antiques, collectibles, bullion and gold bars), any currency or other legal tender (of any country), money market accounts, savings accounts, checking accounts, other financial accounts of any sort, certificates of deposit, uncashed checks, money orders, promissory notes, commercial paper of any sort, stocks, stock options, mutual funds, other securities of any sort, corporate bonds, public bonds, other bonds of any sort, insurance policies with any cash surrender value, trademarks, copyrights, patents, other intellectual property, interests in any companies or corporate entities (in any form), partnership interests, trust interests, and any interest of any sort in any of the foregoing, or rights to any interest, of any sort, in any of the foregoing.
- D. “**Document**” shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. “**Document**” shall also include Electronically Stored Information.
- E. “**Document Retention Policy**” means any rule, guideline, policy, or practice regarding the retention, storage or destruction of Documents.
- F. “**Electronically Stored Information**” or “**ESI**” shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, text messages, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. “**ESI**” also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

- G. **“Financial Statements”** include balance sheets, annual income statements, year-to-date income statements, and any other type of financial statement.
- H. **“GIN USA”** refers to GIN USA, Inc.
- I. **“Include”** and **“including”** mean “without limitation,” or “including but not limited to,” so as to avoid excluding any documents or information that might otherwise be construed to be within the scope of any specification.
- J. **“Transfer”** includes the delivery, receipt, giving, taking, sale, purchase, acquiring, distributing or other movement of any tangible or intangible thing from one party or set of parties to another party or set of parties.
- K. **“Trudeau-Affiliated Entities”** include Alliance Publishing Group, Inc., APC Trading Ltd., Global Information Network FDN, GIN USA, Inc., International Pool Tour, Inc., K.T. Corporation Limited, KT Radio Network, Inc., KMT Fiduciary Trust, KT Capital, KT Corp., Natural Cures Health Institute, Natural Cures Holdings, Inc., Natural Cures, Inc., Sales Solutions International A.G., Shop America (USA), L.L.C., Shop America Marketing Group LLC, The Whistle Blower, Inc., TruCom LLC, Trustar Global Media Limited, Trustar Productions, Inc., Website Solutions, GmbH, Website Solutions, USA, and any other entity of any sort directly or indirectly owned or controlled (in whole or in part) at any time by any Trudeau-Affiliated Person.
- L. **“Trudeau-Affiliated Persons”** include Kevin Trudeau, Nataliya Babenko, any member of the immediate families of Kevin Trudeau or Nataliya Babenko (including, without limitation, Robert Trudeau, Sr., Mary Trudeau, Robert Trudeau, Jr., and Olga Babenko), Suneil Sant, and Michael Dow.
- M. **“Referring to,” “relating to,”** or **“related to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.
- N. **“Suneil Sant”** refers to Suneil Sant a/k/a Neil Sant.
- O. **“You”** and **“Your”** means GIN USA, as defined herein.

SCHEDULE A – INSTRUCTIONS

1. **General Instructions.** Pursuant to Federal Rules of Civil Procedure 30(b)(6), 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), GIN USA has a duty to designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf regarding the Specifications set forth below. The persons designated must testify about information known or reasonably available to GIN USA.

2. **Applicable time period.** Unless otherwise directed in the Schedule A Specifications, the applicable time period for each Schedule A Specification is from January 1, 2010, until the date of full and complete compliance with this subpoena.

SCHEDULE A – SPECIFICATIONS

1. Your financial affairs, including, without limitation, Financial Statements, cash flow, internal controls, risk management, Your overall accounting functions, the deployment of accounting policies and procedures, banking relations, due diligence, external audits, and Your financial relationship with other Trudeau-Affiliated Entities (including, without limitation, Transfers of Assets worth more than \$5,000 between Trudeau-Affiliated Entities).
2. Your corporate governance, directors, officers, management, and organizational structure, including, without limitation, the “GIN Council” and its members.
3. Your commercial and business relationship with other Trudeau-Affiliated Entities.
4. Transfers of Assets worth more than \$5,000 involving Kevin Trudeau or Nataliya Babenko.
5. Direct or indirect control of GIN USA’s business and financial affairs by (i) Kevin Trudeau or anyone acting on his behalf (including, without limitation, Suneil Sant or Marc Lane), (ii) Nataliya Babenko or anyone acting on her behalf (including, without limitation, Suneil Sant or Marc Lane), and (iii) any other Trudeau-Affiliated Entities.
6. Any and all means of compensation of any kind paid or to be paid by You directly or indirectly to Kevin Trudeau, Nataliya Babenko, Suneil Sant, Michael Dow, Marc Lane, and Winston & Strawn.
7. Nataliya Babenko’s background, credentials, and business experience, including, without limitation, whether Nataliya Babenko is a successful businesswoman in her own right.
8. Your decision to place \$2 million in escrow on behalf of Kevin Trudeau.
9. The payment or reimbursement of expenses or charges of any kind incurred by Kevin Trudeau, Nataliya Babenko, or anyone performing services that directly or indirectly benefit or benefited Kevin Trudeau or Nataliya Babenko (including, without limitation, butler, cooking, and chauffeur services performed by David Leigh, Curtis Wozny, or Matthew Green).
10. Your Document Retention Policies, and the search and retrieval of all Documents related to the Schedule B Specifications in this subpoena.
11. Kevin Trudeau’s ability to comply with Section VII of the Court’s June 2, 2010 Order.

SCHEDULE B – INSTRUCTIONS

- A. **Sensitive Personally Identifiable Information:** If any material called for by these Specifications contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production or whether it would be appropriate to redact the sensitive information.

For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- B. **Scope of Search:** This subpoena covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, partners, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.
- C. **Document Production:** You shall produce the documentary material at the place of production identified. Alternatively, you may elect to send all responsive documents to Jonathan Cohen, Federal Trade Commission, 600 Pennsylvania Ave., NW, M-8102B, Washington, DC 20580. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by email or telephone to Jonathan Cohen, jcohen2@ftc.gov/(202) 326-2551, at least five days prior to the return date. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- D. Documents that may be responsive to more than one specification of this subpoena need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this subpoena have been previously supplied to the Commission, you may comply with this subpoena by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.

- E. **Production of Copies:** Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this subpoena. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request.
- F. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the request. The document shall not be edited, cut, or expunged in any way and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.
- G. Each request includes any and all copies of the responsive document and, to the extent applicable, preliminary drafts or documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).
- H. In the event that any document covered by this subpoena was in your possession or actual or constructive custody or control and has been lost or destroyed, the document is to be identified in writing as follows: addressee, person who prepared or authored the document, date of preparation or transmittal, substance of the document and its subject matter, number of pages, attachments, or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, and, if destroyed, the manner of destruction, the reason for destruction, the persons authorizing destruction, and the persons who destroyed the document.
- I. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion of that document not subject to objection should be produced with the portion objected to redacted and clearly indicated as redacted.
- J. All objections to these requests or to any individual request must be raised in the initial response or are otherwise waived.
- K. If you assert a claim of privilege in responding to or objecting to any request, you shall provide a privilege log including the following information:
1. The custodian of the document;
 2. The type of document (e.g., letter, memorandum);
 3. The date of the document;
 4. The general subject matter of the document;
 5. The sender, author, and all recipients of the document; and
 6. The basis on which you contend you are entitled to withhold the document from production.

If only a part of a responsive document is privileged, all non-privileged parts must be submitted.

SCHEDULE B – SPECIFICATIONS – REQUESTS TO PRODUCE DOCUMENTS

1. Provide bank statements from all banks or other financial institutions of any sort, for any account held by or in the name of (a) GIN USA and (b) any other Trudeau-Affiliated Entity, from January 1, 2012 through the date of full and complete compliance with this subpoena.

2. Provide Financial Statements for (a) GIN USA and (b) all other Trudeau-Affiliated Entities from January 1, 2010 through the date of full and complete compliance with this subpoena.

**DECLARATION OF GIN USA RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, _____, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for GIN USA Inc. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On _____ 2013, in response to a subpoena dated December 21, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of _____ pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

4. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

5. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on _____, 2013.

Signature

Printed name

Title of records custodian

FTC EXHIBIT PXA:11



Michael Dow CPA

Chief Financial Officer at WEBSITE SOLUTIONS USA INC.
Greater Chicago Area | Information Technology and Services

[Join LinkedIn and access Michael Dow CPA's full profile.](#)

As a LinkedIn member, you'll join 150 million other professionals who are sharing connections, ideas, and opportunities. And it's free! You'll also be able to:

- See who you and **Michael Dow CPA** know in common
- Get introduced to **Michael Dow CPA**
- Contact **Michael Dow CPA** directly

[View Full Profile](#)

Michael Dow CPA's Overview

Current	Chief Financial Officer at WEBSITE SOLUTIONS USA INC.
Past	Consulting Chief Financial Officer at M.O.D. Management Vice President Finance at DEVINE RACING MANAGEMENT Chief Financial Officer at HOWARD ELLIOTT COLLECTIONS see all
Education	DePaul University - Charles H. Kellstadt Graduate School of Business Northeastern Illinois University
Recommendations	15 people have recommended Michael
Connections	179 connections

Michael Dow CPA's Summary

WEBSITE SOLUTIONS USA Inc. Westmont IL 9/09- Present

Private, exclusive, members-only global association of individuals in over 115 countries dedicated to achieving Financial independence, Wealth creation, Dynamic health and an overall emotional well-being.

Chief Financial Officer

Assisting the President with planning and directing the company's overall financial plans, policies and accounting functions for an organization with ten entities generating revenues of over \$100 million. Responsibilities include: Rolling 12 month Cash Flow Forecasting, Internal Control Structure, Metric and Statistical charting, General Ledger and Variance analysis and the Filing of Sales Taxes.

DEVINE RACING MANAGEMENT, Chicago IL 11/06 – 2/09

Endurance Sports education and training organization engaged in ownership, management and acquisition of marathon races serving four states.

Vice President Finance

Planned and directed all finance and accounting functions for four marathons. Responsibilities included: Certification of financial statement and preparation of compliance certificates for lenders, General Ledger Analysis, Cash Management, Risk Management, Weekly Cash Flow forecasting, Budgeting, Reviewed and approved all sponsorships and vendor contracts

LAKESHORE MANAGEMENT GROUP, Chicago, IL 5/89 - 9/05

Premier athletic club and Spa management company engaged in the development, ownership, management, and acquisition of health and fitness clubs, currently serving four states in the U.S.

Chief Financial Officer & Vice President

Planned and directed company's overall financial plans, Responsibilities included: Certification of Financial Statements, General Ledger Analysis, Cash Management, Risk Management, Corporate Benefits, Due Diligence, 401K Plan Administrator, Human Resources, Budgeting and Forecasting, Internal Controls, and Audits for 7 facilities. Directly managed & mentored a staff of 22.

Specialties

Cash Flow Forecasting, Budgeting, Pro Formas for business expansion. Financial Statement Presentation, General Ledger Analysis, Variance Analysis, Cash/Risk Management, Budgeting, Forecasting, Negotiations, Strategic Planning and Development, Cost Savings Solutions, Due Diligence, Human Resources, External Audits, Revamping of Internal Controls, Corporate Benefits, Accounting Process Redesigning, Leadership and Mentoring, Banking Relations, Development and Deployment of Policies and Procedures.

Michael Dow CPA's Experience

Chief Financial Officer

WEBSITE SOLUTIONS USA INC.

Information Technology and Services industry
September 2009 – Present (2 years 10 months)

Associated Management Group of Private, exclusive, members-only global association of individuals in over 115 countries dedicated to achieving Financial independence • Wealth creation • Dynamic health and reaching high levels of overall emotional well-being.

Assisting the President with Planning and directing the company's overall financial plans, policies and accounting functions for an organization with ten entities generating revenues of over \$100 million. Responsibilities include: Cash Flow Forecasting, Metric and statistical charting, General Ledger Analysis, Cash Management, Risk Management, Strategic Financial Planning and Internal Controls.

Consulting Chief Financial Officer

M.O.D. Management

PXA:11

FTC EXHIBIT PXA:12

Infomercial star gets hitched at Beverly City Hall's Local News Salem, MA November 11, 2007

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June 27, 2008

Infomercial star gets hitched at Beverly City Hall

By Paul Leighton

BEVERLY — As a best-selling author who has sold his books on hundreds of late-night nationally televised infomercials, Kevin Trudeau is used to being seen by millions.

Yesterday at noon, one of the biggest events of his life was witnessed by only a few stunned workers in City Hall.

Trudeau was married to Ukraine native Natalie Babenko in a brief ceremony inside the city clerk's office. Afterward, the newly married couple kissed and posed for pictures on the steps of City Hall, prompting double takes by passers-by on busy Cabot Street.

Babenko wore traditional Ukrainian attire that included a red wraparound skirt, a colorfully embroidered shirt and a wreath of flowers on her head. She jumped up and down with excitement and kissed Trudeau, as her mother, Olga, snapped pictures in front of City Hall.

At one point, Mayor Bill Scanlon and other City Hall employees gathered in the front lobby and gazed out the front door to get a glimpse of the couple.

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Paul Leighton

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HAMPSTEAD NH Built in 2007 Bright Open-concept Cape, w/ lake, beach, night!

Infomercial star gets hitched at Beverly City Hall

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"He's so handsome," switchboard operator June Kelley said.

Trudeau said he chose Beverly City Hall for the ceremony because he grew up in nearby Lynn and his parents still live there. He now lives in southern California.

"We decided this is a nice, beautiful courthouse," he said, referring to City Hall.

Trudeau said he and Babenko met through a friend three years ago in California. They plan to hold a "big ceremony overseas," but don't know exactly when or where. He said they got married yesterday because "we wanted to make it a U.S. marriage."

Trudeau, 45, has sold millions of books promoting natural health cures, including one, "Natural Cures They Don't Want You To Know About," that sold more than 5 million copies and was No. 1 on the New York Times' nonfiction best-seller list for 25 weeks in 2005.

He has also run afoul of federal regulators, who have accused him of deceptive selling methods. A Federal Trade Commission official once described Trudeau's business as "an infomercial empire that has misled American consumers for years."

The FTC fined him \$500,000 in 1998 for making false or misleading claims in infomercials. In 2004, he agreed to pay \$2 million to settle a lawsuit by the FTC over his claims that a coral calcium product could cure cancer. The Wall Street Journal has reported that Trudeau spent two years in prison in the early '90s for credit card fraud.

Trudeau has filmed many of his infomercials at ITV Direct, a company that has a television studio in its headquarters at Cherry Hill Park in Beverly.

At City Hall, Assistant City Clerk Kathy Connolly, who is a justice of the peace, performed the wedding ceremony. Helen Butler, who works in the city clerk's office, knew a little Ukrainian from a trip to Russia and said hello to Babenko in her native language.

Some workers said they had never heard of Trudeau. But Kelley, the switchboard operator, certainly had. She said she watches Trudeau's infomercials and has many of his books. In fact, she happened to have his "Natural Cures" book right in her office.

Trudeau signed her book, and Babenko gave Kelley her wedding bouquet.

"He shook my hand," Kelley said. "I almost fainted."

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FTC EXHIBIT PXA:13

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Friday, December 21, 2012 2:53 PM
To: 'Croswell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Cc: Mora, Michael; O'Toole, David A.
Subject: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.) -- Request to Accept Service/Deposition Dates
Attachments: WinstonandStrawn.pdf

Counsel,

Along with Mickey and David, I represent the FTC in the above-captioned matter. We ask that you accept service of the attached subpoena. Of course, your courtesy in this regard will not constitute a waiver of any right or objection you may have, other than any argument that we have not properly served you. In the event that you are unwilling to accept service by email, please advise me no later than noon CST on Monday, so that we can effect conventional service promptly.

Additionally, we will depose Dow and Babenko, along with KT Radio Network, GIN USA, and Website Solutions USA. We are mindful of the Court's remarks last month regarding professionalism, and have cleared our calendars to the extent possible to facilitate scheduling and ensure that discovery proceeds expeditiously (and prior to the February 1 status conference). We are available to take these depositions on the following thirteen dates:

January **10, 11, 14, 15, 16, 17, 18, 22, 23, 24, 25, 28, and 29**

Please let us know your preferences no later than the end of the year, so that we may make plans accordingly.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

FTC EXHIBIT PXA:14

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT
for the
Northern District of Illinois

Federal Trade Commission)	
<i>Plaintiff</i>)	
v.	)	Civil Action No. Case No. 03-CV-3904
Kevin Trudeau)	
<i>Defendant</i>	)	(If the action is pending in another district, state where:

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES**

To: Winston & Strawn LLP, 35 West Wacker Drive #4200, Chicago, IL 60601

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Please see attached Schedule

Place: Federal Trade Commission 55 West Monroe Street, Suite 1825 Chicago, IL 60603	Date and Time: 01/07/2013 3:00 pm
---	--

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

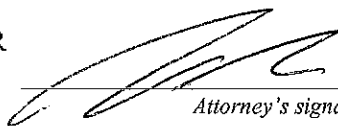
Place:	Date and Time:
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The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/21/2012

CLERK OF COURT

OR

_____ <i>Signature of Clerk or Deputy Clerk</i>	OR	 _____ <i>Attorney's signature</i>
--	----	--

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* _____, who issues or requests this subpoena, are:

Federal Trade Commission

Michael Mora/Jonathan Cohen
Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580
(202) 326-3373; -2551; mmora@ftc.gov; jcohen2@ftc.gov

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Civil Action No. Case No. 03-CV-3904

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the subpoena to *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because _____; or

other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Schedule for Subpoena to Winston & Strawn

Pursuant to Federal Rules of Civil Procedure 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), plaintiff Federal Trade Commission incorporates this Schedule as part of its subpoena. The following definitions, instructions, and specifications apply to the subpoena.

DEFINITIONS

- A. **“And,”** as well as **“or,”** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Specification all information that otherwise might be construed to be outside the scope of the specification.
- B. **“Any”** shall be construed to include **“all,”** and **“all”** shall be construed to include the word **“any.”**
- C. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document”** shall also include Electronically Stored Information.
- D. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, electronic mail, text messages, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. **“ESI”** also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.
- E. **“Include”** and **“including”** mean **“without limitation,”** or **“including but not limited to,”** so as to avoid excluding any documents or information that might otherwise be construed to be within the scope of any specification.
- F. **“Retainer Agreement”** means any contract governing the payment for legal or other professional services.
- G. **“Trudeau-Affiliated Entity”** includes Alliance Publishing Group, Inc., APC Trading Ltd., Global Information Network FDN, Global Information Network USA, Inc., International Pool Tour, Inc., K.T. Corporation Limited, KT Radio Network, Inc., KMT Fiduciary Trust, KT Capital, KT Corp., Natural Cures Health Institute, Natural Cures Holdings, Inc., Natural Cures, Inc., Sales Solutions International A.G., Shop America (USA), L.L.C., Shop America Marketing Group LLC, The Whistle Blower, Inc., TruCom LLC, Tristar Global Media Limited, Tristar Productions, Inc., Website Solutions,

GmbH, Website Solutions, USA, any entity of any sort directly or indirectly owned or controlled (in whole or in part) at any time by any Trudeau-Affiliated Person, and any other entity that has ever paid or promised to pay for any professional services provided or to be provided to Kevin Trudeau.

- H. **“Trudeau-Affiliated Person”** includes Kevin Trudeau, Nataliya Babenko, any member of the immediate families of Kevin Trudeau or Nataliya Babenko (including, without limitation, Robert Trudeau, Sr., Mary Trudeau, Robert Trudeau, Jr., and Olga Babenko), Suneil Sant, and Michael Dow.
- I. **“Winston & Strawn”** means Winston & Strawn LLP, and any successor, predecessor, wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and any affiliated entity of any sort, and all directors, officers, partners, employees, agents, consultants, and other persons working for or on behalf of the foregoing.
- J. **“Referring to,” “relating to,” or “related to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.
- K. **“Suneil Sant”** means Suneil Sant a/k/a Neil Sant.
- L. **“You” and “Your”** means Winston & Strawn, as defined herein.

INSTRUCTIONS

- A. **Sensitive Personally Identifiable Information:** If any material called for by these Specifications contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production or whether it would be appropriate to redact the sensitive information.

For purposes of these requests, sensitive personally identifiable information includes: an individual’s Social Security number alone; or an individual’s name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver’s license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- B. **Scope of Search:** This subpoena covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, partners, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.
- A. **Document Production:** You shall produce the documentary material at the place of production identified. Alternatively, you may elect to send all responsive documents to Jonathan Cohen, Federal Trade Commission, 600 Pennsylvania Ave., NW, M-8102B, Washington, DC 20580. Because postal delivery to the Commission is subject to delay

due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by email or telephone to Jonathan Cohen, jcohen2@ftc.gov/(202) 326-2551, at least five days prior to the return date. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- B. Documents that may be responsive to more than one specification of this subpoena need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this subpoena have been previously supplied to the Commission, you may comply with this subpoena by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.
- C. **Production of Copies:** Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this subpoena. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request.
- D. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the request. The document shall not be edited, cut, or expunged in any way and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.
- E. Each request includes any and all copies of the responsive document and, to the extent applicable, preliminary drafts or documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).
- F. In the event that any document covered by this subpoena was in your possession or actual or constructive custody or control and has been lost or destroyed, the document is to be identified in writing as follows: addressee, person who prepared or authored the document, date of preparation or transmittal, substance of the document and its subject matter, number of pages, attachments, or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, and, if destroyed, the manner of destruction, the reason for destruction, the persons authorizing destruction, and the persons who destroyed the document.

- G. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion of that document not subject to objection should be produced with the portion objected to redacted and clearly indicated as redacted.
- H. All objections to these requests or to any individual request must be raised in the initial response or are otherwise waived.
- I. If you assert a claim of privilege in responding to or objecting to any request, you shall provide a privilege log including the following information:
 - 1. The custodian of the document;
 - 2. The type of document (e.g., letter, memorandum);
 - 3. The date of the document;
 - 4. The general subject matter of the document;
 - 5. The sender, author, and all recipients of the document; and
 - 6. The basis on which you contend you are entitled to withhold the document from production.

If only a part of a responsive document is privileged, all non-privileged parts must be submitted.

- J. **Certification of Records of Regularly Conducted Activity:** Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena you to testify at future proceedings to establish the admissibility of documents produced in response to this subpoena. You are asked to execute this Certification and provide it with your response.

LIMITATIONS - REQUESTS TO PRODUCE DOCUMENTS

The subpoena Specifications below do not cover, and the Federal Trade Commission does not seek, any information regarding anyone's motive for seeking legal representation, Trudeau's litigation strategy (or that of his counsel), the specific nature of any legal services provided, or the substance of any attorney-client communication other than the limited financial portions of any Retainer Agreement that do not reveal anyone's motive in seeking representation, litigation strategy or the specific nature of the services provided or to be provided.

SPECIFICATIONS - REQUESTS TO PRODUCE DOCUMENTS

1. Provide all Retainer Agreements Referring or Relating To compensation for work or services performed for or provided to any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

2. Provide all documents including, but not limited to, all checks (copies of both front and back, or the original check), withdrawal slips, wire transfer records, receipts, bookkeeping documents, journals, ledgers, financial statements and any other financial records, created on or after June 2, 2010 until the date of full and complete compliance with this subpoena, evidencing payment received or promised, or the source of payment received or promised, for work or services performed or to be performed for any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

3. Provide documents sufficient to establish the balance of funds at all times until the date of full and complete compliance with this subpoena in any account controlled directly or indirectly by Winston & Strawn for the benefit of or on behalf of any Trudeau-Affiliated Entity or Trudeau-Affiliated Person. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

**DECLARATION OF WINSTON & STRAWN RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, _____, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for Winston & Strawn LLP. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On _____ 2013, in response to a subpoena dated December 21, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of _____ pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

5. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

6. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on _____, 2013.

Signature

Printed name

Title of records custodian

FTC EXHIBIT PXA:15

WINSTON & STRAWN LLP

BEIJING
CHARLOTTE
CHICAGO
GENEVA
HONG KONG
LONDON
LOS ANGELES

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601

+1 (312) 558-5600

FACSIMILE +1 (312) 558-5700

www.winston.com

MOSCOW
NEW YORK
NEWARK
PARIS
SAN FRANCISCO
SHANGHAI
WASHINGTON, D.C.

KIMBALL R. ANDERSON
Partner
312-558-5858
kanderso@winston.com

January 7, 2013

BY EMAIL AND U.S. MAIL

Mr. Michael Mora, Esq.
Mr. Jonathan Cohen, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: FTC v. Trudeau

Gentlemen:

We write in response to the subpoena issued by the FTC to Winston & Strawn LLP. Please accept this letter as our firm's response pursuant to Rule 45, Federal Rules of Civil Procedure.

In response to Paragraph 1 of the FTC's request for documents, please be advised that we do not have any responsive documents.

In response to Paragraph 2 of the FTC's request for documents, please be advised that we represent only Kevin Trudeau, and not any entity that you refer to as a "Trudeau Affiliated Entity." Moreover, insofar as the FTC may be requesting:

all checks (copies of both front and back, on the original check)
withdrawal slips, wire transfer records, receipts, banking
documents, journals, ledgers, financial statements, and other
financial records

pertaining to Mr. Trudeau, we object to this request on the following grounds:

January 7, 2013

Page 2

1. Rule 1.6(a) of the Illinois Rules of Professional Conduct¹ prohibits us from ethically sharing the requested information with the FTC. As stated in *In Re Decker*, 153 Ill. 2d 298 (1992):

In addition to the attorney-client privilege, there exists the attorney's rule of confidentiality, which encompasses the attorney-client evidentiary privilege as well as the attorney's fiduciary duty to his client. (See Annotated Model Rules of Professional Conduct R. 1.6, at 88 (2d ed. 1992). The rule of confidentiality sets forth what an attorney may, may not, or must ethically reveal about his client. Unlike the evidentiary attorney-client privilege, the rule of confidentiality applies not only during judicial proceedings, but at all times, and to client's secrets, as well as confidences. (Annotated Model Rules of Professional Conduct R. 1.6 at 86, 90 (2d ed. 1992).)

See also Profit Mgmt. Dev., Inc. v. Jacobson, Branavik & Anderson, Ltd., 209 Ill. App. 3d 289, 299 (2d Dist. 1999) (same); *Issaacson v. Keck, Mahin & Cate*, 1993 WL 34738, at *1 (N.D. Ill. Feb. 9, 1993) ("The ethical duty of the attorney to preserve client confidences is broader than the evidentiary privilege."). "The duty of confidentiality is broadly applied to the attorney/client relationship and covers most of the information shared between the client and the attorney." *In the Matter of Wayne Niles Home*, IL Disp. Op. 93 CH 568 (1995).

2. The request is overly broad, unduly burdensome, ambiguous, vague, and not reasonably calculated to lead to the discovery of admissible evidence.

3. The request is cumulative of other payment information that the FTC already has obtained by subpoenaing Mr. Trudeau's banks and already has presented to the court.

4. As recognized repeatedly by federal courts, it is rarely appropriate to subpoena opposing counsel in a lawsuit. *See, e.g., Kirzhiner v. Silvester*, 09-cv-02888, 2011 WL 1321250, at 3 (D. Col. April 5, 2011) ("[t]he use of a subpoena duces tecum to attempt to obtain opposing counsel's documents and files is equally improper [as subpoenaing counsel for depositions]"; *In re Subpoenaed Trial Jury Witness*, 171 F.2d 511 (7th Cir.) (quashing subpoena for documents relating to payment of fees); *In re Grand Jury Proceedings, Cherney*, 898 F.2d 565, 567 (7th Cir. 1990) (quashing subpoena for fee payment information).

¹ Rule 1.6(a) states: "A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is implied authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c)." Here, our client has not consented and the disclosure is neither permitted by paragraph (b) nor required by paragraph (c).

WINSTON & STRAWN LLP

January 7, 2013

Page 3

In response to Paragraph 3 of your request for documents, please be advised that we have no responsive documents. We are not holding any funds, by way of retainer or otherwise, on behalf of Mr. Trudeau or any entity that you characterize as a Trudeau Affiliated Entity.

Finally, we call your attention to Rule 45(a)(1), which states:

A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden and expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction – which may include lost earnings and reasonable attorney’s fees – on a party or attorney who fails to comply.

Here, the FTC purported to serve its burdensome subpoena on late on Friday, December 28, 2012, when our offices were closed for holidays, and demanded full compliance by January 7, 2013 at 3:00 p.m. This kind of gamesmanship reflects poorly on representatives of the federal government and officers of the court.

Very truly yours,



Kimball R. Anderson

KRA/jb

FTC EXHIBIT PXA:16

Cohen, Jonathan

From: Marc J. Lane <mlane@marcjlane.com>
Sent: Thursday, December 27, 2012 2:02 PM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.; 'Crowell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Dear Jonathan,

Unfortunately, I am not authorized by Website Solutions USA Inc. or KT Radio Network Inc. to accept email service.

I must reiterate that it is simply impossible for those companies, GIN USA Inc., or The Law Offices of Marc J. Lane, A Professional Corporation, to serve responses by January 10, 2013. Accordingly, I renew my request that your consent to the companies' serving such responses by January 31, 2013.

Please let me know today if you are unwilling to consent to my request so that the companies can guide themselves accordingly.

Thank you.

Cordially,

Marc Lane

Marc J. Lane
The Law Offices of Marc J. Lane, P.C.
www.MarcJLane.com

 *Please consider the environment before printing this e-mail.*



180 North LaSalle Street
Suite 2100
Chicago, IL 60601-2701
Illinois: (312) 372-1040
Nationally: (800) 372-1040
Fax: (312) 346-1040

From: Cohen, Jonathan [mailto:jcohen2@ftc.gov]
Sent: Thursday, December 27, 2012 9:24 AM
To: 'Marc J. Lane'
Cc: Mora, Michael; O'Toole, David A.; 'Crowell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Marc,

We'll work with you on the subpoenas. As you likely noticed given their attachments and schedules, the process to WSU and KTRN should have been on form AO88A rather than AO88B (GIN USA was already provided a form A088A). The correct forms are enclosed. I assume that you'll accept email service on your clients' behalf, but if that's not the case for some reason, please let me know promptly so that I can re-serve them to you this afternoon. The attachments and schedules are all the same as the ones you already have, including the lists of subjects on which we seek testimony.

With respect to the documents, we don't mean for anyone to have to work over the holidays. But almost six weeks from service is much too long and, in any event, we can't respond to your request for an extension on the documents without knowing what you intend regarding the depositions. Please let me know what dates you propose with respect to the corporate designee(s), and then we'll address the associated document requests. Given the need to expedite this process, we would like to take the depositions on January 10 or as soon thereafter as is possible for everyone. My suggestion is that you coordinate with your clients and Winston & Strawn (copied on this email), propose some (near-term) dates to us, and then we'll work together to resolve whatever timing issues there are with respect to the document production. If we proceed cooperatively, we should be able to accomplish the discovery by mid-January, and in a manner that minimizes any inconvenience to anyone involved.

Also, we'd like to be clear regarding who you're representing with respect to the various outstanding discovery. Please let us know whether, in addition to the three entities you identify, you are also representing Dow and Babenko.

Finally, please let us know whom your clients intend to produce as their designee(s).

Thanks,

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Marc J. Lane [<mailto:mlane@marcjlane.com>]
Sent: Wednesday, December 26, 2012 5:19 PM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.
Subject: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Dear Jonathan,

We have been asked by KT Radio Network Inc., Website Solutions USA Inc. and GIN USA Inc. to respond to the Subpoenas served upon them shortly before Christmas.

In light of the intervening holidays, it will not be possible for legal counsel to advise these companies and serve responses by January 10, 2013, their designated due date. Accordingly, I am writing on the companies' behalf to request a twenty-one (21)-day extension to serve responses. Their responses would thus be due on or before January 31, 2013.

Please let me know upon receipt if, for some reason, you are unable to accommodate this request.

Thank you for your consideration.

Cordially,

Marc Lane

Marc J. Lane
The Law Offices of Marc J. Lane, P.C.
www.MarcLane.com

 *Please consider the environment before printing this e-mail.*



180 North LaSalle Street
Suite 2100
Chicago, IL 60601-2701
Illinois: (312) 372-1040
Nationally: (800) 372-1040
Fax: (312) 346-1040

Important - This email originates from a law firm. If you have not signed a letter of engagement describing the services to be provided and the fee to be paid for those services, you should assume that you are not a law client. The delivery, and timely delivery, of electronic mail is not guaranteed. Therefore, Marc J. Lane & Company recommends that you do not send time-sensitive or action-oriented messages to us via electronic mail. This includes but is not limited to, instructions to request, authorize, or effect the purchase or sale of any security or commodity, to send fund transfer instructions, or to effect any other transactions. Any such requests, orders, or instructions that you send will not be processed until Marc J. Lane & Company can confirm your instructions or obtain appropriate written documentation where necessary. An email is not an official trade confirmation for transactions executed for your account.

Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employer or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone and delete the material from your computer.

Your email message is not private in that it is subject to review by the Firm, its officers, agents and employees.

FTC EXHIBIT PXA:17

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Friday, December 21, 2012 2:53 PM
To: 'mlane@marcjlane.com'
Cc: Mora, Michael; O'Toole, David A.; 'Croswell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.) -- Request to Accept Service
Attachments: Lane.pdf

Marc,

Along with Mickey and David, I represent the FTC in the above-captioned matter. We ask that you accept service of the attached subpoena. Of course, your courtesy in this regard will not constitute a waiver of any right or objection you may have, other than any argument that we have not properly served you. In the event that you are unwilling to accept service by email, please advise me no later than noon CST on Monday, so that we can effect conventional service promptly.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

FTC EXHIBIT PXA:18

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT

for the Northern District of Illinois

Federal Trade Commission Plaintiff v. Kevin Trudeau Defendant Civil Action No. Case No. 03-CV-3904 (If the action is pending in another district, state where:)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES

To: The Law Offices of Marc J. Lane, 180 N LaSalle Street, Suite 2100, Chicago, Illinois 60601

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Please see attached Schedule

Place: Federal Trade Commission 55 West Monroe Street, Suite 1825 Chicago, IL 60603 Date and Time: 01/07/2013 3:00 pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/21/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Federal Trade Commission, who issues or requests this subpoena, are:

Michael Mora/Jonathan Cohen Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580 (202) 326-3373; -2551; mmora@ftc.gov; jcohen2@ftc.gov

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Schedule for Subpoena to Produce Documents

Pursuant to Federal Rules of Civil Procedure 45 and 69, and Paragraph XVI of the Stipulated Final Order for Permanent Injunction (Sept. 3, 2004) (DE 56), plaintiff Federal Trade Commission incorporates this Schedule as part of its subpoena. The following definitions, instructions, and specifications apply to the subpoena.

DEFINITIONS

- A. **“And,”** as well as **“or,”** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Specification all information that otherwise might be construed to be outside the scope of the specification.
- B. **“Any”** shall be construed to include **“all,”** and **“all”** shall be construed to include the word **“any.”**
- C. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document”** shall also include Electronically Stored Information.
- D. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, electronic mail, text messages, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. **“ESI”** also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.
- E. **“Include”** and **“including”** mean **“without limitation,”** or **“including but not limited to,”** so as to avoid excluding any documents or information that might otherwise be construed to be within the scope of any specification.
- F. **“Retainer Agreement”** means any contract governing the payment for legal or other professional services.
- G. **“Trudeau-Affiliated Entity”** includes Alliance Publishing Group, Inc., APC Trading Ltd., Global Information Network FDN, Global Information Network USA, Inc., International Pool Tour, Inc., K.T. Corporation Limited, KT Radio Network, Inc., KMT Fiduciary Trust, KT Capital, KT Corp., Natural Cures Health Institute, Natural Cures Holdings, Inc., Natural Cures, Inc., Sales Solutions International A.G., Shop America (USA), L.L.C., Shop America Marketing Group LLC, The Whistle Blower, Inc., TruCom LLC, Trustar Global Media Limited, Trustar Productions, Inc., Website Solutions,

GmbH, Website Solutions, USA, any entity of any sort directly or indirectly owned or controlled (in whole or in part) at any time by any Trudeau-Affiliated Person, and any other entity that has ever paid or promised to pay for any professional services provided or to be provided to Kevin Trudeau.

- H. **“Trudeau-Affiliated Person”** includes Kevin Trudeau, Nataliya Babenko, any member of the immediate families of Kevin Trudeau or Nataliya Babenko (including, without limitation, Robert Trudeau, Sr., Mary Trudeau, Robert Trudeau, Jr., and Olga Babenko), Suneil Sant, and Michael Dow.
- I. **“Marc Lane”** means The Law Offices of Marc J. Lane, a Professional Corporation, Marc J. Lane Wealth Group, and any successor, predecessor, wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, and any other entity of any sort affiliated with the foregoing, and all directors, officers, partners, employees, agents, consultants, and other persons working for or on behalf of the foregoing.
- J. **“Referring to,” “relating to,” or “related to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.
- K. **“Suneil Sant”** means Suneil Sant a/k/a Neil Sant.
- L. **“You” and “Your”** means Marc Lane, as defined herein.

INSTRUCTIONS

- A. **Sensitive Personally Identifiable Information:** If any material called for by these Specifications contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production or whether it would be appropriate to redact the sensitive information.

For purposes of these requests, sensitive personally identifiable information includes: an individual’s Social Security number alone; or an individual’s name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver’s license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- B. **Scope of Search:** This subpoena covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, partners, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.
- A. **Document Production:** You shall produce the documentary material at the place of production identified. Alternatively, you may elect to send all responsive documents to Jonathan Cohen, Federal Trade Commission, 600 Pennsylvania Ave., NW, M-8102B, Washington, DC 20580. Because postal delivery to the Commission is subject to delay

due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by email or telephone to Jonathan Cohen, jcohen2@ftc.gov/(202) 326-2551, at least five days prior to the return date. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- B. Documents that may be responsive to more than one specification of this subpoena need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this subpoena have been previously supplied to the Commission, you may comply with this subpoena by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.
- C. **Production of Copies:** Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this subpoena. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request.
- D. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the request. The document shall not be edited, cut, or expunged in any way and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.
- E. Each request includes any and all copies of the responsive document and, to the extent applicable, preliminary drafts or documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).
- F. In the event that any document covered by this subpoena was in your possession or actual or constructive custody or control and has been lost or destroyed, the document is to be identified in writing as follows: addressee, person who prepared or authored the document, date of preparation or transmittal, substance of the document and its subject matter, number of pages, attachments, or appendices, all persons to whom distributed, shown or explained, date of loss or destruction, and, if destroyed, the manner of destruction, the reason for destruction, the persons authorizing destruction, and the persons who destroyed the document.

- G. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion of that document not subject to objection should be produced with the portion objected to redacted and clearly indicated as redacted.
- H. All objections to these requests or to any individual request must be raised in the initial response or are otherwise waived.
- I. If you assert a claim of privilege in responding to or objecting to any request, you shall provide a privilege log including the following information:
 - 1. The custodian of the document;
 - 2. The type of document (e.g., letter, memorandum);
 - 3. The date of the document;
 - 4. The general subject matter of the document;
 - 5. The sender, author, and all recipients of the document; and
 - 6. The basis on which you contend you are entitled to withhold the document from production.

If only a part of a responsive document is privileged, all non-privileged parts must be submitted.

- J. **Certification of Records of Regularly Conducted Activity:** Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena you to testify at future proceedings to establish the admissibility of documents produced in response to this subpoena. You are asked to execute this Certification and provide it with your response.

LIMITATIONS - REQUESTS TO PRODUCE DOCUMENTS

The subpoena Specifications below do not cover, and the Federal Trade Commission does not seek, any information regarding anyone's motive for seeking legal representation, Trudeau's litigation strategy (or that of his counsel), the specific nature of any legal services provided, or the substance of any attorney-client communication other than the limited financial portions of any Retainer Agreement that do not reveal anyone's motive in seeking representation, litigation strategy or the specific nature of the services provided or to be provided.

SPECIFICATIONS - REQUESTS TO PRODUCE DOCUMENTS

1. Provide all Retainer Agreements Referring or Relating To compensation for work or services performed for or provided to any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

2. Provide all documents including, but not limited to, all checks (copies of both front and back, or the original check), withdrawal slips, wire transfer records, receipts, bookkeeping documents, journals, ledgers, financial statements and any other financial records, created on or after June 2, 2010 until the date of full and complete compliance with this subpoena, evidencing payment received or promised, or the source of payment received or promised, for work or services performed or to be performed for any Trudeau-Affiliated Person or any Trudeau-Affiliated Entity. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

3. Provide documents sufficient to establish the balance of funds at all times until the date of full and complete compliance with this subpoena in any account controlled directly or indirectly by Marc Lane for the benefit of or on behalf of any Trudeau-Affiliated Entity or Trudeau-Affiliated Person. You may redact from the documents produced pursuant to this specification all portions thereof that reveal the motive in seeking legal representation, litigation strategy or the specific nature of the services provided or to be provided.

**DECLARATION OF MARC LANE RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, _____, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for The Law Offices of Marc J. Lane, a Professional Corporation and Marc J. Lane Wealth Group. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On _____ 2013, in response to a subpoena dated December 21, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of _____ pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

5. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

6. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on _____, 2013.

Signature

Printed name

Title of records custodian

FTC EXHIBIT PXA:19

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Thursday, December 27, 2012 4:52 PM
To: 'Marc J. Lane'
Cc: Mora, Michael; O'Toole, David A.; 'Crowell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Marc,

At your request, and to clear up any possible confusion, we'll serve you again (as WSU's registered agent) and KTRN's agent in Delaware. I'd hoped for a more cooperative approach to discovery, but your refusal to accept service on your clients' behalf (and, indeed, on behalf of your own firm) seems like a step in the wrong direction. Notwithstanding all this, and as I indicated previously, our strong preference is to work with you to move things along. We're willing to grant a reasonable extension, but we need to know where things stand regarding the depositions before we can address document production.

Also, I'd asked whether you're representing Dow and Babenko with respect to discovery in this matter. Please clarify this.

As you know, I left you a message earlier today hoping to talk about these issues, and I'm around for a while if you think it would be helpful to speak.

Best,

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Marc J. Lane [<mailto:mlane@marcjlane.com>]
Sent: Thursday, December 27, 2012 2:02 PM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.; 'Crowell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Dear Jonathan,

Unfortunately, I am not authorized by Website Solutions USA Inc. or KT Radio Network Inc. to accept email service.

I must reiterate that it is simply impossible for those companies, GIN USA Inc., or The Law Offices of Marc J. Lane, A Professional Corporation, to serve responses by January 10, 2013. Accordingly, I renew my request that your consent to the companies' serving such responses by January 31, 2013.

Please let me know today if you are unwilling to consent to my request so that the companies can guide themselves accordingly.

FTC EXHIBIT PXA:20

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Thursday, December 27, 2012 10:24 AM
To: 'Marc J. Lane'
Cc: Mora, Michael; O'Toole, David A.; 'Croswell, Katherine E.'; 'Anderson, Kimball R.'; 'Kirsch, Thomas L.'; 'Berry, Wilder Kendric'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)
Attachments: KTRNA088A.pdf; WSUA088A.pdf

Marc,

We'll work with you on the subpoenas. As you likely noticed given their attachments and schedules, the process to WSU and KTRN should have been on form AO88A rather than AO88B (GIN USA was already provided a form A088A). The correct forms are enclosed. I assume that you'll accept email service on your clients' behalf, but if that's not the case for some reason, please let me know promptly so that I can re-serve them to you this afternoon. The attachments and schedules are all the same as the ones you already have, including the lists of subjects on which we seek testimony.

With respect to the documents, we don't mean for anyone to have to work over the holidays. But almost six weeks from service is much too long and, in any event, we can't respond to your request for an extension on the documents without knowing what you intend regarding the depositions. Please let me know what dates you propose with respect to the corporate designee(s), and then we'll address the associated document requests. Given the need to expedite this process, we would like to take the depositions on January 10 or as soon thereafter as is possible for everyone. My suggestion is that you coordinate with your clients and Winston & Strawn (copied on this email), propose some (near-term) dates to us, and then we'll work together to resolve whatever timing issues there are with respect to the document production. If we proceed cooperatively, we should be able to accomplish the discovery by mid-January, and in a manner that minimizes any inconvenience to anyone involved.

Also, we'd like to be clear regarding who you're representing with respect to the various outstanding discovery. Please let us know whether, in addition to the three entities you identify, you are also representing Dow and Babenko.

Finally, please let us know whom your clients intend to produce as their designee(s).

Thanks,

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Marc J. Lane [mailto:mlane@marcjlane.com]
Sent: Wednesday, December 26, 2012 5:19 PM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.
Subject: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Dear Jonathan,

We have been asked by KT Radio Network Inc., Website Solutions USA Inc. and GIN USA Inc. to respond to the Subpoenas served upon them shortly before Christmas.

In light of the intervening holidays, it will not be possible for legal counsel to advise these companies and serve responses by January 10, 2013, their designated due date. Accordingly, I am writing on the companies' behalf to request a twenty-one (21)-day extension to serve responses. Their responses would thus be due on or before January 31, 2013.

Please let me know upon receipt if, for some reason, you are unable to accommodate this request.

Thank you for your consideration.

Cordially,

Marc Lane

Marc J. Lane
The Law Offices of Marc J. Lane, P.C.
www.MarcLane.com

 Please consider the environment before printing this e-mail.



180 North LaSalle Street
Suite 2100
Chicago, IL 60601-2701
Illinois: (312) 372-1040
Nationally: (800) 372-1040
Fax: (312) 346-1040

Important - This email originates from a law firm. If you have not signed a letter of engagement describing the services to be provided and the fee to be paid for those services, you should assume that you are not a law client. The delivery, and timely delivery, of electronic mail is not guaranteed. Therefore, Marc J. Lane & Company recommends that you do not send time-sensitive or action-oriented messages to us via electronic mail. This includes but is not limited to, instructions to request, authorize, or effect the purchase or sale of any security or commodity, to send fund transfer instructions, or to effect any other transactions. Any such requests, orders, or instructions that you send will not be processed until Marc J. Lane & Company can confirm your instructions or obtain appropriate written documentation where necessary. An email is not an official trade confirmation for transactions executed for your account.

Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employer or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone and delete the material from your computer.

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FTC EXHIBIT PXA:21

Cohen, Jonathan

From: Anderson, Kimball R. <KAnderso@winston.com>
Sent: Sunday, December 30, 2012 11:48 AM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.; 'Marc J. Lane'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Marc is traveling and is separated from email. He asked me to respond on his behalf. To clarify, Marc is not representing Mr. Dow. Ms. Babenko has not been served.

As Marc has stated, it will not be possible for his firm to counsel his clients and serve responses by January 10, 2013, the designated due date. Marc asks **again** whether the FTC agrees to his request for a 21 day extension of time to serve responses to the subpoenas served on his clients and his firm. Please respond with a simple "yes" or "no" no later than January 2, 2013. Thank you. --Kimball

From: Cohen, Jonathan [mailto:jcohen2@ftc.gov]
Sent: Thursday, December 27, 2012 9:25 AM
To: 'Marc J. Lane'
Cc: Mora, Michael; O'Toole, David A.; Crowell, Katherine E.; Anderson, Kimball R.; Kirsch, Thomas L.; Berry, Wilder Kendrick
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Marc,

We'll work with you on the subpoenas. As you likely noticed given their attachments and schedules, the process to WSU and KTRN should have been on form AO88A rather than AO88B (GIN USA was already provided a form A088A). The correct forms are enclosed. I assume that you'll accept email service on your clients' behalf, but if that's not the case for some reason, please let me know promptly so that I can re-serve them to you this afternoon. The attachments and schedules are all the same as the ones you already have, including the lists of subjects on which we seek testimony.

With respect to the documents, we don't mean for anyone to have to work over the holidays. But almost six weeks from service is much too long and, in any event, we can't respond to your request for an extension on the documents without knowing what you intend regarding the depositions. Please let me know what dates you propose with respect to the corporate designee(s), and then we'll address the associated document requests. Given the need to expedite this process, we would like to take the depositions on January 10 or as soon thereafter as is possible for everyone. My suggestion is that you coordinate with your clients and Winston & Strawn (copied on this email), propose some (near-term) dates to us, and then we'll work together to resolve whatever timing issues there are with respect to the document production. If we proceed cooperatively, we should be able to accomplish the discovery by mid-January, and in a manner that minimizes any inconvenience to anyone involved.

Also, we'd like to be clear regarding who you're representing with respect to the various outstanding discovery. Please let us know whether, in addition to the three entities you identify, you are also representing Dow and Babenko.

Finally, please let us know whom your clients intend to produce as their designee(s).

Thanks,

FTC EXHIBIT PXA:22

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Wednesday, January 02, 2013 1:26 PM
To: 'Anderson, Kimball R.'
Cc: Mora, Michael; O'Toole, David A.; 'Marc J. Lane'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

No.

Unfortunately, we can't give you the one-word response that you demand – although there should be no doubt that we do not agree to extend the response date until the day before the February 1 status conference. Neither you nor Marc has provided any reason whatsoever that possibly could justify extending the response date for three weeks. As you can see from the document requests themselves, we tailored them very narrowly to prevent any issues associated with burden. In substance, the requests to the Trudeau-affiliated entities seek only financial and bank account statements for a limited period. This information is basic and uncomplicated. The request to Lane directly seeks only information sufficient to determine what and how Trudeau has paid Lane. Such documents should be extremely easy for a law firm to assemble and produce.

Despite our repeated requests, neither you nor Marc has provided us with deposition dates in mid-January. Neither you nor Marc will tell us who will appear as the corporate designee for the various entities. And neither you nor Marc would accept service of process to your respective firms voluntarily. Last week, a Winston & Strawn attorney refused to accept a subpoena from our process server. I called the attorney about it, but never heard back. These issues aside, if you explain why Marc or his clients need additional time to make their productions, we'll consider what you have say.

And you're absolutely right – Babenko hasn't been served yet. Although she's purportedly a "successful businesswoman" who owns two of the entities we seek to depose (GIN USA and KT Radio Network), we haven't served her yet because we can't find her. We'll continue to try, as perhaps she was travelling for the winter holidays. Although I assume that, given your approach to date, neither you nor Marc will accept service on her behalf, please let me know if I'm mistaken.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Anderson, Kimball R. [<mailto:KAnderso@winston.com>]
Sent: Sunday, December 30, 2012 11:48 AM
To: Cohen, Jonathan
Cc: Mora, Michael; O'Toole, David A.; 'Marc J. Lane'
Subject: RE: FTC v. Trudeau, No. 03-CV-3904 (N.D. Ill.)

Marc is traveling and is separated from email. He asked me to respond on his behalf. To clarify, Marc is not representing Mr. Dow. Ms. Babenko has not been served.

As Marc has stated, it will not be possible for his firm to counsel his clients and serve responses by January 10, 2013, the designated due date. Marc asks **again** whether the FTC agrees to his request for a 21 day extension of time to serve responses to the subpoenas served on his clients and his firm. Please respond with a simple "yes" or "no" no later than January 2, 2013. Thank you. --Kimball

FTC EXHIBIT PXA:23

WWW.CYBERDRIVEILLINOIS.COM

JESSE WHITE
SECRETARY OF STATE



CORPORATION FILE DETAIL REPORT

Entity Name	WEBSITE SOLUTIONS USA INC.	File Number	67124464
Status	ACTIVE		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	03/18/2010	State	ILLINOIS
Agent Name	MARC J LANE	Agent Change Date	03/18/2010
Agent Street Address	180 N LASALLE ST #2100	President Name & Address	SUNEIL SANT 130 QUAIL RIDGE DR WESTMONT 60559
Agent City	CHICAGO	Secretary Name & Address	SAME
Agent Zip	60601	Duration Date	PERPETUAL
Annual Report Filing Date	00/00/0000	For Year	2013

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(One Certificate per Transaction)

BACK TO CYBERDRIVEILLINOIS.COM HOME PAGE

PXA:23

FTC EXHIBIT PXA:24

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Friday, January 04, 2013 10:15 AM
To: 'Marc J. Lane'
Cc: Mora, Michael
Subject: RE: Federal Trade Commission v. Kevin Trudeau, No. 03-C-3904

Marc,

Thank you for the letter. Before the end of the day Monday, we want to conduct a telephonic “meet and confer” regarding the issues you raise. Please let me know what times would work for you, and we’ll do our best to accommodate your schedule. If it would help, I’ll make myself available over the weekend.

I just left a detailed message with your assistant as well.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Marc J. Lane [<mailto:mlane@marcjlane.com>]
Sent: Thursday, January 03, 2013 4:56 PM
To: Cohen, Jonathan; Mora, Michael
Subject: Federal Trade Commission v. Kevin Trudeau, No. 03-C-3904

Gentlemen:

Attached please find our Objections to Subpoenas.

Yours very truly,

Marc Lane

Marc J. Lane
The Law Offices of Marc J. Lane, P.C.
www.MarcLane.com

 *Please consider the environment before printing this e-mail.*



180 North LaSalle Street
Suite 2100
Chicago, IL 60601-2701
Illinois: (312) 372-1040
Nationally: (800) 372-1040
Fax: (312) 346-1040

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FTC EXHIBIT PXA:25

Cohen, Jonathan

From: Marc J. Lane <mlane@marcjlane.com>
Sent: Monday, January 07, 2013 3:25 PM
To: Cohen, Jonathan
Cc: Mora, Michael; Anderson, Kimball R.
Subject: RE: Federal Trade Commission v. Kevin Trudeau, No. 03-C-3904

Jonathan,

Winston and Strawn is representing The Law Offices of Marc J. Lane, P.C., in this matter. I suggest you contact Kimball Anderson directly.

The other companies identified in my Objections are securing separate counsel for this purpose. I will advise you as soon as such counsel is engaged, presumably within the next few days.

Marc

Marc J. Lane
The Law Offices of Marc J. Lane, P.C.
www.MarcJLane.com

 Please consider the environment before printing this e-mail.



180 North LaSalle Street
Suite 2100
Chicago, IL 60601-2701
Illinois: (312) 372-1040
Nationally: (800) 372-1040
Fax: (312) 346-1040

From: Cohen, Jonathan [<mailto:icohen2@ftc.gov>]
Sent: Friday, January 04, 2013 9:15 AM
To: 'Marc J. Lane'
Cc: Mora, Michael
Subject: RE: Federal Trade Commission v. Kevin Trudeau, No. 03-C-3904

Marc,

Thank you for the letter. Before the end of the day Monday, we want to conduct a telephonic “meet and confer” regarding the issues you raise. Please let me know what times would work for you, and we’ll do our best to accommodate your schedule. If it would help, I’ll make myself available over the weekend.

I just left a detailed message with your assistant as well.

Jonathan Cohen
Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580

FTC EXHIBIT PXA:26

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Monday, January 07, 2013 5:02 PM
To: 'Anderson, Kimball R.'; 'Crowell, Katherine E.'; 'Kirsch, Thomas L.'
Cc: Mora, Michael
Subject: FTC v. Trudeau

Counsel,

Please let us know what time tomorrow one of you is available to “meet and confer” with us about (1) Marc Lane’s objections to our subpoena to his firm, and (2) your objections to our subpoena to Winston & Strawn. We’ll adjust our schedules tomorrow to accommodate yours.

If you intend to take the position that you are not obligated to talk with us under LR37.2, please let us know, but we remain hopeful that you will engage in dialogue regarding the objections promptly.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

FTC EXHIBIT PXA:27

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Tuesday, January 08, 2013 11:44 AM
To: 'Anderson, Kimball R.'
Cc: Mora, Michael; 'Kirsch, Thomas L.'
Subject: RE: FTC v. Trudeau

That's fine. I look forward to speaking with you then.

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Anderson, Kimball R. [<mailto:KAnderso@winston.com>]
Sent: Monday, January 07, 2013 10:27 PM
To: Cohen, Jonathan
Cc: Mora, Michael; Kirsch, Thomas L.
Subject: RE: FTC v. Trudeau

Tom and I are out of the office and are tied up until Thursday afternoon. May we suggest Thursday at 3 pm central for a phone conference?

From: Cohen, Jonathan [<mailto:jcohen2@ftc.gov>]
Sent: Monday, January 07, 2013 4:02 PM
To: Anderson, Kimball R.; Croswell, Katherine E.; Kirsch, Thomas L.
Cc: Mora, Michael
Subject: FTC v. Trudeau

Counsel,

Please let us know what time tomorrow one of you is available to “meet and confer” with us about (1) Marc Lane’s objections to our subpoena to his firm, and (2) your objections to our subpoena to Winston & Strawn. We’ll adjust our schedules tomorrow to accommodate yours.

If you intend to take the position that you are not obligated to talk with us under LR37.2, please let us know, but we remain hopeful that you will engage in dialogue regarding the objections promptly.

Jonathan Cohen

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600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
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FTC EXHIBIT PXA:28

Cohen, Jonathan

From: Anderson, Kimball R. <KAnderso@winston.com>
Sent: Thursday, January 10, 2013 10:29 AM
To: Cohen, Jonathan
Cc: Kirsch, Thomas L.
Subject: FTC v. Trudeau -- call today

Tom Kirsch hoped to be finished with his sentencing hearing today in Ohio, but the hearing now likely will not conclude until tomorrow. And, I have a client emergency that likely will require me to travel this afternoon to NY. Tom will be back in Chicago (and finished with his hearing) on Saturday. I too could be available Saturday afternoon at 2:30 pm. Or, if the call can wait until Monday, both of us will be available. Please let me know if Saturday afternoon or Monday morning work for you for a phone call about the subpoenas. Best regards, Kimball.

The contents of this message may be privileged and confidential. Therefore, if this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author.

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FTC EXHIBIT PXA:29

Cohen, Jonathan

From: Cohen, Jonathan
Sent: Saturday, January 12, 2013 4:38 PM
To: 'Anderson, Kimball R.'
Cc: Mora, Michael; 'Kirsch, Thomas L.'
Subject: RE: call today

Thank you for speaking with me. We concluded a telephonic “meet and confer.” You clarified that Winston & Strawn is only representing itself (with respect to the subpoena) and Trudeau. Winston & Strawn is not yet representing Lane – he’s inquired about such representation, but issues associated with that representation are still being resolved. Winston & Strawn is also not representing Babenko or any other Trudeau-affiliated persons or entities. Because Winston & Strawn does not represent Lane, you could not “meet and confer” with respect to Lane’s objection.

We did, however, discuss some of the issues your firm’s response and objection raises (and, regarding Tom’s point, we agree that your letter says what it says – the fact that we didn’t discuss or debate everything you wrote certainly doesn’t mean that you didn’t make the objection or that we haven’t thought about it).

- With respect to request no. 1, you reiterated that you have no Retainer Agreements.
- With respect to request no. 2, we discussed Illinois RPC 1.6. You pointed out that the Rule creates obligations broader than the evidentiary attorney-client privilege. Your interpretation of the rule is that documents responsive to request no. 2 cannot be released without a court order because Trudeau has instructed you not to release the information. We disagree with your interpretation of Illinois RPC 1.6.
- We discussed the difficulty (or ease, depending on one’s perspective) with which Winston & Strawn could gather documents responsive to request no. 2. You indicated that it would be burdensome and would require a timekeeper (a paralegal) to assemble the documents. You had not made an effort to quantify exactly how much time it would take. You explained that it would need to be a paralegal because firm accounting staff is not tasked with responding to subpoenas. You asked whether the FTC would pay for the expense, but that’s not something we can do.
- We discussed your objection to request no. 2 on the grounds that it seeks information cumulative of bank records the FTC has already produced and presented to the Court. I’m aware of only a few months of such records (8/08 – 1/09). You suggested that there were more, and I let you know that I’d take another look.
- You’ll send me the case you’ve identified as “*In re Subpoenaed Trial Jury Witness*, 171 F.2d 511 (7th Cir.).” It’s probably a typo.
- With respect to request no. 3, you reiterated that Winston & Strawn is not holding any funds (and has not previously held any funds) on behalf of any Trudeau-Affiliated Entity or Trudeau-Affiliated Person.

Enjoy your weekend,

Jonathan Cohen

Enforcement Division | Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Anderson, Kimball R. [<mailto:KAnderso@winston.com>]
Sent: Saturday, January 12, 2013 3:27 PM
To: Cohen, Jonathan
Cc: Mora, Michael; Kirsch, Thomas L.
Subject: call today

Let's use my conference call number:

18668449418
Passcode 1 312 558 5858

The contents of this message may be privileged and confidential. Therefore, if this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author.

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FTC EXHIBIT PXA:30

Cohen, Jonathan

From: Invest GLM <invest@goldenlionmint.com>
Sent: Wednesday, January 16, 2013 1:34 PM
To: Cohen, Jonathan
Subject: re: Federal Trade Commission v. Trudeau
Attachments: GLM Letter .bmp; KT-WireDeposit-001.png; FTC packing.bmp; SignedDeclaration.jpg

January 16, 2013

Jonathan Cohen
and Michael Mora
Federal Trade Commission
600 Pennsylvania Avenue NW, M-8102B
Washington, DC 20580

Re: Federal Trade Commission v. Trudeau
Subpoena to Golden Lion Mint dated December 20, 2012

Gentlemen,

Pursuant to the above subpoena, attached is a revised custodian declaration showing the correct amount of pages being forwarded to you.

In addition, this will clarify that the copy of the Golden Lion Mint ("GLM") invoice reflecting the 2008 gold sale that was forwarded to you on January 4, 2013, was the only precious medal sale transaction that GLM has had with "Trudeau", as defined in definition "G" of the FTC subpoena dated December 20, 2012.

Further responsive to the subpoena, we attach herewith a copy of a "packing slip" document that relates to an exchange swap of the GLM labeled gold sold in 2008 (noted above) for a like amount of Scotia Mocatta gold bars in equal ounces on October 18, 2011. This equal value "swap" of the bars sold in 2008 occurred at GLM's office in Asheville, NC, by and between GLM and Neil Sant, at his request.

Tony Balistreri
invest@goldenlionmint.com
GoldenLionMint.com

January 10th, 2013

Jonathan Cohen
and Michael Mora
Federal Trade Commission
600 Pennsylvania Avenue NW, M-8102B
Washington, DC 20580

Re: Federal Trade Commission v. Trudeau
Subpoena to Golden Lion Mint dated December 20, 2012

Gentlemen,

Pursuant to the above subpoena, attached is a revised custodian declaration showing the correct amount of pages being forwarded to you.

In addition, this will clarify that the copy of the Golden Lion Mint ("GLM") invoice reflecting the 2008 gold sale that was forwarded to you on January 4, 2013, was the only precious medal sale transaction that GLM has had with "Trudeau", as defined in definition "G" of the FTC subpoena dated December 20, 2012.

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Anthony Balistreri



Vice President
Golden Lion Mint

**DECLARATION OF GOLDEN LION RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, Anthony Balistroni, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for Golden Lion Mint, Inc. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On January 10th, 2013, in response to a subpoena dated December 18, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of 5 pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

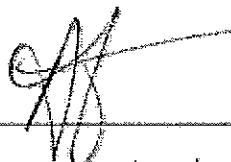
4. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

5. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on January 10th, 2013.

Signature



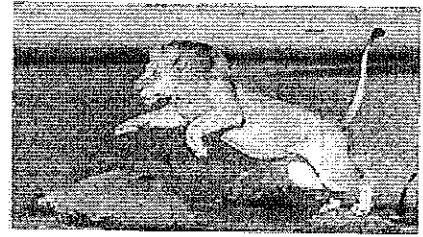
Printed name

Anthony Balistroni

Title of records custodian

CFO

Golden Lion Mint, Inc.
Packing slip



Billed To: Shipping To: Date: 10/18/11
 Neil Sant Altn: Neil Sant
 130 Quail Ridge Dr 130 Quail Ridge Dr
 Westmont, IL 60559 Westmont, IL 60559
 630-468-2460 630-468-2460

Golden Lion Mint, Inc.
 47 Martindale Road
 Asheville, NC 28814
 Phone: 828 350-1454
 Fax: 828 350-1462
 Email: invest@goldenlionmint.com
 Website: www.goldenlionmint.com

Invoices

Date	Inventory	Our Order #	Representative	FOB	Ship Via	Terms
10/18/11	N/A		Tony Balistreri		Pick up	

Status	Amount	Description	Total	Taxable
Cover Trade	100oz Gold	Balance of Account: 10 x 10oz Gold bars	100oz Gold	N/A
		Thanks Neil, Tony		

Golden Lion Mint, Inc.



Free Business Checking

WACHOVIA

Deposits and Other Credits *continued*

<i>Date</i>	<i>Amount</i>	<i>Description</i>
10/10	100,000.00	FUNDS TRANSFER [REDACTED] RCVD FROM NATIONAL CITY BANK ORG#KEVIN TRUDEAU [REDACTED] REF KEVIN TRUDEAU [REDACTED] 10/10/08 02:12PM ET

Deposits and Other Credits continued on next page.

Golden Lion Mint, Inc.

January 4, 2013

Jonathan Cohen
and Michael Mora
Federal Trade Commission
600 Pennsylvania Avenue NW, M-8102B
Washington, DC 20580

Re: Federal Trade Commission v. Trudeau
Subpoena to Golden Lion Mint dated December 20, 2012

Gentlemen:

Responsive to the referenced subpoena served on Golden Lion Mint, enclosed are copies of all documents in our possession, custody and control pertaining to the above-referenced matter.

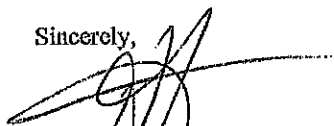
Golden Lion Mint has no formal document retention policy. However, since we incorporated in 2007, we have retained all records responsive to your subpoena.

There is a copy of one invoice that is the only transition that the Trudeau family has ever made to acquire precious metals from Golden lion Mint in 2008.

Also for clarity, on one of the attached documents I sent a copy of three checks which represent commissions from Golden Lion Mint to KTRN (www.ktradionetwork.com). It is my understanding that KTRN was a website run by Matt DeBuiel for Kevin and all Golden Lion checks were made out to Matt.

I am also attaching herewith a signed declaration from the custodian of Golden Lion Mint pursuant to your request.

Sincerely,



Tony Ballstren,
CFO and Vice President

Enclosures

**DECLARATION OF GOLDEN LION RECORDS CUSTODIAN
PURSUANT TO FED R. EVID. 803(6) AND 902 (11)**

I, Tony BALISTRERI, being of legal age, do hereby declare and depose as follows:

1. I am a custodian of records for Golden Lion Mint, Inc. In that capacity, I am responsible for the compilation and maintenance of records pertaining to business conducted by the subpoenaed party. Due to my responsibilities, I have personal knowledge of the manner in which the subpoenaed party creates and maintains records of the business that it conducts.

2. On January 3rd 2013, in response to a subpoena dated December 18, 2012 issued by the Federal Trade Commission in the above-captioned case, the subpoenaed party transmitted to the Federal Trade Commission true and accurate copies of records maintained by the subpoenaed party consisting of 11 pages.

3. The documents produced are true and accurate copies of records maintained by the subpoenaed party in the regular course of business.

4. The records produced in response to the Federal Trade Commission's subpoena were made at or near the time of the occurrence of the matters and transactions set forth therein by, or from information transmitted by, a person with knowledge of those transactions.

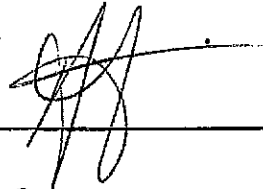
4. The subpoenaed party made the records produced to the Federal Trade Commission in response to the subpoena as part of regular practice in its regularly conducted business.

5. The subpoenaed party has kept the records produced to the Federal Trade Commission in response to the subpoena in the course of its regularly conducted business.

I declare under penalty of perjury that the foregoing is true and correct under 28 U.S.C. § 1746(2).

Executed on January 3rd, 2013.

Signature



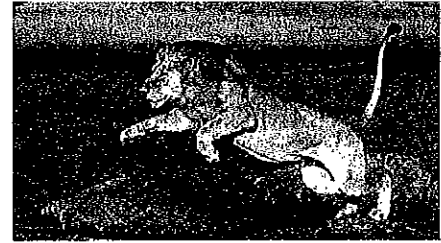
Printed name

Tony BALISTRERI

Title of records custodian

CFO Golden Lion Mint

Golden Lion Mint, Inc.



*Copy of Invoice
1/3/13*

Billed To:

Natalia Babenko
601 Del Oro Dr.
Ojai, CA 93023

Shipping To:

Natalia Babenko
601 Del Oro Dr.
Ojai, CA 93023

Invoice #: A2096
Invoice Date: 10/10/08
Customer ID: truck

Golden Lion Mint, Inc.

43 Martindale Road
Asheville, NC
28804

Phone: 828-350-1454
Fax: 828-350-1464

Email: invest@goldenlionmint.com
Website: www.goldenlionmint.com

Invoice

Date	Your Order #	Our Order #	Representative	FOB	Ship Via	Terms	Tax ID
10-10-08	A2096		Tony Balistreri				

Quantity	Item	Spot / Fabric.	Description	Discount %	Taxable	Unit Price	Total
300oz AG	300oz Silver	@ 12.75	6 x 50oz .999 Silver Lion Bar	(10.5%)	0.00	\$637.50	\$3,825.00
30oz AG	30oz Silver	@ 12.75	3 x 10oz .999 Silver Lion Bar	(10.5%)	0.00	\$127.50	\$382.50
100oz AU	100oz Gold	@ 950.95	10 x 10oz .9999 Golden Lion Bar	(10.5%)	0.00	\$9,509.50	\$95,095.00
Subtotal							\$99,302.50
Tax							0.00
Manufacturing							Included
Shipping/Ins							\$697.50
Total							\$100,000.00

Golden Lion Mint, Inc.

Make Deposits

Deposit To: 10100 - Wel... Date: 10/10/2008 Memo: Deposit

Click Payments to select customer payments that you have received. List any other amounts to deposit below.


Received From	From Account	Memo	Chk. No.	Pmt. Meth.	Amount
Kayla Trudeau	47900 - Sales	<i>Order from Bank with date 10/10/2008</i>		Bank Transfer Deposit	100,000.00
Deposit Subtotal					100,000.00

To get cash back from this deposit, enter the amount below. Indicate the account where you want this money to go, such as your Petty Cash account.

Cash back goes to: _____ Cash back memo: _____ Cash back amount: _____

Deposit Total: 100,000.00

No. 5063

Date 12/02/2011 

Print As: KTRN Attn: Matt DuBiel

Pay to the Order of KTRN ▼ \$ 1,225.00


One thousand two hundred twenty-five and 00/100*****Dollars

Address KTRN Attn: Matt DuBiel
28 East Jackson Drive
Building #10-A940
Chicago, IL 60604

CLEARED

Memo KTRN Affiliate Commissions '11

No. 5041

Date 08/10/2011 

Print As: KTRN Attn: Matt DuBiel

Pay to the Order of KTRN ▼ \$ 2,037.00


Two thousand thirty-seven and 00/100*****Dollars

Address KTRN Attn: Matt DuBiel
28 East Jackson Drive
Building #10-A940
Chicago, IL 60604

CLEARED

Memo March, April, May, 2011

No. 5017

Date 02/28/2011 

Print As: KTRN Attn: Matt DuBiel

Pay to the Order of KTRN ▼ \$ 1,727.00

One thousand seven hundred twenty-seven and 00/100*****Dollars

Address KTRN Attn: Matt DuBiel
28 East Jackson Drive
Building #10-A940
Chicago, IL 60604

CLEARED

Memo _____

FTC EXHIBIT PXB

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
v.) 03-CV-3904
KEVIN TRUDEAU,)
)
Defendant.)

AFFIDAVIT OF NON-SERVICE

I, BETH OSBORNE, being duly sworn on oath, do hereby attest as follows:

1. I am a contract server of federal process service, am over the age of 21 years and not a party to the within action.

2. On December 26, 2012, I was contracted by Legal Document Management, Inc. to effect service of a federal Subpoena for records production on Winston & Strawn, LLP, a law firm located at 35 West Wacker Drive, Suite 4200, Chicago, IL 60601.

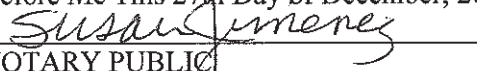
3. Therefore, on December 26, 2012 at 4:20 p.m., I arrived at the office building of Winston & Strawn, LLP and found the building to have two elevator banks. The elevator bank allowing access to Winston & Strawn's offices was highly secured, with access to their offices barred unless the tenant authorizes the lobby receptionist/security to allow access. The name, "Winston & Strawn" was largely and prominently displayed behind their lobby reception desk. I informed the lobby receptionist that I was there to see Winston & Strawn in Suite 4200. She asked me who I wished to see in the office and I explained that I had a federal subpoena for records to be served on Winston & Strawn and needed to see whoever was authorized to accept service for the firm. She stated that "one of the staff" who usually accepts process service had just left. From 4:20 p.m. to 4:42 p.m., the receptionist telephoned various staff members twice in the offices of Winston & Strawn and no one answered either time. She then informed me that the staff members authorized to accept service for the firm were Larry Desideri, Julie Goodman, Jenny Blood or Jean Cleveland and that Jean Cleveland or her secretary, Jackie Smoter, were the staff members she was instructed to contact first regarding process service. The receptionist gave me the telephone numbers for Cleveland and Smoter and advised me to attempt the next day. I stated I would telephone the firm the next morning and make an appointment with one of the above-named staff members to accept service. I left their office building at 4:42 p.m.

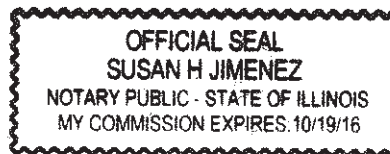
4. I have personal and direct knowledge of the above statements and, if called to testify in court, would testify as to the above stated facts.

FURTHER AFFIANT SAYETH NAUGHT. I DECLARE, UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF ILLINOIS, THAT THE FOREGOING IS TRUE AND CORRECT, UPON INFORMATION AND BELIEF.


BETH OSBORNE

SUBSCRIBED AND SWORN TO
Before Me This 27th Day of December, 2012


NOTARY PUBLIC



FTC EXHIBIT PXC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
v.	)	03-CV-3904
KEVIN TRUDEAU,)	
)	
Defendant.)	

AFFIDAVIT OF NON-SERVICE

I, VERELLA OSBORNE, being duly sworn on oath, do hereby attest as follows:

1. I am President of Legal Document Management, Inc., a duly licensed Illinois corporation engaged in providing legal support services since 1982 and located at 39 South LaSalle Street, Suite 718 in Chicago, Illinois.

2. On December 26, 2012, our firm was contracted by Plaintiff, Federal Trade Commission, to effect service of process on Winston & Strawn, LLP, a law firm located at 35 West Wacker Drive, Suite 4200, Chicago, IL 60601. To that end, I directed process server, Beth Osborne, an individual over the age of 21 years and not a party to this action, to serve the within federal Subpoena for production of records on a "rush" basis on the law firm of Winston & Strawn, LLP at the above address.

3. On December 26, 2012, pursuant to that server's attached affidavit, the server attempted between 4:20 p.m. and 4:42 p.m. to serve the Subpoena on the witness, but was informed that the agents authorized to accept service of process for the firm were all not available. The server advised me that she was instructed by the receptionist to attempt the next day to make service on either Larry Desideri or one of his secretaries, or Julie Goodman, Jenny Blood or Jean Cleveland.

4. On December 27, 2012, at 9:35 a.m., I personally telephoned Jean Cleveland at Winston & Strawn, LLP at the telephone number provided of 312-558-6209, and received a voice mail. Rather than leave a message, I contacted the firm's receptionist, explained the situation and that I wished to make an appointment with Mr. Desideri or someone in the firm who was authorized to accept the Subpoena for Winston & Strawn. The receptionist transferred me to a female, who identified herself as "Diane Ross", a secretary to Larry Desideri. I explained the subpoena to Ms. Ross and gave her the caption of the case and requested an appointment to serve the subpoena before noon on someone at their firm. Ms. Ross said she would check "who was available" and put me on hold for some time. When Ms. Ross returned, she informed me that "no one is available to accept service". I stated I found it difficult to believe that, considering the size of their law firm, there was no one in their office today who could accept service and again requested that an appointment be made for someone at the firm to accept service as soon as possible. Ms. Ross replied: "I've been instructed to tell you that

AFFIDAVIT
Page Two

Winston & Strawn will not accept service of this subpoena". I reiterated what she told me and she confirmed it. I so informed the Plaintiff.

5. I have personal and direct knowledge of the above statements and, if called to testify in court, would testify as to the above stated facts.

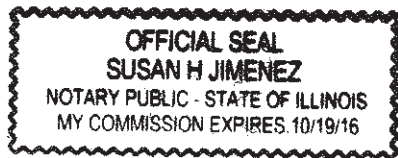
FURTHER AFFIANT SAYETH NAUGHT.

I DECLARE, UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF ILLINOIS, THAT THE FOREGOING IS TRUE AND CORRECT, UPON INFORMATION AND BELIEF.



VERELLA OSBORNE

SUBSCRIBED AND SWORN TO
Before Me This 27th Day of December, 2012


NOTARY PUBLIC

FTC EXHIBIT PXD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

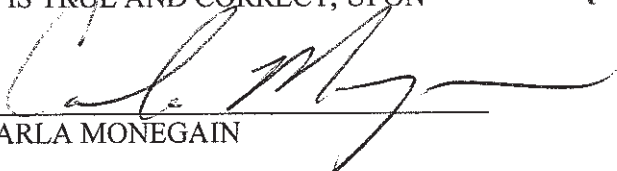
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
v.	)	03-CV-3904
KEVIN TRUDEAU,)	
)	
Defendant.)	

AFFIDAVIT OF SERVICE

I, CARLA MONEGAIN, being duly sworn on oath, do hereby attest as follows:

1. I am a process server (#0129-324429), over the age of 21 years of age and not a party to the within action.
2. On December 28, 2012, I was contracted by Legal Document Management, Inc. of Chicago, Illinois, to effect service of process of a federal Subpoena for Production of Records on Winston & Strawn, LLP, a law firm located at 35 West Wacker Drive, Suite 4200, Chicago, IL 60601.
3. On December 28, 2012, at 12:10 p.m., I arrived at the office building at 35 West Wacker Drive, Chicago, and went to the lobby reception desk specifically for Winston & Strawn. An African-American female, approximately 42 years old, 5'6" and 200 lb, with a name badge of "Anita" was at the desk. I told her I had a delivery for Winston & Strawn for the attention of either Lawrence Desideri, Kimball Anderson, Thomas Kirsch or Katherine Crosswell. Anita replied, "What...a subpoena?" I confirmed the delivery was a Subpoena from the Federal Trade Commission and asked her for her last name, which she refused to give me. Anita then called the offices of Winston & Strawn and informed the person who answered that I was there to serve a subpoena on the firm.
4. At 12:23 p.m., Jennifer Jackson came down to the lobby and accepted service of the Subpoena as an authorized agent on behalf of Winston & Strawn, LLP. Ms. Jackson identified herself as the "back-up secretary to Kimball Anderson".
5. I have personal and direct knowledge of the above statements and, if called to testify in court, would testify as to the above stated facts.
Date and Time of Service: December 28, 2012 at 12:23 p.m.
Description of Person Served: Jennifer Jackson, Female, White, 45 yrs, 5'5", 150 lb, black hair. Ms. Jackson signed my service sheet.

I DECLARE, UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF ILLINOIS, THAT THE FOREGOING IS TRUE AND CORRECT, UPON INFORMATION AND BELIEF.



 CARLA MONEGAIN

SUBSCRIBED AND SWORN TO
Before Me This 28th Day of December, 2012



FTC EXHIBIT PXE

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT

for the Northern District of Illinois

Federal Trade Commission
Plaintiff
v.
Kevin Trudeau
Defendant
Civil Action No. Case No. 03-CV-3904
(If the action is pending in another district, state where:

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES

To: The Law Offices of Marc J. Lane, 180 N LaSalle Street, Suite 2100, Chicago, Illinois 60601

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Please see attached Schedule

Table with 2 columns: Place (Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603) and Date and Time (01/07/2013 3:00 pm)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/21/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk and Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Federal Trade Commission, who issues or requests this subpoena, are:

Michael Mora/Jonathan Cohen
Federal Trade Commission, 600 Pennsylvania Avenue NW M-8102B, Washington, D.C. 20580
(202) 326-3373; -2551; mmora@ftc.gov; jcohen2@ftc.gov

AO 88 (Rev. 1/94) Subpoena in a Civil Case


PROOF OF SERVICE

	DATE	PLACE
SERVED	DECEMBER 26, 2012 AT 4:22 P.M.,	180 N. LASALLE ST., STE 2100, CHICAGO, IL 60601
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
Law Offices of Marc J. Lane	Personal Service on Marc Lane (M-W-60, 5'6", 150#, white hair)	
SERVED BY (PRINT NAME)	TITLE	
BETH OSBORNE	PROCESS SERVER	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on December 27, 2012
DATE


 SIGNATURE OF SERVER
 LEGAL DOCUMENT MANAGEMENT, INC.,
 ADDRESS OF SERVER
 39 S. LaSalle Street, Suite 718, Chicago, IL 60603

Rule 45, Federal Rules of Civil Procedure, Parts C & D

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and a reasonable attorneys fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(2)(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of

clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.