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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES C. DONOVAN,

Plaintiff,

No. CIV S-07-2160 GEB DAD

v.

AMERICAN CAPITAL GROUP,
INC., et al.,

Defendants.

ORDER

_____ /
This case came before the court on January 9, 2009 for hearing of plaintiff's November 10, 2008 motion to compel defendants to return documents inadvertently produced¹ and defendants' November 12, 2008 counter-motion for a ruling on plaintiff's demand for return of documents. James T. Cahalan, Esq. appeared for plaintiff, and Aaron D. Crews, Esq. appeared for defendants.

The court gave careful consideration to the parties' joint statement regarding discovery dispute and exhibits, including the exhibits and other matter filed under seal, as well as to the arguments of counsel at the hearing and the entire court file. For the reasons set forth on the record, the court granted plaintiff's motion and granted defendants' motion in part.

¹ Plaintiff's motion included a motion for sanctions. The motion was withdrawn by plaintiff in the parties' joint statement regarding the discovery dispute. (Doc. No. 101 at 13.)

1 IT IS ORDERED that:

2 1. Plaintiff's November 10, 2008 motion to compel defendants to return
3 documents inadvertently produced (Doc. No. 88) is granted.

4 2. Defendants' November 12, 2008 counter-motion for a ruling on plaintiff's
5 demand for return of documents is granted to the extent that defendants sought a ruling but
6 denied as to the rulings sought.

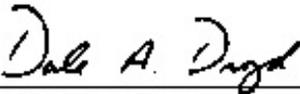
7 3. Defendants shall promptly return the inadvertently produced documents to
8 plaintiff in the manner agreed upon during the hearing.

9 4. Plaintiff shall maintain the inadvertently produced documents in their current
10 form during this litigation.

11 5. Good cause appearing, defendants are precluded from using the contents of the
12 inadvertently produced documents in any manner absent further order of the court. See Fed. R.
13 Civ. P. 26(c)(1).

14 6. The court reporter who recorded the videotaped deposition of James C.
15 Donovan on November 4, 2008 shall promptly forward directly to plaintiff's counsel all
16 inadvertently produced documents that were offered as exhibits during the deposition.

17 DATED: January 12, 2009.

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21 DALE A. DROZD
22 UNITED STATES MAGISTRATE JUDGE

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