

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-CV-1396-CMA-KLM

FEDERAL TRADE COMMISSION and)
STATE OF COLORADO, <i>ex rel.</i>)
JOHN W. SUTHERS, ATTORNEY GENERAL,)
)
Plaintiffs,)
)
v.)
)
RUSSELL T. DALBEY;)
DEI, LLLP;)
DALBEY EDUCATION INSTITUTE, LLC;)
IPME, LLLP; and)
CATHERINE L. DALBEY,)
)
Defendants.)

**STIPULATION AND [PROPOSED] PROTECTIVE ORDER
REGARDING DOCUMENTS CONTAINING SENSITIVE PERSONAL IDENTIFIERS**

Plaintiffs Federal Trade Commission (“FTC”) and State of Colorado (collectively “Plaintiffs”) and Defendants Russell T. Dalbey; DEI, LLLP; Dalbey Education Institute, LLC; IPME, LLLP; and Catherine L. Dalbey (collectively “Defendants”) hereby stipulate and request that the Court enter an order, which requires Plaintiffs and Defendants (the “Parties”) to follow certain safeguards regarding the maintenance and use of documents produced by Plaintiffs to Defendants or by Defendants to Plaintiffs in connection with this litigation and any related collateral actions or appeals.

RECITALS

1. Defendants have requested that Plaintiffs produce documents ("Defendants' Requests"), many of which include sensitive personally identifiable information ("Sensitive PII"). For purposes of this Stipulated Order, Sensitive PII includes an individual's social security number, taxpayer identification number, date of birth, the name of an individual known to be a minor, a financial account number, or an individual's credit score.

2. The FTC maintains a consumer complaint database called Consumer Sentinel, which contains various complaints from consumers about the business practices of companies or individuals, including complaints concerning the Defendants in this action. Some documents which Plaintiffs will produce in response to Defendants' Requests consist of complaint data from this database. These data may include, among other things, consumer identifying information and specific consumer complaints.

3. In response to Defendants' Requests, Plaintiffs also will produce documents and information obtained from other sources, including other federal and state government entities, Better Business Bureau offices, consumers, and other third parties.

4. The documents from the FTC's Consumer Sentinel database, various federal and state government entities, Better Business Bureau offices, consumers, and other sources, which the Commission will produce in response to Defendants' Requests, contain the Sensitive PII of consumers, defendants, and other third parties.

5. During their investigations of Defendants' practices, Plaintiffs requested that Defendants produce documents, some of which include Sensitive PII. Plaintiffs anticipate future requests for Defendants to produce documents which also may include Sensitive PII.

6. If compromised, such Sensitive PII could be used by identity thieves to cause significant harm to consumers.

7. The following Stipulation will facilitate the expedited production of documents in connection with Plaintiffs' Motion for a Preliminary Injunction and Other Equitable Relief. Future discovery requests in connection with this litigation may require a more expansive protective order.

STIPULATION

1. Defendants understand that the FTC considers the complaint data contained in the FTC's Consumer Sentinel database to be nonpublic information under its rules, FTC Rule 4.10(a), 16 C.F.R. § 4.10(a), and that nothing in this Stipulation is intended to waive any privileges or exemptions from disclosure under applicable law, rule, or order.

2. Without waiving and subject to the Plaintiffs' and Defendants' objections respectively, the Parties will produce responsive documents which contain Sensitive PII required to be redacted pursuant to Fed. R. Civ. P. 5.2 and this Stipulated Order.

3. If any Party files any of these documents which contain Sensitive PII at any point with the Court, that Party shall ensure that these documents are redacted or filed under seal, in accordance with Fed. R. Civ. P. 5.2 ^{and D.C. COLO. CIVIL 7.2}. To the extent any Sensitive PII, as defined in this Stipulated Order, is not covered by Fed. R. Civ. P. 5.2, the Parties and their attorneys shall ensure that such information is fully redacted. kcm

4. If the Parties or their attorneys disseminate any of these documents which contain Sensitive PII to any third party or cause any of these documents to be disclosed in the public

record, they shall ensure that these documents are redacted, to the same extent that they would be required to be redacted if filed in Court under Fed. R. Civ. P. 5.2 or this Stipulated Order.

5. During the pendency of this litigation and any related collateral actions or appeals, the Parties and their attorneys shall take steps to safeguard these documents containing Sensitive PII from disclosure to third parties. In particular, Plaintiffs agree not to disclose any Sensitive PII contained in Defendants' document production(s) to anyone other than Plaintiffs and others assisting with Plaintiffs' pursuit of this action. Likewise, Defendants and their attorneys agree not to disclose any Sensitive PII contained in Plaintiffs' document production(s) to anyone other than Defendants, their attorneys, and others assisting with the Defendants' defense of this action. Plaintiffs and Defendants understand and agree that they shall not use any of the Sensitive PII for any other purpose.

6. To help ensure that such Sensitive PII is not inadvertently or impermissibly disclosed, the Parties and their attorneys shall return all copies of these documents to the Party that produced them or destroy such documents at the conclusion of this litigation.

7. Until this Stipulation is signed by Russell T. Dalbey and Catherine L. Dalbey, counsel for Defendants agree not to share any documents produced by Plaintiffs with anyone who does not work for defense counsels' law firms, including but not limited to Russell T. Dalbey, Catherine L. Dalbey or any employees, managers, supervisors or independent contractors of Defendants DEI, LLLP; Dalbey Education Institute, LLC; IPME, LLLP.


8. This Stipulated Order shall remain in effect and shall apply to all documents and information produced by the Parties during this litigation and any related collateral actions or appeals unless and until Plaintiffs and Defendants stipulate to a future protective order.

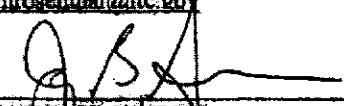
SO ORDERED:

Dated: June 29, 2011


KRISTEN L. MIX
UNITED STATES MAGISTRATE JUDGE

SO STIPULATED:

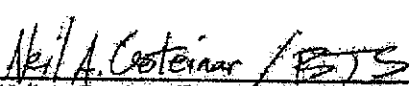

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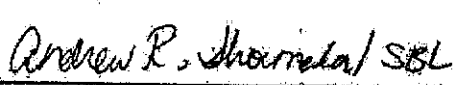

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SO ORDERED:

Dated: _____

KRISTEN L. MIX
UNITED STATES MAGISTRATE JUDGE

SO STIPULATED:

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