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July 15, 2009

Via Email and Fax

Donna L. Wilson, Esq.
Andrew S. Wein, Esq.
KELLEY DRYE & WARREN LLP
3050 K Street, NW, Suite 400
Washington, DC 20007-5108

Re: *Vicki L. Pinero, et al. v. Jackson Hewitt Tax Service Inc., et al.*
Case No. 08-3535, U.S.D.C., E.D. La.

Dear Donna and Andrew:

The purpose of this letter is to again request that you revise and/or supplement your clients' recent response to plaintiff's First Request for Production of Documents. Based upon my telephone conversation with Andrew Wein on July 10, 2009, I understand that Jackson Hewitt Inc. (JHI) and Jackson Hewitt Tax Service Inc. (JHTSI) are refusing to revise and/or supplement their response. I also understand that, although your clients objected to producing the requested documents based upon alleged privileges, your clients do *not* intend on producing any Privilege Log identifying the document(s) you refuse to produce and/or identify. We again request that you reconsider your position and consider the following:

1. **REQUEST FOR PRODUCTION OF DOCUMENTS** – On June 8, 2009, plaintiff served the following Request for Production of Documents on JHI and JHTSI:

Produce all documents that you believe evidence JHI's attempt(s) to comply with the Federal Trade Commission's Safeguards Rule, 16 C.F.R. §§ 314.3-314.4, from January 1, 2005 until June 8, 2009. Include in your response all written policies and procedures designed to (1) insure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

2. **JHI AND JHTSI'S RESPONSE** – On July 8, 2009, JHI and JHTSI served their response to plaintiff's Request for Production of Documents:

Lakeway Two Suite 200 3850 N. Causeway Blvd. Metairie, Louisiana 70002-7227
(504) 828-3700 (504) 828-3737 F www.sessions-law.com

LOUISIANA ■ CALIFORNIA ■ COLORADO ■ FLORIDA ■ ILLINOIS ■ NEW YORK ■ TEXAS

**Exhibit
C**

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The Request does not properly identify the documents sought, but instead impermissibly seeks documents that may support certain legal contentions, and accordingly is premature, overbroad, unduly burdensome, and calls for legal conclusions, mental impressions of counsel, and other privileged attorney work product and attorney-client communications.

The Request seeks information and materials protected by the attorney work product doctrine and attorney-client privilege, as well as the joint defense and common interest doctrines.

The Request is overbroad and unduly burdensome, and seeks irrelevant information including information that is beyond the temporal and geographic scope of this case, and therefore is not reasonably calculated to lead to admissible evidence.

The Request is overly vague, using undefined terms which are argumentative and require speculation.

The Request seeks information that is neither relevant to Plaintiff's claims nor reasonably calculated to lead to the discovery of admissible evidence.

The Request states allegations of facts and presumes conclusions of law that are in dispute in this Action. Jackson Hewitt further objects to this Request to the extent that it purports to define or characterize the Federal Trade Commission's Safeguards Rule. Any response to the Request should not be construed as an admission or concession with respect to any such facts, conclusions, or characterizations.

The Request calls for information readily available in the public domain or public record (including but not limited to public filings, articles, or court decisions), within Plaintiff's own knowledge or control, or otherwise easily accessible to Plaintiff. Jackson Hewitt's provision of such information to Plaintiff would be unduly burdensome and would cause Jackson Hewitt to incur unnecessary expense.

Subject to and without waiving these objections, Jackson Hewitt invites Plaintiff to clarify and reasonably tailor her Request to seek relevant materials in a manner that does not call for attorney mental impressions or work product and is consistent with the Federal Rules of Civil Procedure,

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such as would allow Jackson Hewitt to amend and/or supplement its response.

3. **DISCUSSION** – Your clients’ response and objections are improper. The requested documents are *not* privileged. The request is neither vague nor ambiguous. Indeed, the request is very clear.

4. Further, production of the requested documents will *not* reveal any attorney “mental impressions or work product.” To be sure, we are not asking for any documents setting forth your advice, opinions, or strategy. We are simply asking *your clients* to produce documents they contend evidence their compliance “with the Federal Trade Commission’s Safeguards Rule, 16 C.F.R. §§ 314.3-314.4, from January 1, 2005 until June 8, 2009.”

5. As you know, this case involves your clients’ Privacy Policy. In their Privacy Policy, JHI and JHTSI state:

Our Approach to Data Security

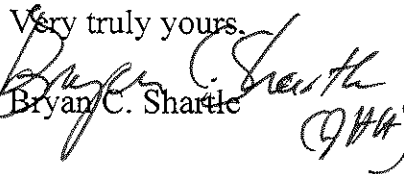
We maintain policies and procedures designed to restrict access to nonpublic personal information about you to those persons who need to know that information to fulfill your request for products or services. These policies and procedures include physical, electronic, and procedural safeguards that comply with federal regulations to guard your information.

6. Plaintiff has alleged your clients failed to comply with applicable federal regulations, including the Federal Trade Commission’s Safeguards Rule, 16 C.F.R. §§ 314.3-314.4. JHI and JHTSI have contended they complied with applicable “federal regulations.” Obviously, the requested documents—documents evidencing your clients’ compliance with the Safeguards Rule—are relevant. Please produce the requested documents immediately.

7. Unless you produce the requested documents by noon (CST) on July 22, 2009, we intend on filing a motion to compel. To the extent you continue to refuse to produce the requested documents, we again request that you identify the documents on a Privilege Log, as required by the Federal Rules of Civil Procedure. Such documents can be identified on a log without revealing any alleged “mental impressions.” For example, the documents can be identified on the log by Bates Numbers.

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Thanking you for your expected cooperation,

Very truly yours,

Bryan C. Shurtle (9/11/09)

BCS/ct

Enclosures

cc: Thomas G. Buck (via email and Fax)
Glenn M. Farnet/ (via email and Fax)
Gina D. Banks (via email and Fax)
David Israel (via email)
Justin H. Homes (via email)