

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

VICKI L. PINERO, individually and on) Civil Action No. 08-03535
behalf of all others similarly situated,)
) Sec. R
Plaintiffs,) JUDGE SARAH S. VANCE
)
v.) Mag. 3
) MAGISTRATE JUDGE DANIEL E.
JACKSON HEWITT TAX SERVICE) KNOWLES, III
INC.; JACKSON HEWITT INC.; and,)
CRESCENT CITY TAX SERVICE, INC.)
d/b/a JACKSON HEWITT TAX)
SERVICE,)
)
Defendants.)

FIFTH SET OF DISCOVERY TO DEFENDANT JACKSON HEWITT TAX SERVICE INC.

NOW INTO COURT, through undersigned counsel, comes plaintiff, Vicki L. Pinero, who, pursuant to Fed. R. Civ. P. 33 and 34, propounds the following discovery upon defendant, Jackson Hewitt Tax Service Inc. ("JHTSI"). The Requests must be answered separately, fully, in writing, and under oath. As required by the Federal Rules of Civil Procedure, discovery must be answered and produced within 30 days of service thereof.

INSTRUCTIONS

(A) Restate each Interrogatory or Request in full immediately before answering.

(B) In answering these discovery requests, defendant shall furnish all information available to it at the time of its answers and shall supplement its answers in accordance with the Federal Rules of Civil Procedure. Defendant shall answer each Interrogatory separately. Combined or general answers shall be considered non-responsive, unless accompanied by an express statement that the answer is full, complete, and specific as to each Interrogatory to which the combined or general answer is meant to be responsive.

(C) Answer each discovery request fully, providing all information actually or constructively available to defendant or any other persons or entities who defendant knows to possess or have access to the requested information.

(D) If you fail to answer any discovery request in accordance with these instructions, specifically state the reason(s) therefor.

(E) If you interpose any objection to any discovery request, fully state the grounds for the objection and the legal authority upon which you would rely in response to a Motion to Compel.

(F) With respect to each document otherwise called for by these Interrogatories or Requests for Production as to which you assert a claim of privilege, or the applicability of the work product doctrine, state separately the following, in addition to the information otherwise requested:

(1) the type of document(s);

- (2) its date;
- (3) the name, business address, and present position of its author(s);
- (4) the business affiliation and position of its author(s) at the time of preparation of the document;
- (5) the name, business address, and present position of its addressee and all other recipients of the document;
- (6) the business affiliation and position of its addressee and all other recipients at the time of receipt of the document;
- (7) a general description of the subject matter of the document;
- (8) the basis of the claim of privilege; and
- (9) the facts and law upon which you will rely in support of that contention in response to a Motion to Compel.

DEFINITIONS

- (A) The terms “you,” “your,” and “JHTSI” refer to Jackson Hewitt Tax Service Inc.
- (B) The term “person” means any individual, partnership, firm, corporation, association, joint venture, or any other business, legal entity, or institution.
- (C) The term “document” means the original and all non-identical copies (whether different from the original because of additional notations or otherwise) of all written, printed, typed, recorded, electronic, or graphic matter, however produced or reproduced, in the actual or constructive possession, custody, or control of the defendant including, without limitation, all writings, drawings, graphs, charts, photographs, photographic records, sound

reproduction tapes, data compilations (whether tangible or intangible from which information can be obtained or can be translated through detection devices into reasonably usable tangible form), correspondence, memoranda, data, notes, diaries, papers, letters, communications, telegrams, messages of any kind, minutes of meetings, stenographic or hand-typed and written notes, studies, estimates, reports, instructions, requests, pamphlets, brochures, applications, returns, pictures, books, journals, ledgers, corporate records, accounts, contracts, leaflets, administrative or governmental reports or returns, exhibits, maps, surveys, sketches, microfilm, xerox or any other tangible things which constitute or contain matters within the scope of Fed. R. Civ. P. 26.

(D) The terms "identify" and "describe" mean:

- (1) when used in reference to an individual: his full name, present or last known business and residence address, and his last known business affiliation and position;
- (2) when used in reference to a corporation: its full name, its state of incorporation, its date of incorporation, and its principal place of business;
- (3) when used in reference to a person other than an individual or corporation: its official name, its organizational form, and its address;
- (4) when used in reference to a document: the type of document, its date, author, addressee, title; its present location; the name and address of its custodian; and the substance of the contents thereof (in lieu of

identifying any documents, copies may be furnished);

- (5) when used in reference to any communication, act, occurrence, occasion, meeting, transaction, or conduct: the event or events constituting such acts; its (their) location(s); the date and time; particular persons participating or present; and all related documents;
- (6) when used in reference to any discussion, conversation, communication, or statement: in addition to the definition of ¶ (D) (5) above, the substance of the discussion;
- (7) when used in reference to the calculation of damages: the manner in which such figure was calculated, an itemization and detailed description of each fact and incident of damage, all data and documentation supporting the figure, the person(s) so calculating those damages, and the relationship of that person or those persons to you.

(E) "Pertaining to" shall mean commenting upon, including, concerning, containing, regarding, discussing, reflecting, relating to, relevant to, used in connection with, embodying or evidencing, and should be construed in the broadest sense possible.

(F) The term "communication" shall mean any oral or written representation, promise, conversation, statement, message, or transmission of information and should be construed in the broadest sense possible.

(G) The use of the masculine gender herein includes the feminine and vice versa; the singular includes the plural and vice versa.

(H) The term "Complaint" shall mean plaintiff's original complaint and amending and supplemental complaints, if any.

(I) "CCTSI" refers to Crescent City Tax Service, Inc. d/b/a Jackson Hewitt Tax Service.

(J) "JHI" refers to Jackson Hewitt Inc.

(K) "JH Customers" shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity to whom you provided tax or tax related services.

(L) "JH Franchisees" shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity that currently holds, or has held, a franchise license for the Jackson Hewitt brand.

(M) "JH Customer Information and Customer Documents" shall mean all information and documents provided or supplied by a JH Customer or Potential Customer, which includes personal identifying information.

(N) "JH Privacy Policy" shall mean your policy regarding maintaining the confidentiality of JH Customer Information and Customer Documents.

(O) "JH Tax Returns" shall mean the tax returns prepared by JHI or any JH Franchisee for JH Customers.

(P) "Joint Marketing Agreement," "Cross Marketing Agreement," "Program Agreement," and "Technology Agreement" shall each mean (a) any document entitled such, or including such or similar words in its title, and (b) any contract between you and another

person or entity to promote, advertise, market, offer, provide, administer, arrange for, support, and/or sell (i) your products, services, resources, and/or personnel or (ii) the other person or entity's products, services, resources, and/or personnel.

INTERROGATORIES

INTERROGATORY NUMBER 1:

Please identify the person(s) most knowledgeable about your marketing practices, policies, procedures, strategies, and goals.

INTERROGATORY NUMBER 2:

Please state your policy for each year from 1998 to the present for requiring JH Franchisees to retain original or "hard copies" of the tax returns such franchisees filed for their JH Customers.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NUMBER 1:

Please produce a copy of all insurance policies issued to JHTSI or any of JHTSI's officers or directors, and any policies issued to any other person or entity naming JHTSI and/or any JHTSI employee, officer, or director as an additional insured or named insured, and any policies that may provide coverage for the acts or omissions alleged in the Complaint.

REQUEST FOR PRODUCTION NUMBER 2:

Please produce a copy of all Joint Marketing Agreements, Cross Marketing Agreements, Program Agreements, and Technology Agreements effective any time during

May 22, 1998 to the present, including all amendments, supplements, addendums, and modifications to such agreements.

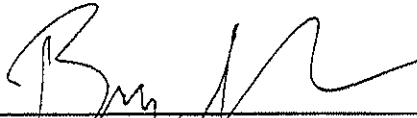
REQUEST FOR PRODUCTION NUMBER 3:

Please produce a copy of all documents explaining, describing, or summarizing any Joint Marketing Agreements, Cross Marketing Agreements, Program Agreements, and/or Technology Agreements effective any time during May 22, 1998 to the present. Please include in your response any documents explaining, describing, or summarizing the implementation of any Joint Marketing Agreement, Cross Marketing Agreement, Program Agreement, and/or Technology Agreement effective any time during May 22, 1998 to the present.

REQUEST FOR PRODUCTION NUMBER 4:

Please produce a copy of all documents setting forth the document retention policies you mandated to JH Franchisees for each year from 1998 to the present.

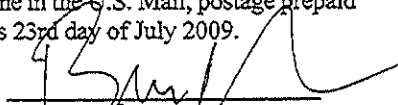
Respectfully Submitted,



David Israel (LSBA No. 7174) (T.A.)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been forwarded to all counsel of record by email; by hand; by fax; by FedEx; by placing a copy of same in the U.S. Mail, postage prepaid this 23rd day of July 2009.


Bryan C. Shartle

Attorneys for Plaintiff,
Vicki L. Pinero