

**EXHIBIT UU**  
**TO CROWTHER DECLARATION**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

**SHEPARD FAIREY and OBEY GIANT  
ART, INC.,**

**Plaintiffs,**

v.

**THE ASSOCIATED PRESS,**

**Defendant and  
Counterclaim Plaintiff,**

v.

**SHEPARD FAIREY, OBEY GIANT ART,  
INC., OBEY GIANT LLC and STUDIO  
NUMBER ONE, INC.**

**Counterclaim Defendants.**

**And**

**MANNIE GARCIA,**

**Defendant, Counterclaim  
Plaintiff and Cross Claim  
Plaintiff/Defendant,**

v.

**SHEPARD FAIREY AND OBEY GIANT  
ART, INC.,**

**Counterclaim Defendants,**

**And**

**THE ASSOCIATED PRESS,**

**Cross Claim  
Plaintiff/Defendant.**

Case No.: 09-0-1123 (AKH)

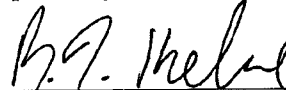
ECF Case

EXHIBIT UU

**THE ASSOCIATED PRESS'S  
NOTICE OF SUBPOENA TO ONE 3 TWO, INC.**

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, Defendant and Counterclaim Plaintiff The Associated Press ("The AP"), will serve the attached subpoena on One 3 Two, Inc. requesting that One 3 Two, Inc. produce the specified documents and things for inspection and copying at the time and location noticed in the subpoena.

Respectfully submitted,



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Dale M. Cendali  
Claudia E. Ray  
Brendan T. Kehoe

Dated: August 19, 2009

KIRKLAND & ELLIS LLP  
Citigroup Center  
601 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900

*Attorneys for The Associated Press.*

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on August 19, 2009, a true and correct copy of the foregoing THE ASSOCIATED PRESS'S NOTICE OF SUBPOENA TO ONE 3 TWO, INC. was served via electronic mail upon the following individuals:

George F. Carpinello  
Boies, Schiller & Flexner, LLP  
10 N. Pearl Street, 4th Floor  
Albany, NY 12207  
Tel: (518) 434-0600  
Email: gcarpinello@bsflp.com

Michael Underhill  
Boies, Schiller & Flexner, LLP  
5301 Wisconsin Avenue, N.W.  
Washington, DC 20015  
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Bradford E. Kile  
Robert J. McManus  
Matthew P. Thielemann  
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*Attorneys for Plaintiffs/Counterclaim Defendants  
Shepard Fairey and Obey Giant Art, Inc. and  
Counterclaim Defendants Obey Giant LLC and  
Studio Number One, Inc.*

*Attorneys for Defendant, Counterclaim Plaintiff  
and Cross claim Plaintiff/Defendant Mannie  
Garcia*

Dated: August 19, 2009

  
\_\_\_\_\_  
Brendan T. Kehoe

UNITED STATES DISTRICT COURT

for the
Central District of California

SHEPARD FAIREY and OBEY GIANT ART, INC.
Plaintiff
v.
THE ASSOCIATED PRESS
Defendant
Civil Action No. 09-cv-1123 (AKH)
(If the action is pending in another district, state where:
Southern District of New York

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

To: One 3 Two, Inc. d/b/a Obey Clothing - Christopher Z. Broders
2313 Susan St.
Santa Ana, CA 92704

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:

SEE ATTACHMENT A

Table with 2 columns: Place and Date and Time. Place: Kirkland & Ellis LLP, 777 South Figueroa Street, Los Angeles, CA 90017-5800. Date and Time: September 2, 2009 @ 09:30 am

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. Both fields are 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: 08/19/2009

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Handwritten signature of Diana Torres, Attorney's signature

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

Diana Torres, Esq.
Kirkland & Ellis LLP, 777 S. Figueroa Street, Los Angeles, CA 90017-8400
Tel: (213) 680-8338 | Email: Diana.Torres@kirkland.com

Civil Action No. 09-cv-1123 (AKH)

**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:

**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 A

### DEFINITIONS AND INSTRUCTIONS

1. As used herein, "ONE 3 TWO," "YOU" and "YOUR" means One 3 Two, Inc., and includes all of its present and former parents, subsidiaries, affiliates, employees, directors, officers, and any person or entity acting on its behalf.
2. As used herein, the "ANSWER AND COUNTERCLAIMS" refers to the Answer, Affirmative Defenses and Counterclaims filed by The AP in this action on March 11, 2009, and any amendments thereto.
3. As used herein, the "ANSWER AND AFFIRMATIVE DEFENSES" refers to the Answer and Affirmative Defenses filed by Shepard Fairey et al. in this action on April 14, 2009, and any amendments thereto.
4. As used herein, "THE AP" means The Associated Press and includes all of its employees, officers, attorneys and any other person acting on its behalf.
5. As used herein, the "CLOONEY PHOTO" refers to the photograph of President Obama and George Clooney referred to in ¶ 142 and Exhibit C of the ANSWER AND COUNTERCLAIMS.
6. As used herein, the "COMPLAINT" refers to the Complaint filed by Shepard Fairey et al. in this litigation on February 9, 2009, and any amendments thereto.
7. As used herein, the term "COMMUNICATIONS" should be interpreted in its broadest sense to include without limitation all oral or written communications, including any writings, e-mails, or other electronically-stored information as that term is defined by Local Civil Rule 26.3(c)(2) and FRCP 34(a).
8. As used herein, the term "DOCUMENT(S)" shall have the same meaning used in Local Civil Rule 26.3(c)(2) and FRCP 34(a), and should be interpreted in its broadest sense to include without limitation all written or oral communications, including any e-mails, as well as any writings, drawings, computer files, graphs, charts, photographs, sound recordings, images, image files, or other data or data compilations, and all forms of electronically-stored information.
9. As used herein, the "OBAMA MERCHANDISE" refers to each good, product, item, work, service or thing designed, made, created, sold, offered for sale, licensed, offered for license, imported, distributed or sponsored by SHEPARD FAIREY AND/OR OBEY GIANT, bearing the image of Barack Obama.
10. As used herein, the "OBAMA PHOTO" refers to the close-cropped photograph of President Obama referred to in ¶¶ 53-54 and Exhibit A of the ANSWER AND COUNTERCLAIMS.



11. As used herein, the "OBAMA GRAPHICS" refers to the graphics embodied on the series of posters referenced in the COMPLAINT entitled "Obama Progress," "Obama Hope," "Obama Hope Mural," "Be The Change," "Yes We Did," and "Obama Hope Stencil Collage," as well as any other image or illustration of Barack Obama by SHEPARD FAIREY AND/OR OBEY GIANT.
12. As used herein, "PERSON" refers to any natural person, firm, corporation, partnership, group, association, governmental entity or business entity.
13. As used herein, "SHEPARD FAIREY AND/OR OBEY GIANT" means Shepard Fairey, Obey Giant Art, Inc., Obey Giant LLC, and Studio Number One, Inc., and Subliminal Projects, any of their present and former officers, directors, employees, attorneys, agents, representatives, parents subsidiaries, affiliates, assignees, predecessors in interest, successors in interest, and any one acting or purporting to act on their behalf.
14. If no documents are responsive to a particular Request, YOU are to state that no responsive documents exist.
15. These Requests shall apply to all documents in YOUR possession, custody or control at the present time or coming into its possession, custody or control prior to the date of the production. If YOU know of the existence, past or present, of any documents requested herein, but are unable to produce such documents because they are not presently in YOUR possession, custody or control, YOU shall so state and shall identify such documents, and the person who has or had possession, custody or control of them.
16. YOU shall keep and produce a record of the source of each DOCUMENT produced. This record shall include and the name of the person, group or department having possession, custody or control of it.
17. DOCUMENTS from any single file should be produced in the same order as they were found in such file, including any labels, files, folders and/or containers in which such documents are located in or associated with. If copies of documents are produced in lieu of originals, such copies should be legible and bound or stapled in the same manner as the original. Electronically-stored information should be produced in the form in which it is ordinarily maintained, in accordance with Rule 34(b) of the Federal Rules of Civil Procedure.
18. The document requests herein shall be deemed continuing, and it is requested that supplemental responses and production be provided as additional information or documents become available, in accordance with Rule 26(c) of the Federal Rules of Civil Procedure.

### DOCUMENT REQUESTS

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, ONE 3 TWO is requested to produce, for inspection and copying, documents described by the following requests, subject to the Definitions and the Instructions listed herein.

1. DOCUMENTS sufficient to show the formation of YOU.
2. DOCUMENTS sufficient to show the organizational structure of YOU.
3. DOCUMENTS sufficient to show the relationship between YOU and SHEPARD FAIREY AND/OR OBEY GIANT.
4. All COMMUNICATIONS with SHEPARD FAIREY AND/OR OBEY GIANT concerning the OBAMA POSTERS or OBAMA MERCHANDISE.
5. All COMMUNICATIONS with any other PERSON concerning the OBAMA GRAPHICS, the OBAMA MERCHANDISE, the CLOONEY PHOTO, the OBAMA PHOTO, or THE AP since January 1, 2008.
6. All DOCUMENTS concerning any actual or contemplated contracts (whether oral or written), agreements, work-for-hire arrangements, or agreements for payment or revenues between YOU and SHEPARD FAIREY AND/OR OBEY GIANT.
7. All DOCUMENTS concerning the OBAMA GRAPHICS, including without limitation documents relating to the use, display, distribution, selection, creation, conception, derivation, design, development, manufacture, or licensing of the OBAMA GRAPHICS.
8. All DOCUMENTS concerning the OBAMA MERCHANDISE, including without limitation documents relating to the use, display, distribution, selection, creation, conception, derivation, design, development, or manufacture, or licensing of the OBAMA MERCHANDISE.
9. All DOCUMENTS concerning profits, revenues, royalties or fees collected by YOU from any PERSON relating to the OBAMA GRAPHICS or the OBAMA MERCHANDISE, including without limitation any actual or anticipated revenues or payments paid by YOU to SHEPARD FAIREY AND/OR OBEY GIANT or any other PERSON.
10. All DOCUMENTS concerning revenues, costs, royalties or fees paid by YOU to any PERSON relating to the OBAMA GRAPHICS or the OBAMA MERCHANDISE.
11. All DOCUMENTS concerning YOUR licensing and/or enforcement efforts relating to the use or potential use by any PERSON of the OBAMA GRAPHICS or the OBAMA MERCHANDISE, including without limitation any contracts, agreements, complaints, causes of action, demands or cease and desist letters.

12. All statements made by YOU concerning the OBAMA GRAPHICS, the OBAMA MERCHANDISE, the CLOONEY PHOTO, the OBAMA PHOTO, or THE AP, including without limitation interviews, press statements, e-mails or other correspondence, conversations, Web blogs or postings or any other form of communication.
13. All DOCUMENTS relating to the selection of the OBAMA PHOTO, the CLOONEY PHOTO, or any other photograph of Barack Obama for use in connection with the OBAMA GRAPHICS or the OBAMA MERCHANDISE, including, but not limited to, any images that were considered and/or rejected for use in connection therewith.
14. DOCUMENTS sufficient to show all computer systems, programs, and non-computer methods and media, including but not limited to screen printing and stencil painting, involved in the creation, design, manufacture, sale and distribution of the OBAMA GRAPHICS and OBAMA MERCHANDISE, including any and all communications between YOU, on the one hand, and any PERSON on the other hand, including without limitation any employees, contractors or subcontractors of SHEPARD FAIREY AND/OR OBEY GIANT, concerning such methods and media.