UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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GENE CODES FORENSICS, INC.,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.

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ECF CASE

10 Civ. 1641 (NRB)

DECLARATION OF JOSEPH PALAZZI IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

JOSEPH PALAZZI, being duly sworn, deposes and says:

1. I am the Information Technology ("IT") Manager for the Department of Forensic Biology of the Office of Chief Medical Examiner ("OCME") of the Defendant City of New York (the "City"). I have personal knowledge of the facts set forth herein, and I submit this declaration in support of the City's motion for summary judgment dismissing the Complaint of Plaintiff Gene Code Forensics, Inc. ("Gene Codes" or "GCF").

2. In this action, Gene Codes has alleged that, during the latter part of 2009, certain OCME employees "participated in printing out the confidential database schema from GCF's proprietary M-FISys software and worked directly with the FBI's software engineering personnel and/or contractors for the purpose of enabling the FBI to extract GCF's Trade Secrets,

including proprietary know-how and design functions, in order to develop and enhance the functionality of CODIS 6.0, also known as Next Generation CODIS or ngCODIS." (See Complaint, at para. 29).

3. To the best of my knowledge, information and belief, there is no factual basis for any of Gene Codes' claims of wrongdoing on the part of OCME pertaining to OCME's relationship with the FBI and OCME's use of CODIS 6.0. At no time did I, nor to the best of my knowledge did anyone else at OCME, ever give any confidential information or share any trade secrets concerning the functioning or operation of M-FISys to anyone from the FBI, nor did anyone from the FBI ever make any inquiries regarding M-FISys.

4. I was part of a small working group within OCME that worked on the migration of data from M-FISys (the "M-FISys WTC Database") to CODIS 6.0. I was the person chiefly responsible for extracting the data from the M-FISys WTC Database.

5. In order to use CODIS 6.0, OCME first had to take all of the DNA profile data and related information stored in the M-FISys WTC Database and put it in a format that could be loaded into CODIS 6.0.

6. The problem I faced in August 2009, after a decision had been made to use CODIS 6.0 for continuing WTC victim identification work, was that the M-FISys WTC Database could not be accessed directly because the M-FISys program on OCME's network server was no longer functioning. Therefore, I had to find another way to access and extract the data and prepare it to be uploaded to CODIS 6.0.

7. The first step in the process was that, at my request, OCME's IT Department printed out a table dump of all of the data contained in the M-FISys WTC Database. A table dump is a printout of all of the information that is stored in the tables comprising the database. The term

"database schema" can refer to many things, including the table names or headings, the relationships between the tables comprising the database and, more generally, the organization of the data within the database.

8. In a well-organized database, a "complete record" or "data set" may be spread out across many tables, with bits of related data contained in different tables In this case, the data was fragmented and distributed among 36 different tables and the task was to figure out how the tables related to each other in order to identify what related bits of information made up a complete data set.

9. I had to determine what information made up a complete record and separate it from extraneous information that only related to the functioning and operation of M-FISys. The same bits of information might appear in different tables as a "primary key" or a "foreign key." A "primary key" is a field or combination of fields that uniquely identify a record in a table, so that an individual record can be located without confusion. A "foreign key" (sometimes called a referencing key) is a key used to link two tables together. Typically you take the primary key field from one table and insert it into the other table where it becomes a foreign key (it remains a primary key in the original table). The purpose of my analysis was to determine what the primary keys represented and where the primary keys were located so that they could be used to identify a complete data set for export from M-FISys and import to CODIS.

10. The printout of the M-FISys Database resulted in 36 spreadsheets, with one spreadsheet for each table in the database. Taylor Dickerson helped me in analyzing the spreadsheets because he had worked with M-FISys on a daily basis and was familiar with the raw data that had been uploaded into the database. Working together, we identified the relationships between 16 crucial spreadsheets that contained the related bits of information

making up complete data sets. I prepared a diagram showing the links between the different tables as part of this analysis.

11. The printouts from the table dump as well as my notes and diagrams remained in my possession at all times. These spreadsheets were used only for internal analysis within OCME for the limited purpose described above. At no time were any of these printouts or any information concerning the organization or configuration of data within M-FISys, ever shared with, or made available in any form to, the FBI. Nor was any information regarding the process of extracting data discussed with any person outside of the small group of OCME employees working with me.

12. In September 2009, we received the CODIS CMF file XML formats from Scott Carey of the FBI. These files showed us how the data had to be formatted in order to be uploaded into CODIS. Taylor Dickerson and I worked together to determine which of the spreadsheets (and which columns within the spreadsheets) contained the relevant bits of information corresponding to the fields in the CODIS CMF definitions. Once this process was completed, I gave instructions to Tejesh Patel, an OCME IT consultant, who was then able to extract the pertinent data from the M-FISys WTC Database and create data import files to be used in uploading the data to CODIS 6.0.

13. On October 1 and 2, 2009, Taylor Dickerson and Tejesh Patel went to the FBI's headquarters in Quantico, Virginia, to perform test imports of a sampling of data in order to make sure that the data was in the proper format and could be uploaded to CODIS 6.0 without any problems. At the end of those tests, the data that had been uploaded during the test imports was deleted by the FBI so that the FBI would not have any data belonging to OCME in their possession.

14. On October 5, 2009, several members of the FBI came to OCME's offices in New York to load the CODIS 6.0 application onto the OCME's server and to assist OCME in the process of importing STR data files into CODIS 6.0. STR is an acronym for "short tandem repeats," which is one of the types of DNA profiles used for WTC victim identifications. Mitochondrial DNA data files were uploaded into CODIS 6.0 at a later date by OCME IT personnel.

15. To the best of my knowledge, information and belief, no one from the FBI was ever given access to M-FISys or the M-FISys WTC Database.

16. In sum, there is no basis whatsoever for Gene Codes' claim that I or anyone in the small group working with me shared any trade secrets relating to M-FISys with the FBI.

17. I declare under penalty of perjury that the foregoing is true and correct. Executed on August 26, 2010.

JOSEPH PALAZZI