

The Honorable Marsha J. Pechman



07-CV-01620-RESP

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF SEATTLE, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 THE PROFESSIONAL BASKETBALL CLUB, )  
 LLC, )  
 )  
 Defendant. )

No. C07-1620 MJP  
McKINSEY & COMPANY, INC.'S  
RESPONSES AND OBJECTIONS  
TO THE CITY OF SEATTLE'S  
SUBPOENA IN A CIVIL CASE

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, McKinsey & Company, Inc. ("McKinsey") by and through its undersigned counsel hereby responds and objects to the April 21, 2008 Subpoena of the City of Seattle ("Plaintiff") in a Civil Case (the "Subpoena"), as follows:

**I. INTRODUCTORY STATEMENT**

The Subpoena, which was served on McKinsey on April 21, 2008, provided a return date of April 29, 2008, only six business days later. That unreasonably short space of time has not permitted McKinsey or its undersigned counsel to prepare fully to respond. McKinsey will respond to the Subpoena on the basis of the best information available to it at

RESPONSES AND OBJECTIONS TO THE CITY OF SEATTLE'S  
SUBPOENA IN A CIVIL CASE (C07-1620 MJP) – 1

DWT 11004939v1 0083148-000001

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1 the time of gathering documents for its response, within the limitations and subject to the  
2 objections described below.

## 3 II. GENERAL RESPONSES

4 1. The responses herein reflect only the present state of McKinsey's knowledge  
5 or information regarding the documents that the Plaintiff has requested. Except as otherwise  
6 stated below, an objection to a specific request does not imply that documents responsive to  
7 that request exist. McKinsey further expressly reserves the right to supplement its response to  
8 any of the aforementioned requests.  
9

10 2. McKinsey expressly reserves, and this response to the Subpoena shall not  
11 constitute a waiver of, McKinsey's right (a) to object on any ground to the use of the  
12 documents that are produced in any step or proceeding in this action, (b) to object on any  
13 ground to other discovery requests that involve or relate to the subject matter of this  
14 Subpoena, and (c) to revise, correct, supplement, or clarify any of the responses set forth  
15 herein at a later date. McKinsey does not admit, adopt or acquiesce in any factual or legal  
16 contention, assertion, or characterization that is contained in the Subpoena (or any particular  
17 request therein).  
18

## 19 III. GENERAL OBJECTIONS

20 1. McKinsey objects to the Subpoena to the extent that it seeks the production of  
21 any document protected from disclosure by the attorney-client privilege, the attorney work  
22 product doctrine or any other privilege or protection available under federal or state statutory,  
23 constitutional, or common law, including but not limited to any privilege or protection that  
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1 McKinsey's client in this engagement, the NBA, may assert as to materials in McKinsey's  
2 possession.

3           2. McKinsey objects to the Subpoena to the extent that it seeks information that is  
4 neither relevant to any claim or defense of any party to the underlying litigation nor to the  
5 subject matter involved in the litigation.  
6

7           3. McKinsey objects to the Subpoena insofar as it seeks sensitive, highly  
8 confidential business, financial and/or personal information.

9           4. McKinsey objects to the Subpoena, which was received by McKinsey on April  
10 21, 2008, insofar as it seeks the production of documents by April 29, 2008, which is not a  
11 reasonable amount of time to comply with the Subpoena.  
12

13           5. McKinsey objects to the Instructions and the Definitions of the Subpoena to  
14 the extent that they seek to impose obligations on McKinsey beyond those imposed by the  
15 Federal Rules of Civil Procedure.

16           6. These General Responses and Objections apply to each of the Specific  
17 Responses below whether or not referred to in any Specific Response provided, and the  
18 Specific Responses set forth are not a waiver, in whole or in part, of any of these objections.  
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#### 20                           **IV. SPECIFIC RESPONSES AND OBJECTIONS**

21           McKinsey incorporates its General Responses and Objections into its Specific  
22 Responses and Objections to each and every request for documents and things contained in  
23 the Subpoena. Subject to and without waiving any of its General Responses and Objections,  
24 McKinsey specifically responds and objects to the requests contained in the Subpoena as  
25 follows:  
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1           REQUEST NO. 1.

2           All documents regarding and/or reflecting any work done by McKinsey for the NBA's  
3 relocation committee relating to the potential relocation of the Sonics to Oklahoma City,  
4 Oklahoma.

5           RESPONSE TO REQUEST NO. 1

6           McKinsey objects to this Request to the extent that it: (a) seeks the production of  
7 documents protected from disclosure by the attorney-client privilege, the attorney work  
8 product doctrine or any other privilege available under federal or state statutory,  
9 constitutional, or common law, including but not limited to any such privilege or protection  
10 that McKinsey's client the NBA may assert as to materials in McKinsey's possession;  
11 (b) seeks information that is neither relevant to any claim or defense of any party to the  
12 underlying litigation nor to the subject matter involved in the litigation; (c) seeks sensitive,  
13 highly confidential business, financial and/or personal information; or (d) is so overbroad as  
14 to be unduly burdensome and harassing.  
15

16           Subject to the foregoing and the General Responses and Objections, and without  
17 waiving any applicable privilege or protection, McKinsey will produce copies of the March  
18 18, 2008 "Oklahoma City vs. Seattle Market Comparison Report" and the March 18, 2009  
19 "New Orleans/Oklahoma City Hornets Review," which constitute the sole reports prepared by  
20 McKinsey in connection with the proposed relocation of the Sonics to Oklahoma City.  
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1           REQUEST NO. 2.

2           All documents regarding and/or reflecting any statistical analysis, including but not  
3 limited to demographic, economic and business analysis, performed by McKinsey for the  
4 NBA relocation committee, comparing Seattle, Washington to Oklahoma City, Oklahoma.  
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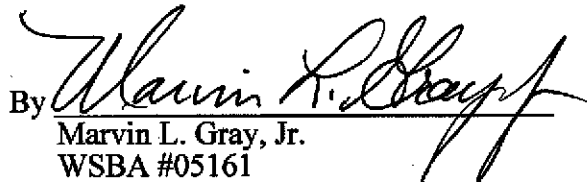
6           RESPONSE TO REQUEST NO. 2

7           McKinsey objects to this Request to the extent that it: (a) seeks the production of  
8 documents protected from disclosure by the attorney-client privilege, the attorney work  
9 product doctrine or any other privilege available under federal or state statutory,  
10 constitutional, or common law, including but not limited to any such privilege or protection  
11 that McKinsey's client the NBA may assert as to materials in McKinsey's possession;  
12 (b) seeks information that is neither relevant to any claim or defense of any party to the  
13 underlying litigation nor to the subject matter involved in the litigation; (c) seeks sensitive,  
14 highly confidential business, financial and/or personal information; or (d) is so overbroad as  
15 to be unduly burdensome and harassing.  
16

17           Subject to the foregoing and the General Responses and Objections, and without  
18 waiving any applicable privilege or protection, McKinsey will produce copies of the March  
19 18, 2008 "Oklahoma City vs. Seattle Market Comparison Report" and the March 18, 2009  
20 "New Orleans/Oklahoma City Hornets Review," which constitute the sole reports prepared by  
21 McKinsey in connection with the proposed relocation of the Sonics to Oklahoma City.  
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1 DATED this 29<sup>th</sup> day of April, 2008.  
2

3 Davis Wright Tremaine LLP  
4 Attorneys for Non-Party McKinsey &  
5 Company, Inc.

6 By 

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CERTIFICATE OF SERVICE

On the 29<sup>th</sup> day of April, 2008, a true and correct copy of the document to which this is attached was served by ABC Legal Messenger on:

Paul J. Lawrence  
K&L Gates  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104

Brad Keller  
Paul Taylor  
Byrnes & Keller  
1000 Second Avenue, Suite 3800  
Seattle, WA 98104

Greg Narver  
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ROBIN WAFEY