

THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMAZON.COM, LLC,

Plaintiff,

v.

KENNETH R. LAY,

Defendant.

No. 10-cv-00664-MJP

DECLARATION OF  
JOSEPH A. TETRO IN  
SUPPORT OF NORTH CAROLINA  
MOTION TO DISMISS  
COMPLAINT IN INTERVENTION  
(Fed. R. Civ. P. 12)

JANE DOE 1, JANE DOE 2,  
JANE DOE 3, JANE DOE 4,  
JANE DOE 5, JANE DOE 6, and  
CECIL BOTHWELL,

Plaintiffs-Intervenors,

v.

KENNETH R. LAY, and  
AMAZON.COM, LLC,

Defendants in Intervention.

I, Joseph A. Tetro, do hereby depose and say as follows:

1. I am a resident of Wake County, North Carolina. I have been employed continuously at the North Carolina Department of Revenue for 16 years. My previous

1 employment was 30 years with IBM. At IBM I held a number of technical and management  
2 positions. My responsibilities early on included mainframe operations support, application  
3 programming responsibilities and systems programming. In 1977, I was appointed to my first of  
4 several managerial positions which included supporting several major financial applications. My  
5 next position was as a mid level manager with a staff of over 50 programmers supporting an  
6 operating system, TPF (Transaction Processing Facility). This product is used by major banks  
7 (ATMs), airlines (reservations), railroads, for financial and scheduling applications, and product  
8 management.  
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10 2. On June 1, 1994, I joined the North Carolina Department of Revenue (DOR) as its  
11 manager of Computer Operations. This position included, but was not limited to, mainframe  
12 support (ITAS), email support (GroupWise), internal (LAN) and external (WAN) network  
13 support, and Help Desk. My responsibilities also included the selection and recommendation for  
14 purchase of Information Technology (IT) hardware and software. I advanced to an assistant  
15 director position when in December 2005, I was formally promoted to Director of Technology  
16 Services.  
17

18 3. As Director of Technology Services, I was requested to verify that the two folders  
19 where Amazon data that had been downloaded by the Interstate Section of the Examinations  
20 Division to the Department's H drive, located on our disk storage system, SAN (Storage Area  
21 Network), were deleted. I was also requested to delete all of this same data that was backed up  
22 as part of DOR's backup recovery process. The H drive is an encrypted repository for data used  
23 in the business of the Department of Revenue. The H drive data is stored either as "Shared,"  
24 allowing access to all Department employees, as "Public," normally used for data shared across  
25 specific divisions and with access restricted, or as "Private" with more restricted access. Access  
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1 to Private is assigned by the owner of the data and is normally restricted for one division's use.  
2 The data in question was stored Private.

3 4. I went into the two identified folders on the Private H drive where the Amazon  
4 data had been downloaded and verified that the data in fact had been deleted. This verification  
5 could be made because in my position I have the administrative rights were required to execute  
6 that function. Administrative rights are assigned only to technical systems administrators.  
7

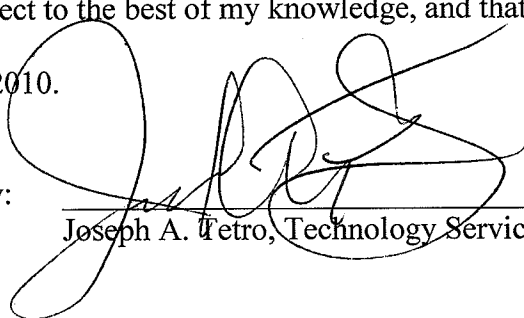
8 5. I next deleted the backup copies of the two identified folders of data. DOR uses  
9 an IBM product for backup and recovery of data. The product is Tivoli Storage Manager (TSM).  
10 TSM is designed to keep a specified number of versions of data backup. The number of versions  
11 is determined by business need and a Recovery Point Objective (RPO), *i.e.*, how much data can  
12 be lost due to an unscheduled outage. The TSM product executes at an interval determined by  
13 the business unit. It could backup hourly or daily. The backups are incremental, which means  
14 that only the changed information is added to the existing data, than stored. The request to delete  
15 the data in the two identified H drive folders required that we force TSM to delete the data in  
16 question by running a succession of backups with dummy data added to each backup cycle for  
17 the number of cycles required to assure there were no copies left of previous versions of the  
18 Amazon data. Five cycles were run. The two H folders were left with dummy data assuring no  
19 Amazon data remained. TSM backs up to tape cartridges. The latest version of the folders in  
20 question now has dummy data in the folder, and a corresponding backup of that data on the TSM  
21 cartridge.  
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25 6. In short, I have verified that the Amazon data that was downloaded to the  
26 Department's H drive has in fact been erased and have taken steps to assure that the backups of  
27 that data no longer exist.  
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1           7.     I am filing this Declaration in support of North Carolina's Motion to Dismiss  
2 Complaint in Intervention.

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4           Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United  
5 States that the foregoing is true and correct to the best of my knowledge, and that the foregoing  
6 declaration was executed on August 6, 2010.

7  
8 By:

  
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9 Joseph A. Tetro, Technology Services Director