

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**TRAFFIC JAM EVENTS, LLC, a limited
liability company**

and

**DAVID J. JEANSONNE II, individually and as
an officer of TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

**RESPONDENTS' MEMORANDUM IN OPPOSITION TO MOTION TO EXTEND
COMPLAINT COUNSEL'S DEADLINE IN THE SCHEDULING ORDER**

Respondents Traffic Jam Events, LLC and David Jeansonne (collectively "Respondents"), through undersigned counsel, respectfully file this Memorandum opposing the Motion to Extend Complaint Counsel's Deadline in the Scheduling Order. The Motion should be denied for two, independent reasons: (1) Complaint Counsel has not identified "good cause" explaining why, based on its own investigation and knowledge of the acts and practices identified in the Complaint, it cannot identify the witnesses and specific exhibits it intends to use at the September hearing; and (2) the assertion that Respondents have "defied" the Court's June 29 Order is blatantly false, and is being advanced to distract from the fact that Complaint Counsel unilaterally decided to abandon pursuit of ESI and has no clue what evidence (despite a year-long "investigation" and 23 third party subpoenas) it intends to rely on to prove its case in court. Complaint Counsel would prefer to engage in continued and completely unproductive discovery gamesmanship instead of proving its case, in the hopes that the mounting costs of discovery will simply force Respondents to abandon their defenses.

BACKGROUND

The motion filed by Complaint Counsel (“CC”) proceeds from a number of false premises, which Respondents address below:

CC ASSERTION: Respondents have continued to violate this Court’s orders regarding pretrial discovery and disclosures, including Respondents’ most recent defiance of the Court’s June 29, 2021 Order requiring Respondents to provide discovery in compliance with the December 16 Order no later than July 13, 2021. (Motion at p. 1).

FACTS: This statement is false. The Court’s Order of June 29 required, *inter alia*, that Respondents “shall act promptly and cooperate fully and diligently in completing their discovery obligations.” Complaint Counsel demanded sworn answers to Interrogatories, despite the fact that Complaint Counsel had already deposed Mr. Jeansonne on the same topics. On July 13, 2021, Respondents provided sworn and complete answers to the Interrogatories. (**Exhibit 1**, Respondents Answers to First Set of Interrogatories). Although not requested, on July 16, 2021, Respondent Traffic Jam submitted its sworn responses to the Second Set of Interrogatories. (See **Exhibit 2**). Previously, Respondents filed and submitted their Responses to First Set of Requests for Admissions, and, after a lengthy discovery conference about the sufficiency of these answers, filed Amended Responses to First Set of Requests for Admission on July 8, as agreed during the discovery conference. (**Exhibits 3 and 4**). Respondents further received a second set of Requests for Admission (numbering 33 through 61) that were timely responded to on July 6, 2021. (**Exhibit 5**).¹

With respect to documents, Respondents previously produced over two years of sales data

¹ Complaint Counsel has since issued Third and Fourth Sets of Requests for Admission after the close of discovery.

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and client lists as requested by CC and fully complied with all requests for data prior to the case being removed from adjudicative status. Due to the fact that Traffic Jam no longer has any employees, once this case returned to adjudicative status, Respondents agreed to make its offices and all ESI available for review and inspection by CC. Initially, CC agreed to this proposal as satisfying Respondents discovery obligation. (**Exhibit 6**, July 13, 2021 Email to M. Tankersley).

As this Court noted in its June 29 Order, “[i]t appears that the parties have made progress with establishing an ESI protocol for inspection of all Respondents’ responsive documents.” Rather than pursue the inspection of ESI, CC then took the position after the Court’s statement, and CC’s agreement to access ESI, that Respondents were required to identify and produce documents, and could not satisfy the discovery obligation by providing access to ESI as previously agreed. (**Exhibit 7**, July 7 Email of M. Tankersley and response). Counsel immediately responded that it would continue to make the ESI available. On July 12th, after days of back and forth about ESI, Counsel for Respondents sent an email summarizing CC’s retraction of its agreement to access ESI, and offering one last protocol to preserve attorney client privilege. (**Exhibit 8**, July 12 Email to FTC Counsel). Complaint Counsel provided no response and never initiated a process to acquire the ESI for review and inspection.

CC ASSERTION: An extension will provide adequate time for the Court to rule on Complaint Counsel’s forthcoming sanctions motion and better inform Complaint Counsel’s ability to provide a final witness and exhibit list. (Motion at p. 1).

FACTS: Putting aside the fact that CC appears to be generating a non-existent discovery dispute despite all of the responses and information made available to CC by Respondents, the simple fact remains that CC cannot rely on this allegation as “good cause” because it only applies to allegedly “unknown” information. At this late stage, surely CC has some idea of what witnesses

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and what exhibits it intends to use to prove its case. Indeed, after (1) conducting and assembling its own investigation of facts sufficient to justify the allegations in the Complaint, (2) issuing no less than **23 third party subpoenas to clients of Traffic Jam**; (3) not being prevented in any way during the almost one year of discovery in pursuing these third party subpoenas and assembling tens of thousands of responsive documents; and (4) having the ability to subpoena any individual for deposition it wants, Complaint Counsel should, at a minimum, be able to identify what witnesses and what exhibits it intends to rely on to press its case. For example, nothing in Respondents' alleged deficient discovery prevents CC from identifying *specific consumers who were harmed by the acts or practices which CC has alleged served as the basis for this Complaint*. Nothing prevents CC from listing what advertisements – of the hundreds they received from third party subpoenas -- they contend were or are false and deceptive. In fact, nothing in discovery prevents CC from identifying, by July 26, the advertisements it contended, as of August 7, 2020, were false and deceptive. (*See* Complaint at ¶¶ 6 and 12).

CC ASSERTION: Respondents have not provided Complaint Counsel with proper discovery responses. Respondents have not produced any additional materials in response to Complaint Counsel's Requests for Production and have provided utterly deficient responses to Complaint Counsel's Interrogatories. (Motion at p. 2).

FACTS: Respondents have provided complete and proper discovery responses and have not been advised of any alleged deficiency therein, save for responses to the First Set of Requests for Admission which were, by agreement of counsel, supplemented with amended responses. How CC can declare the interrogatory responses as "utterly deficient" has never been explained to Respondents. It should also be noted that CC interrogated Mr. Jeansonne for most of a day, and had ample opportunity to ask him about any advertisements or business practices. Again, rather

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than identify what witness and documents CC intends to rely on to establish its case, CC would rather create a discovery dispute over interrogatories that have been answered, under oath, and include references to a lengthy deposition of Mr. Jeansonne taken by Complaint Counsel. The discovery answer to the Interrogatories are not “utterly deficient.”

CC ASSERTION: As a result, rather than being able to devote efforts to preparing for trial, Complaint Counsel is in the process of preparing yet another sanctions motion. Without the extension, Complaint Counsel will be unable to provide a complete and accurate witness and exhibit list that allows the Court to reach a final, correct result. (Motion at p. 2).

FACT: Complaint Counsel has no less than three, fully active, well-qualified lawyers pursuing these claims, and one paralegal. Respondents have one. Any time spent “preparing yet another sanctions motion” certainly can be handled by one of these three lawyers while the other two identify witnesses and exhibits after almost a full year of discovery. This argument is devoid of factual support and is not “good cause.”

LAW AND ARGUMENT

Pursuant to 16 CFR § 3.21(c)(2):

The Administrative Law Judge may, upon a showing of good cause, grant a motion to extend any deadline or time specified in this scheduling order other than the date of the evidentiary hearing. Such motion shall set forth the total period of extensions, if any, previously obtained by the moving party. In determining whether to grant the motion, the Administrative Law Judge shall consider any extensions already granted, *the length of the proceedings to date, the complexity of the issues, and the need to conclude the evidentiary hearing and render an initial decision in a timely manner*. The Administrative Law Judge shall not rule on *ex parte* motions to extend the deadlines specified in the scheduling order, or modify such deadlines solely upon stipulation or agreement of counsel.

(emphasis added).

As an initial matter, CC’s motion does not establish good cause sufficient to extend the deadline for CC to identify those witnesses and exhibits that it currently knows – based on the

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length of time this matter has been pending. The FTC's first complaint was filed in June of 2020, more than one year ago, and the instant complaint was filed August 7, 2020. CC's far-reaching, and irrelevant discovery does not relate to the relatively simple, straightforward issues presented in this complaint: are the advertisements cited in the complaint false or deceptive and are "the act(-s) or practice(-s) cited therein the causes or likely causes of substantial injury to consumers which was not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. Surely, at this late date with a September hearing, CC has some idea of what witnesses and evidence it intends to rely on to address these straightforward issues, and can provide those witnesses and list those documents by July 26, 2021.

There is a definitive need to conclude the evidentiary hearing. This matter has been pending since August 7, 2020 and CC has essentially destroyed Respondents' business during the intervening months. Continued, costly discovery into irrelevant matters only further damages Respondents, while Complaint Counsel's unlimited budget and willingness to blame an inability to cite evidence on Respondents irretrievably harms Respondents alone. The time has come for the Commission to cite the evidence it intends to present at trial.

Moreover, the "good cause" cited appears to be a forthcoming motion that has never been raised by Complaint Counsel prior to the filing of the instant motion. On July 15, 2021, one day before the discovery deadline, Complaint Counsel advised that CC planned to request a 10 day extension in the Revised Scheduling Order. (**Exhibit 9**, July 15, 2021 Email Exchange). Complaint Counsel did not identify a basis or cite an alleged issue with discovery. Respondents advised that they would oppose the motion, and noted that CC and the FTC had previously *rejected* a proposal to extend the discovery deadline. (**Exhibit 10**, June 21, 2021 Email from S. Shahrabi).

Finally, the requested relief is not tailored to the needs of the situation. As the sole basis

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for “good cause,” which Respondents deny, CC has cited alleged deficient discovery responses. If that is the case, CC is still able to list those witnesses and identify those exhibits it already has in its possession, and the alleged “prejudice” from allegedly deficient discovery responses can be cured by simply allowing Complaint Counsel to amend their list with any witness who could not have been identified as of July 26, 2021 based on the available evidence, and any newly produced documents. This approach remedies any alleged “prejudice” cited in the Motion.

Simply, enough time has passed and the apparent hesitancy to comply with the first substantive deadline relating to the actual evidence to be presented at the hearing is not based on any lack of discovery; rather, it is based on a lack of evidence. Respondents have a right to understand what evidence the Commission intends to present, and that process should begin on July 26, 2021 pursuant to the scheduling order that Complaint Counsel proposed to Respondents when they were not represented by counsel, and agreed to.

CONCLUSION

For these reasons, this Court should deny the Motion to Extend Complaint Counsel’s Deadline in the Scheduling Order, or, in the alternative, deny the motion and allow Complaint Counsel to supplement its witness and exhibit list with any “new” documents produced by Respondents.

July 22, 2021

Respectfully submitted,

/s/ L. Etienne Balart

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Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2021, I caused the foregoing document to be served via the FTC's E-filing system and electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Thomas J. Widor
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
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Washington, DC 20506
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Complaint Counsel

/s/ L. Etienne Balart

L. ETIENNE BALART

UNITED STATES OF AMERICA
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TRAFFIC JAM EVENTS, LLC, a limited
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and

DAVID J. JEANSONNE II, individually and as
an officer of TRAFFIC JAM EVENTS, LLC.

DOCKET NO. 9395

**RESPONDENT'S ANSWERS TO COMPLAINT COUNSEL'S FIRST SET OF
INTERROGATORIES**

Respondent, Traffic Jam Events, LLC's ("TJE"), files its responses to Complaint Counsel, Federal Trade Commissions' ("FTC") Interrogatories and states:

INTERROGATORY NO. 1:

Describe in Detail the relationship between **You** and **Individual Respondent**, including his positions, titles, roles, and responsibilities for or on **Your** behalf.

ANSWER TO INTERROGATORY NO. 1:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term "Describe in Detail" refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Subject to these objections, Respondents state that Individual Respondent is the sole owner of Traffic Jam Events LLC and holds the title of President. Individual Respondent's duties and responsibilities, as that phrase is understood by Respondent, are as more fully described in the deposition of David Jeansonne.

INTERROGATORY NO. 2:

Describe in Detail the relationship between **You** and **Platinum Plus Printing**, and **Identify** each of **Your** officers, managers, employees, or agents who are also officers, managers, employees, or agents of **Platinum Plus Printing**.

ANSWER TO INTERROGATORY NO. 2:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term “Describe in Detail” refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Subject to these objections, Respondents state that Platinum Plus Printing is used to provide printing and related services, and that the remaining portion of this question has been more fully described in the deposition of David Jeansonne.

INTERROGATORY NO. 3:

Identify and Describe in Detail the role of each third party or agent used by **You** relating to each product or service, including any **Advertisement** and **Promotional Material**, that **You** offer.

ANSWER TO INTERROGATORY NO. 3:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term “Describe in Detail” refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Subject to these objections, Respondents state that the Advertisement and Promotional Material is created by agents and third parties as identified in Mr. Jeansonne’s deposition, including the persons listed in Respondent’s Initial Disclosures.

INTERROGATORY NO. 4:

Identify all customers, and, for each customer, **Describe in Detail** the specific products and services provided by **You** and the time period, by date, during which **You** provided each specific product or service.

ANSWER TO INTERROGATORY NO. 4:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term “Describe in Detail” refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Moreover, given the Complaint filed by the FTC, the FTC has defined Traffic Jam’s “customers” as the general public who received advertisements, which is denied. Subject to these objections, Respondents have previously produced listings of all advertisements generated by Traffic Jam for a one year period, in which the “customers” of Traffic Jam are identified. Moreover, as of today, Respondent has zero customers.

INTERROGATORY NO. 5:

For each **Advertisement** and **Promotional Material** involving any prize or giveaway, **Describe in Detail** the manner or method for selecting winners for each prize, including whether the winners are preselected and any pre-requisites or conditions for winning.

ANSWER TO INTERROGATORY NO. 5:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term “Describe in Detail” refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Moreover, it is impossible for Respondent to give an intelligible response without reference to specific

materials, as each mailer or advertisement may give a different manner or method for selecting winners.

INTERROGATORY NO. 6:

Identify each Person to whom each **Advertisement** and **Promotional Material** involving any prize or giveaway was disseminated, including the prize each **Person** was selected to win, if any, and whether the **Person** claimed the prize.

ANSWER TO INTERROGATORY NO. 6:

Respondent objects to this Interrogatory as vague, ambiguous and confusing and irrelevant, Moreover, the term “Describe in Detail” refers to a time period that is not defined in any of the Interrogatories, rendering the request subject to multiple interpretations. Moreover, it is impossible for Respondent to give an intelligible response without reference to specific materials, as each mailer or advertisement may give a different manner or method for selecting winners. Moreover, since in all instances every person who received a mailer or promotional material “won” a prize, as testified to by William Lilley, Respondent would have go through thousands of documents to assemble a response. Subject to these objections, Respondent refers to the mailing lists which Complaint Counsel possesses.

July 13, 2021

Respectfully submitted,

/s/ L. Etienne Balart

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***Counsel for Respondents, Traffic Jam Events,
 LLC and David J. Jeansonne II***

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
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Washington, DC 20506
twidor@ftc.gov
sshahrabi@ftc.gov

Complainant Counsel

July 13, 2021

/s/ L. Etienne Balart
L. ETIENNE BALART

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
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In the Matter of

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and

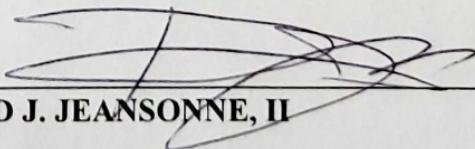
**DAVID J. JEANSONNE II, individually and as an
officer of TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

DECLARATION OF DAVID J. JEANSONNE, II UNDER 28 USC § 1746

1. My name is David J. Jeansonne, II. I am over the age of 21, and I am competent and capable of making this Declaration. I have personal knowledge of the facts and statements contained herein, and each of them is true and correct to the best of my knowledge, information, and belief.
2. I am the President of Traffic Jam Events, LLC.
3. I offer this Declaration on behalf of Traffic Jam Events, LLC, and as an individual.
4. I have reviewed Respondents' Answers to Complaint Counsel's First Set of Interrogatories dated October 26, 2020, and hereby verify that they are true and correct to the best of my knowledge and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of July, 2021.



DAVID J. JEANSONNE, II

UNITED STATES OF AMERICA
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DOCKET NO. 9395

RESPONDENT'S ANSWERS TO COMPLAINT COUNSEL'S SECOND SET OF INTERROGATORIES

Respondent, Traffic Jam Events, LLC's ("TJE"), files its responses to Complaint Counsel, Federal Trade Commissions' ("FTC") Second Set of Interrogatories and states:

INTERROGATORY NO. 1:

Describe in detail the efforts undertaken by **Traffic Jam Events** and **Individual Respondent** to preserve or collect relevant information relating to the allegations in the complaint issued on August 7, 2020 in In re Traffic Jam Events, LLC, et al., Docket No. 9395 and the complaint filed in FTC v. Traffic Jam Events, LLC, et al., Civil Action No. 2:20-cv-1740 (E.D. La. June 16, 2020), the proposed relief, or any potential defenses, including, but not limited to, (i) any document retention policies or procedures, (ii) implementing a litigation hold, and (iii) the identity of each **Person** that received notice of the litigation hold or duty to preserve, the dates of such notice, and the categories of information covered by the notice.

ANSWER TO INTERROGATORY NO. 1:

Respondent objects to this Interrogatory as vague, ambiguous and confusing. Moreover, the term "Describe in Detail" refers to a time period that is not defined in the Interrogatory,

rendering the request subject to multiple interpretations. Subject to these objections, Respondents state that Individual Respondent does not maintain any records concerning the allegations in the Complaint as all such records are created and maintained by Respondent Traffic Jam. Traffic Jam has no formal document retention policy or procedure and relies upon a third party to maintain certain of its electronic data. At no time has Traffic jam, or any of its employees, destroyed any possible relevant information relating to the allegations in the complaint issued on August 7, 2020, or the complaint filed on June 16, 2020.

July 16, 2021

Respectfully submitted,

/s/ L. Etienne Balart

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***Counsel for Respondents, Traffic Jam Events,
LLC and David J. Jeansonne II***

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
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Thomas J. Widor
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twidor@ftc.gov
sshahrabi@ftc.gov

Complainant Counsel

July 16, 2021

/s/ L. Etienne Balart
L. ETIENNE BALART

**UNITED STATES OF AMERICA
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and

**DAVID J. JEANSONNE II, individually and as an
officer of TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

DECLARATION OF DAVID J. JEANSONNE, II UNDER 28 USC § 1746

1. My name is David J. Jeansonne, II. I am over the age of 21, and I am competent and capable of making this Declaration. I have personal knowledge of the facts and statements contained herein, and each of them is true and correct to the best of my knowledge, information, and belief.
2. I am the President of Traffic Jam Events, LLC.
3. I offer this Declaration on behalf of Traffic Jam Events, LLC, and as an individual.
4. I have reviewed Respondents' Answers to Complaint Counsel's Second Set of Interrogatories dated July 16, 2021, and hereby verify that they are true and correct to the best of my knowledge and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of July, 2021.



DAVID J. JEANSONNE, II

**UNITED STATES OF AMERICA
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**DAVID J. JEANSONNE II, individually and as
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DOCKET NO. 9395

**TRAFFIC JAM EVENTS, LLC'S
RESPONSES TO REQUESTS FOR ADMISSIONS**

NOW INTO COURT, through undersigned counsel, comes Traffic Jam Events, LLC (“Traffic Jam”) and David J. Jeansonne II (collectively, “Respondents”), who respond to the Requests for Admissions as follows:

General Objections

Respondent Traffic Jam generally objects to these Requests to the extent that Complainant seeks information from Traffic Jam concerning the business activities of another company, and further seeks information answers to questions involving the operations of that company with entities other than Traffic Jam. The responses herein, to the extent they relate to Platinum Plus, are not given on behalf of Traffic Jam nor are they given by Individual Respondent in his capacity as an officer of Traffic Jam.

Respondents jointly object to these Requests to the extent that they seek conclusions of law rather than fact.

REQUEST FOR ADMISSION NO. 1:

Platinum Plus Printing, LLC is in the business of creating advertising and providing

direct mail marketing services on behalf of automotive dealerships to promote automotive sales.

ANSWER TO REQUEST FOR ADMISSION NO. 1:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 2:

Platinum Plus Printing, LLC generated advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 2:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 3:

During 2020 and 2021, David Jeansonne had authority to control the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 3:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any

matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion. Individual Respondent, as the President of Traffic Jam, does have general authority over the affairs of the company.

REQUEST FOR ADMISSION NO. 4:

During 2020 and 2021, David Jeansonne had knowledge of the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC, in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 4:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion and is so broad and ambiguous as to be incapable of formulating a response. Complaint counsel has failed to specify what acts and practices are subject to the Request and Respondents therefore can offer no meaningful response.

REQUEST FOR ADMISSION NO. 5:

At the domain www.trafficjamevents.com, Respondents advertise that they offer automotive dealerships “industry-leading direct-response mail and staffed-event campaigns for dealerships across the U.S.A.”

ANSWER TO REQUEST FOR ADMISSION NO. 5:

DENIED as to Individual Respondent; ADMITTED as to Respondent Traffic Jam.

REQUEST FOR ADMISSION NO. 6:

Respondents have generated advertisements on behalf of and at the request of and for the benefit of automotive dealerships located in multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

ANSWER TO REQUEST FOR ADMISSION NO. 6:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

REQUEST FOR ADMISSION NO. 7:

In the course of generating advertisements to promote automotive sales, Respondents have employed the services of printers located in California, Florida and Virginia.

ANSWER TO REQUEST FOR ADMISSION NO. 7:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

REQUEST FOR ADMISSION NO. 8:

Respondents cause or have caused advertisements that they have created on behalf of automotive dealerships to promote automotive sales to be distributed through the United States Postal Service to residents of multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

ANSWER TO REQUEST FOR ADMISSION NO. 8:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED. No advertisements created by Respondent Traffic Jam were ever distributed on behalf of Traffic Jam; rather, they were distributed, as noted in the Request, on behalf of the automotive dealerships as advertisements for the identified dealerships. Respondent Traffic Jam does not advertise for or on behalf of itself, and therefore engages in no “commerce” as that term is defined in 15 USC 44.

REQUEST FOR ADMISSION NO. 9:

Respondents were responsible for generating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

ANSWER TO REQUEST FOR ADMISSION NO. 9:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 10:

David Jeansonne directly participated in creating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

ANSWER TO REQUEST FOR ADMISSION NO. 10:

Respondents object to this Request as the term “directly participated” is not defined and is subject to a variety of possible meanings. Subject to proper clarification, Respondents will respond accordingly.

REQUEST FOR ADMISSION NO. 11:

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action were mailed to residents through the United States Postal Service.

ANSWER TO REQUEST FOR ADMISSION NO. 11:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 12:

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action promoted automotive sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

ANSWER TO REQUEST FOR ADMISSION NO. 12:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 13:

Respondents have generated advertisements to promote automotive sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.1

ANSWER TO REQUEST FOR ADMISSION NO. 13:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC

jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 14:

Respondents have generated advertisements to promote credit offers that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.¹

ANSWER TO REQUEST FOR ADMISSION NO. 14:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 15:

The Florida Stimulus Mailer was sent to residents in Florida in March 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 15:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 16:

The Florida Stimulus Mailer promoted an automotive sales event in Bushnell, Florida from March 27, 2020 to April 5, 2020, for or on behalf of New Wave Auto Sales.

ANSWER TO REQUEST FOR ADMISSION NO. 16:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 17:

Respondents mailed or caused to be mailed approximately 35,000 pieces of the Florida

Stimulus Mailer were distributed.

ANSWER TO REQUEST FOR ADMISSION NO. 17:

This Request is confusing and appears to contain an error. Subject to further clarification, Respondents will provide a response.

REQUEST FOR ADMISSION NO. 18:

The Alabama Stimulus Mailer was sent to residents in Alabama in early April 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 18:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 19:

The Alabama Stimulus Mailer promoted an automotive sales event in Dothan, Alabama for or on behalf of Dothan Chrysler Dodge Jeep Ram FIAT.

ANSWER TO REQUEST FOR ADMISSION NO. 19:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 20:

Respondents mailed or caused to be mail approximately 10,000 pieces of the Alabama Stimulus Mailer were distributed.

ANSWER TO REQUEST FOR ADMISSION NO. 20:

This Request is confusing and appears to contain an error. Subject to further clarification, Respondents will provide a response.

REQUEST FOR ADMISSION NO. 21:

Respondents were responsible for generating the Alabama Stimulus Mailer.

ANSWER TO REQUEST FOR ADMISSION NO. 21:

ADMITTED that Traffic Jam generated the mailer; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 22:

The Florida Stimulus Mailer includes a watermark that resembles the image of the eagle that appears on the Great Seal of the United States.

ANSWER TO REQUEST FOR ADMISSION NO. 22:

DENIED. The watermark is clearly not the Great Seal of the United States to any reasonable person who knows what the Great Seal of the United States is; moreover, an image resembling an eagle is not an image that can only resemble the Great Seal.

REQUEST FOR ADMISSION NO. 23:

The Florida Stimulus Mailer includes an image of a check from the “STIMULUS RELIEF PROGRAM.”

ANSWER TO REQUEST FOR ADMISSION NO. 23:

DENIED. The “check” contains a clear and conspicuous notice that it is, in fact, not a check, and contains other obvious signs to any reasonable consumer that it is not, in fact, a “check”, including but not limited to not containing the name of a bank or financial institution, not having an account or routing number, not having a payee, and not having a written amount. To any reasonable consumer, there was no “check” contained in the Mailer; rather, it was clearly part of an advertisement.

REQUEST FOR ADMISSION NO. 24:

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, an entity or program named “STIMULUS RELIEF PROGRAM.”

ANSWER TO REQUEST FOR ADMISSION NO. 24:

Respondents cannot admit nor deny this Request, and therefore object. The automotive

dealer was, in fact, running its own “stimulus relief program.” Given that this Mailer was sent prior to any official government stimulus program, and that the U.S. Government does not have a patent on or other exclusive right to the use of the word “stimulus,” this fact has no relevance to the claims at issue, unless the FTC takes the position, which it seems to assert, that only the U.S. Government may organize and use the term “stimulus relief program.”

REQUEST FOR ADMISSION NO. 25:

Respondents designed the Florida Stimulus Mailer to give the impression that the mailing was affiliated or otherwise associated with, or approved by, the government.

ANSWER TO REQUEST FOR ADMISSION NO. 25:

DENIED. There is no impressions from the Mailer, taken as a whole, was affiliated or otherwise associated with, or approved by, the government.

REQUEST FOR ADMISSION NO. 26:

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, the government.

ANSWER TO REQUEST FOR ADMISSION NO. 26:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED as the Mailer creates no such impression, especially given the fact that as was widely reported, there was no government program regarding “stimulus” in effect at the time.

REQUEST FOR ADMISSION NO. 27:

The Madison Tent Event Prize Notification Mailer was sent to residents in Alabama in May 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 27:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 28:

The Madison Tent Event Prize Notification Mailer promoted an automotive sales event in Madison, Alabama from May 28 to June 3, 2020, on behalf of Landers McLarty Nissan.

ANSWER TO REQUEST FOR ADMISSION NO. 28:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 29:

Respondents selected the code that appears on the Madison Tent Event Prize Notification Mailer under the heading “OFFICIAL WINNING CODE” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

ANSWER TO REQUEST FOR ADMISSION NO. 29:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 30:

Respondents selected the code that appears on the Madison Tent Event Prize Notification

Mailer in the black box with the title “COMBINATION BOX” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

ANSWER TO REQUEST FOR ADMISSION NO. 30:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 31:

In 2020 and 2021, Respondents created and disseminated advertisements to aid, promote, or assist closed-end credit transactions subject to the TILA and 15 U.S.C. § 1664 (TILA § 144), as amended.

ANSWER TO REQUEST FOR ADMISSION NO. 31:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

REQUEST FOR ADMISSION NO. 32:

In 2020 and 2021, Respondents created and disseminated advertisements for close-end credit that stated the amount of a down payment for purchase of an automobile on credit but did not conspicuously state all of the following terms: the terms of repayment, and the “annual percentage rate” using that term.

ANSWER TO REQUEST FOR ADMISSION NO. 32:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

June 21, 2021

Respectfully submitted,

/s/ L. Etienne Balart

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***Counsel for Respondents, Traffic Jam Events,
 LLC and David J. Jeansonne II***

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Thomas J. Widor
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Mailstop CC-10232
Washington, DC 20506
twidor@ftc.gov
sshahrabi@ftc.gov

Complainant Counsel

June 21, 2021

/s/ L. Etienne Balart
L. ETIENNE BALART

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

**TRAFFIC JAM EVENTS, LLC, a limited
liability company**

and

**DAVID J. JEANSONNE II, individually and as
an officer of TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

DECLARATION OF DAVID J. JEANSONNE, II UNDER 28 USC § 1746

1. My name is David J. Jeansonne, II. I am over the age of 21, and I am competent and capable of making this Declaration. I have personal knowledge of the facts and statements contained herein, and each of them is true and correct to the best of my knowledge, information, and belief.
2. I am the President of Traffic Jam Events, LLC.
3. I offer this Declaration on behalf of Traffic Jam Events, LLC.
4. I have reviewed Respondents Answers to Request for Admissions dated June 21, 2021, and hereby verify that they are true and correct to the best of my knowledge and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of June, 2021.


DAVID J. JEANSONNE, II

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

TRAFFIC JAM EVENTS, LLC, a limited liability company

and

DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.

DOCKET NO. 9395

**RESPONDENTS' AMENDED
RESPONSES TO REQUESTS FOR ADMISSIONS**

NOW INTO COURT, through undersigned counsel, comes Traffic Jam Events, LLC (“Traffic Jam”) and David J. Jeansonne II (collectively, “Respondents”), who offer the amended responses (amendments in *bold italics*) to the Requests for Admissions as follows:

General Objections

Respondent Traffic Jam generally objects to these Requests to the extent that Complainant seeks information from Traffic Jam concerning the business activities of another company, and further seeks information answers to questions involving the operations of that company with entities other than Traffic Jam. The responses herein, to the extent they relate to Platinum Plus, are not given on behalf of Traffic Jam nor are they given by Individual Respondent in his capacity as an officer of Traffic Jam.

Respondents jointly object to these Requests to the extent that they seek conclusions of law rather than fact.

REQUEST FOR ADMISSION NO. 1:

Platinum Plus Printing, LLC is in the business of creating advertising and providing

direct mail marketing services on behalf of automotive dealerships to promote automotive sales.

ANSWER TO REQUEST FOR ADMISSION NO. 1:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 2:

Platinum Plus Printing, LLC generated advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 2:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 3:

During 2020 and 2021, David Jeansonne had authority to control the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 3:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any

matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion. Individual Respondent, as the President of Traffic Jam, does have general authority over the affairs of the company.

Subject to these objections, David Jeansonne was, at all times noted, the president of Traffic Jam and his authority over the company was as testified to in his deposition.

REQUEST FOR ADMISSION NO. 4:

During 2020 and 2021, David Jeansonne had knowledge of the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC, in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 4:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion and is so broad and ambiguous as to be incapable of

formulating a response. Complaint counsel has failed to specify what acts and practices are subject to the Request and Respondents therefore can offer no meaningful response.

Subject to these objections, David Jeansonne was, at all times noted, the president of Traffic Jam and his authority over the company was as testified to in his deposition, but he did not have knowledge of every “act or practice” of the company, as more fully set forth and explained in his deposition testimony. Respondents have made reasonable inquiry and that the information known to or readily obtainable by the party, based on the breadth of the request, is insufficient to enable it to admit or deny.

REQUEST FOR ADMISSION NO. 5:

At the domain www.trafficjamevents.com, Respondents advertise that they offer automotive dealerships “industry-leading direct-response mail and staffed-event campaigns for dealerships across the U.S.A.”

ANSWER TO REQUEST FOR ADMISSION NO. 5:

DENIED as to Individual Respondent; ADMITTED as to Respondent Traffic Jam.

REQUEST FOR ADMISSION NO. 6:

Respondents have generated advertisements on behalf of and at the request of and for the benefit of automotive dealerships located in multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

ANSWER TO REQUEST FOR ADMISSION NO. 6:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not

limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, and with the qualification agreed by counsel for FTC, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is, for the past 6 years (July 2015 to July 2021) ADMITTED as to Alabama, Florida, Louisiana, New Hampshire, Tennessee, Texas, and Washington, and DENIED as to Indiana and Kansas.

REQUEST FOR ADMISSION NO. 7:

In the course of generating advertisements to promote automotive sales, Respondents have employed the services of printers located in California, Florida and Virginia.

ANSWER TO REQUEST FOR ADMISSION NO. 7:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, and with the qualification agreed by counsel for FTC, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is, for the past 6 years (July 2015 to July 2021) ADMITTED as to California and Florida and DENIED as to

Virginia.

REQUEST FOR ADMISSION NO. 8:

Respondents cause or have caused advertisements that they have created on behalf of automotive dealerships to promote automotive sales to be distributed through the United States Postal Service to residents of multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

ANSWER TO REQUEST FOR ADMISSION NO. 8:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED. No advertisements created by Respondent Traffic Jam were ever distributed on behalf of Traffic Jam; rather, they were distributed, as noted in the Request, on behalf of the automotive dealerships as advertisements for the identified dealerships. Respondent Traffic Jam does not advertise for or on behalf of itself, and therefore engages in no “commerce” as that term is defined in 15 USC 44.

And further subject to these objections, it is the actual dealers – on whose behalf the advertisements are created by Traffic Jam – who cause or have caused the advertisements to be distributed in the U.S. Mail.

REQUEST FOR ADMISSION NO. 9:

Respondents were responsible for generating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

ANSWER TO REQUEST FOR ADMISSION NO. 9:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 10:

David Jeansonne directly participated in creating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

ANSWER TO REQUEST FOR ADMISSION NO. 10:

Respondents object to this Request as the term “directly participated” is not defined and is subject to a variety of possible meanings. Subject to proper clarification, Respondents will respond accordingly.

REQUEST FOR ADMISSION NO. 11:

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action were mailed to residents through the United States Postal Service.

ANSWER TO REQUEST FOR ADMISSION NO. 11:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 12:

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action promoted automotive

sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

ANSWER TO REQUEST FOR ADMISSION NO. 12:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 13:

Respondents have generated advertisements to promote automotive sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.1

ANSWER TO REQUEST FOR ADMISSION NO. 13:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 14:

Respondents have generated advertisements to promote credit offers that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.1

ANSWER TO REQUEST FOR ADMISSION NO. 14:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 15:

The Florida Stimulus Mailer was sent to residents in Florida in March 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 15:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

REQUEST FOR ADMISSION NO. 16:

The Florida Stimulus Mailer promoted an automotive sales event in Bushnell, Florida from March 27, 2020 to April 5, 2020, for or on behalf of New Wave Auto Sales.

ANSWER TO REQUEST FOR ADMISSION NO. 16:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

REQUEST FOR ADMISSION NO. 17:

Respondents mailed or caused to be mailed approximately 35,000 pieces of the Florida Stimulus Mailer were distributed.

ANSWER TO REQUEST FOR ADMISSION NO. 17:

This Request is confusing and appears to contain an error. Subject to further clarification,

Respondents will provide a response.

Subject to these objections, and with the qualification agreed by counsel for FTC placing a period after “Mailer,” this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED.

REQUEST FOR ADMISSION NO. 18:

The Alabama Stimulus Mailer was sent to residents in Alabama in early April 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 18:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

REQUEST FOR ADMISSION NO. 19:

The Alabama Stimulus Mailer promoted an automotive sales event in Dothan, Alabama for or on behalf of Dothan Chrysler Dodge Jeep Ram FIAT.

ANSWER TO REQUEST FOR ADMISSION NO. 19:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

REQUEST FOR ADMISSION NO. 20:

Respondents mailed or caused to be mail approximately 10,000 pieces of the Alabama Stimulus Mailer were distributed.

ANSWER TO REQUEST FOR ADMISSION NO. 20:

This Request is confusing and appears to contain an error. Subject to further clarification, Respondents will provide a response.

Subject to these objections, and with the qualification agreed by counsel for FTC placing a period after “Mailer,” this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED.

REQUEST FOR ADMISSION NO. 21:

Respondents were responsible for generating the Alabama Stimulus Mailer.

ANSWER TO REQUEST FOR ADMISSION NO. 21:

ADMITTED that Traffic Jam generated the mailer; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 22:

The Florida Stimulus Mailer includes a watermark that resembles the image of the eagle that appears on the Great Seal of the United States.

ANSWER TO REQUEST FOR ADMISSION NO. 22:

DENIED. The watermark is clearly not the Great Seal of the United States to any reasonable person who knows what the Great Seal of the United States is; moreover, an image resembling an eagle is not an image that can only resemble the Great Seal.

REQUEST FOR ADMISSION NO. 23:

The Florida Stimulus Mailer includes an image of a check from the “STIMULUS RELIEF PROGRAM.”

ANSWER TO REQUEST FOR ADMISSION NO. 23:

DENIED. The “check” contains a clear and conspicuous notice that it is, in fact, not a check, and contains other obvious signs to any reasonable consumer that it is not, in fact, a “check”, including but not limited to not containing the name of a bank or financial institution, not having an account or routing number, not having a payee, and not having a written amount. To any reasonable consumer, there was no “check” contained in the Mailer; rather, it was clearly

part of an advertisement.

REQUEST FOR ADMISSION NO. 24:

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, an entity or program named “STIMULUS RELIEF PROGRAM.”

ANSWER TO REQUEST FOR ADMISSION NO. 24:

Respondents cannot admit nor deny this Request, and therefore object. The automotive dealer was, in fact, running its own “stimulus relief program.” Given that this Mailer was sent prior to any official government stimulus program, and that the U.S. Government does not have a patent on or other exclusive right to the use of the word “stimulus,” this fact has no relevance to the claims at issue, unless the FTC takes the position, which it seems to assert, that only the U.S. Government may organize and use the term “stimulus relief program.”

Subject to these objections, the request is DENIED.

REQUEST FOR ADMISSION NO. 25:

Respondents designed the Florida Stimulus Mailer to give the impression that the mailing was affiliated or otherwise associated with, or approved by, the government.

ANSWER TO REQUEST FOR ADMISSION NO. 25:

DENIED. There is no impressions from the Mailer, taken as a whole, was affiliated or otherwise associated with, or approved by, the government.

REQUEST FOR ADMISSION NO. 26:

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, the government.

ANSWER TO REQUEST FOR ADMISSION NO. 26:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED as the Mailer creates no such impression, especially given the fact that as was widely reported, there was no government program regarding “stimulus” in effect at the time.

Subject to these objections, the U.S. Government did not authorize, approve nor supervise the Florida Stimulus Mailer automotive sale, and no reasonable consumer would have formed that opinion from any mailer that is the subject of this action.

REQUEST FOR ADMISSION NO. 27:

The Madison Tent Event Prize Notification Mailer was sent to residents in Alabama in May 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 27:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

REQUEST FOR ADMISSION NO. 28:

The Madison Tent Event Prize Notification Mailer promoted an automotive sales event in Madison, Alabama from May 28 to June 3, 2020, on behalf of Landers McLarty Nissan.

ANSWER TO REQUEST FOR ADMISSION NO. 28:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that*

this request can be construed to mean that Individual Respondent committed this act.

REQUEST FOR ADMISSION NO. 29:

Respondents selected the code that appears on the Madison Tent Event Prize Notification Mailer under the heading “OFFICIAL WINNING CODE” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

ANSWER TO REQUEST FOR ADMISSION NO. 29:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 30:

Respondents selected the code that appears on the Madison Tent Event Prize Notification Mailer in the black box with the title “COMBINATION BOX” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

ANSWER TO REQUEST FOR ADMISSION NO. 30:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

REQUEST FOR ADMISSION NO. 31:

In 2020 and 2021, Respondents created and disseminated advertisements to aid, promote, or assist closed-end credit transactions subject to the TILA and 15 U.S.C. § 1664 (TILA § 144), as amended.

ANSWER TO REQUEST FOR ADMISSION NO. 31:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. ~~Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent.~~ Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED in part regarding the creation of the advertisements – at the request of and approval by the dealers and who also “create” the ads, and DENIED as to “disseminated” as it is the actual dealers who “disseminate” the advertisements. Moreover, Respondents deny that Regulation Z applies to Respondents pursuant to 12 CFR § 1026.1(c).

REQUEST FOR ADMISSION NO. 32:

In 2020 and 2021, Respondents created and disseminated advertisements for close-end credit that stated the amount of a down payment for purchase of an automobile on credit but did not conspicuously state all of the following terms: the terms of repayment, and the “annual percentage rate” using that term.

ANSWER TO REQUEST FOR ADMISSION NO. 32:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED in part regarding the creation of the advertisements – at the request of and approval by the dealers and who also “create” the ads, and DENIED as to “disseminated” as it is the actual dealers who “disseminate” the advertisements. Moreover, Respondents deny that Regulation Z applies to Respondents pursuant to 12 CFR § 1026.1(c).

July 8, 2021

Respectfully submitted,

/s/ L. Etienne Balart

L. ETIENNE BALART (La. #24951)
 TAYLOR K. WIMBERLY (La. #38942)
 Jones Walker LLP
 201 St. Charles Avenue – 48th Floor
 New Orleans, LA 70170
 Telephone: (504) 582-8584
 Facsimile: (504) 589-8584
 Email: ebalart@joneswalker.com
 twimberly@joneswalker.com

***Counsel for Respondents, Traffic Jam Events,
 LLC and David J. Jeansonne II***

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Thomas J. Widor
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Mailstop CC-10232
Washington, DC 20506
twidor@ftc.gov
sshahrabi@ftc.gov

Complainant Counsel

July 8, 2021

/s/ L. Etienne Balart
L. ETIENNE BALART

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

DOCKET NO. 9395

TRAFFIC JAM EVENTS, LLC, a limited liability company

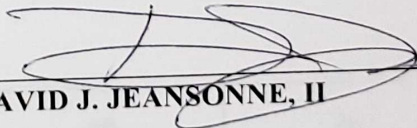
and

DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.

DECLARATION OF DAVID J. JEANSONNE, II UNDER 28 USC § 1746

1. My name is David J. Jeansonne, II. I am over the age of 21, and I am competent and capable of making this Declaration. I have personal knowledge of the facts and statements contained herein, and each of them is true and correct to the best of my knowledge, information, and belief.
2. I am the President of Traffic Jam Events, LLC.
3. I offer this Declaration on behalf of Traffic Jam Events, LLC, and as an individual.
4. I have reviewed Respondents' Amended Responses to Complaint Counsel's First Set of Requests for Admissions dated June 23, 2021, and hereby verify that they are true and correct to the best of my knowledge and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of July, 2021.



DAVID J. JEANSONNE, II

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**TRAFFIC JAM EVENTS, LLC, a limited
liability company**

and

**DAVID J. JEANSONNE II, individually and as
an officer of TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

**RESPONDENTS' RESPONSES TO SECOND SET
OF REQUESTS FOR ADMISSIONS**

NOW INTO COURT, through undersigned counsel, come Traffic Jam Events, LLC (“Traffic Jam”) and David J. Jeansonne II (collectively, “Respondents”), who respond to the Second Set of Requests for Admissions of the Federal Trade Commission as follows:

General Objections

Respondent Traffic Jam generally objects to these Requests to the extent that Complainant seeks information from Traffic Jam concerning the business activities of another company, and further seeks information answers to questions involving the operations of that company with entities other than Traffic Jam. The responses herein, to the extent they relate to Platinum Plus, are not given on behalf of Traffic Jam nor are they given by Individual Respondent in his capacity as an officer of Traffic Jam.

Respondents jointly object to these Requests to the extent that they seek conclusions of law rather than fact.

Respondents also object to the extent that words like “created,” generated,” disseminated” and similar descriptors used by counsel ignore that for all of the advertisements at issue, the

information and data placed in the ads is provided, generated, created and disseminated *by the dealers that hire Traffic Jam for advertising services*. Traffic Jam Events LLC is not a licensed car dealer and does not sell cars.

REQUEST FOR ADMISSION NO. 33:

Respondent David Jeansonne is the owner of Platinum Plus Printing, LLC, a Minnesota limited liability company with its principal place of business at 701 6th Street, NW, Maple Lake, MN 55358.

ANSWER TO REQUEST FOR ADMISSION NO. 33:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 34:

Platinum Plus Printing, LLC, has purchased services to print advertisements designed by Respondent Traffic Jam Events, LLC, on behalf of, at the request of, and for the benefit of automotive dealerships.

ANSWER TO REQUEST FOR ADMISSION NO. 34:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 35:

Since 2013, under United States Patent and Trademark Office Registration No. 4,373,483, Platinum Plus Printing, LLC, has been the registered owner of the service mark, “COMBINATION BOX” for use in commerce to identify digital electronic display devices for promotional advertisement, namely for contests, sweepstakes and lotteries.

ANSWER TO REQUEST FOR ADMISSION NO. 35:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Accordingly, Respondents object to this Request.

REQUEST FOR ADMISSION NO. 36:

Respondent Traffic Jam Events, LLC has created and disseminated print advertisements that use the text “COMBINATION BOX” to describe digital electronic display devices used in contests and sweepstakes.

ANSWER TO REQUEST FOR ADMISSION NO. 36:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED. Any advertisements are

disseminated by the automotive dealers identified in the advertisement.

REQUEST FOR ADMISSION NO. 37:

In 2020 and 2021, Respondent Traffic Jam Events, LLC, created and disseminated advertisements that contained statements that describe monthly payment amounts or the amount of down payment for the purchase of automobiles on credit.

ANSWER TO REQUEST FOR ADMISSION NO. 37:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action. Traffic Jam further objects to the word “create” as being undefined and subject to multiple interpretations. The advertisements are actually “created” by the dealers – who specify what content they want – and simply “produced” by Traffic Jam.

Subject to these objections, the Request is DENIED insofar as the request states that Traffic Jam disseminated anything. Any and all advertisements are disseminated by the automotive dealers identified in the advertisement. Traffic Jam admits that it created advertisements, as described, on behalf, and at the direction and input of, automotive dealers.

REQUEST FOR ADMISSION NO. 38:

In 2020 and 2021, Respondent Traffic Jam Events, LLC, created and disseminated advertisements that contained statements that describe an APR or “annual percentage rate” offered to consumers for automotive financing.

ANSWER TO REQUEST FOR ADMISSION NO. 38:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action. The advertisements are actually “created” by the dealers – who specify what content they want – and simply “produced” by Traffic Jam.

Subject to these objections, the Request is DENIED insofar as the request states that Traffic Jam disseminated anything. Any and all advertisements are disseminated by the automotive dealers identified in the advertisement. Traffic Jam admits that it created advertisements, as described, on behalf, and at the direction and input of, automotive dealers.

REQUEST FOR ADMISSION NO. 39:

Respondent Traffic Jam Events, LLC did not review advertisements that Respondent Traffic Jam Events, LLC created and disseminated that describe monthly payment amounts, down payments or an APR for compliance with 16 C.F.R. § 226.24.

ANSWER TO REQUEST FOR ADMISSION NO. 39:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome. Further, the Request does not identify

what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED as it implies that Traffic Jam had a legal duty to do so. As more fully described in the deposition of Mr. Jeansonne, the automotive dealerships on whose behalf the advertisements are created and made, and who give the data used in the advertisements, are responsible to review for compliance.

REQUEST FOR ADMISSION NO. 40:

On all of the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code “74937” appeared under the heading “OFFICIAL WINNING CODE.”

ANSWER TO REQUEST FOR ADMISSION NO. 40:

DENIED.

REQUEST FOR ADMISSION NO. 41:

On all the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code “74937” was displayed in the accompanying black box with the title “COMBINATION BOX.”

ANSWER TO REQUEST FOR ADMISSION NO. 41:

DENIED.

REQUEST FOR ADMISSION NO. 42:

On all of the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code that appeared under the heading “OFFICIAL WINNING CODE” matched the code displayed in the accompanying black box with the title “COMBINATION BOX.”

ANSWER TO REQUEST FOR ADMISSION NO. 42:

DENIED.

REQUEST FOR ADMISSION NO. 43:

At the Madison Tent Event, the number used to determine what prize a recipient of the Madison Tent Event Prize Notification Mailer could claim was not the code that appeared under the heading “OFFICIAL WINNING CODE” or the code displayed in the accompanying black box with the title “COMBINATION BOX.”

ANSWER TO REQUEST FOR ADMISSION NO. 43:

This Request is confusing and appears to contain an error preventing Respondents from understanding what is being requested. Subject to further clarification, Respondents will provide a response.

REQUEST FOR ADMISSION NO. 44:

At the Madison Tent Event, the number used to determine what prize a recipient of the Madison Tent Event Prize Notification Mailer could claim was printed at the bottom of the first page of the advertisement, where the characters “<PRIZEBOARD NUMBER>” appear on Exhibit C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II.

ANSWER TO REQUEST FOR ADMISSION NO. 44:

This Request is confusing and appears to contain an error preventing Respondents from understanding what is being requested. Subject to further clarification, Respondents will provide a response.

REQUEST FOR ADMISSION NO. 45:

At the Madison Tent Event, recipients of the Madison Tent Event Prize Notification Mailer on which the code “74937” appeared under the heading “OFFICIAL WINNING CODE” were not entitled to claim a cash prize of \$2,500.

ANSWER TO REQUEST FOR ADMISSION NO. 45:

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request.

To the extent a response is required, it is DENIED as a recipient was entitled to claim a cash prize of \$2500.

REQUEST FOR ADMISSION NO. 46:

On all of the **Attachment 1** advertisements sent to residents in Texas, the code “74937” appeared adjacent to the words “PEEL HERE.”

ANSWER TO REQUEST FOR ADMISSION NO. 46:

DENIED.

REQUEST FOR ADMISSION NO. 47:

On all of the **Attachment 1** advertisements sent to residents of Texas, the code that appeared adjacent to the words “PEEL HERE” matched the code displayed in the “COMBINATION BOX” affixed to the advertisement.

ANSWER TO REQUEST FOR ADMISSION NO. 47:

DENIED.

REQUEST FOR ADMISSION NO. 48:

At the event described in **Attachment 1**, the number used to determine what prize a recipient of **Attachment 1** could claim appeared at the bottom of the first page of the advertisement under the barcode, to the right of the text “WINNING NUMBER.”

ANSWER TO REQUEST FOR ADMISSION NO. 48:

DENIED.

REQUEST FOR ADMISSION NO. 49:

At the event described in **Attachment 1**, recipients of **Attachment 1** on which the code “74937” appeared adjacent to the words “PEEL HERE” and in the “COMBINATION BOX” affixed to the advertisement were not entitled to claim a cash prize of \$2,500.

ANSWER TO REQUEST FOR ADMISSION NO. 49:

DENIED, as a recipient was entitled to claim a cash prize of \$2500.

REQUEST FOR ADMISSION NO. 50:

The image below is the Great Seal of the United States.



ANSWER TO REQUEST FOR ADMISSION NO. 50:

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Respondents do not have personal information as to what the Great Seal of the United States is, but are happy to stipulate to what it is.

REQUEST FOR ADMISSION NO. 51:

Attachment 1 is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Houston, Texas from September 24, 2020, through September 30, 2020, for or on behalf of Tom Peacock Nissan.

ANSWER TO REQUEST FOR ADMISSION NO. 51:

DENIED. The advertisement was for an event in 2019.

REQUEST FOR ADMISSION NO. 52:

Attachment 1 was sent to residents in Texas in September 2020, with names and zipcodes of each resident inserted in place the name and zipcode on **Attachment 1**.

ANSWER TO REQUEST FOR ADMISSION NO. 52:

DENIED. The advertisement was for an event in 2019.

REQUEST FOR ADMISSION NO. 53:

Attachment 2 is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Houston, Texas from June 16, 2020, to June 20, 2020, for or on behalf of South Houston Nissan.

ANSWER TO REQUEST FOR ADMISSION NO. 53:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 54:

Attachment 2 was sent to residents in Texas in June 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 54:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 55:

Attachment 3 is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive financing offer available through April 30, 2020, for or on behalf of Enterprise Chevrolet in Enterprise, Alabama.

ANSWER TO REQUEST FOR ADMISSION NO. 55:

ADMITTED as to Traffic Jam, but DENIED to the extent that the request suggests or implies that the offer was generated by Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 56:

Attachment 3 was sent to residents in Alabama in April 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 56:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 57:

Attachment 4 is a copy of an advertisement generated by Traffic Jam Events LLC to promote an automotive sales event in Middleburg, Florida from April 4, 2020, to April 12, 2020, for or on behalf of New Wave Auto.

ANSWER TO REQUEST FOR ADMISSION NO. 57:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 58:

Attachment 5 is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in West Palm Beach, Florida from March 23, 2020, to March 29, 2020, for or on behalf of New Wave Auto.

ANSWER TO REQUEST FOR ADMISSION NO. 58:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 59:

Attachment 5 was sent to residents in Florida in March 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 59:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

REQUEST FOR ADMISSION NO. 60:

Attachment 6 is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Hobe Sound, Florida from March 10, 2020, to March 15, 2020, for or on behalf of Treasure Coast Indian Motorcycle.

ANSWER TO REQUEST FOR ADMISSION NO. 60:

DENIED, as the ad in question was generated for and on behalf of MK Automotive, Inc. d/b/a New Wave Auto Sales (“New Wave”). Traffic Jam Events LLC is not a licensed car dealer and does not sell cars

REQUEST FOR ADMISSION NO. 61:

Attachment 6 was sent to residents in Florida in February and March 2020.

ANSWER TO REQUEST FOR ADMISSION NO. 61:

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

July 6, 2021

Respectfully submitted,

/s/ L. Etienne Balart

L. ETIENNE BALART (La. #24951)
TAYLOR K. WIMBERLY (La. #38942)
Jones Walker LLP
201 St. Charles Avenue – 48th Floor
New Orleans, LA 70170
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Facsimile: (504) 589-8584
Email: ebalart@joneswalker.com
twimberly@joneswalker.com

***Counsel for Respondents, Traffic Jam Events,
LLC and David J. Jeanson II***

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Thomas J. Widor
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Mailstop CC-10232
Washington, DC 20506
twidor@ftc.gov
sshahrabi@ftc.gov

Complainant Counsel

July 6, 2021

/s/ L. Etienne Balart
L. ETIENNE BALART

Sent from my iPhone

Begin forwarded message:

From: "Brickman, Jennifer" <JBrickman@joneswalker.com>
Date: June 21, 2021 at 2:56:51 PM CDT
To: "Balart, Etienne" <ebalart@joneswalker.com>
Subject: VERIFICATION - For Review

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

TRAFFIC JAM EVENTS, LLC, a limited liability company

and

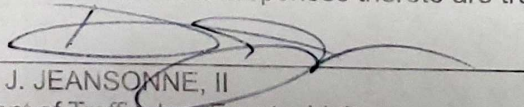
DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.

DOCKET No. 9395

verification of david j. jeansonne

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public in and for the Parish and State mentioned above, personally came and appeared DAVID J. JEANSONNE, II individually and as President of TRAFFIC JAM EVENTS, LLC, who declares that he has read the Request for Admissions propounded by FEDERAL TRADE COMMISSION, and that all of the answers contained in the responses thereto are true and correct to the best of his knowledge, information, and belief.



DAVID J. JEANSONNE, II
President of Traffic Jam Events, LLC

Brickman, Jennifer

From: Balart, Etienne
Sent: Thursday, July 22, 2021 11:44 AM
To: Brickman, Jennifer
Subject: FW: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery
Attachments: 121620 Order Granting Complaint Counsel's Motion to Compel Production of Documents and Answers to Interrogatories.pdf; CC's First Set of Requests for Interrogatories to Traffic Jam Events, LLC.pdf; CC's First Set of Requests for Production to Traffic Jam Events, LLC.pdf

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Balart, Etienne
Sent: Tuesday, July 13, 2021 8:20 AM
To: 'Tankersley, Michael' <MTANKERSLEY@ftc.gov>
Cc: Widor, Thomas <twidor@ftc.gov>; David Jeansonne <david@trafficjamevents.com>
Subject: FW: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery

Michael – please note the below offer from Tom. As requested, we stand ready to provide you the information on how to access the ESI, provided you either (1) agree to my request to exclude certain search terms that would produce privileged material; or (2) allow Respondents a set period of time to review the ESI results for privileged/protected material.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Widor, Thomas <twidor@ftc.gov>
Sent: Thursday, May 27, 2021 8:12 AM
To: David Jeansonne <david@trafficjamevents.com>; Balart, Etienne <ebalart@joneswalker.com>
Cc: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Subject: [EXTERNAL] FW: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery

David, as we discussed yesterday, I'm resending the interrogatory requests that require a response. The attachments also include the court order and our requests for production.

Please let us know when we can set up a time to discuss ESI access with Justin, or, if it is easier, you can provide the information on how to access ESI in a reply.

Tom

From: Widor, Thomas
Sent: Thursday, May 6, 2021 3:24 PM
To: David Jeansonne <david@trafficjamevents.com>; Jim Whelan <jimw@trafficjamevents.com>; Justin Brophy <justinb@trafficjamevents.com>
Cc: Shahrabi, Sanya <sshahrabi@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>
Subject: FW: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery

Per David's request, I'm forwarding this email from earlier today.

Tom W.

From: Widor, Thomas
Sent: Thursday, May 6, 2021 9:17 AM
To: David Jeansonne <david@trafficjamevents.com>
Cc: Shahrabi, Sanya <sshahrabi@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>
Subject: FW: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery

David,

I'm forwarding our prior discussion about the discovery responses from December. I've also attached our discovery requests and Judge Chappell's order requiring production by December 23. When we received the signed proposed consent order that day, we agreed that Respondents would not have to provide the responses that day in case the order would resolve the proceedings. Now that we are back in adjudication, we will need Respondents to comply with the order and request production by next Wednesday, May 12.

We can discuss this on the 10am CST time call.

We will also need to discuss deposition dates but can wait for the court's scheduling order to set those. For now, would you confirm whether Mariela Everst is still employed with Traffic Jam Events?

Tom W.

From: Shahrabi, Sanya <sshahrabi@ftc.gov>
Sent: Tuesday, December 22, 2020 6:08 PM
To: David Jeansonne <david@trafficjamevents.com>
Cc: Widor, Thomas <twidor@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>
Subject: In the Matter of Traffic Jam Events, LLC, Do. 9395-- Outstanding Discovery

David,

We wanted to follow-up on outstanding discovery. Per Judge Chappell's Order issued on December 16th, Respondent's responses to the requests for production and the interrogatories are due tomorrow. Please note, per the Order, the relevant time period covered by the discovery requests is January 1, 2015 to the present. Electronically stored documents, including e-mail, are required to be produced in their existing, native formats. Please also note that pursuant to the Order you are also required to produce text messages, voicemails, and any other forms of instant messaging or communications, including IM, Jabber, or Slack. Eleni, our paralegal, is copied on this email and she can provide you a File Transfer Link where you can upload the documents by tomorrow.

We also are awaiting your response to my email from yesterday confirming the proposed deposition schedule. If any of the proposed deponents are no longer with the company, please provide us with any contact information so we can issue third-party subpoenas. We also need to know your position on conducting these depositions remotely.

Apart from deposing you and your employees, we also need to discuss the issuance of third-party depositions. We intend to issue subpoena depositions to some of the printers and dealerships. Please let us know your availability to discuss by tomorrow before we send the proposed time and place for the depositions.

Lastly, the expert witness list was due on December 1, 2020 and therefore assume Respondents do not intend to produce any such witness.

Best Regards,
Sanya S.

Sanya Shahrabi
Attorney
Federal Trade Commission-Division of Financial Practices
600 Pennsylvania Ave NW, CC-10218
Washington, D.C. 20580
(202) 326-2709

Brickman, Jennifer

From: Balart, Etienne
Sent: Wednesday, July 7, 2021 2:27 PM
To: 'Tankersley, Michael'
Cc: Wimberly, Taylor; Widor, Thomas; Broadwell, Eleni; Brickman, Jennifer; David Jeansonne; Shahrabi, Sanya
Subject: RE: Traffic Jam Events-- Subpoenas Ad Testificandum
Categories: Saved to Worldox

Michael – we can attend to this after the deposition tomorrow. Please note that in his deposition, David gave last known numbers for all of those employees. I don't have the transcript in front of me, but let me know if I am wrong in that regard.

And to bring you up to speed, Tom had agreed to the production of the ESI and any paper files stored at Traffic jam to be collected by the FTC. I had asked Tom for a proposed protocol on who, when and how this was going to happen, as well as a proposal on how we could ensure privileged material is not accessed by the FTC. I never received a response other than the motion for sanctions. We can talk in more detail tomorrow, but I have been waiting on the proposed protocol to satisfy the FTC's discovery interests.

Etienne

L. Etienne Balart | Partner
 Jones Walker LLP
 D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Sent: Wednesday, July 7, 2021 10:13 AM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>
Subject: [EXTERNAL] RE: Traffic Jam Events-- Subpoenas Ad Testificandum

Etienne:

We have not received the last known addresses for former employees. In particular, Mr. Jeansonne indicated he had current address information for Justin Brophy, Chad Bullock, Jim Whelan, and Mariela Everst. These addresses have not been provided to us.

I am available to confer this afternoon regarding production of the material covered by the Court's July 29 order. Let me know when you are available. We would like to know when we can expect production of these materials and avoid last-minute disputes over the production. We are awaiting:

- Complete and responsive answers to Complaint Counsel's First Set of Interrogatories
- Material responsive to Complaint Counsel's Requests for Production of Documents, including, without limitation:
 1. each unique Advertisement and Promotional Material;
 2. invoices;
 3. work orders;

4. documents sufficient to show the relationship between Respondent TJE and Platinum Plus Printing, including any agreements;
5. documents sufficient to show the relationship between Respondent TJE and the telephone numbers and websites listed on Respondents' Advertising;
6. data files showing mailing information relating to Respondents' Advertising;
7. sales logs and any other materials tracking leads or consumer responses to Respondents' Advertising through a customer relationship management database or otherwise;
8. email, text messages, and any other communications to, from, or copying
 - David J. Jeansonne II,
 - Justin Brophy,
 - Chad Bullock,
 - Jim Whelan,
 - William Lilley, and
 - Mariela Everst
 relating to Respondents' Advertising;
9. business plans, proposals, financial analyses, market or sales strategies, sales projections, sales pitches or prospectuses, or return on investment analyses relating to Respondents' Advertising
10. all complaints relating to Respondents' Advertising;
11. all documents relating to the FTC or compliance with consumer protection laws;
12. all documents relating to the Florida, Kansas, and Indiana investigations and lawsuits; and
13. documents sufficient to show all persons having any responsibilities for or on Respondents' behalf for any Advertising.

For all of these categories we have received either no production or a limited production that does not cover the relevant period.

With regard to Emilie Saunders, as you know, she was a paralegal specialist and is no longer with the Commission. The facts covered by her declaration are not contested. She will not be a witness for the Commission in this proceeding. Her knowledge of the Traffic Jam investigation is covered by work product protection. If you intend to notice her deposition, we ask that you identify what testimony within the scope of discovery she would be able to give that is not protected by the work product doctrine or applicable privileges.

Michael Tankersley
 Federal Trade Commission
 Bureau of Consumer Protection
 600 Pennsylvania Ave., NW
 CC-10232
 Washington, DC 20580
 (202) 326-2991

-----Original Message-----

From: Balart, Etienne <ebalart@joneswalker.com>

Sent: Tuesday, July 6, 2021 9:34 PM

To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>

Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>

Subject: RE: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum

Sanya --

I never heard back from you, Tom or Michael concerning a call to discuss production of ESI and any outstanding information that you do not have. I believe you have all last known contact information of all former THE employees. We still do not have the address for Emilie Saunders per my prior request.

Please send me the email address of Will Lilley's counsel, as there are documents I intend to send to them prior to the deposition.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

-----Original Message-----

From: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Sent: Tuesday, July 6, 2021 11:55 AM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>
Subject: RE: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum

Etienne,

As we told you last week, Respondents haven't followed the proper procedure under the Rules to request these depositions. As Complaint Counsel, we are not aware of any order from the court requiring the presence of the Commissioners for a deposition today.

Sanya

Sanya Shahrasbi
Attorney
Federal Trade Commission-Division of Financial Practices
600 Pennsylvania Ave NW, CC-10218
Washington, D.C. 20580
(202) 326-2709

-----Original Message-----

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Tuesday, July 6, 2021 6:51 AM
To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>
Subject: RE: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum

Sanya --

We just completed the process verbal for the deposition of Commissioner Simons. So that we can avoid the expense of getting back on Zoom and taking individual process verbal for the duly noticed depositions, can you please confirm that the FTC is not producing any witnesses today. Thank you,

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

-----Original Message-----

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Friday, July 2, 2021 12:10 PM
To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>
Subject: Re: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum

We plan on taking a proces verbal on Tuesday as we don't agree that a subpoena is required. It was your obligation to file a Motion to Quash if you get that the deposition was not appropriate as a matter of factual inquiry. Happy to confer regarding ESI production on the 6th, time permitting.

Etienne

Sent from my iPhone

> On Jul 2, 2021, at 10:59 AM, Shahrasbi, Sanya <sshahrasbi@ftc.gov> wrote:
>
> Etienne,
>
> Please find attached a Subpoena to Testify at a Deposition sent to William Lilley today for July 8th, at 9am ET. We are open to rescheduling to accommodate your schedule if Mr. Lilley is available, but we are not able to forego scheduling depositions during the remaining days scheduled for discovery to accommodate your involvement in another matter.
>
> In reference to the Commissioner depositions, the rule does not contain the exception you describe. We have explained that deposing the Commissioners is not appropriate in this action, but if Respondents intend to seek such depositions they must comply with the Administrative Rules (See Emails dated June 21, June 8, June 7).
>
> Lastly, please let us know if you are available on July 6th to confer regarding production of the materials covered by the Court's June 29 order.
>
> Sanya
>
> Sanya Shahrasbi
> Attorney
> Federal Trade Commission-Division of Financial Practices
> 600 Pennsylvania Ave NW, CC-10218
> Washington, D.C. 20580
> (202) 326-2709
>
> -----Original Message-----
> From: Balart, Etienne <ebalart@joneswalker.com>
> Sent: Thursday, July 1, 2021 3:24 PM

> To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
> Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>
> Subject: Re: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum
>
> Sanya, as I read 3.36, the subpoena requirement applies to Commissioners and employees not involved in the case. Do you have cases to support Complaint Counsel's current interpretation, as well as an explanation of why this is being raised at the last minute as opposed to when we discussed the depositions. Without ceding applicability of 3.36, which we contest, please send the addresses of the noticed Commissioners so we can be prepared to issue a subpoena if required.
>
> I am not available on the 8th, and will confer with David on how he would like to proceed.
>
> Etienne
>
> Sent from my iPhone
>
> On Jul 1, 2021, at 1:40 PM, Shahrasbi, Sanya <sshahrasbi@ftc.gov> wrote:
>
>
> Etienne and Taylor,
>
> Counsel for William Lilley has confirmed that he is available for deposition on July 8th at 9am EDT. We are planning to notice and subpoena him for that date and time and I am writing to consult on scheduling. The deposition will be conducted remotely using the same technology used for at David's deposition.
>
> Also, Rule 3.36 requires a motion to authorize a subpoena for the Commissioner depositions you have noticed for July 6. Because Respondents have not filed such a motion, those depositions cannot be authorized by July 6. As Complaint Counsel we are not planning on making an appearance and consider those dates open for scheduling other matters. Please let us know if you are available on that date to confer regarding production of the materials covered by the Court's June 29 order.
>
> Sanya
>
> Sanya Shahrasbi
> Attorney
> Federal Trade Commission-Division of Financial Practices
> 600 Pennsylvania Ave NW, CC-10218
> Washington, D.C. 20580
> (202) 326-2709
>
> <2021-7-2 Sealed Subpoena ad testificandum-William Lilley.pdf>

Brickman, Jennifer

From: Balart, Etienne
Sent: Monday, July 12, 2021 9:57 AM
To: 'Tankersley, Michael'
Cc: Wimberly, Taylor; Widor, Thomas; Brickman, Jennifer; David Jeansonne; Shahrasbi, Sanya
Subject: RE: Traffic Jam Events-- June 29 Order and Former Employee Addresses

Categories: Saved to Worldox

Michael,

We will get you full and complete Interrogatory responses, so you can dot that "i." I also confirm that by Tuesday, Complaint Counsel will produce, as responsive to our prior discovery requests, all information in the form of documents etc that it intends to prove its case. As we discussed, to date, Complaint Counsel has hidden behind a barrage of asserted privileges (deliberative process/law enforcement/work product etc) to not produce a single contemporaneous document that it had in its possession prior to the filing of the Complaint on Aug. 7 (other than what the Florida AG's office provided you). As I explained during our lengthy call, all Respondents are asking for is candor from Complaint Counsel as to how they intend to try this case. It is either (a) we don't need any consumer complaints and decided to do it ourselves as a political favor; or (b) we have hundreds of consumers who complained and that's why the acts are so deceptive. As you well know, this "administrative" record matters, and if it is path (a) that you intend to pursue, that is your prerogative, but we are entitled to know that.

As far as documents, I have to say that it appears that Mr. Widor is backtracking on his earlier agreement to access the ESI that Mr. Jeansonne identified, and that you intent to do the same. To state the obvious, right now Mr. Jeansonne has no employees and the business is shut down. We have identified for you the ESI in the form of the Mindset email server that is hosted by a third party. We are under no obligation to access and produce that material to you; rather, the Rules specifically contemplate that we can make the ESI available for your review and inspection (16 CFR 3.37(a)). I don't understand why you have cited to the Rules on a Motion to Compel, given that to respond to that motion we have offered you access to everything. You, or at least your co-counsel, has previously identified the email accounts you wish to access, and back on June 8th, so now more than 30 days have elapsed with nothing more than changing the terms by Complaint Counsel. You could have started the ESI collection process (which, pursuant to 3.37(a) we are not obliged to pay for) back then, if that is what you truly wanted to do.

So let me provide clarity: Respondents have identified, and previously disclosed to Complaint Counsel all email communications of the personnel identified by Complaint Counsel as responsive to the categories of documents ordered to be produced in the MTC. While we would typically agree to a defined set of keywords to identify responsive information, given the breadth of your requests, and the lack of employees at Traffic Jam, Respondents have decided to simply give you access to all ESI maintained on the server for the last six (6) years. That *may* include privileged information, so the only condition we have placed on this is that once the ESI is obtained, we be allowed a brief period of time to conduct a privilege review, which Complaint Counsel has refused. Alternatively, if you agree to exclude "Etienne", "Jones Walker", "joneswalker.com" or "attorney" from your search of the ESI, we can handle it that way.

As far as the Commissioners go, and last knowns, I need the addresses to prepare subpoenas for testimony at trial, so please send that to me and I will provide you with the last knowns. With respect to the paralegal, I was told earlier that I would have to coordinate her deposition, which is why I was provided a phone number that simply rings out. If you would like to produce her this week, let me know a time and date. I intend to ask her the simple questions of what *factual* information the FTC possessed to include in the Complaint, and the *source* of that *factual* information. Although I may be dense, I don't see how either of those lines of inquiry could possibly be "privileged," especially if the answer is "only the stuff that the Florida AG sent over to us" plus everything that Tom had me try to dig up between the time we

filed in EDLA (July 16) and the PI hearing. Of course, we would not ask for anything that Tom directed her to do, but are certainly entitled to know if she interviewed any consumers (which you indicated is discoverable in our call Friday) and/or obtained any documents.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Sent: Friday, July 9, 2021 4:22 PM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>
Subject: [EXTERNAL] Traffic Jam Events-- June 29 Order and Former Employee Addresses

Etienne,

To reiterate the discussion from our telephone call earlier, we have yet to receive proper responses to any of the Interrogatories covered by the Court's June 29 Order. The responses should answer each interrogatory separately and be signed under oath. 16 CFR § 3.35(a)(2).

With respect to the documents, we have not been provided with access to Respondents' ESI or responsive hard-copy material. Mr. Jeansonne provided the name of a vendor (Mindset) but no access. Respondents are responsible for identifying responsive materials and asserting privilege for withheld material. 16 C.F.R. § 3.38A. A partial list of the categories of documents the Court has ordered to be produced is set forth at pages 4-5 of the Court's December 16, 2020 order. We also would note that production is not limited to e-mail and should encompass any other sources where Respondents stored responsive material, such as material stored in Dropbox, the ACT database, text messages, and Mr. Jeansonne's yahoo account. Again, please provide us with details regarding the material Respondents have collected for production including what (if any) documents are not digital, the format and volume of the digital files, and the means by which Respondents will produce them.

We again request the addresses for the former Traffic Jam Events employees. The Court ordered Respondents to provide amended disclosures in October, and the Court's most recent order confirmed that Respondents have not fulfilled their duty to supplement their prior disclosures to provide updated contact information for TJE's former employees. Your request that we provide the addresses of Commissioners in exchange is not appropriate and certainly not a condition of the Court's order. Depositions of the Commissioners are governed by Rule 3.36; Respondents cannot satisfy the standard set forth in the Rule and have not even filed an application for such discovery.

With regard to our former paralegal, you can contact us if you intend to notice her deposition. As I stated earlier, we ask that you identify what testimony you seek through such a deposition that would be within the scope of discovery and not protected by the work product doctrine or applicable privileges. She will not be a witness for the Commission in this proceeding.

Michael Tankersley
Federal Trade Commission
Bureau of Consumer Protection
(202) 631-7091

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Friday, July 9, 2021 9:46 AM
To: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeanson <david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>
Subject: RE: Traffic Jam Events-- Subpoenas Ad Testificandum

Michael –

Let's discuss in more detail during our call. As for designation of ESI, I disagree. We had multiple conferences and emails with Mr. Widor and Ms. Shahrabi concerning what ESI existed – as you could likely imagine, it is email located on a server that we identified. Once that data is accumulated, we have the right to identify privileged information and designate it as such. So what I am asking for is a protocol of how your ESI vendor proposes to access the materials, how they propose to accumulate the material, and how, once it is accumulated, we are allowed a chance to review for privilege. What program/platform do they propose using to store the information (we use relativity, so I would prefer that, to speed things along), and, most importantly, what procedures are in place to make sure that Complaint Counsel does not have access to the information until after the review. These are details only Complaint Counsel can provide. For your reference, Mr. Widor sent the contours of a proposed protocol in the attached, but this needs to be updated to reflect the actual recovery of data. Respondents do not plan on sharing any of these costs, and we do not think there is any authority for such.

On the interrogatories, what specific interrogatories (that were not also already addressed in the deposition) does Complaint Counsel think are unanswered/outstanding?

I too have not been provided with addresses for the FTC former employees. I find it strange that the FTC does not have the wherewithal to locate the address of US citizens (even a private practitioner like myself can do that), but if you agree to produce Ms. Broadwell's last known address, as well as the addresses of the Commissioners as previously requested of Ms. Shahrabi, then we will reciprocate.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Sent: Thursday, July 8, 2021 5:00 PM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeanson <david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>
Subject: [EXTERNAL] RE: Traffic Jam Events-- Subpoenas Ad Testificandum

Etienne,

We have not been provided with the addresses for the former employees. David indicated during this deposition that he believed he had addresses, not just telephone numbers.

With regard to compliance with the discovery order, we have not received interrogatory responses. Nor have we received a description of documents Respondents are ready to produce. Respondents are responsible for identifying materials for which they claim privilege and which materials are responsive. ESI must be produced in native form or reasonably usable form that does not eliminate information or functionality. 16 C.F.R. § 3.37(c)(ii). Inadvertent disclosures are governed by Rule 3.31(g).

Please provide us with details regarding the material Respondents have collected for production including what (if any) documents are not digital, the format and volume of the digital files, and the means by which Respondents will produce them.

Michael Tankersley
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Ave., NW CC-10232
Washington, DC 20580
(202) 631-7091

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Wednesday, July 7, 2021 3:27 PM
To: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>
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Michael – we can attend to this after the deposition tomorrow. Please note that in his deposition, David gave last known numbers for all of those employees. I don't have the transcript in front of me, but let me know if I am wrong in that regard.

And to bring you up to speed, Tom had agreed to the production of the ESI and any paper files stored at Traffic jam to be collected by the FTC. I had asked Tom for a proposed protocol on who, when and how this was going to happen, as well as a proposal on how we could ensure privileged material is not accessed by the FTC. I never received a response other than the motion for sanctions. We can talk in more detail tomorrow, but I have been waiting on the proposed protocol to satisfy the FTC's discovery interests.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Sent: Wednesday, July 7, 2021 10:13 AM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne

<david@trafficjamevents.com>; Shahrabi, Sanya <sshahrabi@ftc.gov>

Subject: [EXTERNAL] RE: Traffic Jam Events-- Subpoenas Ad Testificandum

Etienne:

We have not received the last known addresses for former employees. In particular, Mr. Jeansonne indicated he had current address information for Justin Brophy, Chad Bullock, Jim Whelan, and Mariela Everst. These addresses have not been provided to us.

I am available to confer this afternoon regarding production of the material covered by the Court's July 29 order. Let me know when you are available. We would like to know when we can expect production of these materials and avoid last-minute disputes over the production. We are awaiting:

- Complete and responsive answers to Complaint Counsel's First Set of Interrogatories
- Material responsive to Complaint Counsel's Requests for Production of Documents, including, without limitation:
 1. each unique Advertisement and Promotional Material;
 2. invoices;
 3. work orders;
 4. documents sufficient to show the relationship between Respondent TJE and Platinum Plus Printing, including any agreements;
 5. documents sufficient to show the relationship between Respondent TJE and the telephone numbers and websites listed on Respondents' Advertising;
 6. data files showing mailing information relating to Respondents' Advertising;
 7. sales logs and any other materials tracking leads or consumer responses to Respondents' Advertising through a customer relationship management database or otherwise;
 8. email, text messages, and any other communications to, from, or copying
 - David J. Jeansonne II,
 - Justin Brophy,
 - Chad Bullock,
 - Jim Whelan,
 - William Lilley, and
 - Mariela Everst
 - relating to Respondents' Advertising;
 9. business plans, proposals, financial analyses, market or sales strategies, sales projections, sales pitches or prospectuses, or return on investment analyses relating to Respondents' Advertising
 10. all complaints relating to Respondents' Advertising;
 11. all documents relating to the FTC or compliance with consumer protection laws;
 12. all documents relating to the Florida, Kansas, and Indiana investigations and lawsuits; and
 13. documents sufficient to show all persons having any responsibilities for or on Respondents' behalf for any Advertising.

For all of these categories we have received either no production or a limited production that does not cover the relevant period.

With regard to Emilie Saunders, as you know, she was a paralegal specialist and is no longer with the Commission. The facts covered by her declaration are not contested. She will not be a witness for the Commission in this proceeding. Her knowledge of the Traffic Jam investigation is covered by work product protection. If you intend to notice her deposition, we ask that you identify what testimony within the scope of discovery she would be able to give that is not protected by the work product doctrine or applicable privileges.

Michael Tankersley
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Ave., NW

CC-10232

Washington, DC 20580

(202) 326-2991

-----Original Message-----

From: Balart, Etienne <ebalart@joneswalker.com>

Sent: Tuesday, July 6, 2021 9:34 PM

To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>

Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Widor, Thomas <twidor@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>; Brickman, Jennifer <jbrickman@joneswalker.com>;

David Jeansonne <david@trafficjamevents.com>

Subject: RE: [EXTERNAL] Traffic Jam Events-- Subpoenas Ad Testificandum

Sanya --

I never heard back from you, Tom or Michael concerning a call to discuss production of ESI and any outstanding information that you do not have. I believe you have all last known contact information of all former THE employees. We still do not have the address for Emilie Saunders per my prior request.

Please send me the email address of Will Lilley's counsel, as there are documents I intend to send to them prior to the deposition.

Etienne

L. Etienne Balart | Partner

Jones Walker LLP

D: 504.582.8584 | M: 504.756.2192

ebalart@joneswalker.com

Brickman, Jennifer

From: Balart, Etienne
Sent: Thursday, July 22, 2021 8:57 AM
To: Brickman, Jennifer
Subject: FW: 17841200 Traffic Jam | FTC - Notice of Deposition of Emilie Saunders

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Balart, Etienne
Sent: Thursday, July 15, 2021 10:55 AM
To: 'Tankersley, Michael' <MTANKERSLEY@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Borchgrevink, Jackie <jborchgrevink@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Widor, Thomas <twidor@ftc.gov>; Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Subject: RE: 17841200 Traffic Jam | FTC - Notice of Deposition of Emilie Saunders

Michael,

As our opposition will be brief and likely filed within an hour or two of your filing, I would like to try and keep the deposition set for tomorrow. Of course, that does not necessarily consider Judge Chappell's schedule, so if Judge Chappell would prefer that we hold the deposition in abeyance while a ruling is made, we are not going to object to that directive. Please let me know if this satisfies your inquiry.

On the extension for filing of witness and exhibit lists, Respondents will oppose any extension of the current deadlines. Recall that we previously requested a brief extension of discovery, which the FTC rejected. With the close of discovery tomorrow, the issues very well developed, and a late August schedule that is not conducive to pushing the various deadlines back so that everyone can be adequately prepared in advance of the upcoming hearing.

Please let me know if you wish to discuss further.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Tankersley, Michael <MTANKERSLEY@ftc.gov>
Sent: Thursday, July 15, 2021 9:54 AM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Borchgrevink, Jackie <jborchgrevink@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Widor, Thomas <twidor@ftc.gov>; Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Subject: [EXTERNAL] RE: 17841200 Traffic Jam | FTC - Notice of Deposition of Emilie Saunders

Etienne:

We plan to file a motion today to preclude this deposition because it is beyond the scope of discovery and the recollections of a former paralegal regarding litigation preparation are work product. Will you agree to defer the deposition to allow time for you to file an opposition and for the Court to rule on the motion? If the Court denies our motion, we will not raise the July 16 deadline as an obstacle to this deposition.

Separately, we plan to request a 10 day extension of the July 26 deadline in the Revised Scheduling Order for Complaint Counsel's final proposed witness and exhibit lists, so these materials would be due Friday, August 6. Please let us know Respondents' position on this request.

Michael Tankersley
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Ave., NW
CC-10232
Washington, DC 20580
(202) 326-2991

From: Brickman, Jennifer <jbrickman@joneswalker.com>
Sent: Wednesday, July 14, 2021 1:08 PM
To: Widor, Thomas <twidor@ftc.gov>; Shahrabi, Sanya <sshahrabi@ftc.gov>; Tankersley, Michael <MTANKERSLEY@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>
Cc: Balart, Etienne <ebalart@joneswalker.com>; Wimberly, Taylor <twimberly@joneswalker.com>; Borchgrevink, Jackie <jborchgrevink@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>
Subject: 17841200 Traffic Jam | FTC - Notice of Deposition of Emilie Saunders

Good afternoon All,

On behalf of Etienne Balart, please find attached Notice of Deposition scheduling **Emilie Saunders** for deposition on Friday, July 16, 2021 at 2:00 p.m. CST via ZOOM.

An email will follow, providing the Zoom information prior to the deposition.

Sincerely,

Jennifer Brickman
Legal Secretary to L. Etienne Balart and Christopher K. Ulfers
D: 504.582.8219
JBrickman@joneswalker.com



Jones Walker LLP
201 St. Charles Ave, Ste 5100
New Orleans, LA 70170
joneswalker.com



Brickman, Jennifer

From: Balart, Etienne
Sent: Thursday, July 22, 2021 9:00 AM
To: Brickman, Jennifer
Subject: FW: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

From: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Sent: Monday, June 21, 2021 7:21 PM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: RE: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Etienne,

We have discussed with management, and we cannot agree to extend the discovery cutoff for depositions until July 31. Respondents will need to seek any relief separately from the Court. As we previously said, we will check if any of the proposed deponents are available earlier.

We have not received, and do not have, contact information for Bullock, Whelan, Brophy, and Everst. Please provide their last known addresses, telephone numbers, and email addresses.

As to the proposed Commissioner depositions Respondents seek, your reading of the rules, and Rule 3.33 in particular, is off base. The rules specify the process for seeking such depositions. You have not invoked this process and the topics you identify are outside the scope of discovery.

Emilie Saunders is no longer with the FTC, and you will need to subpoena her if you pursue deposing her. Her deposition does not warrant extending discovery or your time and effort. We do not intend to use her testimony or rely on her declaration in this proceeding. Her declaration in case no. 2:20-cv-01740 was limited to introducing corporate records, David's city and state, law enforcement filings, and searches relating to the COVID-19 mailers. If you nonetheless wish to subpoena her to appear for deposition, we will need to confirm her contact information.

Lastly, Kathleen Nolan is available at 8:30 CT on June 25th. Please provide her notice of the deposition.

Sanya

Sanya Shahrasbi
Attorney
Federal Trade Commission-Division of Financial Practices
600 Pennsylvania Ave NW, CC-10218
Washington, D.C. 20580
(202) 326-2709

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Friday, June 18, 2021 11:41 AM
To: Shahrabi, Sanya <sshahrabi@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: RE: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Sanya --

I would propose a few things, including that we extend the discovery cutoff for depositions until July 31. I understand that you negotiated the Amended Scheduling order with David directly, but he was not represented at the time and certainly did not know my trial schedule. As much as Taylor and I would like to be in two places at once, that's just not going to be physically possible.

While we are attempting to be cooperative on discovery issues, I would like to understand Complaint Counsel's position regarding why we depositions of the FTC Commissioners who voted on the Complaint, as well as those that spoke with David about the allegations of the Complaint, are not proper under 16 CFR 3.33. As I have set out in prior emails, Respondents believe that each of these persons has information that "may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent." As far as an agreement to dates and locations for these depositions, I am not asking you or Tom to agree with me on this point, but simply refusing any cooperation on this issue does not seem to be within the Rules of practice or the spirit of good faith. A motion to quash the noticed depositions for the grounds that Tom cited earlier can only be filed after we get some dates and locations agreed to, and unless I am missing something seems like the correct way to handle this discovery dispute, as indicated by 16 CFR 3.33(b). As we intend on taking these depositions regarding their actions as Commissioners, and the FTC can only act through the Commission, I am not understanding how these depositions should not be initially arranged through your office, as counsel to the FTC. The persons below voted on the Complaint, and given the lack of evidence provided to Respondents in FTC's document responses, Respondents are entitled to information they relied upon to vote on the Complaint, as well as to ask questions concerning the evaluative standards employed by the FTC at the time the Complaint was voted on, as well as the circumstances concerning the dismissal of the federal court action. These questions, in addition to being probative as to the merits of the Complaint, also relate to Respondents defenses. We would like to depose the following:

COMMISSIONERS:	Joseph J. Simons, Chairman Noah Joshua Phillips Rohit Chopra Rebecca Kelly Slaughter Christine S. Wilson
-----------------------	--

I do not have the records of what conversations were had with what commissioners, but my client informs me that was arranged through you and Tom, and that you all participated in these calls. I request that Complainant identify these Commissioners (to the extent they vary from the above list) and that we schedule their depositions as well. To conclude, I understand a disagreement over relevance, but that does not mean a party (the FTC) can refuse to make its personnel available. Let's get the dates locked in and you all can file your motion under 3.33(b).

Also, we would like to schedule the deposition of Emilie Saunders regarding the Affidavit she submitted in case no. 2:20-cv-01740. We could probably do it the same day as Ms. Nolan. Can you advise ASAP on that. Can we start Nolan at 8:30 Central? Finally, my understanding is that David has provided last knowns, and that contact information for all of the ex-employees can be found in the voluminous documents that the FTC already has (emails, etc.). If you cannot locate that information in the document responses already received, please advise.

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com

-----Original Message-----

From: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Sent: Friday, June 18, 2021 12:02 PM
To: Balart, Etienne <ebalart@joneswalker.com>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: RE: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Etienne,

The parties agreed to this scheduling order in May. If you want to propose some relief from the court because of your scheduling conflicts, we are open to considering it. We also are willing to check if any of the proposed deponents are available the week of June 28, but we are not going to agree to effectively cut off discovery 2 weeks early. As you know, we are still seeking to depose Bullock, Whelan, Brophy, and Everst but have not received a reply from you or Respondents about their status or last knowns, which you had said on May 28 that you would provide.

Sanya

-----Original Message-----

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Thursday, June 17, 2021 5:15 PM
To: Shahrasbi, Sanya <sshahrasbi@ftc.gov>
Cc: Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; David Jeansonne <david@trafficjamevents.com>; Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: Re: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Sanya, these depositions could have been done in May, or June. You happened to pick the last two weeks before discovery closes, and in which both Taylor and I are in trial. We can do them the week of June 28. Or before.

Sent from my iPhone

On Jun 17, 2021, at 7:09 PM, Shahrasbi, Sanya <sshahrasbi@ftc.gov> wrote:

Etienne,

The close of discovery and the deadline for depositions is July 16. We had previously discussed and negotiated the scheduling order dates with David in May when the case returned to adjudication. We don't have much flexibility as a result if you are not available during the first two weeks of July. Please let us know how Respondents would like to proceed.

Kathleen Nolan is available both of those days, with a preference for Friday, June 25th. Please do provide her with formal notice.

Sanya

Sanya Shahrabi
Attorney
Federal Trade Commission-Division of Financial Practices
600 Pennsylvania Ave NW, CC-10218
Washington, D.C. 20580
(202) 326-2709

From: Balart, Etienne <ebalart@joneswalker.com>
Sent: Thursday, June 17, 2021 2:19 PM
To: Shahrabi, Sanya <sshahrabi@ftc.gov>; Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; 'David Jeansonne' <david@trafficjamevents.com>
Cc: Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Sanya,

I am unfortunately unable to commit to depositions right now for the week of July 12. I have a trial in federal court [2:19-cv-12948] where I am lead trial counsel [Taylor is also enrolled]. It is set as a five day jury trial. We will need to get other dates from those deponents. Given my trial schedule, the week of July 6 is also going to be problematic as I will be preparing for this trial. Unless David does not want me to attend, can we get some other dates?

I do plan on taking the investigator, but need to schedule it for the 24th/ or 25th if that is possible?

Etienne

L. Etienne Balart | Partner
Jones Walker LLP
D: 504.582.8584 | M: 504.756.2192
ebalart@joneswalker.com<mailto:ebalart@joneswalker.com>

From: Shahrabi, Sanya <sshahrabi@ftc.gov>
Sent: Thursday, June 17, 2021 2:51 PM
To: Balart, Etienne <ebalart@joneswalker.com>; Wimberly, Taylor <twimberly@joneswalker.com>; Brickman, Jennifer <jbrickman@joneswalker.com>; 'David Jeansonne' <david@trafficjamevents.com>
Cc: Broadwell, Eleni <ebroadwell@ftc.gov>; Widor, Thomas <twidor@ftc.gov>
Subject: [EXTERNAL] RE: In re Traffic Jam Events, Subpoenas Ad Testificandum

Hi Etienne,

We wanted to follow up on our last email regarding third party depositions. We plan to notice the depositions of (1) a representative of Landers McLarty, (2) a representative of Dothan Chrysler Dodge, (3) Matthew Dennis of DealerApps, (4) Michael Kastrenakes, (5) Michael Taylor, and (6) William Lilley during the weeks of July 6 and July 12.

We have spoken to Bill Cox from Dothan and have him tentatively scheduled for Wednesday, July 14th at 10am CT.

Please let us know if you want to participate and if there are any days we should try to avoid. We plan to send the depositions out tomorrow.

Also, we have not received a deposition notice for our investigator, Kathleen Nolan. Do you still intend to depose her? If so, we would propose Wednesday, June 23rd.

Sanya

Sanya Shahrasbi
Attorney
Federal Trade Commission-Division of Financial Practices
600 Pennsylvania Ave NW, CC-10218
Washington, D.C. 20580
(202) 326-2709

From: Widor, Thomas <twidor@ftc.gov>
Sent: Tuesday, June 15, 2021 2:34 PM
To: Balart, Etienne <ebalart@joneswalker.com>; twimberly@joneswalker.com; Brickman, Jennifer <jbrickman@joneswalker.com>; 'David Jeansonne' <david@trafficjamevents.com>
Cc: Shahrasbi, Sanya <sshahrasbi@ftc.gov>; Broadwell, Eleni <ebroadwell@ftc.gov>
Subject: In re Traffic Jam Events, Subpoenas Ad Testificandum

Etienne,

We intend to notice the depositions of (1) a representative of Landers McLarty, (2) a representative of Dothan Chrysler Dodge, (3) Matthew Dennis of DealerApps, (4) Michael Kastrenakes, and (5) Michael Taylor during the weeks of July 6 and July 12. We also intend to notice William Lilley's deposition during that time as David had informed us of his departure in December and provided his contact information.

Pursuant to the Court's scheduling order, we wanted to coordinate with you regarding your availability for the depositions prior to issuing the notices and subpoenas. Would you let us know your availability those two weeks.

Tom

Thomas J. Widor
Attorney, Division of Financial Practices Bureau of Consumer Protection Federal Trade Commission
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Fax: (202) 326-3768
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