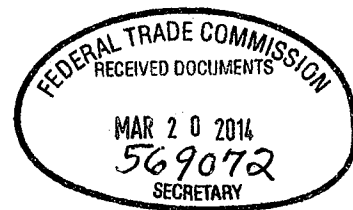


ORIGINAL

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of

ZIEGLER SUPERSYSTEMS, INC.

FILE NO. 131-0206

**ZIEGLER SUPERSYSTEMS, INC.'S PETITION TO LIMIT  
OR QUASH THE FEDERAL TRADE COMMISSION'S  
FEBRUARY 11, 2014 CIVIL INVESTIGATIVE DEMAND**

BELLAVIA BLATT ANDRON & CROSSET, PC

Leonard A. Bellavia, Esq.  
Steven H. Blatt, Esq.  
Nicholas G. MacInnis, Esq.  
200 Old Country Road, Suite 400  
Mineola, NY 11501  
Phone: (516) 873-3000  
Fax: (516) 873-9032

*Counsel for Petitioner, Ziegler Supersystems, Inc.*

Dated: March 19, 2014

## I. INTRODUCTION

Pursuant to 15 U.S.C. § 57b-1(f) and 16 C.F.R. § 2.7(d), Petitioner Ziegler Supersystems, Inc. (“Ziegler” and/or “Petitioner”), by and through its counsel, respectfully petitions the Federal Trade Commission (“FTC”) to limit or quash the Civil Investigate Demand (“CID”) issued to Ziegler on February 11, 2014.

Ziegler objects to and seeks to quash and/or modify the CID as improper and unenforceable for two separate and distinct reasons. First, several of the requests propounded under the CID seek information and documents that are subject to state and federal laws protecting journalists. Second, several of the requests propounded under the CID exceed the nature and scope of the subject investigation as set forth in the “Resolution Authorizing Use of Compulsory Process in Nonpublic Investigations” issued January 17, 2014.

## II. FACTUAL AND PROCEDURAL BACKGROUND

The FTC issued this CID pursuant to the “Resolution Authorizing Use of Compulsory Processes in Nonpublic Investigations,” dated January 17, 2014 (“Resolution”). The Resolution designates the “Nature and Scope of Investigation” as follows: “To determine whether firms in the retail automobile industry, including automobile dealers and industry consultants, may be engaging in, or may have engaged in, conduct violating Section of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, by agreeing to restrain competition, including by agreeing to refuse to deal with TrueCar, Inc.”<sup>1</sup>

~~In conjunction with this Resolution, the FTC issued the CID, dated February 11, 2014,~~  
to Ziegler.<sup>2</sup> By agreement of the FTC and counsel for Ziegler, the date by which Ziegler could serve written objections and responses to the CID, including serving a petition to quash or

<sup>1</sup> See Exhibit 1, Resolution Authorizing Use of Compulsory Process in Nonpublic Investigation.

<sup>2</sup> See Exhibit 2, Civil Investigative Demand, dated February 11, 2014.

limit the CID, was extended to March 20, 2014.<sup>3</sup> Counsel for Ziegler conferred with counsel for the FTC regarding Ziegler's objections to the CID by telephone on March 18, 2014 and again on March 19, 2014, but the parties were unable to resolve their disagreement. Notwithstanding the filing of this Petition, however, Ziegler has responded to those requests set forth in the CID, which are not the subject of this Petition.<sup>4</sup>

Ziegler Supersystems, Inc. is a media publications company based out of Georgia that is owned and operated by James A. Ziegler, its President. One of the foremost authorities in the retail automobile business, Mr. Ziegler is currently a featured national columnist for various trade magazines, including *Wards Auto Dealer Business*, *F&I and Showroom*, and *Auto Dealer Monthly*. He previously spent over fourteen (14) years as the spotlight featured columnist in *Dealer Magazine*, where he wrote a monthly column titled "The Dealer Advocate." During this time, Mr. Ziegler established a reputation as someone who championed the cause of auto dealers.

In addition, as one of the foremost experts in the auto retail industry, his opinions frequently appear in the most widely read and well-respected publications within the industry. Indeed, over the course of the last twenty-eight (28) years, Mr. Ziegler has advised more than 500 dealerships throughout the country, and his automobile dealer management seminars have been attended by over 100,000 dealers, managers and factory executives. Moreover, he has been the featured keynote speaker at approximately eighty (80) state automobile dealer association annual conventions and has spoken at the National Automobile Dealer Association (NADA) Convention on fourteen (14) occasions.

---

<sup>3</sup> See Exhibit 3, Letter from Geoffrey M. Green, dated February 19, 2014.

<sup>4</sup> See Exhibit 4, Ziegler Supersystems, Inc.'s Responses to the Federal Trade Commission's February 11, 2014 Civil Investigate Demand.

### III. STANDARD OF REVIEW

The recognized standard in determining whether a CID should be quashed or limited in scope or breadth was adopted by the Supreme Court in *United States v. Morton Salt Co.*, 338 U.S. 632 (1950). Although the Court in *Morton Salt Co.* enforced the subpoena at issue, it recognized that “a governmental investigation into corporate matters may be of such a sweeping nature and so unrelated to the matter properly under inquiry as to exceed the investigatory power.” *Id.* at 652. Accordingly, the Court provided that agency subpoenas or CIDs should not be enforced where it is determined that the information sought is: (a) not “within the authority of the agency;” (b) “too indefinite;” or (c) not “reasonably relevant to the inquiry.” *Id.*

Courts have consistently applied the standard for agency subpoena enforcement articulated in *Morton Salt Company*. For example, in *SEC v. Arthur Young & Co.*, the Court of Appeals for the D.C. Circuit noted that “[t]he gist of the protection is in the requirement . . . that the disclosure sought shall not be unreasonable. Correspondingly, the need for moderation in the subpoena’s call is a matter of reasonableness.” 584 F.2d 1018, 1030 (D.C. Cir. 1978). The court explained further that “the requirement of reasonableness . . . comes down to [whether the] specification of the documents to be produced [is] adequate, but not excessive, for the purposes of the relevant inquiry.” *Id.* at 1030 (quoting *Ok. Press Publishing Co. v. Walling*, 327 U.S. 186, 209 (1946)). The subpoena request must “not [be] so overbroad as to reach into areas that are irrelevant or immaterial.” 584 F.2d at 1028. According to the court, “the test is relevance to the specific purpose.” *Id.* at 1031. *See also EEOC v. Konica Minolta Bus. Solutions U.S.A., Inc.*, 639 F.3d 366, 369 (7th Cir. 2011) (noting that relevance standard for administrative subpoenas is analogous to the standard applied in discovery of

civil matters, and must “appear[] reasonably calculated to lead to the discovery of admissible evidence” regarding the subject of the investigation).

Likewise, other courts following the *Morton Salt Company* standard have recognized that the disclosure sought by an agency through compulsory process must be both relevant to the inquiry and reasonable. *See, e.g., FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1089 (D.C. Cir. 1992) (noting that only where “the information sought is reasonably relevant” will a CID be enforceable); *FTC v. Texaco, Inc.*, 555 F.2d 862, 881 (D.C. Cir. 1977) (holding that “the disclosure sought shall not be unreasonable”). In sum, it is clear that “[t]o obtain judicial enforcement of an administrative subpoena, an agency must show that the inquiry is not too indefinite, is reasonably relevant to an investigation which the agency has authority to conduct, and all administrative prerequisites have been met.” *SEC v. Blackfoot Bituminous, Inc.*, 622 F.2d 512, 514 (10th Cir. 1980).

#### IV. ARGUMENT

##### A. The CID Seeks Information and Documents Protected by the Georgia Shield Law and the Federal Reporter’s Privilege.

The CID unlawfully seeks information from Ziegler that is protected by the applicable Georgia Shield Law and the corresponding Federal Reporter’s Privilege, which protect journalists from having to disclose information concerning their sources. “The information may only be compelled from a reporter claiming privilege if . . . it is highly relevant, necessary to the proper presentation of the case, and unavailable from other sources.” *United States v. Caporale*, 806 F.2d 1487, 1504 (11th Cir. 1986).

### **i. Georgia Shield Law**

Georgia's shield law, codified at Ga. Code § 24-9-30, states in relevant part as follows:

Any person . . . engaged in the gathering and dissemination of news for the public through a newspaper, book, magazine, or radio or television broadcast shall have a qualified privilege against disclosure of any information, document, or item obtained or prepared in the gathering or dissemination of news in any proceeding where the one asserting the privilege is not a party, unless it is shown that this privilege has been waived or that what is sought: (1) [i]s material and relevant; (2) [c]annot be reasonably obtained by alternative means; and (3) [i]s necessary to the proper preparation or presentation of the case of a party seeking the information, document, or item.

As set forth in the statute, the privilege applies in civil proceedings. *See* Ga. Code § 24-9-30. Further, the privilege applies "in any proceeding where the one asserting the privilege is not a party." *In re Paul*, 270 Ga. 680, 684 (Ga. 1999). *But see Atlanta Journal-Constitution v. Jewell*, 251 Ga. App. 808, 813 (2001) (recognizing in defamation action that confidential sources must still be afforded protection under traditional discovery principles), *cert. denied*, 2002 Ga. Lexis 103 (2002), *cert. denied*, 537 U.S. 814 (2002). In addition, the reporter's privilege belongs to the person engaged in the gathering and dissemination of the news, not the source. *In re Paul*, 270 Ga. at 684.

As the above-quoted statutory language demonstrates, the broad scope of the Georgia shield law means that the privilege protects not just traditional reporters, but any person "engaged in the gathering or dissemination of news for the public through a newspaper, book, magazine, or radio or television broadcast."<sup>5</sup> This definition includes not just the author, but also research assistants, newspaper librarians, and interns. *But see Vance v. Krause*, Civil

---

<sup>5</sup> The term "newspaper" is defined as "a printed product of multiple pages containing not greater than 75 percent advertising content in no more than one-half of its issues during the previous 12 months, excluding separate advertising supplements." Ga. Code § 9-13-142.

Action No. 90-1687-5 (DeKalb County Superior Court, Nov. 21, 1990) (ruling on challenge to subpoena seeking to compel testimony from non-party television station photographer who was also a long-time personal friend of defendant, trial court held that shield law protected from disclosure information obtained by photographer as a news gatherer for purposes of dissemination to the public).

Georgia's shield law is likewise broad with respect to the scope of information it protects, covering "any information, document, or item obtained or prepared in the gathering or dissemination of news." Ga. Code § 24-9-30. The statute provides that the privilege will be applicable not just to information or records obtained in "gathering" the news, but also to information and records prepared in "disseminating" the news. In other words, drafts or other internal records in the possession of editors or other news personnel are privileged under the statute.

Moreover, it is now well settled that the privilege applies to confidential and non-confidential information and to both testimony and records obtained in the process of gathering or delivering the news. *See In re Paul*, 270 Ga. at 686. In *Paul*, the court found the privilege applicable when the State sought unpublished information from a reporter concerning his interview with the criminal defendant conducted at a prison, concluding that publication of part of the information gathered by the reporter "does not waive the privilege as to all of the information gathered on the same subject matter." *Id.* As a result, even though the ~~reporter published a newspaper article concerning his interview, he was not required to~~ disclose "his confidential sources and unpublished information." *Id.*

Further, the privilege extends to the identity of a source, information that would lead to the identity of a source, and unpublished information collected or prepared in the course of

newsgathering. Moreover, the protection applies whether or not the journalist promised a source confidentiality, and whether or not the journalist shared the identity of the source with a limited number of third parties.

The Georgia shield law provides a “qualified privilege” to the journalist, such that only under certain limited circumstances may a court compel a journalist to reveal otherwise protected information. *See In re Morris Communs. Co.*, 258 Ga. App. 154, 155 (Ga. Ct. App. 2002). More specifically, in order to compel disclosure of otherwise privileged information, the statute requires that the following conditions must be satisfied: (1) the information is material and relevant to the case in question; (2) the information cannot be reasonably obtained by alternative means; and (3) the information is necessary to the proper preparation or presentation of the case of the party seeking the information. Ga. Code § 24-9-30.

#### **ii. Federal Reporter’s Privilege and Privacy Protection Act**

Federal courts in the Eleventh Circuit, which includes Georgia, have recognized a qualified reporter’s privilege arising out of the First Amendment to the United States Constitution. Similar to Georgia, the Eleventh Circuit recognizes a qualified privilege. As such, a court must establish three things before ordering disclosure: (a) the information is highly relevant; (b) it is necessary to the proper presentation of the case; and (c) it is unavailable from other sources. Additionally, courts applying this test also tend to weigh the public interest in the disclosure of the information against the public interest in protecting the press. Accordingly, the particular facts of a case will play a significant role in the Court’s determination. Moreover, it applies to the identity of sources and unpublished information collected or prepared during the newsgathering process.



Likewise, the Privacy Protection Act (“PPA”) makes it unlawful for government officials to search for or seize material or documentary materials possessed by a person in connection with public dissemination of a newspaper, book, broadcast, or other similar form of public communication. 42 U.S.C. § 2000aa(a),(b). If the PPA applies, it protects a reporter regardless of the state of residence.

Applying these rules here, it is clear that the information and/or documents sought by the CID issued to Ziegler are protected from disclosure by the Georgia Shield Law and the Federal Reporter’s Privilege. For example, Request Nos. 3, 4, and 5 all seek information and/or documents concerning TrueCar. To the extent that these requests seek information or documents that were gathered by Ziegler in the process of gathering or delivering the news, such information and documents are privileged. *See In re Paul*, 270 Ga. at 686. Moreover, it bears noting that even the publication of any articles or online posts relating to the subject matter of the privileged information gathered does not waive the privilege. *Id.*

As such, the information and documents relating to TrueCar sought pursuant to the CID issued to Ziegler are privileged. Stated simply, the requested information was gathered during while preparing articles Mr. Ziegler authored on the subject of TrueCar.<sup>6</sup> Accordingly, it “may only be compelled . . . if it is highly relevant, necessary to the proper presentation of the case, and unavailable from other sources.” *Caporale*, 806 F.2d at 1504. Here, the FTC has failed to meet its burden in this regard. As such, the CID must be quashed or modified accordingly.

---

<sup>6</sup> Although the articles were mostly published in print form, to the extent any were published online it seems likely that the privilege applies. Courts in other states have construed shield statutes with similar language to include websites and other online platforms for publishing information and commentary. *See, e.g., O’Grady v. Superior Court*, 139 Cal. App. 4th 1423 (Cal. Ct. App. 2006) (interpreting similar statutory language in California shield law as covering online news website).

**B. The CID Exceeds the Scope of the Resolution.**

While the FTC may investigate potentially deceptive or unfair trade practices under 15 U.S.C. § 45(a), its subpoena powers in furtherance of those investigative efforts are not without limit. *See Wearly v. FTC*, 616 F.2d 662, 665 (3d Cir. 1980) (“A subpoena from the FTC is not self-enforcing.”). The FTC should not be able to escape these limits simply by seeking an overly expansive resolution, like here. In addition, a CID is not enforceable if (i) it is not “within the authority of the agency,” (ii) is “too indefinite,” or (iii) is not “reasonably relevant [to the inquiry].” *Morton Salt Co.*, 338 U.S. at 652. Courts applying this test have consistently held that an administrative subpoena must be “reasonable.” *See, e.g., U.S. v. Constr. Prods. Research, Inc.*, 73 F.3d 464, 471 (2d Cir. 1996).

While Congress has provided agencies with authority to conduct reasonable investigations through the use of investigatory tools such as administrative subpoenas and CIDs, the federal courts serve as a safeguard against agency abuse. This principle was the basis for the FTC Improvements Act of 1980, which was designed, in part, to “curtail the issuance by the Commission of overly broad subpoenas.” S. rep. no. 96-500, 96th Cong., 1st Sess. at 9, reprinted in [1980] U.S. code & ad. news (“Senate Commerce Committee Report”) at 110. This Report further states:

The Committee intends that no demand can require production of information, if such information would be protected from disclosure under standards applicable to subpoenas issued by a court in aid of a grand jury investigation. According to precedents, the demand must not be too broad and sweeping; the ~~information sought must have some materiality to the investigation;~~ the demand must be limited to a reasonable time period; the material requested must be described with sufficient definiteness so the person served may know what is wanted; and the burden of complying must not be too great. Most of these standards have constitutional origins and stem from the Fourth Amendment prohibition against “unreasonable searches and seizures.” [S. rep. no. 96-500, supra, at 24-25 (footnotes omitted).]

The broad-ranging CID at issue here, while issued under a resolution that is similarly over-broad, is nevertheless unenforceable as it is outside the FTC's authority and not reasonably relevant to the purported inquiry. More specifically, to the extent it seeks information concerning the private finances of Ziegler (Request No. 2), the CID is impermissible. There is simply no relevant reason why the amount of income Ziegler derives from automobile dealers or trade associations is relevant to this investigation.

Likewise, where the CID seeks to elicit information on the inner-workings of Ziegler (Request No. 1) and how its various internal policies and procedures (Request No. 7), it is similarly exceeding the permissible scope of the FTC's power.

Additionally, a party may challenge the enforceability of a CID where compliance with it would be overly burdensome or unreasonable. *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977). Stated another way, an administrative agency may not use its investigative powers to go on a fishing expedition. *FDIC v. Garner*, 126 F.3d 1138, 1146 (9th Cir. 1997); *FTC v. Nat'l Claims Serv., Inc.*, No. S. 98-283, 1999 WL 819640, at \*1 (B.D. Cal. Feb. 9, 1999). *See also* S. Rep. 96-500 at 4, 96th Congress 1st Session (1979) ("The FTC's broad investigatory powers have been retained but modified to prevent fishing expeditions undertaken merely to satisfy its 'official curiosity.'").

Here, the CID asks Ziegler to conduct sophisticated searches for electronically stored information, and to provide that information to the FTC in response to the CID. Compliance with these requirements, both the initial search and the specific manner of disclosure, would require Ziegler to retain assistance from an information technology specialist from outside the company. This would lead to Ziegler incurring substantial costs that are not justified given the

uncertainty regarding why the information is being sought at all, much less in such a precise, technologically advanced form. As such, the CID should be modified or quashed so that Ziegler's compliance is not so overly burdensome.

**V. CONCLUSION**

For the reasons set forth above, the Petitioner requests that the CID be quashed in its entirety, or at least limited to the extent deemed appropriate by the Commission.

Dated: Mineola, New York  
March 19, 2014

Bellavia Blatt Andron & Crossett, PC

By: 

LEONARD A. BELLAVIA

[LBellavia@DealerLaw.com](mailto:LBellavia@DealerLaw.com)

STEVEN H. BLATT

[SBlatt@DealerLaw.com](mailto:SBlatt@DealerLaw.com)

NICHOLAS G. MACINNIS

[NMacinnis@DealerLaw.com](mailto:NMacinnis@DealerLaw.com)

200 Old Country Road—Suite 400

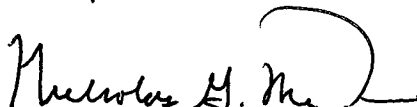
Mineola, New York 11501

(516) 873-3000

*Attorneys for Petitioner, Ziegler Supersystems, Inc.*

**CERTIFICATION OF GOOD FAITH CONFERENCE**

Pursuant to 16 C.F.R. § 2.7(d)(2), the undersigned hereby certifies that counsel for the Petitioner conferred with Melissa Westman-Cherry and Joel Christie, counsel for the FTC, by telephone on both March 18, 2014 and March 19, 2014, in a good faith effort to resolve by agreement the issues set forth in this Petition, but were unable to reach an agreement.

  
\_\_\_\_\_  
Nicholas G. MacInnis

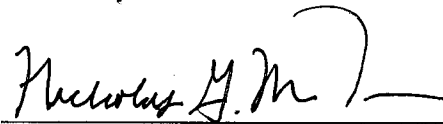
**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of March, 2014, I caused the original and twelve (12) copies of the foregoing document to be served via UPS—Overnight Delivery on the following:

Donald Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Room H-113  
Washington, DC 20580

and further caused one (1) copy of the same to be served by electronic mail and by UPS—Overnight Delivery on the following:

Federal Trade Commission  
Melissa Westman-Cherry  
601 New Jersey Avenue, NW  
Room NJ-6255  
Washington, D.C. 20001  
mwestman@ftc.gov



---

Nicholas G. MacInnis

# **EXHIBIT 1**

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman  
Julie Brill  
Maureen K. Ohlhausen  
Joshua D. Wright

**RESOLUTION AUTHORIZING USE OF  
COMPULSORY PROCESS IN NONPUBLIC INVESTIGATION**

FILE NO. 131 0206

Nature and Scope of Investigation:

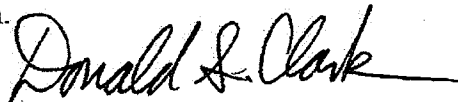
To determine whether firms in the retail automobile industry, including automobile dealers and industry consultants, may be engaging in, or may have engaged in, conduct violating Section 5 of the Federal Trade Commission Act, 15 U.S.C. §45, as amended, by agreeing to restrain competition, including by agreeing to refuse to deal with TrueCar, Inc.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this investigation.

Authority to Conduct Investigation:

Sections 6, 9, 10 and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1., *et. seq.* and supplements thereto.

By direction of the Commission.



Donald S. Clark  
Secretary

Issued: January 17, 2014



# **EXHIBIT 2**



United States of America  
Federal Trade Commission

**CIVIL INVESTIGATIVE DEMAND**

1. TO

Ziegler SuperSystems, Inc.  
602 Grassmeade Way  
Snellville, GA 30078  
ATTN: James Ziegler

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED

You are required to appear and testify.

LOCATION OF HEARING

Federal Trade Commission  
Bureau of Competition  
601 New Jersey Avenue, N.W.  
Room - NJ-6255  
Washington, D.C. 20001

YOUR APPEARANCE WILL BE BEFORE

Melissa Westman-Cherry

DATE AND TIME OF HEARING OR DEPOSITION

You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.

You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS MUST BE AVAILABLE

February 20, 2014, at 5:00 p.m.

3. SUBJECT OF INVESTIGATION

AutoDealers, File No. 131-0206  
See attached Commission Resolution

4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN

Geoffrey Green, Records Custodian  
Nicholas Widnell, Deputy Records Custodian

5. COMMISSION COUNSEL

Melissa Westman-Cherry (202) 326-2338

DATE ISSUED

2/11/14

COMMISSIONER'S SIGNATURE

**INSTRUCTIONS AND NOTICES**

The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

**PETITION TO LIMIT OR QUASH**

The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 5.

**YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS**

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman) regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

**TRAVEL EXPENSES**

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCRulesofPractice>. Paper copies are available upon request.

---

## Form of Certificate of Compliance\*

---

I/We do certify that all of the documents and information required by the attached Civil Investigative Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objections to its submission and the reasons for the objection have been stated.

If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature \_\_\_\_\_

Title \_\_\_\_\_

Sworn to before me this day

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_

---

\*In the event that more than one person is responsible for complying with this demand, the certificate shall identify the documents for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.

**CIVIL INVESTIGATIVE DEMAND ISSUED TO ZIEGLER SUPERSYSTEMS, INC.  
File No. 131-0206**

**SCHEDULE**

If the Company believes that any part of this Civil Investigative Demand ("CID") can be narrowed in any way that is consistent with the Commission's need for information and documents, you are encouraged to discuss such questions and possible modifications with the Commission representative identified in Instruction 13 of this CID. All modifications to this CID must be agreed to in writing.

**SPECIFICATION OF INFORMATION AND DOCUMENTS TO BE PRODUCED**

1. Identify all current and past employees, agents or representatives of Ziegler Supersystems. For each person, identify his or her title or position in the company, and describe his or her job responsibilities.
2. For the period from May 1, 2011 to August 1, 2012, identify the amount and source of all income for the Company derived from any automobile dealership or automobile dealer trade association.
3. Submit all Documents related to the TrueCar National Dealer Council.
4. Submit all communications and correspondence between You or anyone else at the Company and TrueCar.
5. Submit all Documents related to TrueCar Services, including, but not limited to:
  - a. correspondence between You or anyone else at the Company and auto dealers, auto manufacturers, consultants to the auto industry, or any other Third Party, including, but not limited to: (a) the potential or actual effect of TrueCar Services on the retail price of automobiles, and (b) any decision or consideration by an auto dealer to terminate its use of TrueCar Services;
  - b. correspondence between You or anyone else at the Company and any state or federal government office;
  - ~~c. correspondence between You or anyone else at the Company and any local, state or national automobile trade association;~~
  - d. any document written by You or anyone else at the Company, whether or not it was ever distributed to any other person; and

- e. any document referring or relating to any meeting between TrueCar and any Person.
6. Identify:
- a. the Person(s) responsible for preparing the response to this Request and submit a copy of all instructions prepared by the Company relating to the steps taken to respond to this Request. Where oral instructions were given, Identify the Person who gave the instructions and describe the content of the instructions and the Person(s) to whom the instructions were given;
  - b. for each specification, the individual(s) who assisted in the preparation of the response, with a listing of the Persons (identified by name and corporate title or job description) whose files were searched by each;
  - c. any electronic production tools or software packages utilized by the Company in responding to this Request for: keyword searching, Technology Assisted Review, email threading, de-duplication, global de-duplication or near-de-duplication (please note that the use of all forms of de-duplication require advance approval from staff, see Instruction 4(c)); and
    - i. if the Company utilized keyword search terms to identify Documents and information responsive to this Request, provide a list of the search terms used for each custodian;
    - ii. if the Company utilized Technology Assisted Review software,
      - 1. describe the collection methodology, including: (a) how the software was utilized to identify responsive Documents; (b) the process the Company utilized to identify and validate the seed set Documents subject to manual review; (c) the total number of Documents reviewed manually; (d) the total number of Documents determined nonresponsive without manual review; (e) the process the Company used to determine and validate the accuracy of the automatic determinations of responsiveness and nonresponsiveness; (f) how the Company handled exceptions (“uncategorized Documents”); and (g) if the Company’s Documents include foreign language Documents, whether reviewed manually or by some technology-assisted method; and
      - 2. provide all statistical analyses utilized or generated by the Company or its agents related to the precision, recall, accuracy, validation or quality of its Document production in response to this Request; and

- iii. Identify the person(s) able to testify on behalf of the Company about information known or reasonably available to the organization, relating to its response to this Specification.
7. Submit documents sufficient to show and, to the extent not reflected in such documents, describe in detail the company's policies and procedures relating to the retention and destruction of documents.

### DEFINITIONS

1. **"Agreement," "contract,"** or **"license"** shall mean any oral, written, or implied contract, arrangement, understanding, or plan, whether formal or informal, between two or more persons, together with all modifications or amendments thereto.
2. **"Company," "Ziegler SuperSystems"** and **"you,"** or **"your"** shall mean James Ziegler, Ziegler SuperSystems, Inc., its directors, officers, trustees, employees, attorneys, agents, consultants, and representatives, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants, and representatives of their domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures.
3. **"And,"** as well as **"or,"** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Specification in the Schedule all information that otherwise might be construed to be outside the scope of the Specification.
4. **"Any"** shall be construed to include **"all,"** and **"all"** shall be construed to include **"any."**
5. **"Communication"** shall mean any transmittal, exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished, and includes all communications, whether written or oral, and all discussions, meetings, telephone communications, or email contacts.
6. **"Discuss"** or **"Discussing"** shall mean, in whole or in part, constituting, containing, describing, analyzing, explaining, or addressing the designated subject matter, regardless of the length of the treatment or detail of analysis of the subject matter, but not merely referring to the designated subject matter without elaboration. A Document that "discusses" another document includes the other document itself.
7. **"Documents"** shall mean all written, recorded, transcribed, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, including, but not limited to, analyses, letters, telegrams, memoranda, reports, bills, receipts, telexes, contracts, invoices, books, accounts,

statements, studies, surveys, pamphlets, notes, charts, maps, plats, tabulations, graphs, tapes, data sheets, data processing cards, printouts, net sites, microfilm, indices, calendar or diary entries, manuals, guides, outlines, abstracts, histories, agendas, minutes or records of meetings, conferences, electronic mail, and telephone or other conversations or communications, as well as films, tapes, or slides, and all other data compilations in the possession, custody, or control of the Company, or to which the Company has access. The term “**Documents**” includes the complete original document (or a copy thereof if the original is not available), all drafts (whether or not they resulted in a final document), and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term “**other data compilations**” includes information stored in, or accessible through, computer or other information retrieval systems, together with instructions and all other material necessary to use or interpret such data compilations as set out in Attachment 1.2. If the name of the person or persons who prepared, reviewed, or received the document and the date of preparation, review, or receipt are not clear on the face of any document, such information should be provided separately. Documents shall be produced in accordance with the instructions set out in Attachment 1.2.

8. “**Documents sufficient to show**” and “**Documents sufficient to identify**” shall mean both documents that are necessary and documents that are sufficient to provide the specific information. If summaries, compilations, lists, or synopses are available that provide the information being requested, these may be provided in lieu of the underlying documents.
9. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”
10. “**Identify**” means to state:
  - a. in the case of a Person other than a natural person, its name and principal address, telephone number, and name, telephone number and electronic mail address of a contact person;
  - b. in the case of a natural person, his or her name, employer, business address and telephone number, title or position, and dates the person held that position(s);
  - c. in the case of a document, the title of the document, the author, the title or ~~position of the author, the addressee, each recipient, the type of document, the~~ subject matter, the date of preparation, and its number of pages; and
  - d. in the case of a communication, the date of the communication, the parties to the communication, the method of communication (oral, written, etc.), and a description of the substance of the information exchanged during the communication.

11. **“Person”** includes the Company, and shall mean any natural person, corporate entity, partnership, association, joint venture, governmental entity, trust, or any other organization or entity engaged in commerce.
12. **“Referring to,” “relating to,” “regarding” or “about”** shall mean, in whole or in part, constituting, containing, concerning, embodying, reflecting, discussing, explaining, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.
13. **“Technology Assisted Review”** shall mean any process that utilizes a computer algorithm to limit the number of potentially responsive documents subject to a manual review. A keyword search of documents with no further automated processing is not a Technology Assisted Review.
14. **“Third Party”** shall mean any Person other than the Company or a Person acting on behalf of the Company.
15. **“TrueCar”** shall mean TrueCar Inc., its directors, officers, trustees, employees, attorneys, agents, consultants, and representatives, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants, and representatives of their domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures.
16. **“TrueCar Services”** shall mean the TrueCar Inc.’s information and technology platform that matches potential automobile purchasers with potential automobile sellers, and provides potential automobile purchasers with pricing (whether actual, estimated, or average) information about specific vehicles.

### INSTRUCTIONS

The response to this CID shall be submitted in the following manner:

1. Unless otherwise indicated, each specification in this CID covers documents and information dated, generated, received, or in effect from January 1, 2011, to thirty days before the day when the Company provides the Commission with its final document submission, the executed certification form, and other compliance-related documents ~~described in Instruction 12 (“Request Period”). The Company shall preserve documents~~ responsive to the CID created or received after the Request Period until a Commission representative notifies the Company that the investigation has ended.
2. Except for privileged material, the Company will produce each responsive document in its entirety by including all attachments and all pages, regardless of whether they directly relate to the specified subject matter. The Company should submit any appendix, table,



Ziegler SuperSystems CID, File No. 131-0206

or other attachment by either attaching it to the responsive document or clearly marking it to indicate the responsive document to which it corresponds. Except for privileged material, the Company will not redact, mask, cut, expunge, edit, or delete any responsive document or portion thereof in any manner.

3. Compliance with this CID requires a search of all documents in the possession, custody, or control of the Company including, without limitation, those documents held by any of the Company's officers, directors, employees, agents, representatives, or legal counsel, whether or not such documents are on the premises of the Company. If any person is unwilling to have his or her files searched, or is unwilling to produce responsive documents, the Company must provide the Commission with the following information as to each such person: his or her name, address, telephone number, and relationship to the Company. In addition to hard copy documents, the search must include all of the Company's Electronically Stored Information.
4. Form of Production. The Company shall submit all documents as instructed below absent written consent signed by the Assistant Director.
  - a. Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
    - i. Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and applicable metadata and information as described in subparts (a)(iii) and (a)(iv).
    - ii. Submit emails in image format with extracted text and the following metadata and information:

<b>Metadata/Document Information</b>	<b>Description</b>
Beginning Bates number	The beginning bates number of the document.
Ending Bates number	The last bates number of the document.
Custodian	The name of the original custodian of the file.
To	Recipient(s) of the email.
From	The person who authored the email.
CC	Person(s) copied on the email.
BCC	Person(s) blind copied on the email.

Subject	Subject line of the email.
Date Sent	Date the email was sent.
Time Sent	Time the email was sent.
Date Received	Date the email was received.
Time Received	Time the email was received.
Attachments	The Document ID of attachment(s).
Mail Folder Path	Location of email in personal folders, subfolders, deleted items or sent items.
Message ID	Microsoft Outlook Message ID or similar value in other message systems.

- iii. Submit email attachments in image format, or native format if the file is one of the types identified in subpart (a)(i), with extracted text and the following metadata and information:

Metadata/Document Information	Description
Beginning Bates number	The beginning bates number of the document.
Ending Bates number	The last bates number of the document.
Custodian	The name of the original custodian of the file.
Parent Email	The Document ID of the parent email.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.
Filename with extension	The name of the file including the extension denoting the application in which the file was created.

Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

- iv. Submit all other electronic documents in image format, or native format if the file is one of the types identified in subpart (a)(i), accompanied by extracted text and the following metadata and information:

<b>Metadata/Document Information</b>	<b>Description</b>
Beginning Bates number	The beginning bates number of the document.
Ending Bates number	The last bates number of the document.
Custodian	The name of the original custodian of the file.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.
Filename with extension	The name of the file including the extension denoting the application in which the file was created.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

- v. Submit documents stored in hard copy in image format accompanied by OCR with the following information:

Metadata/Document Information	Description
Beginning Bates number	The beginning bates number of the document.
Ending Bates number	The last bates number of the document.
Custodian	The name of the original custodian of the file.

- vi. Submit redacted documents in PDF format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction 6.
- b. Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats such as CSV files, with all underlying data un-redacted and all underlying formulas and algorithms intact.
- c. If the Company intends to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media, or if the Company's computer systems contain or utilize such software, The Company must contact the Commission to determine, with the assistance of the appropriate Commission representative, whether and in what manner the Company may use such software or services when producing materials in response to this CID.
- d. Produce electronic file and image submissions as follows:
  - i. For productions over 10 gigabytes, use IDE, EIDE, and SATA hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in a USB 2.0 external enclosure;
  - ii. For productions under 10 gigabytes, CD-R CD-ROM optical disks formatted to ISO 9660 specifications, DVD-ROM optical disks for Windows-compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats; and
  - iii. All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected

media for replacement, which may affect the timing of the Company's compliance with this CID.

- iv. Encryption of productions using NIST FIPS-compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.<sup>1</sup>
  - e. Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; passwords for any password protected files; list of custodians and document identification number range for each; total number of documents; and a list of load file fields in the order in which they are organized in the load file.
5. All documents responsive to this CID:
- a. Shall be produced in complete form, unredacted unless privileged, and in the order in which they appear in the Company's files;
  - b. Shall be marked on each page with corporate identification and consecutive document control numbers when produced in image format;
  - c. Shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black and white photocopying or conversion to TIFF format of any document (e.g., a chart or graph) makes any substantive information contained in the document unintelligible, the Company must submit the original document, a like-color photocopy, or a JPEG format image);
  - d. Shall be accompanied by an affidavit of an officer of the Company stating that the copies are true, correct, and complete copies of the original documents; and
  - e. Shall be accompanied by an index that identifies (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that person's documents. The Commission representative will provide a sample index upon request.

---

<sup>1</sup> The National Institute of Standards and Technology (NIST) issued Federal Information Processing Standard (FIPS) Publications 140-1 and 140-2, which detail certified cryptographic modules for use by the U.S. Federal government and other regulated industries that collect, store, transfer, share, and disseminate sensitive but unclassified information. More information about FIPS 140-1 and 140-2 can be found at <http://csrc.nist.gov/publications/PubsFIPS.html>.

Ziegler SuperSystems CID, File No. 131-0206

6. If the Company withholds any responsive document or masks or redacts any portion of any responsive document based on a claim of privilege or work-product immunity, The Company must provide the Commission with a log describing the privilege claim and all facts supporting the claim sufficient to comply with Federal Trade Commission Rule of Practice § 2.8A. 16 C.F.R. § 2.8A. For each document withheld, masked, or redacted, the log shall list the following: (a) specific grounds for claim of privilege or immunity, (b) type of document, (c) title, (d) author(s), (e) date, (f) addressees and recipients of the original document or any copy thereof (including persons "cc'd" or "blind cc'd"), (g) a description of the subject matter, with sufficient detail to assess the claim of privilege, (h) a description identifying each attachment to the document, (i) the page length of the document, (j) the relevant specification(s), and (k) for redacted documents, the document control number (as described in Instruction 5). Additionally, for each document withheld under a claim of attorney work-product immunity, the log will list: (l) whether the document was prepared in anticipation of litigation or for trial, (m) the other parties or expected other parties to the litigation and whether that party is adverse, (n) case number, (o) complaint filing date, and (p) court name. For each person listed, the log will include the person's full name, address, job title, and employer or firm; for each non-Company recipient, include such additional description sufficient to show that individual's need to know the information contained in the document. Please denote all attorneys with an asterisk ("\*").

The privilege log shall be submitted as a Microsoft Excel or other native file.

An attachment to a document must be entitled to privilege in its own right. If an attachment is responsive and not entitled to privilege in its own right, it must be provided. The Company must provide all non-privileged portions of any responsive document for which a claim of privilege is asserted, noting where redactions in the document have been made. With respect to documents withheld on grounds of privilege that discuss or describe any U.S. or foreign patent, each individual patent identified in the withheld document must be specified by its patent number.

7. Documents written in a language other than English shall be translated into English, with the English translation attached to the foreign language document.
8. Do not destroy or dispose of documents responsive to this CID, or any other documents relating to the subject matter of this CID. The destruction or disposal of such documents during the pendency of this investigation might constitute a felony in violation of 18 U.S.C. § 1505 and 18 U.S.C. § 1512.
9. Do not produce any Sensitive Personally Identifiable Information ("Sensitive PII") or Sensitive Health Information ("SHI") prior to discussing the information with a Commission representative. If any document responsive to a particular specification contains unresponsive Sensitive PII or SHI, redact the unresponsive Sensitive PII or SHI

Ziegler SuperSystems CID, File No. 131-0206

prior to producing the document. The term "Sensitive PII" means an individual's Social Security Number alone or an individual's name, address or phone number in combination with one or more of the following: date of birth; driver's license number or other state identification number, or a foreign country equivalent; passport number; financial account number; or credit or debit card number. The term "SHI" includes medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

10. The Company will provide the Commission with the following: (a) a statement identifying the procedures used to search for Electronically Stored Information documents; and (b) a statement identifying the procedures used to search for documents stored in paper format, including for each document custodian, identification of individuals who provided information on the location of responsive documents.
11. The Company must comply with this CID by submitting all documents and information responsive to it on or before the dates identified in this CID. In addition, when it has completed production, the Company should also submit the executed and notarized certification form (attached). In order for the Company's response to this CID to be complete, the attached certification form must be executed by the official supervising compliance with this CID, notarized, and submitted along with the responsive materials. The Company should submit responsive documents to Melissa Westman-Cherry, Esq., Federal Trade Commission, 601 New Jersey Avenue NW, Washington, DC 20003.
12. Compliance with this CID requires the Company to submit to the Commission, on or before the due dates indicated, all responsive documents, data, information and the following:
  - a. Executed and notarized certification form, which is included herewith;
  - b. Privilege Log according to Instruction 6, if any responsive documents are withheld or redacted;
  - c. List of any persons (by name, address, telephone number, and relationship to the Company) whose files have not been searched according to Instruction 3;
  - d. For each document submitted, information sufficient to identify the name of the person from whose files the document was obtained (document custodian), according to Instruction 5; and
  - e. Statement of the procedures used by the Company to comply with this CID, according to Instruction 10.

Ziegler SuperSystems CID, File No. 131-0206

13. If the Company believes that this CID's specifications can be narrowed consistent with the Commission's need for information, we encourage it to discuss possible modifications with a Commission representative at the earliest possible date. Note that an authorized Commission representative, the Assistant Director, must agree in writing to any modifications to this CID. All inquiries about this CID and modification requests should be directed to Melissa Westman-Cherry, Staff Attorney, at (202) 326-2338.



# **EXHIBIT 3**



UNITED STATES OF AMERICA  
**FEDERAL TRADE COMMISSION**  
WASHINGTON, D.C. 20580

Bureau of Competition  
Anticompetitive Practices Division

February 19, 2014

Steven Blatt, Esquire  
Bellavia, Blatt, Andron & Crossett  
200 Old Country Road  
Mineola, NY 11501  
sblatt@dealerlaw.com

Re: Non-Public Investigation  
FTC File No. 131026

Dear Mr. Blatt:

On behalf of Ziegler SuperSystems, you have requested an extension of time to respond to the Civil Investigative Demand ("CID") issued by the Commission on February 11, 2014. Based upon your discussion with my staff, including your representation that Ziegler SuperSystems will employ its best efforts to respond in full within thirty days, and will notify staff immediately if circumstances arise that will delay its response, I hereby extend the date for full compliance to the CID until March 20, 2014.

Very truly yours,

Geoffrey M. Green  
Assistant Director

# **EXHIBIT 4**

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

ZIEGLER SUPERSYSTEMS, INC.

FILE NO. 131-0206

**ZIEGLER SUPERSYSTEMS, INC.'S RESPONSES TO THE FEDERAL TRADE  
COMMISSION'S FEBRUARY 11, 2014 CIVIL INVESTIGATIVE DEMAND**

Please take notice that Ziegler Supersystems, Inc. ("Ziegler"), by its undersigned attorneys, hereby objects and responds to the Civil Investigation Demand ("CID") issued by the Federal Trade Commission ("FTC") on or about February 11, 2014 in accordance with the applicable rules, reserving the right to supplement and amend, and subject to the General Objections which follow.

**GENERAL OBJECTIONS**

These General Objections shall apply to each and every demand propounded by the FTC and shall have the force and effect as if set forth in full and in response to each individually numbered demand. Ziegler's responses to these demands are based on information known at this time. Ziegler reserves the right to assert additional objections or supplemental responses as further discovery may reveal or at any time prior to the trial of this action. Any response, objection, or lack of objection to any demand is not to be deemed an admission that Ziegler possesses such information or documents responsive to the particular demand.

1. Ziegler objects to any definitions and/or instructions to the extent that the definitions and instructions expand or conflict with the applicable rules.

2. Ziegler objects to these demands to the extent that they seek to impose obligations on Ziegler that are greater than, or are inconsistent with, those imposed under the applicable rules.

3. Ziegler objects to each and every demand to the extent that it seeks information or documents protected by various privileges or immunities, including the attorney-client privilege, self critical analysis, and the attorney work product doctrine. In the event that any such information or document is inadvertently provided, and such information is the proper subject of a privilege, such disclosure is not to be construed as a waiver of any of any applicable privileges and/or immunities.

4. Ziegler objects to each and every demand to the extent that it purports to request information or documents that are not relevant to the subject matter involved in the pending action nor are reasonably calculated to lead to the discovery of admissible evidence.

5. Ziegler objects to each and every demand that calls for extensive and unreasonable investigatory work on the part of Ziegler as unduly burdensome, or which improperly seeks to compel Ziegler to characterize documents or information, or which is calculated to harass and vex in this investigation.

6. Ziegler objects to each and every demand to the extent that it purports to request cumulative or repetitive information on the grounds that it is overly broad and unduly burdensome.

~~7. Ziegler objects to each and every demand to the extent that it seeks to require the~~  
general production of categories of documents. Ziegler also objects to each and every demand to the extent that it seeks to require the identification and/or production of documents other than those in Ziegler's possession, custody, or control or to which FTC has equal access.

8. Ziegler objects to each and every demand to the extent that it purports to seek production or identification of documents obtained by Ziegler's counsel as part of strategy, investigation, or case development.

9. Ziegler does not concede the relevancy, materiality, competency, or admissibility as evidence of the information requested in the demands and, notwithstanding any response made thereto, reserves the right to object on any ground to the use of the responses herein in any subsequent proceeding, action, or trial.

10. Ziegler objects to each and every demand to the extent that it attempts to burden Ziegler with the task of providing information that FTC can itself easily obtain from a review of documents produced by Ziegler.

11. Subject to and without waiving any of the aforesaid objections, Ziegler states that it has made the inquiry required under the applicable rules to provide responses to these demands. Ziegler does not, however, claim that the information and/or documents referenced herein are inclusive of all information and/or documents responsive to these demands. The responses contained herein are based on Ziegler's best efforts. Ziegler reserves the right to supplement these responses and/or objections.

12. The responses herein are not based solely on the knowledge of the executing party, but may include the knowledge of the party, its agents, representatives and, unless privileged, its attorneys.

~~13. Merely because Ziegler has provided a response to a particular demand is not an~~  
admission that (a) Ziegler is personally knowledgeable regarding the general topic area that is the subject matter of the demand, and/or (b) Ziegler agrees with any factual or legal assumptions set forth in the demand.

## SPECIFIC OBJECTIONS AND RESPONSES

1. Identify all current and past employees, agents or representatives of Ziegler Supersystems. For each person, identify his or her title or position in the company, and describe his or her job responsibilities.

### RESPONSE NO. 1

Ziegler objects to this Request to the extent it is vague and ambiguous insofar as it fails to define the term "agents" or the term "representatives." Ziegler further objects to this Request to the extent that it fails to specify the relevant time period for the information sought. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for information that is neither relevant nor calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Ziegler states that at all times relevant to this Request it has had two employees: (1) James A. Ziegler, President, who operates virtually every aspect of the company; and (2) Deborah Ziegler, Vice President, who handles the bookkeeping matters for the company.

2. For the period from May 1, 2011 to August 1, 2012, identify the amount and source of all income for the Company derived from any automobile dealership or automobile trade association.

### RESPONSE NO. 2

Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of information that is neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it calls for information that is outside the scope of the applicable rules.

Subject to and without waiving the foregoing general and specific objections, Ziegler states that it will supplement this response.

3. Submit all Documents related to the TrueCar National Dealer Council.

**RESPONSE NO. 3**

Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler further objects to this Request to the extent that "TrueCar National Dealer Council" is not defined. Ziegler further objects to this Request to the extent that it fails to specify the relevant time period of the information and/or documents sought. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of information and documents that are neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it seeks information protected by the attorney-client privilege and/or is subject to work product protection. Ziegler further objects to this Request to the extent it seeks information protected by the Georgia Shield Law and/or Federal Reporter's privilege.

4. Submit all communications and correspondence between You or anyone else at the Company and TrueCar.

**RESPONSE NO. 4**

Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler further objects to this Request to the extent that it fails to specify the relevant time period or subject matter of the information and/or documents sought. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of information and documents that are neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it seeks information protected by the attorney-client privilege and/or is subject to work product protection. Ziegler further objects to this Request to the extent it seeks information and documents protected by the Georgia Shield Law and/or Federal Reporter's privilege. Ziegler further objects to this Request to the extent it seeks documents not in the possession of Ziegler and/or more readily obtainable from other sources.

Subject to and without waiving the foregoing general and specific objections, Ziegler has produced non-privileged responsive documents, which include e-mail correspondence between Ziegler and various representatives at TrueCar.



5. Submit all Documents related to TrueCar Services, including, but not limited to:
- a. correspondence between You or anyone else at the Company and auto dealers, auto manufacturers, consultants to the auto industry, or any other Third Party, including, but not limited to: (a) the potential or actual effect of TrueCar Services on the retail price of automobiles, and (b) any decision or consideration by an auto dealer to terminate its use of TrueCar Services;
  - b. correspondence between You or anyone else at the Company and any state or federal government office;
  - c. correspondence between You or anyone else at the Company and any local, state or national automobile trade association;
  - d. any document written by You or anyone else at the Company, whether or not it was ever distributed to any other person; and
  - e. any document referring or relating to any meeting between TrueCar and any Person.

**RESPONSE NO. 5(a)-(e)**

Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler further objects to this Request to the extent that it fails to specify the relevant time period for the documents sought. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of documents that are neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it seeks documents protected by the attorney-client privilege and/or is subject to work product protection. Ziegler further objects to this Request to the extent it is duplicative. Ziegler further objects to this Request to the extent it seeks information and documents protected by the Georgia Shield Law and/or Federal Reporter's privilege.

Subject to and without waiving the foregoing general and specific objections, Ziegler will produce any non-privileged responsive documents under separate cover.

6. Identify:

- a. the Person(s) responsible for preparing the response to this Request and submit a copy of all instructions prepared by the Company relating to the steps taken to respond to this Request. Where oral instructions were given, Identify the Person who gave the instructions and describe the content of the instructions and the Person(s) to whom the instruction were given;
- b. for each specification, the individual(s) who assisted in the preparation of the response, with a listing of the Persons (identified by name and corporate title or job description) whose files were searched by each;
- c. any electronic production tools or software packages utilized by the Company in responding to this Request for: keyword searching, Technology Assisted Review, email threading, de-duplication, global de-duplication or near de-duplication (please note that the use of all forms of de-duplication require advance approval from staff, see Instruction 4(c)); and
  - i. if the Company utilized keyword or search terms to identify Documents and information responsive to this Request, provide a list of the search terms used for each custodian;
  - ii. if the Company utilized Technology Assisted Review software,
    1. describe the collection methodology, including (a) how the software was utilized to identify responsive Documents; (b) the process the Company utilized to identify and validate the seed set Documents subject to manual review; (c) the total number of Documents reviewed manually; (d) the total number of Documents determined nonresponsive without manual review; (e) the process the Company used to determine and validate the accuracy of the automatic determinations of responsiveness and nonresponsiveness; (f) how the Company handled exceptions; and (g) if the Company's Documents include foreign language Documents, whether reviewed manually or by some technology-assisted method; and
    2. provide all statistical analyses utilized or generated by the ~~Company or its agents related to the precision, recall, accuracy, validation or quality of its Document production in response to this Request; and,~~
- iii. Identify the person(s) able to testify on behalf of the Company about information known or reasonably available to the organization, relating to its response to this Request.

**RESPONSE NO. 6(a)-(c)**

Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of information and documents that are neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it seeks information protected by the attorney-client privilege and/or is subject to work product protection. Subject to and without waiving the foregoing general and specific objections, Ziegler states as follows

- a. James A. Ziegler prepared the response to this Request.
- b. Counsel assisted in the preparation of this response. The files of the following individuals were searched: James A. Ziegler, President; and Deborah Ziegler, Vice-President.
- c. The e-mail accounts, including inboxes, sub-folders, and archives, of James A. Ziegler and Deborah Ziegler were searched for any e-mail correspondence that contains the term "TrueCar." In addition, the search included all articles authored by Mr. Ziegler published in print form or online that relate to the subject matter of these Requests. James A. Ziegler is the person who is available to testify on behalf of Ziegler.

7. Submit documents sufficient to show and, to the extent not reflected in such documents, describe in detail the company's policies and procedures relating to the retention and destruction of documents.

**RESPONSE NO. 7**

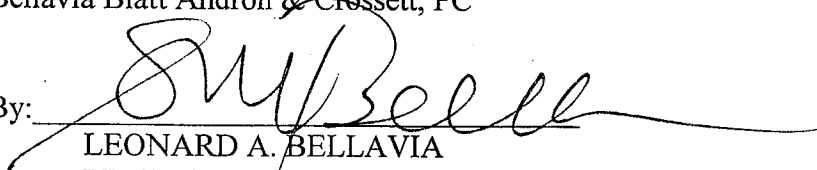
Ziegler objects to this Request to the extent it is vague and ambiguous. Ziegler objects to this Request to the extent that its document retention policy depends on the type of document. Ziegler further objects to this Request to the extent that it is overly broad and unduly burdensome. Ziegler further objects to this Request to the extent it calls for the production of information and documents that are neither relevant nor calculated to lead to the discovery of admissible evidence. Ziegler further objects to this Request to the extent it seeks information protected by the attorney-client privilege and/or is subject to work product protection.

Subject to and without waiving the foregoing general and specific objections, Ziegler states that the e-mail correspondence of James Ziegler and Deborah Ziegler is maintained by their respective AOL e-mail accounts and further states that since having received this CID, it has taken steps to preserve any and all documents and information that may in any way be related to these Requests.

Dated: Mineola, New York  
March 19, 2014

Bellavia Blatt Andron & Crossett, PC

By:



LEONARD A. BELLAVIA

[LBellavia@DealerLaw.com](mailto:LBellavia@DealerLaw.com)

STEVEN H. BLATT

[SBlatt@DealerLaw.com](mailto:SBlatt@DealerLaw.com)

NICHOLAS G. MACINNIS

[NMacinnis@DealerLaw.com](mailto:NMacinnis@DealerLaw.com)

200 Old Country Road—Suite 400

Mineola, New York 11501

(516) 873-3000

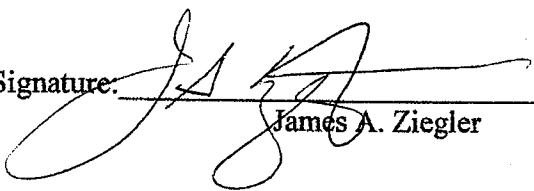
*Attorneys for Petitioner, Ziegler Supersystems, Inc.*

**Certificate of Compliance**

I do certify that all of the documents and information required by the attached Civil Investigate Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objection to its submission and the reason for the objection have been stated.

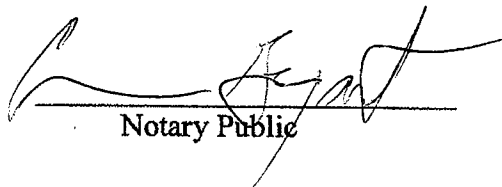
If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature:  \_\_\_\_\_  
James A. Ziegler

Title: \_\_\_\_\_

Sworn to before me on this

18<sup>th</sup> day of March, 2014.

  
\_\_\_\_\_  
Notary Public

**CHRISTOPHER BRYANT**  
NOTARY PUBLIC  
Gwinnett County  
State of Georgia  
My Comm. Expires Sept. 12, 2016