

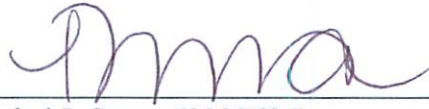
**FILED**  
JUN 22 2018  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
AKRON

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION	)	<b>CASE NO.</b> 518MC54
	)	
Petitioner,	)	<b>JUDGE SARA LIOI</b>
	)	Magistrate Judge George J. Limbert
	)	
v.	)	
	)	
FULLY ACCOUNTABLE, LLC	)	<b><u>MOTION FOR PERMANENT SEAL</u></b>
	)	
Respondent.	)	
	)	

Pursuant to Local Rule 5.2, Defendant Fully Accountable, LLC moves this Court for immediate protection and an order to seal the following documents, Petition to Enforce Civil Investigative Demand (“Petition”) and supporting papers, including all exhibits to the Petition and the Memorandum of Points and Authorities in support of the Petition filed by Petitioner Federal Trade Commission (“FTC”); and, any document produced by Respondent Fully Accountable, LLC in response to the Petition or Civil Investigative Demand. A memorandum in support is attached.

Respectfully Submitted,

A handwritten signature in purple ink, appearing to read "R. Scava", is written above a horizontal line.

Rachel L Scava (0092694)

Fully Accountable, LLC

2680 West Market St

Akron, Ohio 44333

Telephone: (216) 810 – 4705

Facsimile: (234) 542 – 1029

Email: [rachel.scava@fullyaccountable.com](mailto:rachel.scava@fullyaccountable.com)

*Attorney for Respondent Fully Accountable, LLC*

**MEMORANDUM IN SUPPORT**

Statement of Facts

1. On September 22, 2017, the Federal Trade Commission issued a Civil Investigative Demand (“CID”) to Fully Accountable, LLC.
2. Fully Accountable, LLC provided a response to all interrogatories and document requests by either stating that (i) Fully Accountable did not have any information or document regarding the interrogatory or document request; (ii) that it may have to some degree what they were requesting but required a seal or consent from the client to produce the document; or (iii) it answered the interrogatory or document to its fullest extent that it could.
3. Each interrogatory and document request in the CID had reference to a current or former client of Fully Accountable and required Fully Accountable to turn over confidential information of the client.
4. Fully Accountable requested that the Federal Trade Commission either gain consent from the current or former client or provide protection the Fully Accountable, LLC so that should the information become public, Fully Accountable, LLC would be protected against a potential malpractice claim from its current or former clients for turning over and making public their financial records.
5. On June 14, 2018, Fully Accountable accepted service of the following that were filed by Federal Trade Commission, (i) Motion for Temporary Seal and Memorandum in Support; (ii) Petition to Enforce Civil Investigative Demand with Exhibits and Supporting Documents; and (iii) Order to Show Cause.
6. Per the Order for Temporary Seal, Fully Accountable, LLC had ten (10) days to file its own Motion to Seal.

7. Fully Accountable is filing its Motion to Seal in compliance with the Court Order to place the (i) Motion for Temporary Seal and Memorandum in Support; (ii) Petition to Enforce Civil Investigative Demand with Exhibits and Supporting Documents; (iii) Order to Show Cause, (iv) this Motion for Temporary Seal; and (v) any future pleadings, exhibits, supporting documents, or any production for the interrogatories and document requests for the CID.

#### Legal Analysis

Under Local Rule 5.2, “No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents.” This Court has already ruled in favor of the Federal Trade Commission’s Motion for Temporary Seal in this matter and issued an Order for Temporary Seal and thus this Court has already authorized the filing of sealed documents in this case.

The standard for sealing documents was most recently established in *Shane Grp., Inc v. Blue Cross Shield of Michigan*, 825 F.3d 299, 305-06 (6<sup>th</sup> Cir. 2016). From quoting in *Brown & Williamson*, 710 F.2d at 1179 there is “a strong presumption in favor of openness” in court records. It has been further decided that the “burden of overcoming that presumption is borne by the party that seeks to seal them”, *see id.*; *In Re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2011) and “only the most compelling reasons can justify non-disclosure of judicial records. *In re Knoxville News-Sentinel Co.* 723 F.2d 470, 476 (6<sup>th</sup> Cir. 1983).

The Federal Trade Commission is seeking to enforce the Civil Investigative Demand (“CID”) that it issued to Fully Accountable, LLC which would require Fully Accountable, LLC to produce confidential information from former or current clients. This CID is part of a compulsory

investigation by the Federal Trade Commission. The FTC Act gives the Federal Trade Commission the Authority to conduct this type of investigation. *See 16 CFR 4.10(a)(8)*. In enacting the FTC Act, Rule 4.10(g) states “prior to disclosure of such material in a proceeding, the submitter will be afforded an opportunity to seek an appropriate or in camera order”.

Fully Accountable, LLC has compelling reasons for a permanent seal to protect the confidential information contained in the Petition, Exhibits, correspondence, and in supporting documents, as well as any other pleading or production that may be made in this court proceeding. The Petition, Exhibits, and supporting documents that the Federal Trade Commission filed in this Court contain confidential information and correspondence between Fully Accountable, LLC and the Federal Trade Commission. Additionally, as stated in the supporting documents to the Petition and in the Exhibits, Fully Accountable has stated that if it has the information and the proper protection is in place, it would comply with interrogatories and document requests if able to. By not sealing the documents in this proceeding, Fully Accountable, LLC is disclosing information about clients that it does not have the authority to do so. Because the compulsory investigation is into the practices of Fully Accountable, LLC and not the practices of the current or former clients whose information is being disclosed, it would be in the interest of the clients whose information is being disclosed to have it protected under seal since they are not being investigated in this matter.

Fully Accountable, LLC’s Motion for Permanent Seal thus complies with Rule 5.2. In addition, Fully Accountable, LLC is exercising its opportunity under Rule 4.10(g) to protect the information that has been filed, will be filed, and produced from public disclosure in this court proceeding.

Conclusion

This Court should grant Fully Accountable, LLC's Motion and place the Petition and supporting papers and any and all pleadings or documents produced by Fully Accountable, LLC with regard to the Petition or Civil Investigative Demand production under seal for the reasons stated above.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of June, 2018, a copy of the foregoing Motion to Seal was filed electronically. Notice of this filing was sent to Burke Kappler, Esq. Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington DC 20580.



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Rachel L Scava (0092694)  
Fully Accountable, LLC  
2680 West Market St  
Akron, Ohio 44333  
Telephone: (216) 810 – 4705  
Facsimile: (234) 542 – 1029  
Email: [rachel.scava@fullyaccountable.com](mailto:rachel.scava@fullyaccountable.com)  
*Attorney for Respondent Fully Accountable, LLC*