

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

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In the Matter of	)	
	)	
HomeAdvisor, Inc., a corporation,	)	
d/b/a Angi Leads,	)	Docket No. 9407
d/b/a HomeAdvisor Powered By Angi,	)	
	)	
Respondent.	)	

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**ORDER ON RESPONDENT’S MOTION TO  
COMPEL INTERROGATORY RESPONSES**

**I.**

On August 17, 2022, HomeAdvisor, Inc. (“Respondent” or “HomeAdvisor”) filed a motion to compel amended responses to certain interrogatories propounded to Federal Trade Commission (“FTC”) Complaint Counsel in Respondent’s First Set of Interrogatories (“Motion”). Specifically, Respondent seeks an order directing Complaint Counsel “to respond in full” to Interrogatories 6, 17, 20, and 22 of Respondent’s First Set of Interrogatories, within five (5) days. Complaint Counsel filed an opposition on August 25, 2022 (“Opposition”). For the reasons set forth below, the Motion is GRANTED IN PART.

**II.**

Pursuant to Commission Rule 3.31(c)(1): “Parties may obtain discovery to the extent that it 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.” 16 C.F.R. § 3.31(c)(1). Discovery shall be limited if the Administrative Law Judge determines that it is “unreasonably cumulative or duplicative,” or the “burden and expense of the proposed discovery . . . outweigh its likely benefit.” 16 C.F.R. § 3.31(c)(2)(i), (iii). “Parties resisting discovery of relevant information carry a heavy burden of showing why discovery should be denied.” *In re Daniel Chapter One*, No. 9329, 2009 WL 569694, at \*2 (Jan. 9, 2009). If a party fails to comply with any discovery obligation under the rules, Rule 3.38 authorizes the opposing party to seek an order compelling such compliance. “Unless the Administrative Law Judge determines that the objection is justified, the Administrative Law Judge shall order that . . . [responses] be made.” 16 C.F.R. § 3.38(a).

In summary, the Complaint alleges that HomeAdvisor made false, misleading and/or unsubstantiated representations to home repair service providers about the quality, characteristics, and sources of leads that HomeAdvisor advertises and sells to the service providers. *See, e.g.*, Complaint at 14-15.

The interrogatories and responses at issue, attached to Motion as RX1, are resolved below.

### **III.**

Interrogatory 6 requests: “Identify all third-party Affiliates” of HomeAdvisor that Complaint Counsel claims “do not disclose their affiliation with HomeAdvisor prior to the point” at which the homeowner submits a service request, as “alleged in paragraph 14 of the Complaint.” RX1 at 14.

Complaint Counsel objected to the interrogatory on various grounds, including that the interrogatory “misstat[es] the allegations in Paragraph 14 of the Complaint, which alleges, in part, that ‘[t]he forms are displayed on websites with names like homewindowprices.org, which do not reveal their affiliation with HomeAdvisor clearly, if at all’ and ‘[i]n many cases, the internet users do not know that their information will be shared with HomeAdvisor until they complete the form, if at all.’” Complaint Counsel then responded, subject to all its objections, that Complaint Counsel “does not make the claim presupposed by this interrogatory.” RX1 at 14.

Complaint Counsel’s objection to Interrogatory 6 is valid. On its face, paragraph 14 of the Complaint does not allege that third-party affiliates fail to disclose their affiliation with HomeAdvisor, but alleges that the website name fails to do so. In answer to the interrogatory, Complaint Counsel confirmed it is not making that claim. This is sufficient. Respondent’s contrary arguments in its Motion misconstrue the record, are unpersuasive, and are rejected.

Interrogatory 17 requests: “Identify all Credit Requests that you contend were improperly denied or should have been granted and for each such Credit Request, explain why such Credit Request was improperly denied or should have been granted.” RX1 at 35. Credit requests, according to the Complaint, refer to requests by service providers that are dissatisfied with a lead to apply the credit toward the payment for future leads. Complaint ¶ 21.<sup>1</sup>

Complaint Counsel objected on various grounds including that “the propriety of denials of credit requests is not among the legal claims in this proceeding, which concern specific representations alleged to have been ‘false or misleading’ or ‘false or misleading or were not substantiated at the time the representations were made.’” RX1 at 36 (citing Complaint ¶¶ 61-68). Subject to the objections, Complaint Counsel responded: “Complaint Counsel makes no

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<sup>1</sup> Specifically, the Complaint states: “HomeAdvisor does not allow service providers to preview leads prior to receiving them. If a service provider is dissatisfied with a lead she receives from HomeAdvisor, her primary recourse is to request a credit to her HomeAdvisor account for the cost of the lead in question. If HomeAdvisor grants the credit request, HomeAdvisor then applies the credit against the cost of future leads. HomeAdvisor does not generally provide refunds for leads.” Complaint ¶ 21.

contentions at this time regarding the legal or ethical propriety of Respondent's denial of credit requests, but rather the Complaint contains factual allegations regarding the circumstances in which such credit requests were made and denied." RX1 at 36. Complaint Counsel's response then reserves its rights to seek relief against Respondent for consumer redress under Section 19(b) of the FTC Act in which Respondent's credit policy "may be examined." RX1 at 36.

Complaint Counsel's objections and response are ambiguous and do not fairly meet the substance of the request. The propriety of the denial of credit requests appears to be in issue. The Complaint references the denial of credit requests in a context that implies wrongdoing. For example, the Complaint alleges as one of the alleged adverse effects of HomeAdvisors' practices on service providers that: "Service providers, . . . expend precious time following up on leads that are not of the quality HomeAdvisor promises, and *still more time seeking, often unsuccessfully, credits and refunds from HomeAdvisor* for such leads." Complaint ¶ 8 (emphasis added); *see also* Complaint ¶ 22 (alleging a millions of credit requests, "approximately forty-five percent" of which were denied). Complaint Counsel asserted similarly in its Motion for Summary Decision, filed April 7, 2022 and denied August 2, 2022. In Complaint Counsel's Motion for Summary Decision (attached to the Motion as RX4), Complaint Counsel argued that Respondent's "credit procedures" do not "cure" alleged misrepresentations as to the quality of a lead. RX4 at 26. In support of that argument, Complaint Counsel asserted that HomeAdvisor's credit review process "is shallow and slanted against service providers," and that "credits for bad leads [are] far from guaranteed." RX4 at 29; *see also id.* ("Since July 2014, HomeAdvisor has denied approximately 44 percent of service providers' requests for credits."). Based on the foregoing, Complaint Counsel should amend its answer to clarify its position.

Complaint Counsel also objected to the interrogatory on the grounds that, even if the interrogatory requested relevant information, responding to the interrogatory is "unduly burdensome," and that it demands not just data, but an analysis of the data. Complaint Counsel argues it is unreasonable to demand that Complaint Counsel individually analyze the millions of denied credit requests, which are Respondent's own documents, to determine whether they were proper. Complaint Counsel cites *In re 1-800 Contacts*, No. 9372, 2016 WL 7383991, at \*2 (Dec. 12, 2016), for the proposition that Complaint Counsel cannot be compelled "to provide information that Complaint Counsel does not presently possess." *Id.* Whether responding to this interrogatory presents a unreasonable burden cannot be determined without additional clarity as to the relevance of the requested information. Accordingly, this objection is overruled without prejudice, pending Complaint Counsel's amended interrogatory response.

Interrogatory 20 requests: "Do you contend that any Affiliates have breached their contracts with HomeAdvisor during the time period at issue in this Action? If so, identify all such Affiliates and describe all facts supporting that contention." RX1 at 42.

Complaint Counsel objected to the interrogatory as outside the scope of discovery, unduly burdensome, and improperly calling for a legal conclusion. Subject to the objections, Complaint Counsel responded that "the Complaint does not make any contentions regarding the

legal status of Respondent's contractual relationships with its affiliates, but rather makes factual contentions regarding (i) circumstances in which homeowners and other consumers interact with such affiliates, . . . and (ii) circumstances in which Respondent sells leads derived from information Respondent received from affiliate sources, *see* [Complaint] ¶¶ 6, 14, 16, 31, 45-46. At this time, Complaint Counsel takes no position regarding whether any affiliates have breached their contracts with Respondent." RX1 at 42-43.

Respondent argues that whether Complaint Counsel contends that HomeAdvisor is in breach of affiliate contracts is discoverable because its contracts prohibit conduct that the Complaint alleges, such as providing lower quality leads to service providers. Motion at 6. This case concerns whether HomeAdvisor's claims to service providers are false, misleading, or unsubstantiated. While this might involve questions concerning the conduct of affiliates, whether the conduct of affiliates breached their contract with HomeAdvisor is not in issue. Moreover, Complaint Counsel's response to the interrogatory, that the Complaint makes no contentions as to the status of any affiliate contract, and that Complaint Counsel "takes no position" as to breach of contract, is sufficient.

Interrogatory 22 requests: "Do you dispute that a Service Provider's efforts to contact and follow-up with its HomeAdvisor Leads impact whether or not those Leads will result in contact and, ultimately, a job? If so, describe all facts supporting your assertion." RX1 at 44.

Complaint Counsel objected in part on the grounds that, as phrased, the interrogatory was better propounded as a request for admission. Complaint Counsel responded to the interrogatory that it "does not dispute that a service provider cannot obtain a job from a consumer with whom the service provider is not in contact." RX1 at 44.

The foregoing interrogatory seeks information relevant to Respondent's defense. The Complaint alleges, among other things, that Respondent misrepresents the quality of the leads HomeAdvisor will provide. *See, e.g.*, Complaint ¶ 6 (alleging Respondent "has made representations to service providers about the quality, characteristics, and source of HomeAdvisor's leads that are false, misleading, or unsubstantiated. HomeAdvisor represents that its leads concern people who intend to hire a service provider soon, even though many of them do not"). Respondent argues in defense that service providers are aware that leads do not guarantee jobs and that "[t]he outcome of every lead necessarily depends on service providers' efforts to develop those leads . . . ." Motion at 8. Respondent argues that "[t]his interrogatory seeks a clear answer as to whether Complaint Counsel disputes these essential facts, which go to one of HomeAdvisor's core defenses to the claims in this action, or not." *Id.*

Complaint Counsel's answer to the interrogatory parses words and does not fairly meet the substance of the interrogatory. However, the interrogatory is more appropriately propounded as an admission. For this reason, a further answer to Interrogatory 22 will not be required at this time.

**IV.**

For the above stated reasons, the Motion is GRANTED IN PART. Complaint Counsel shall provide a clear and direct answer to Interrogatory 17, within 5 days of this Order. The Motion is otherwise DENIED.

ORDERED:

*Dm Chappell*

D. Michael Chappell  
Chief Administrative Law Judge

Date: August 29, 2022