

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



ORIGINAL

In the Matter of

Jerk, LLC, a limited liability company,  
also d/b/a JERK.COM, and

John Fanning, individually and as a member of  
Jerk, LLC,  
Respondents.

DOCKET NO. 9361

**ORDER ON COMPLAINT COUNSEL'S MOTION FOR  
ALTERNATE SERVICE ON RESPONDENT JERK, LLC**

**I.**

On October 17, 2014, Federal Trade Commission ("FTC") Complaint Counsel filed a Motion for Alternate Service on Respondent Jerk, LLC ("Jerk"), and its memorandum in support thereof ("Motion"). Respondent Jerk has not filed any response to the Motion. Under FTC Rule 3.38(a), the deadline for filing a response to the Motion was October 29, 2014. For the reasons set forth below, Complaint Counsel's Motion is GRANTED.

**II.**

Complaint Counsel makes the following representations:

At the time the Complaint in this action was issued on April 7, 2014, Jerk was represented by Ms. Maria Crimi Speth and the law firm Jaburg & Wilk, P.C.

Jerk, through Ms. Speth, participated in the action, including by filing an Answer, responding to Complaint Counsel's Requests for Admissions and Requests for Production, propounding discovery requests on Complaint Counsel, and designating Respondent John Fanning as the company's representative for a deposition noticed under Rule 3.33(c)(1).

On July 18, 2014, Ms. Speth alerted Complaint Counsel that, effective immediately, she no longer represented Jerk.

On July 30, 2014, Ms. Speth filed a notice that stated: “Counsel, Maria Crimi Speth and the law firm Jaburg & Wilk, P.C. hereby give notice that as of July 18, 2014, they no longer represent Jerk, LLC.”

Ms. Speth has not moved to withdraw as Jerk’s counsel or identified successor counsel or any point of contact for Jerk to whom Complaint Counsel can send correspondence.

By Order dated August 15, 2014, Jerk was ordered to produce an individual for a deposition under Rule 3.33(c)(1) and to respond to Complaint Counsel’s First Set of Interrogatories by August 20, 2014. Jerk has not responded to these Interrogatories and did not produce anyone for its re-noticed deposition on August 27, 2014.

Since July 18, 2014, Complaint Counsel has served Jerk by continuing to email service copies to Ms. Speth, and also by mailing copies to 165 Nantasket Avenue in Hull, Massachusetts and to P.O. Box 277 in Hingham, Massachusetts. Complaint Counsel also served Jerk through its registered agent, National Registered Agents, Inc. (“NRAI”), in Dover, Delaware, which is listed as Jerk’s registered agent on the Delaware Secretary of State website.

On August 21, 2014, Federal Express alerted Complaint Counsel that Jerk moved from the 165 Nantasket Avenue address without providing a forwarding address.

On October 6, 2014, Complaint Counsel received a return receipt from the United States Postal Service indicating that Jerk no longer receives mail at the Hingham, Massachusetts P.O. Box, and did not leave a forwarding address.

Since then, Complaint Counsel has continued to serve Jerk through its registered agent in Delaware.

Complaint Counsel Motion at 1-3 (citing Declaration of Beatrice Burke, attached to the Motion).

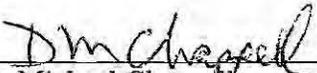
Complaint Counsel requests “permission to serve Jerk at its registered agent in Delaware and to continue to serve Ms. Speth.” Motion at 1.

### III.

The Scheduling Order, which was agreed to by the parties, and issued in this case on May 28, 2014, states: “The parties shall serve each other by electronic mail and shall include ‘Docket 9361’ in the re line and all attached documents in .pdf format. Complaint Counsel and Respondents’ Counsel agree to waive their rights to Service under 16 C.F.R. § 4.4(a)-(b).” (Scheduling Order, May 28, 2014, Provision 2). Provision 2 was intended to make it easier for the parties to serve each other. It does not operate to prevent Complaint Counsel from serving Jerk through other methods authorized under the Commission’s Rules of Practice. Therefore,

Complaint Counsel may serve Jerk through any method authorized under the Commission's Rules of Practice. Accordingly, and as described herein, Complaint Counsel's Motion is GRANTED.

ORDERED:

  
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D. Michael Chappell  
Chief Administrative Law Judge

Date: November 3, 2014