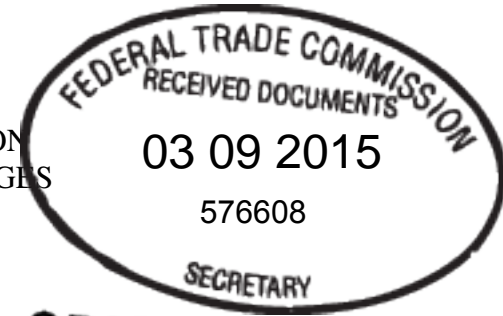


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES



ORIGINAL

_____)
In the matter of:)
)
Jerk, LLC, a limited liability company,) DOCKET NO. 9361
)
Also d/b/a JERK.COM, and)
) PUBLIC
John Fanning,)
Individually and as a member of)
Jerk, LLC,)
)
Respondents.)
_____)

**RESPONDENT JOHN FANNING’S OBJECTION TO
COMPLAINT COUNSEL’S EXHIBIT LIST**

Respondent John Fanning hereby generally objects to Complaint Counsel’s proposed exhibit list. For the same reasons expressed in Mr. Fanning’s pending motions *in limine* and motion to strike Complaint Counsel’s final proposed witness list, Mr. Fanning objects to any exhibits that seek to inject unreliable, irrelevant, immaterial, cumulative, and unduly prejudicial information into the trial of this action. In particular, 16 CFR §3.43(b) instructs:

Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, and unreliable evidence shall be excluded. Evidence, even if relevant, may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or if the evidence would be misleading, or based on considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Mr. Fanning cannot possibly be required to comment on and provide specific objections to each and every one of the approximately 786 individual exhibits proposed and listed by Complaint Counsel, although Mr. Fanning previously identified in his pending motions certain proposed exhibits that must be barred as inadmissible in whole or in part. Many of the other

proposed exhibits identified by Complaint Counsel likewise must be excluded in accordance with the mandates of 16 CFR §3.43(b), Fed. R. Ev. 602, and Fed. R. Civ. P. 701. Counsel for Mr. Fanning has indicated a willingness to confer with Complaint Counsel in an effort to narrow disputes concerning other specific proposed exhibits in hopes of streamlining the trial, provided that Complaint Counsel is willing to cooperate. Meanwhile, Mr. Fanning presses his blanket objections to the proposed exhibit list, and reserves all objections.

CONCLUSION

For the foregoing reasons, Respondent John Fanning requests this Court to strike and/or bar at trial all proposed exhibits that fail the basic standards of admissibility.

Respectfully submitted,

JOHN FANNING,

By his attorneys,

/s/ Peter F. Carr, II

Peter F. Carr, II
ECKERT, SEAMANS, CHERIN & MELLOTT, LLC
Two International Place, 16th Floor
Boston, MA 02110
617.342.6800
617.342.6899 (FAX)

Dated: March 9, 2015

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2015, I caused a true and accurate copy of the foregoing to be served electronically through the FTC's e-filing system and I caused a true and accurate copy of the foregoing to be served as follows:

One electronic copy to the Office of the Secretary:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, DC 20580
Email: secretary@ftc.gov

One electronic copy to the Office of the Administrative Law Judge:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Avenue, N.E., Room H-110
Washington, DC 20580
Email: ojl@ftc.gov

One electronic copy to the Office of the Counsel for the Federal Trade Commission:

Sarah Schroeder
Federal Trade Commission
901 Market Street, Suite 670
San Francisco, CA 94103
Email: sschroeder@ftc.gov

One electronic copy via email to Counsel for Jerk, LLC:

Alexandria B. Lynn
48 Dartmouth Street
Watertown, MA 02472
Email: ab.lynn@outlook.com

/s/ Peter F. Carr, II
Peter F. Carr, II

Dated: March 9, 2015

Notice of Electronic Service for Public Filings

I hereby certify that on March 09, 2015, I filed via hand a paper original and electronic copy of the foregoing Respondent John Fanning's Objection to Complaint Counsel's Exhibit List, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on March 09, 2015, I filed via E-Service of the foregoing Respondent John Fanning's Objection to Complaint Counsel's Exhibit List, with:

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Complaint

I hereby certify that on March 09, 2015, I filed via other means, as provided in 4.4(b) of the foregoing Respondent John Fanning's Objection to Complaint Counsel's Exhibit List, with:

Alexandria Lynn
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Peter F. Carr, II
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