

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



In the Matter of)
)
LabMD, Inc.,)
a corporation,)
Respondent.)

DOCKET NO. 9357

**ORDER GRANTING RESPONDENT'S MOTION FOR *IN CAMERA* TREATMENT
OF EXHIBITS CONTAINING SENSITIVE PERSONAL INFORMATION**

I.

On July 7, 2015, Respondent LabMD (“Respondent” or “LabMD”) filed a motion seeking *in camera* treatment for portions of exhibits containing the home address and sensitive personal information of Respondent’s president, Michael Daugherty (“Motion”). Respondent represents that the Motion is unopposed. As set forth below, Respondent’s Motion is GRANTED.

II.

Under Rule 3.45(b) of the Rules of Practice, after finding that material constitutes “sensitive personal information,” the Administrative Law Judge shall order that such material be placed *in camera*. 16 C.F.R. § 3.45(b). “Sensitive personal information” is defined as including, but not limited to, “an individual’s Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver’s license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual’s medical records.” 16 C.F.R. § 3.45(b). “Sensitive personal information . . . shall be accorded permanent *in camera* treatment unless disclosure or an expiration date is required or provided by law.” 16 C.F.R. § 3.45(b)(3).

In addition to these listed categories of information, in some circumstances, individuals’ names and addresses, and witness telephone numbers have been found to be “sensitive personal information” and accorded *in camera* treatment. *In re LabMD, Inc.*, 2014 FTC LEXIS 127 (May 6, 2014); *In re McWane, Inc.*, 2012 FTC LEXIS 156 (September 17, 2012). *See also In re Basic Research, LLC*, 2006 FTC LEXIS 14, at *5-6 (Jan. 25, 2006) (permitting the redaction of information concerning particular consumers’ names or other personal data where it was not relevant). Because sensitive personal information *shall* be placed *in camera*, the party seeking *in*

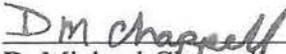
camera treatment is not held to the same burden of showing that public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment and thus the interest of the public in a full and open record is not weighed. 16 C.F.R. § 3.45(b); *In re Jerk, LLC*, 2015 FTC LEXIS 39 (Feb. 23, 2015).

Respondent states that the following exhibits reference Mr. Daugherty's home address: JX 1; RX 487, CX 705; RX 492, CX 710; RX 495, CX 713; RX 507, CX 725; RX 511, CX 727; CX 627; and CX 628. Respondent requests that the portions of these exhibits containing Mr. Daugherty's home address be accorded *in camera* treatment. In addition, Respondent seeks *in camera* treatment for CX 838, LabMD's 2007 tax return, stating that the exhibit contains several pieces of Mr. Daugherty's sensitive personal information, including his social security number, date of birth, and home address.

III.

Respondent's Motion is GRANTED. Permanent *in camera* treatment shall be accorded to the portions of the listed exhibits containing Mr. Daugherty's home address. The parties shall create a public version of these exhibits by redacting the sensitive personal information and labeling the redacted, public version of those exhibits with an "-A." In addition, permanent *in camera* treatment is GRANTED to CX 838.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: July 15, 2015

Notice of Electronic Service

I hereby certify that on July 15, 2015, I filed an electronic copy of the foregoing Order Granting Respondent's Motion for In Camera Treatment of Exhibits, with:

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

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

I hereby certify that on July 15, 2015, I served via E-Service an electronic copy of the foregoing Order Granting Respondent's Motion for In Camera Treatment of Exhibits, upon:

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