

ORIGINAL



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

In the Matter of	)	<b>PUBLIC</b>
	)	
LabMD, Inc.,	)	Docket No. 9357
a corporation,	)	
Respondent.	)	
	)	
	)	

**JOINT MOTION FOR *IN CAMERA* TREATMENT OF EXHIBIT CONTAINING SENSITIVE PERSONAL INFORMATION OF FORMER LABMD EMPLOYEE**

Pursuant to Rule 3.45 of the Commission’s Rule of Practice, 16 C.F.R. § 3.45, and the Revised Scheduling Order, Complaint Counsel and Respondent hereby seek leave of Court to late-file this request that the Court grant *in camera* treatment to Respondent’s exhibit RX415, which contains sensitive personal information (“SPI”) about a former LabMD employee. In their review of proposed exhibits for SPI, the parties overlooked the inclusion of a date of birth in RX415, and now request the Court allow this late motion for *in camera* treatment, and grant permanent *in camera* treatment to the sensitive information included in RX415.

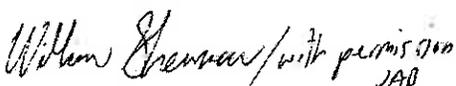
Under Rule 3.45(b), the Administrative Law Judge may order that material be placed *in camera* if the material constitutes sensitive personal information. 16 C.F.R. § 3.45(b).

“Sensitive personal information” shall include, but shall not be 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.

*Id.* Sensitive personal information “shall be accorded permanent in camera treatment unless disclosure or an expiration date is required and provided by law.” 16 C.F.R. § 3.45(b)(3).

RX415, titled “Kaloustian background check/A. Simmons’ resignation,” is comprised of two documents related to the end of two LabMD employees’ tenure with LabMD. Included on the first page of RX415 is the birth date of former LabMD employee Curt Kaloustian. *See* RX415 at FTC-LABMD-016180, attached as Exhibit 1. Also included on this page are the last four digits of Mr. Kaloustian’s Social Security number. This information is SPI under Rule 3.45(b), and thus the Court should confer permanent *in camera* treatment on RX415.

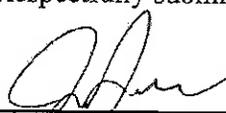
Dated: May 14, 2014



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Respectfully submitted,



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*Complaint Counsel*

*Counsel for Respondent LabMD, Inc.*

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In the Matter of )

**PUBLIC**

LabMD, Inc., )  
a corporation, )  
Respondent. )  
\_\_\_\_\_)

Docket No. 9357

**[PROPOSED] ORDER GRANTING MOTION FOR *IN CAMERA* TREATMENT OF  
EXHIBIT CONTAINING SENSITIVE PERSONAL INFORMATION OF FORMER  
LABMD EMPLOYEE**

Upon consideration of the Joint Motion for *In Camera* Treatment of Exhibit Containing Sensitive Personal Information of a Former LabMD Employee, it is hereby

ORDERED, that Respondent's proposed exhibit RX415 is granted permanent *in camera* treatment. Respondent shall create a public version of RX415-A that redacts sensitive personal information from page 1 and thus can be entered into the public record.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2014, I caused the foregoing document to be filed electronically through the Office of the Secretary's FTC E-filing system, which will send notification of such filing to:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room H-113  
Washington, DC 20580

I also certify that I caused a copy of the foregoing document to be transmitted *via* electronic mail and delivered by hand to:

The Honorable D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room H-110  
Washington, DC 20580

I further certify that I caused a copy of the foregoing document to be served *via* electronic mail to:

Michael Pepson  
Lorinda Harris  
Hallee Morgan  
Robyn Burrows  
Kent Huntington  
Daniel Epstein  
Patrick Massari  
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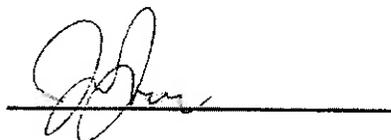
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*Counsel for Respondent LabMD, Inc.*

**CERTIFICATE FOR ELECTRONIC FILING**

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

May 14, 2014

By:

A handwritten signature in black ink, appearing to read "Jarad Brown", is written over a solid horizontal line.

Jarad Brown  
Federal Trade Commission  
Bureau of Consumer Protection

# Exhibit 1

# Accurate Information Systems, Inc.

80 Orville Drive

Suite 100

Bohemia, New York 11716

Phone: 1-800-295-7109 Fax 1-631-569-4560

## EMPLOYMENT VERIFICATION REPORT

**\*\* Confidential \*\***

### Employer Contact Information

Employer: LABMD  
Location: ATLANTA, GA 30339  
Phone: 678-443-2330

Contact: JOHN BOYLE

Please assist us in verifying the employment information for this applicant.

Applicant: KALOUSTIAN, CURT

SSN: XXX-XX-██████

DOB: ██████████

Requested: 02/13/2012

### Employer-Reported Information

Employment Dates: 10/13/06 - 6/10/09

Ending Title: IT Tech Specialist

Ending Pay: \_\_\_\_\_

### Applicant-Supplied Information

Employment Dates: 10/2006-06/2009

Ending Title: IT ANALYST

Ending Pay: 66K PER YR

Reason for Leaving: Terminated for failure to perform job duties.

Reason for Leaving: LEFT TO PURSUE NEW OPPORTUNITIES.

Eligible for Re-Hire? No

Please Sign:

Signature:

John Boyle FOR ON BEHALF OF LABMD, INC.

Title: VP of Operations @ GM

Date: 2/22/12

Thank You,

Accurate Information Systems, Inc.

Your complete solution for background screening and risk mitigation both domestically and internationally. Interested in our services? Call our sales dept. at 1-800-295-7109 ext. 101

**END OF EMPLOYMENT VERIFICATION REQUEST FORM**