

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

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In the Matter of )  
Traffic Jam Events, LLC, )  
a limited liability company, ) Docket No. 9395  
and )  
David J. Jeansonne II, individually and as an )  
officer of Traffic Jam Events, LLC, )  
Respondents. )  
\_\_\_\_\_  
)

**ORDER GRANTING COMPLAINT COUNSEL’S MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS AND ANSWERS TO INTERROGATORIES**

**I.**

On December 7, 2020, Federal Trade Commission (“FTC”) Complaint Counsel filed a motion seeking to compel Respondent Traffic Jam Events, LLC (“TJE”)<sup>1</sup> to respond to Complaint Counsel’s First Set of Requests for Production and First Set of Interrogatories (“Motion”). TJE has not filed any response to the Motion.<sup>2</sup>

For the reasons set forth below, the Motion is GRANTED.

**II.**

The FTC’s Complaint against TJE and its president, Respondent David Jeansonne II (“Jeansonne”) (collectively “Respondents”), alleges three counts of violating the FTC Act. Count I alleges deceptive advertising regarding COVID-19 government stimulus benefits.

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<sup>1</sup> Although David J. Jeansonne II is named as a Respondent, individually and as an officer of Traffic Jam Events, LLC, Complaint Counsel’s Motion is directed only to Traffic Jam Events.

<sup>2</sup> Pursuant to FTC Rules 3.38(a), 4.3(a), and 4.3(c), TJE’s response was required to be filed by December 15, 2020.

Complaint ¶¶ 15-16; *see also* ¶ 5 (alleging that “Respondents have disseminated or caused to be disseminated deceptive advertisements and promotional materials, including advertisements purporting to provide COVID-19 stimulus relief to consumers”); ¶ 6 (“[I]n or around March 2020, Respondents’ advertisements sought to lure consumers to dealerships under the guise that valuable government relief related to COVID-19 was available at designated locations for a short period of time.”).

Count II alleges that Respondents deceptively advertised that consumers had won a specific prize that could be collected by visiting a particular auto dealership, when consumers had not won the specific prize. Complaint ¶¶ 17-18; *see also* ¶ 12 (“Respondents have also disseminated or have caused to be disseminated advertisements and promotional materials claiming that recipients have won prizes to lure individuals and families to auto sales events.”). The Complaint includes, “[f]or [an] example” of the alleged prize notification advertising, details regarding a promotion for certain auto sales events occurring from May 28 through June 3, 2020 (the “Prize Notification Mailer”).

Count III alleges that Respondents violated the FTC Act by failing to make certain disclosures required under the Truth in Lending Act (“TILA”) and Regulation Z, 12 C.F.R. § 226.24(d), in Respondents’ advertisements promoting closed-end credit, “including, but not limited to,” the Florida Mailer and the Alabama Mailer. Complaint ¶¶ 14, 20-23.

Respondents’ Answer admits Complaint Counsel’s allegations that Respondents “have advertised, marketed, promoted, or offered for sale or lease, and sold or leased motor vehicles for or on behalf of auto dealerships nationwide” and that Respondents “create advertising, offer direct mail marketing services, and staff tent sales events to automotive dealerships.” Complaint ¶ 3, Answer ¶ 3. Respondents deny all other material allegations.

### III.

#### A. Scope of Discovery

The permissible scope of discovery is governed by Commission Rule of Practice 3.31(c), which provides in pertinent part: “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). “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 . . . documents, depositions, or [answers to] interrogatories be served or disclosure otherwise be made.” 16 C.F.R. § 3.38(a). To determine whether Respondents’ objections are justified, the discovery requests are evaluated, below, in relation to the allegations of the Complaint, the defenses of Respondents, and the proposed relief. *See In re Rambus Inc.*, No. 9302, 2002 FTC LEXIS 90, at \*4 (Nov. 18, 2002).

## B. Requests for Production of Documents

On September 10, 2020, Complaint Counsel served TJE with Requests for Production of Documents pursuant to Rule 3.37 (“RFPs”). On October 16, 2020, Complaint Counsel moved for an order compelling discovery, including an order compelling further production of documents in response to the RFPs. On October 28, 2020, that motion was denied without prejudice as to the RFPs and the parties were ordered to confer and negotiate in good faith to attempt to reach an agreement regarding TJE’s objections to Complaint Counsel’s RFPs.

The record shows that Complaint Counsel conferred by telephone with Respondents’ counsel on seven separate occasions during the month of November (November 4, 5, 10, 13, 18, 20 and 25) to address concerns and reach agreement on a rolling production schedule. Declaration of Sanya Shahrasbi (“Shahrasbi Decl.”) ¶¶ 11-18. In addition, Jeansonne participated in the November 10 meeting. *Id.* ¶ 13. Counsel for the parties also exchanged letters and emails summarizing the results of the parties’ negotiations and the plan for producing outstanding discovery on November 6 and November 23, 2020. Motion Exs. C, D. With the permission of Jeansonne’s counsel, Complaint Counsel conferred directly with Jeansonne on November 25, 2020. Motion Exs. A, B.

It is readily apparent that the advertising materials, sales information and other information sought by the document requests are relevant. For example, RFP 1 requests documents sufficient to show the products and services offered or sold by Respondents, including advertisements and promotional material relating to the sale or offer for sale of any new or used motor vehicle or closed-end credit. Motion Ex. H. There is no question that the advertisements are relevant. As another example, RFP 2 asks for documents to show agreements with dealerships. Motion Ex. H. In their Answer, Respondents aver that they “generated the advertisements on behalf of and at the request of and for the benefit of automotive dealerships” and that “[t]he dealerships for whom the advertisements were created are responsible for any alleged harm to consumers.” Answer ¶ 2 and Seventh Affirmative Defense. The relationship between Respondents and the dealerships is relevant to these claims and to the advertisements challenged by the Complaint.

Moreover, TJE’s “boilerplate” objections asserting overbreadth and/or undue burden are not adequately supported. Although the initial burden to show relevance of information in a discovery request lies with the moving party, “parties resisting discovery of relevant information carry a heavy burden of showing why discovery should be denied.” *In re ECM BioFilms, Inc.*, No. 9358, 2014 FTC LEXIS 47, at \*3 (Mar. 18, 2014). TJE has not met its burden as to its objections to the RFPs. Furthermore, the record demonstrates that the parties negotiated a number of limitations intended to address TJE’s burden objections, yet actual production in accordance with those negotiations has not occurred. Motion Exs. C, D. The limited number of documents that TJE has produced to date is inadequate and incomplete. Shahrasbi Decl. ¶¶ 12-16, 20. In addition, Jeansonne, TJE’s president, has made clear that he resists providing further discovery, stating in an email to Complaint Counsel on November 25, 2020, “If the plan is to send me more emails to ask for more documents, save it. [I’m] tapped out. I am will[ing] to

speak with [Complaint Counsel], but I have exhausted my resources and will not be doing any [ ] more of that.” Motion Ex. A. TJE has failed to demonstrate that its objections are justified. 16 C.F.R. § 3.38(a) (“Unless the Administrative Law Judge determines that the objection is justified, the Administrative Law Judge shall order that” disclosure be made.).

For all these reasons, an order compelling production of documents is appropriate.

### C. Interrogatories

Complaint Counsel served TJE with a First Set of Interrogatories (“Interrogatories”) on October 26, 2020, with the responses due on November 25, 2020. Motion Ex. E. In Complaint Counsel’s November 25, 2020 conversation with Jeansonne and another TJE employee, TJE refused to engage in any substantive discovery discussions, and represented that it would not be complying with the outstanding discovery. Shahrasbi Decl. ¶ 18. Respondents have not provided any response to the Interrogatories. Shahrasbi Decl. ¶ 20. “Unless the Administrative Law Judge determines that the objection is justified, the Administrative Law Judge shall order that . . . [answers to] interrogatories be served. . . .” 16 C.F.R. § 3.38(a). Here, where there has been no response and no objections, an order compelling responses to the Interrogatories is appropriate.

## IV.

Upon full consideration of the Motion and the exhibits submitted therewith, and for all the reasons set forth above, and there having been no opposition to the Motion submitted by TJE, Complaint Counsel’s Motion to Compel is GRANTED, and it is hereby ORDERED:

Respondent Traffic Jam Events shall produce material responsive to Complaint Counsel’s Requests for Production of Documents, for the relevant time period defined therein, no later than December 23, 2020. As requested in the Motion’s proposed order, such production shall include without limitation:

- a copy of each unique Advertisement and Promotional Material (“Advertising”);
- invoices;
- work orders;
- documents sufficient to show the relationship between Respondent TJE and Platinum Plus Printing, including any agreements;
- documents sufficient to show the relationship between Respondent TJE and the telephone numbers and websites listed on Respondents’ Advertising;
- data files showing mailing information relating to Respondents’ Advertising;
- sales logs and any other materials tracking leads or consumer responses to Respondents’ Advertising through a customer relationship management database or otherwise;

- email, text messages, and any other communications to, from, or copying David J. Jeansonne II, Justin Brophy, Chad Bullock, Jim Whelan, William Lilley, and Mariela Everst relating to Respondents' Advertising;
- business plans, proposals, financial analyses, market or sales strategies, sales projections, sales pitches or prospectuses, or return on investment analyses relating to Respondents' Advertising
- all complaints relating to Respondents' Advertising;
- all documents relating to the FTC or compliance with consumer protection laws;
- all documents relating to the Florida, Kansas, and Indiana investigations and lawsuits; and
- documents sufficient to show all persons having any responsibilities for or on Respondents' behalf for any Advertising.

It is further ORDERED that Respondent Traffic Jam Events shall provide complete and responsive answers to Complaint Counsel's First Set of Interrogatories no later than December 23, 2020.

ORDERED:

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D. Michael Chappell  
Chief Administrative Law Judge

Date: December 16, 2020