

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

ORIGINAL



IN THE MATTER OF
CARIBBEAN CRUISE LINE, INC.

FILE NO. 0123145

**CARIBBEAN CRUISE LINE, INC'S PETITION TO
LIMIT OR QUASH CIVIL INVESTIGATION DEMAND**

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

IN THE MATTER OF
CARIBBEAN CRUISE LINE, INC.

FILE NO. 0123145

COMMISSIONERS:

Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

**CARIBBEAN CRUISE LINE, INC'S PETITION TO
LIMIT OR QUASH CIVIL INVESTIGATION DEMAND**

Pursuant to 16 C.F.R. §2.7(d), Petitioner Caribbean Cruise Line, Inc. ("CCL") petitions the Federal Trade Commission ("FTC") to limit or quash the Civil Investigative Demand ("CID") issued to CCL on August 28, 2012.¹ CCL objects to and seeks to quash and/or modify the CID as being improper and unenforceable for at least three (3) separate reasons: (1) the definitions therein are complex and over inclusive and hence, over broad; (2) the CID seeks private financial data from CCL; and (3) complying with the CID's overbroad requests would be

1. See CID at Cover Page (Petition to Limit or Quash), a true and correct copy of which is attached hereto as Exhibit A. The CID was served on CCL on September 4, 2012. The response date indicated on the CID is September 19, 2012. Commissioner William Maxson agreed to an extension of time to respond to the CID until October 19, 2012 via e-mail on September 7, 2012. Accordingly, the deadline to file this Petition is September 24, 2012, or twenty (20) days from service, and this Petition is timely filed to arrive to the Commission on that date. See also 16 C.F.R §2.7(d)(1).

unduly burdensome to CCL. Accordingly, CCL respectfully petitions the FTC Commissioners to reasonably modify the CID as requested below.

I. LEGAL STANDARD

By this Petition, CCL does not challenge the FTC's statutory authority to investigate practices that it believes may constitute deceptive or unfair trade practices when used in the course of trade under 15 U.S.C. §45(a). However, the FTC's subpoena powers are not limitless.² Limitations on its powers are especially necessary where, as here, the FTC is pursuing an unlimited inquiry based on a "blanket" resolution. The Resolution here predates the subpoena by some sixteen months, seeks to investigate "unnamed telemarketers, sellers, or others" and simply is not limited in nature or scope. While Congress has provided agencies with authority to conduct reasonable investigations through the use of investigatory tools such as administrative subpoenas and CIDs, the federal courts serve as a safeguard against agency abuse.³ The broad-ranging subpoena here, under the ostensible authority of the generic and blanket Resolution, is fraught with abuse.

The reason Congress has refused to confer upon administrative agencies their own subpoena enforcement power is "ensure that targets of investigations are accorded due process."⁴ In that capacity, a federal court will not act as a rubber stamp on the FTC's civil investigative

2. "A subpoena from the FTC is not self-enforcing." *Wearly v. FTC*, 616 F.2d 662, 665 (3d Cir. 1980).

3. *See, e.g., Oklahoma Press Publ'g Co. v. Walling*, 327 U.S. 186, 208 (1946).

4. Sean Doherty, *Commodity Futures Tradition Comm'n v. Collins: Is the Rationale Sound for Establishing an Exception to Subpoena Law for Tax Returns?*, 7 DEPAUL BUS. L.J. 365, 376 (1995).

demand, but rather, as an independent reviewing authority with “the power to condition enforcement upon observance to [a party’s] valid interests.”⁵

The recognized standard for whether an administrative agency’s subpoena should be enforced was established by the United States Supreme Court in *U.S. v. Morton Salt Co.*⁶ In *Morton Salt*, the Supreme Court recognized that “a governmental investigation into corporate matters may be of such a sweeping nature and so unrelated to the matter properly under inquiry as to exceed the investigatory power.”⁷ Further, the Supreme Court instructed that an agency’s subpoena, like the CID at issue here, should not be enforced if it demands information that is (1) not “within the authority of the agency”; (2) “too indefinite”; or (3) not “reasonably relevant to the inquiry.”⁸ Particularly relevant to the instant Petition, the Supreme Court recognized in *Morton Salt* that if the corporation had objected and presented evidence concerning the excessive scope or breadth of the investigation, the corporation “could have obtained any reasonable modification necessary.”⁹

5. *Wearly*, 616 F.2d at 665; *see, e.g., SEC v. Arthur Young & Co.*, 584 F.2d 1018, 1024 (D.C. Cir. 1978) (“The federal courts stand guard, of course, against abuses of [] subpoena-enforcement processes.”) (internal citations omitted).

6. 338 U.S. 632, 652 (1950).

7. *Morton*, 338 U.S. at 652.

8. *Morton*, 338 U.S. at 652. Courts have consistently applied this test. *See, e.g., Chao v. Local 743 Int’l Brotherhood of Teamers, AFL-CIO*, 467 F.3d 1014, 1017 (7th Cir. 2006) (to obtain judicial enforcement of an administrative subpoena, an agency must show that the inquiry is not too indefinite, is reasonably relevant to an investigation which the agency has authority to conduct, and all administrative prerequisites have been met); *Arthur Young & Co.*, 584 F.2d at 1031 (noting a subpoena request should not be so over broad as to reach into areas that are irrelevant or immaterial).

9. *Morton*, 338 U.S. at 654.

Lastly, a federal court must consider whether an agency's demand is unduly burdensome.¹⁰ Courts applying the *Morton Salt* standard have consistently held that an administrative subpoena and other investigative demands must be "reasonable."¹¹ As the Court recognized in *SEC v. Arthur Young & Co.*, "[t]oday, then 'the gist of the protection is in the requirement . . . that the disclosures sought shall not be unreasonable. Correspondingly, the need for moderation in the subpoena's call is a matter of reasonableness."¹² A CID that is "unduly burdensome or unreasonably broad" fails this test.¹³ As such, the time, expenses, and whether compliance threatens to unduly disrupt or seriously hinder normal business operations may be raised by a party challenging a civil investigative demand.¹⁴

Here, the CID's specifications are overbroad, unduly burdensome, and seek private financial data. Accordingly, CCL respectfully requests that the Commission limit or quash the challenged specifications and provisions in the CID as set forth below.

II. OBJECTIONS

A. Definitions in the CID are complex, vague and/or over inclusive, and thus, overly broad.

Without conceding that the Resolution is sufficient to support the blanket investigation the FTC claims to be conducting, the information and documents called for by the CID's definitions and specific interrogatories and requests for production still exceed the purported

10. *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977); *FTC v. Mt. Olympus Fin. LLC*, 211 F.3d 1278 (10th Cir. 2000); *FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1089 (D.C. Cir. 1993).

11. *See, e.g., United States v. Constr. Prods. Research, Inc.*, 73 F.3d 464, 471 (2d Cir. 1996) ("the disclosure sought must always be reasonable"); *Texaco*, 555 F.2d at 881 ("the disclosure sought shall not be unreasonable").

12. *Arthur Young & Co.*, 584 F.2d at 1030.

13. *Texaco*, 555 F.2d at 882.

14. *Texaco*, 555 F.2d at 882-83.

“Nature and Scope of the Investigation.”¹⁵ The test for the relevancy of an administrative subpoena is “whether the information sought is ‘reasonably relevant’ to the agency’s inquiry.”¹⁶ The CID must “not [be] so overbroad as to reach into areas that are irrelevant or immaterial . . . the test is relevan[ce] to the specific purpose.”¹⁷ The Definitions here attempt to reach into areas that are irrelevant.

First, and by way of example, the CID’s Definition of “Company” is objectionable because it includes not only CCL, but also any of CCL’s

wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, employees, agents, consultants, and all other persons working for or on behalf of the foregoing.¹⁸

This definition is overly broad and renders the specifications to which it applies overbroad and unduly burdensome. The sheer breadth of this definition literally reaches every aspect of CCL, but also every employee, agent, consultant or person working for CCL. Again, by way of

15. The CID designates the “Nature and Scope of the Investigation” as follows: “To determine whether unnamed telemarketers, sellers, or others assisting them have engaged or are engaging in: (1) unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.C.C. §45 (as amended); and/or (2) deceptive or abusive telemarketing acts or practices in violation of the Commission’s Telemarketing Sales Rule, 16 C.F.R. pt 310 (as amended), including but not limited to the provision of substantial assistance or support – such as mailing lists, scripts, merchant accounts, and other information, products or services – to telemarketers engaged in unlawful practices. The investigation is also to determine whether Commission action to obtain redress for injury to consumers or others would be in the public interest.” See Exhibit A, Cover Letter to CID.

16. *FTC v. Anderson*, 631 F.2d 741, 745-46 (D.C. Cir. 1979).

17. *Arthur Young & Co.*, 584 F.2d at 1028; 1030.

18. See Exhibit A, CID at 1, ¶G. During the parties’ good faith conference, counsel for the Commission, Bikram Bandy, Esq., assured counsel for the Petitioner that this definition would not require CCL to respond on behalf of entities over which CCL does not have legal control, however, there is no formal agreement to this effect in place between the parties.

illustration, the company that CCL contracts with for janitorial services or HVAC maintenance falls within the definition of "working for or on behalf of" CCL.

Without in any way limiting the foregoing objection, CCL further objects to this definition to the extent that it purports to require CLL to produce documents in the possession and custody of other corporate entities. CCL is a separate legal entity than the companies that ostensibly could be included in the above definition and thus, CCL does not have access to these companies' documents in the normal course of CCL's business.¹⁹

Second, CCL objects to the CID's definition of "Calling Party Number" in that is overly complex, while simultaneously being unclear and confusing. Specifically, "Calling Party Number" is defined as:

the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network (47 C.F.R. §64.1600(c)), or other number that is or was provided to recipients of a call to identify the source of the telephone call or permit the recipients to respond to the call.²⁰

Based on counsel for CCL's conference with counsel for the Commission, the FTC is seeking information concerning another entity.²¹ To the extent that CCL understands the definition and keeps information and/or documents in the course of business that are responsive to any of the interrogatories or requests for production using this definition, CCL will respond in good faith.

19. See Declaration of Jennifer Poole ("Poole Declaration") at ¶2, a true and correct copy of which is attached hereto as Exhibit B; see also *Power Integrations, Inc. v. Fairchild Semiconductor Int'l, Inc.*, 233 F.R.D. 143 (D. Del. 2005); *Linde v. Arab Bank, PLC*, 262 F.R.D. 136 (E.D.N.Y. 2009).

20. See Exhibit A, CID at 1, ¶E.

21. During the parties' good faith conference, counsel for the Commission, Bikram Bandy, Esq., informed counsel for the Petitioner that this definition encompasses the telephone number that appears on the caller ID, the telephone number for the originating entity, and any telephone number given to the recipient of the call.

Third, CCL objects to the CID's definition of "Outbound Telephone Call" in that the meaning of the term "initiate" contained therein is unclear. Specifically, "Outbound Telephone Call" is defined as

a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution, including a telephone call initiated to deliver a recorded message describing sales events, encourage visits to retail stores, or promote online sales.

CCL does not "initiate" outbound calls with consumers in that it does not call make any unsolicited calls to consumers, thus it does not have any records of such calls.²² Based on counsel for CCL's conference with counsel for the Commission, "initiate" means any call that is not inbound to CCL, without regard to whether the calls are solicited or unsolicited by the caller, including any calls that were initiated by another entity and later transferred to CCL. To the extent that CCL keeps information and/or documents in the course of business that are responsive to any of the interrogatories or requests for production using this definition, CCL will respond in good faith.

Finally, because the Resolution here is so broad and targets "unnamed telemarketers, sellers, or others" and because definitions above and the resulting interrogatories and requests are so vague, complex and/or expansive, the CID should be modified or quashed so that "the information sought is 'reasonably relevant' to the agency's inquiry."²³

B. The CID seeks private financial data from CCL.

The CID should be further limited or quashed because it demands documents and information from CCL concerning the company's private financial information. For example requests D-6, D-7, D-8 request the following from CCL:

22. Poole Declaration at ¶3.

23. *FTC v. Anderson*, 631 F.2d 741, 745-46 (D.C. Cir. 1979).

D-6. The Company's tax returns, including all schedules and attachments thereto.

D-7. All of the Company's books of accounts and financial records, including all balance sheets, income statements, profit and loss statements and cash flow statements.

D-8. All studies, reports, summaries, analyses, and other documents relating to the revenue that the Company receives from Telemarketing.²⁴

These requests seek information in violation of CCL's legitimate expectation of privacy in its financial records.²⁵ In order for these sorts of private financial documents to be subject to discovery, the FTC must establish a compelling state interest,²⁶ which it has not done here. There is absolutely no compelling reason the FTC can point to as to why CCL should be required to produce these documents. Indeed, production of these documents could cause irreparable harm if CCL is forced to disclose them.²⁷ Where the Resolution has no logical bounds, and amounts to an open-ended fishing expedition, the large-scale investigation (such as the one here) of all industries that may touch telemarketing, sellers or others is hardly justified. CCL has not been advised of the general nature of the inquiry including the statutes and the alleged violations involved except in a generic way.²⁸

24. See Exhibit A, CID at 17-18.

25. *Resolution Trust Corp. v. Feffer*, 793 F. Supp. 11, 14 (D.D.C. 1992) (concluding the financial status of directors, officers, etc. was irrelevant to the stated inquiry).

26. *Commodity Futures Trading Comm'n v. Collins*, 997 F.2d 1230 (7th Cir. 1993) (commission was not entitled to enforcement of subpoenas directing individuals to produce copies of their federal income tax returns).

27. "[T]he subpoenaed information in this case is not reasonably relevant to any authorized F.T.C. inquiry, the public need for this information does not justify the pretrial invasion of [petitioner's] privacy." *F.T.C. v. Turner*, 609 F.2d 743, 746 (5th Cir. 1980) (affirming district court's decision not to enforce FTC subpoena seeking financial information); see also *Feffer*, 793 F. Supp. at 14-15.

28. See, e.g., FTC Operating Manual § 3.6.

C. Complying with the CID would be unduly burdensome to CCL.

As an initial matter, the Federal Rules of Civil Procedure allow a party to a lawsuit to serve no more than 25 interrogatories on another party, "including all discrete subparts."²⁹ Similarly, the FTC's own Rules of Practice for Adjudicative Proceedings state that "[a]ny party may serve upon any other party written interrogatories, not exceeding 25 in number, including all discrete subparts."³⁰ The CID served on CCL, however, contains in excess of 115 interrogatories, including subparts and over 45 requests for production of documents. As such, the CID is facially overbroad and unduly burdensome.

In addition to the facial defects of the CID (and apart from the fact that the CID broadly demands production of documents and information that is irrelevant to the supposed subject of the inquiry, as well as private financial information), the challenged requests are also unreasonable because they demand from CCL a sweeping, extraordinary volume of documents and information. For example, Interrogatory No. 22 demands that CCL provide the following:

If the Company claims that an Outbound Telephone call to a telephone number on the National Do Not Call registry was permitted because the Company had an established business relationship with a person at that telephone number at the time the call was placed, state: (a) the specific entity with whom the person had an established business relationship; (b) the nature of the established business relationship (transaction or inquiry); (c) the date of the last transaction or inquiry; (d) the product or service that was the subject of the alleged established business relationship; (e) the product or service that was the subject of the call; and (f) the nature of the last transaction or inquiry.³¹

Similarly, Interrogatory No. 26 demands that CCL produce the following information:

-
- 29. Fed.R.Civ.P. 33(a)(1).
 - 30. 16 C.F.R. §3.35(a).
 - 31. See Exhibit A, CID at 16.

For each Calling Party Number transmitted to any caller identification service in use by the recipient of an Outbound Telephone Call made by or on behalf of the Company: (a) identify the telephone number or network address to which calls placed to the Calling Party Numbers were directed through direct inward dialing or other calling forwarding or transfer service; (b) identify the entity, if any, who answered calls made to the Calling Party Number; (c) describe the prerecorded message, if any, delivered to the persons who called the Calling Party Number; and (d) state whether the Company utilized the services of a Caller Identification Management Service in connection with the call, and if so, the name and address of the service.³²

These interrogatories alone require CCL to search through potentially tens of thousands of documents on and off site, in both electronic and paper form, simply to ascertain whether there is responsive information.³³ Further, some of the responsive information is not kept by CCL in the regular course of business, but requires CCL to inquire with another entity over which it does not have legal control to obtain responsive information and/or documents.³⁴ Further, the document requests impose an even greater burden on CCL, requiring that it produce all documents identified in CCL's interrogatory responses,³⁵ and, for example, "[a]ll documents that the Company has used to communicate to employees or third parties acting on the Company's behalf about Compliance with the National Do Not Call Registry."³⁶

Thus, the CID requires that before CCL produces all of the documents broadly demanded through the Definitions, CCL must: (1) determine what information is responsive; (2) ascertain where the documents or information are physically located and/or electronically stored and who possesses knowledge responsive to each interrogatory; and then (3) review and physically redact

32. See Exhibit A, CID at 17.

33. See Poole Declaration at ¶5.

34. See Poole Declaration at ¶¶2, 3, 5.

35. See Exhibit A, CID at 17, D-1.

36. See Exhibit A, CID at 18, D-11.

any attorney/client privileged documents, if any.³⁷ Furthermore, CCL is required to accomplish these tasks, in addition to CCL's obligations simultaneously to respond to all of the other CID Specifications for Documents and Interrogatories which are not challenged in this Petition. As a result of these unreasonable demands, CCL objects to Interrogatories 21, 22, 24, 25, and 26 and Requests for Production 1, 10, 11, 12, 13, 14, 15, and 17 on this basis.

Even with the thirty (30) day extension granted by the FTC here, considering the all-encompassing breadth and scope of the Definitions demanded, the CID does not "provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction" as is required under 16 C.F.R. §2.7(b)(1). Compliance with the challenged CID Definitions would result in an unreasonable and undue burden upon CCL in terms of time, cost, and resources. Indeed, for CCL to search for, retrieve, and produce a response to such detailed interrogatories and document requests demanded by the FTC would require CCL to examine potentially millions of pages of documents.³⁸

CCL estimates that this would take nearly six (6) months for its employees to gather this information.³⁹ The materials demanded by the CID would impact and require the full time devotion of several (6-7) employees from CCL over the course of several days, and in some

37. Poole Declaration at ¶4.

38. Poole Declaration at ¶6. Courts that have more recently reviewed FRCP Rule 45 subpoenas seeking broad production of electronic information have likewise refused to enforce them where the subpoena imposed an under or oppressive burden on the responding party. *See, e.g., Miller v. Holzman*, 471 F. Supp. 2d 119, 122 (D.D.C. 2007) (refusing to order production pursuant to FRCP 45 subpoena where requests were oppressive and unduly burdensome as subpoena broadly sought production of all documents, including electronically stored versions without reasonable limitations); *Stevens v. Nat'l R.R. Passenger Corp.*, Case No. 05-194 RCL, 2007 WL1830869, at *4 (D.D.C. June 26, 2007) (granting motion to quash FRCP Rule 45 subpoena as unduly burdensome where subpoena sought electronic records that were more than two years old).

39. Poole Declaration at ¶5.

cases, weeks simply to gather responsive information.⁴⁰ Indeed, it may even be necessary for CCL to hire outside assistance in order to comply with the CID by the current deadline.⁴¹ Then, even assuming there are only one million documents in the universe of information retrieved by CCL's searches, it would take 2 full time employees nearly six (6) months to review these documents.⁴² Even without factoring in the cost and labor involved in organizing and photocopying these documents, or the need to hire outside assistance, the review alone would cost CCL over \$80,000 just in its employees' salaries for that 6 month period.⁴³ Coupled with the time restraints involved here, the CID's demands are unduly burdensome and will cause grave disruption to the course of CCL's business.⁴⁴

Thus, CCL proposes that it respond to the above requests based on a random data pull limited to 100 calls. This limitation would still be responsive to the CID, but would relieve the onerous burden imposed on CCL by the current requests. As the court did in *McGraw-Hill*, the CID in this case should be modified to limit the demands which are "excessively broad on their face and technically call for a larger volume of data than may have been intended" by the FTC so as to "not impose an impermissible burden" on CCL which would threaten to seriously disrupt its normal business operations.⁴⁵ During the conference between the parties, counsel for the

40. Poole Declaration at ¶7.

41. Poole Declaration at ¶7.

42. Poole Declaration at ¶8.

43. Poole Declaration at ¶¶9-10.

44. Poole Declaration at ¶11; *see also U.S. Commodity Futures Trading Comm'n v. McGraw-Hill Companies, Inc.*, 390 F. Supp. 2d 27, 35 (D.D.C. 2005) (corporation responding to agency subpoena should not have to "cull its files for data" that would "impose an undue burden" and concluding that subpoena requiring production of "all documents that would in any way reference" the issue in question "would be unduly burdensome").

45. *McGraw-Hill*, 390 F. Supp. 2d at 35; *Texaco*, 555 F.2d at 881-82. CCL further objects to the verification to the extent that it requires a statements that "all" documents have

Commission, Bikram Bandy, Esq. assured counsel for the Petitioner the FTC was cognizant of the burden and expense associated with responding to a CID of this nature and that an agreement to modify and limit the CID could be reached in the future. As of the deadline of this Petition, counsel for the Petitioner and counsel for the Commission have not reached a formal agreement.

III. CONCLUSION

For the foregoing reasons, CCL respectfully requests that the Commission limit or quash the challenged specifications and provisions in the CID as set forth above.

CERTIFICATION OF GOOD FAITH CONFERENCE

Pursuant to 16 C.F.R. §2.7(d)(2), counsel for Petitioner conferred with counsel for the Commission, Bikram Bandy, Esq. at 5pm on Thursday, September 20, 2012 in a good faith effort to resolve by agreement the issues raised by the Petition. Although counsel for the Commission assured counsel for Petitioner that the parties could agree to limit the Civil Investigative Demand, counsel for Petitioner and counsel on this file, William Maxson, Esq., were not able to confer to reach a formal agreement by the deadline to file this Petition.

been produced, rather than that "all documents found after reasonable effort" have been produced.

DATED: September 21, 2012.

Respectfully submitted,

GREENSPOON MARDER, P.A.



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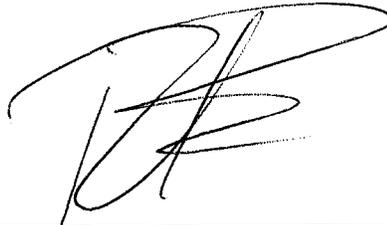
*Attorneys for Petitioner, Caribbean Cruise Line,
Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the following via overnight Federal Express and electronic mail on this 21st day of September, 2012.

William Maxson
Federal Trade Commission
600 Pennsylvania Avenue, NW
Mail Stop H-266
Washington, DC 20580
wmaxson@ftc.gov

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



RICHARD W. EPSTEIN

EXHIBIT A

20581.0089



United States of America
Federal Trade Commission

CIVIL INVESTIGATIVE DEMAND

1. TO

Caribbean Cruise Line, Inc.
c/o Corporation Service Company
1201 Hays Bl.
Tallahassee, FL 32301

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED

You are required to appear and testify.

LOCATION OF HEARING

YOUR APPEARANCE WILL BE BEFORE

DATE AND TIME OF HEARING OR DEPOSITION

You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.

You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS MUST BE AVAILABLE

SEP 13 2012

3. SUBJECT OF INVESTIGATION

See attached resolution.

4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN

Lola C. Gretsman/Reeve Tyndall
Federal Trade Commission
600 Pennsylvania Ave., NW, Mail Stop H-266
Washington, DC 20580

5. COMMISSION COUNSEL

William Maxson
Federal Trade Commission
600 Pennsylvania Ave., NW, Mail Stop H-266
Washington, DC 20580 Tel: (202) 326-2635

DATE ISSUED

8/28/12

COMMISSIONER'S SIGNATURE

INSTRUCTIONS AND NOTICES

The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 6.

YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsmen at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.

Form of Certificate of Compliance*

I/We do certify that all of the documents and information required by the attached Civil Investigative Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objections to its submission and the reasons for the objection have been stated.

If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature _____

Title _____

Sworn to before me this day

Notary Public

***In the event that more than one person is responsible for complying with this demand, the certificate shall identify the documents for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.**

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS IN A NONPUBLIC
INVESTIGATION OF TELEMARKETERS, SELLERS, SUPPLIERS, OR OTHERS

File No. 0123145

Nature and Scope of Investigation:

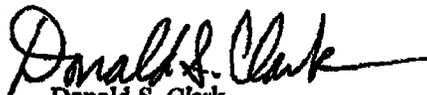
To determine whether unnamed telemarketers, sellers, or others assisting them have engaged or are engaging in: (1) unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (as amended); and/or (2) deceptive or abusive telemarketing acts or practices in violation of the Commission's Telemarketing Sales Rule, 16 C.F.R. pt 310 (as amended), including but not limited to the provision of substantial assistance or support — such as mailing lists, scripts, merchant accounts, and other information, products, or services — to telemarketers engaged in unlawful practices. The investigation is also to determine whether Commission action to obtain redress for injury to consumers or others would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this investigation for a period not to exceed five years from the date of issuance of this resolution. The expiration of this five-year period shall not limit or terminate the investigation or the legal effect of any compulsory process issued during the five-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the five-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, 57b-1 (as amended); and FTC Procedures and Rules of Practice, 16 C.F.R. §§ 1.1 *et seq.* and supplements thereto.

By direction of the Commission.


Donald S. Clark
Secretary

Issued: April 11, 2011

**CIVIL INVESTIGATIVE DEMAND
SCHEDULE FOR PRODUCTION OF DOCUMENTS AND
ANSWERS TO WRITTEN INTERROGATORIES**

I. DEFINITIONS

As used in this Civil Investigative Demand, the following definitions shall apply:

- A. **"Abandoned Call"** means any outbound telephone call where a person answers the call and the telemarketer or seller does not connect the call to a sales representative within two (2) seconds of the person's completed greeting.
- B. **"And,"** as well as **"or,"** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any specification in this Schedule all information that otherwise might be construed to be outside the scope of the specification.
- C. **"Any"** shall be construed to include **"all,"** and **"all"** shall be construed to include the word **"any."**
- D. **"Caller Identification Management Services"** means a service that relates to (i) providing Automated Number Identifiers (ANI), Calling Party Numbers (CPN) or Charge Numbers for use in making telephone calls; or (ii) the use of caller name or line information databases that associate names with telephone numbers, including alteration of the names associated with telephone numbers in these databases; or (iii) inquiries made to caller name or line information databases to identify the name associated with a number, including payments based upon such inquiries.
- E. **"Calling Party Number"** shall mean the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network (47 C.F.R. § 64.1600(c)), or other number that is or was provided to recipients of a call to identify the source of the telephone call or permit the recipients to respond to the call
- F. **"CID"** shall mean the Civil Investigative Demand, including the attached Resolution and this Schedule, and including the Definitions, Instructions, and Specifications.
- G. **"Company"** shall mean Caribbean Cruise Line, Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing.
- H. **"Do Not Call Request"** means a statement by a person that he or she does not wish to receive telephone calls from the Company.
- I. **"Document"** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every

type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, label, drafts, or transcripts of audio or video recordings. **"Document"** shall also include **Electronically Stored Information**.

J. **"Each"** shall be construed to include **"every,"** and **"every"** shall be construed to include **"each."**

K. **"Electronically Stored Information"** or **"ESI"** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise); regardless of origin or location, of any information created, manipulated, communicated, stored, or utilized in digital form, requiring the use of computer hardware or software. This includes, but is not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media. **"ESI"** also includes such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

L. **"Entity-Specific Do Not Call List"** shall mean a list of telephone numbers or persons maintained by the Company or any entity acting on behalf of the Company from which the Company or any entity acting on behalf of the Company has received a Do Not Call Request.

M. **"FTC"** or **"Commission"** shall mean the Federal Trade Commission.

N. **"Identify"** or **"the identity of"** shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable.

O. **"National Do Not Call Registry"** shall mean the registry of telephone numbers maintained by the Commission as set forth in 16 C.F.R. § 310.4(b)(1)(iii)(B).

P. **"Outbound Telephone Call"** shall mean a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution, including a telephone call initiated to deliver a recorded message describing sales events, encourage visits to retail stores, or promote online sales.

Q. **"Referring to"** or **"relating to"** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

R. "SAN" means a Subscriber Account Number assigned to an entity that has subscribed for access to the National Do Not Call Registry.

S. "Telemarketer" shall mean any person who, in connection with telemarketing, initiates or receives telephone calls to or from consumers.

T. "Telemarketing" shall mean a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

U. "Voice Broadcasting Services" means initiating telephone calls to send, or providing software or support to others to allow the others to send, prerecorded messages to answering machines, voice mail systems, or persons, but does not include: (i) delivering messages designed to induce voting or the donation or gift of money or other thing of value to promote the success of a political party, committee or campaign; or (ii) delivering emergency or alert messages from a government authority.

V. "You" and "Your" shall mean the person or entity to whom this CID is issued and includes the "Company".

II. INSTRUCTIONS

A. **Sharing of Information:** The Commission often makes its files available to other civil and criminal federal, state, local, or foreign law enforcement agencies. The Commission may make information supplied by you available to such agencies where appropriate pursuant to the Federal Trade Commission Act and 16 C.F.R. § 4.11 (c) and (j). Information you provide may be used in any federal, state, or foreign civil or criminal proceeding by the Commission or other agencies.

B. **Meet and Confer:** You must contact William Maxson at 202-326-2635 as soon as possible to schedule a meeting (telephonic or in person) to be held within ten (10) days after receipt of this CID in order to confer regarding your response, including but not limited to a discussion of the submission of Electronically Stored Information and other electronic productions as described in these Instructions.

C. **Applicable time period:** Unless otherwise directed in the specifications, the applicable time period for the request shall be from January 1, 2011 until the date of full and complete compliance with this CID.

D. **Claims of Privilege:** If any material called for by this CID is withheld based on a claim of privilege or any similar claim, the claim must be asserted no later than the return date of this CID. In addition, pursuant to 16 C.F.R. § 2.8A(a), submit, together with the claim, a schedule of the items withheld, stating individually as to each item:

1. the type, specific subject matter, date, and number of pages of the item;
2. the names, addresses, positions, and organizations of all authors and recipients of

the item; and

3. the specific grounds for claiming that the item is privileged.

If only some portion of any responsive material is privileged, all non-privileged portions of the material must be submitted. A petition to limit or quash this CID shall not be filed solely for the purpose of asserting a claim of privilege. 16 C.F.R. § 2.8A(b).

E. Document Retention: You shall retain all documentary materials used in the preparation of responses to the specifications of this CID. The Commission may require the submission of additional documents at a later time during this investigation. Accordingly, you should suspend any routine procedures for document destruction and take other measures to prevent the destruction of documents that are in any way relevant to this investigation during its pendency, irrespective of whether you believe such documents are protected from discovery by privilege or otherwise. See 15 U.S.C. § 50; see also 18 U.S.C. §§ 1505, 1519.

F. Petitions to Limit or Quash: Any petition to limit or quash this CID must be filed with the Secretary of the Commission no later than twenty (20) days after service of the CID, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. 16 C.F.R. § 2.7(d).

G. Modification of Specifications: If you believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission's need for documents or information, you are encouraged to discuss such possible modifications, including any modifications of definitions and instructions, with the Commission counsel named above. All such modifications must be agreed to in writing by an Associate Director, Regional Director, or Assistant Regional Director. 16 C.F.R. § 2.7(c).

H. Certification: A responsible corporate officer shall certify that the response to this CID is complete. This certification shall be made in the form set out on the back of the CID form, or by a declaration under penalty of perjury as provided by 28 U.S.C. § 1746.

I. Scope of Search: This CID covers documents and information in your possession or under your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.

J. Document Production: You shall produce the documentary material by making all responsive documents available for inspection and copying at your principal place of business. Alternatively, you may elect to send all responsive documents to **Reeve Tyndall, Federal Trade Commission, 600 Pennsylvania Ave., NW, Mailstop H-286, Washington, DC 20580**. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production shall be given by mail or telephone to **William Maxson at 202-326-2635** at least five days prior to the return date.

K. Document Identification: Documents that may be responsive to more than one specification of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this CID have been previously supplied to the Commission, you may comply with this CID by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.

L. Production of Copies: Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this CID. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request. Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.

M. Electronic Submission of Documents: The following guidelines refer to the production of any Electronically Stored Information ("ESI") or digitally imaged hard copy documents. Before submitting any electronic production, You must confirm with the Commission counsel named above that the proposed formats and media types will be acceptable to the Commission. The FTC requests Concordance load-ready electronic productions, including DAT and OPT load files.

- (1) **Electronically Stored Information:** Documents created, utilized, or maintained in electronic format in the ordinary course of business should be delivered to the FTC as follows:
 - (a) Spreadsheet and presentation programs, including but not limited to Microsoft Access, SQL, and other databases, as well as Microsoft Excel and PowerPoint files, must be produced in native format with extracted text and metadata. Data compilations in Excel spreadsheets, or in delimited text formats, must contain all underlying data un-redacted with all underlying formulas and algorithms intact. All database productions (including structured data document systems) must include a database schema that defines the tables, fields, relationships, views, indexes, packages, procedures, functions, queues, triggers, types, sequences,

materialized views, synonyms, database links, directories, Java, XML schemas, and other elements, including the use of any report writers and custom user data interfaces;

- (b) All ESI other than those documents described in (1)(a) above must be provided in native electronic format with extracted text or Optical Character Recognition (OCR) and all related metadata, and with corresponding image renderings as converted to Group IV, 300 DPI, single-page Tagged Image File Format (TIFF) or as color JPEG images (where color is necessary to interpret the contents);
 - (c) Each electronic file should be assigned a unique document identifier ("DocID") or Bates reference.
- (2) **Hard Copy Documents:** Documents stored in hard copy in the ordinary course of business should be submitted in an electronic format when at all possible. These documents should be true, correct, and complete copies of the original documents as converted to TIFF (or color JPEG) images with corresponding document-level OCR text. Such a production is subject to the following requirements:
- (a) Each page shall be endorsed with a document identification number which can be a Bates number or a document control number); and
 - (b) Logical document determination should be clearly rendered in the accompanying load file and should correspond to that of the original document; and
 - (c) Documents shall be produced in color where necessary to interpret them or render them intelligible.
- (3) **Telephone Connection Records:** Telephone connection and other database records may be submitted as (i) MS Access 2003 or earlier, (ii) delimited ASCII text files, with field names as the first record, or (iii) fixed-length flat files with appropriate record layout. Telephone number entries should consist of ten digits without additional characters. Date and time information should be in a single field with the date and time separated by a space, or separate fields for the date and time. For ASCII text files, field-level documentation must also be provided with the data, and delimiters and quote characters must not appear in the data.
- (4) For each document electronically submitted to the FTC, You should include the following metadata fields in a standard ASCII delimited Concordance DAT file:
- (a) For electronic mail: begin Bates or unique document identification number ("DocID"), end Bates or DocID, mail folder path (location of email in personal folders, subfolders, deleted or sent items), custodian, from, to, cc, bcc, subject, date and time sent, date and time received, and

complete attachment identification, including the Bates or DocID of the attachments (AttachIDs) delimited by a semicolon, MD5 or SHA Hash value, and link to native file;

- (b) **For email attachments:** begin Bates or DocID, end Bates or DocID, parent email ID (Bates or DocID), page count, custodian, source location/file path, file name, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;
 - (c) **For loose electronic documents (as retrieved directly from network file stores, hard drives, etc.):** begin Bates or DocID, end Bates or DocID, page count, custodian, source media, file path, filename, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;
 - (d) **For imaged hard copy documents:** begin Bates or DocID, end Bates or DocID, page count, source, and custodian; and where applicable, file folder name, binder name, attachment range, or other such references, as necessary to understand the context of the document as maintained in the ordinary course of business.
- (5) **If You intend to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in Your computer systems or electronic storage media, or if Your computer systems contain or utilize such software, You must contact the Commission counsel named above to determine whether and in what manner You may use such software or services when producing materials in response to this Request.**
- (6) **Submit electronic productions as follows:**
- (a) **With passwords or other document-level encryption removed or otherwise provided to the FTC;**
 - (b) **As uncompressed electronic volumes on size-appropriate, Windows-compatible, media;**
 - (c) **All electronic media shall be scanned for and free of viruses;**
 - (d) **Data encryption tools may be employed to protect privileged or other personal or private information. The FTC accepts TrueCrypt, PGP, and SecureZip encrypted media. The passwords should be provided in advance of delivery, under separate cover. Alternate means of encryption should be discussed and approved by the FTC.**
 - (e) **Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:**

**MAGNETIC MEDIA - DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- (7) All electronic files and images shall be accompanied by a production transmittal letter which includes:
- (a) A summary of the number of records and all underlying images, emails, and associated attachments, native files, and databases in the production; and
 - (b) An index that identifies the corresponding consecutive document identification number(s) used to identify each person's documents and, if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that the Commission counsel named above determines prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission counsel named above will provide a sample index upon request.

A Bureau of Consumer Protection Production Guide is available upon request from the Commission counsel named above. This guide provides detailed directions on how to fully comply with this instruction.

N. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production.

For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

O. Information Identification: Each specification and sub-specification of this CID shall be answered separately and fully in writing under oath. All information submitted shall be clearly and precisely identified as to the specification(s) or subspecification(s) to which it is responsive.

P. Submission of Documents in lieu of Interrogatory Answers: Previously existing documents that contain the information requested in any written Interrogatory may be submitted as an answer to the Interrogatory. In lieu of identifying documents as requested in any

Interrogatory, you may, at your option, submit true copies of the documents responsive to the Interrogatory, provided that you clearly indicate the specific Interrogatory to which such documents are responsive.

Q. Certification of Records of Regularly Conducted Activity: Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Certification and provide it with your response.

III. INTERROGATORIES

Please provide answers to the requests below, in writing and under oath.

- I- 1. State the names and titles of all officers, directors, principal stockholders, owners, and managers of the Company.
- I- 2. Describe the Company's practices for retaining or disposing of documents and data related to the Company's Telemarketing.
- I- 3. Describe the products and services the Company sells or offers for sale through the use of Telemarketing.
- I- 4. List the SAN(s), if any, used by the Company or on behalf of the Company to access the National Do Not Call Registry.
- I- 5. Describe any procedures established by the Company or by any entity acting on behalf of the Company to prevent initiating Outbound Telephone Calls to telephone numbers listed on the National Do Not Call Registry. For each such procedure identify:
 - a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 6. Describe the procedures, if any, used by the Company or any entity acting on behalf of the Company to determine whether the Company has an established business relationship with recipients of Outbound Telephone Calls to telephone numbers that are on the National Do Not Call Registry. For each such procedure identify:
 - a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;

- c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 7. Describe the procedures, if any, used by the Company or any entity acting on behalf of the Company to determine whether the Company has the express written agreement of recipients of Outbound Telephone Calls whose telephone numbers are on the National Do Not Call Registry to receive Outbound Telephone Calls made by or on behalf of the Company. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 8. Describe any procedures established by the Company for addressing and processing Do Not Call Requests made by recipients of Outbound Telephone Calls made by or on behalf of the Company. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 9. Does the Company maintain an Entity-Specific Do Not Call List? If so, describe the following:
- a. the process by which Do Not Call Requests are added to the list;
 - b. the format of the list and how it is maintained;
 - c. where the list is maintained;
 - d. how often the list is updated;
 - e. who has access to the list;

- f. whether and how the Company provides access to the list to persons or entities making Outbound Telephone Calls on behalf of the Company; and
 - g. how the Company uses the list to prevent Outbound Telephone Calls to telephone numbers on the list.
- I- 10. Describe any procedures established by the Company or by any entity acting on behalf of the Company to prevent initiating Outbound Telephone Calls to telephone numbers of persons who have made a Do Not Call Request to the Company. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 11. Describe any procedures established by the Company or by any entity acting on behalf of the Company to prevent Abandoned Calls in violation of 16 C.F.R. § 310.4(b)(1)(iv). For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for the training of personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 12. Describe the procedures, if any, used by the Company or any entity acting on behalf of the Company when Outbound Telephone Calls are: (a) answered by a person; or (b) answered by an answering machine or voice mail system. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for the training of personnel to implement such procedures;
 - c. any documents used to communicate such procedures;

- d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 13. Describe the procedures, if any, used by the Company or any entity acting on behalf of the Company for disconnecting Outbound Telephone Calls that are not answered, including how long or how many rings occur before a call is disconnected. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for the training of personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 14. Describe any procedures established by the Company or by any entity acting on behalf of the Company to prevent Outbound Telephone Calls that deliver a prerecorded message in violation of 16 C.F.R. § 310.4(b)(1)(v)(B)(ii). For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.
- I- 15. Describe the procedures, if any, used by the Company or any entity acting on behalf of the Company to determine whether the Company has the call recipient's express written agreement to receive prerecorded Outbound Telephone Calls on behalf of the Company. For each such procedure identify:
- a. the date(s) that the procedures were established and in effect;
 - b. the persons responsible for training personnel to implement such procedures;
 - c. any documents used to communicate such procedures;
 - d. the persons responsible for monitoring the effectiveness of such procedures; and
 - e. the persons responsible for enforcing such procedures.

- I- 16. Describe the procedures used by the Company or by any entity acting on behalf of the Company to ensure that any Outbound Telephone Calls that deliver a prerecorded message:
- a. offer an automated interactive voice or keypress-activated opt-out mechanism that permits recipients to assert Do Not Call Requests that meets the requirements set forth in 16 C.F.R. § 310.4(b)(1)(v)(B)(ii)(A)(1) – (3) for any call that could be answered in person;
 - b. provide a toll-free telephone number that the call recipient can use to assert a Do Not Call Request that meets the requirements set forth in 16 C.F.R. § 310.4(b)(1)(v)(B)(ii)(B)(1) – (3) for a call that could be answered by an answering machine or voicemail service; and
 - c. offer opt-out mechanisms to recipients of such calls that do, in fact, add the number of recipients who use the opt-out mechanism to the Company's Entity-Specific Do Not Call List.
- I- 17. Does the Company or third-parties acting on behalf of the Company transmit a name and Calling Party Number to any caller identification service in use by the recipients of Outbound Telephone Calls made by or on the Company's behalf or otherwise comply with legal requirements set forth in 16 C.F.R. § 310.4(a)(8)? If so, please describe how, including whether the Company uses any Caller Identification Management Services in connection with any Outbound Telephone Calls made by or on behalf of the Company.
- I- 18. If the Company utilizes any Caller Identification Management Services in connection with any Outbound Telephone Calls made by or on behalf of the Company, please identify the names and addresses of all third-parties that the Company uses to provide Caller Identification Management Services.
- I- 19. For each telemarketing campaign conducted by or on behalf of the Company, state:
- a. a brief description of the goods, products, services, or events that were the subject of the campaign;
 - b. whether the campaign used answering machine detection to determine whether an Outbound Telephone Call was answered by a person or an answering machine;
 - c. whether the campaign involved the use of prerecorded messages and, if so, the content of the messages;
 - d. whether the Company or any entity acting on behalf of the Company accessed the National Do Not Call Registry prior to or during the campaign and, if so, how often;
 - e. whether Outbound Telephone calls made in connection with the campaign in which a prerecorded message was delivered: (1) offered an automated interactive voice or keypress-activated opt-out mechanism that permitted recipients to assert

Do Not Call Requests; or (2) provided a toll-free telephone number that recipients could call to assert Do Not Call Requests, including the specific telephone number provided on the message;

- f. the names and addresses of all persons, entities, employees, or independent contractors who initiated or participated in Outbound Telephone Calls for or on behalf of the Company as part of the campaign;
- g. how the Company obtained the telephone numbers that were called in the campaign, including whether the Company utilized any lead generation services, telephone number lists purchased from a third-parties, telephone number dialing technology, dialers, or Voice Broadcasting Services; and
- h. the name and address of any third-parties the Company utilized to obtain telephone numbers that were called in the campaign.

I- 20. For each telemarketing campaign conducted by or on behalf of the Company, state:

- a. the total number of Outbound Telephone Calls made in connection with the campaign;
- b. the total number of Outbound Telephone Calls made in connection with the campaign that were:
 - (1) answered by a person (rather than an answering machine or voice mail system);
 - (2) answered by an answering machine or voice mail system; and
 - (3) Abandoned Calls.
- c. the total number of Outbound Telephone Calls made in connection with the campaign to telephone numbers listed on the National Do Not Call Registry;
- d. the total number of Outbound Telephone Calls made in connection with the campaign to persons who had previously made a Do Not Call Request or were on the Company's Entity-Specific Do Not Call List;
- e. the total number of Do Not Call Requests made by recipients of Outbound Telephone Calls made in connection with the campaign;
- f. the total number of Outbound Telephone Calls made in connection with the campaign to persons:
 - (1) with whom the Company had an established business relationship at the time such telephone calls were placed; and

- (2) from whom the Company had obtained an express written and signed agreement clearly evidencing such persons' authorization to receive Outbound Telephone Calls made by or on behalf of the Company;
- g. the total number of Outbound Telephone Calls made in connection with the campaign in which a prerecorded message was delivered;
- h. the total number of Outbound Telephone Calls made in connection with the campaign in which a prerecorded message was delivered:
 - (1) after the call was answered by a person (rather than an answering machine or voice mail system);
 - (2) after the call was answered by an answering machine or voice mail service; and
 - (3) to persons from whom the Company had the call recipient's express written agreement to receive prerecorded Outbound Telephone Calls on behalf of the Company; and
- i. the total number of Outbound Telephone Calls made in connection with the campaign in which a prerecorded message was delivered that was then transferred to a live representative.

.I- 21. For each telemarketing campaign conducted by or on behalf of the Company, state the following for each Outbound Telephone Call made as part of the campaign:

- a. the date, time, and duration of the call;
- b. the telephone number called;
- c. the telephone number or network address used to make the call;
- d. the Calling Party Number and company name that was transmitted to any caller identification service in use by the recipient of the call;
- e. whether the call was answered by a person, answered by an answering machine or voice mail system, or not answered at all;
- f. whether the call was an Abandoned Call;
- g. whether the Company or any entity acting on behalf of the Company accessed the National Do Not Call Registry prior to making the call;
- h. whether the call was to a telephone number that was on the National Do Not Call Registry, was on the Company's Entity-Specific Do Not Call List, or had previously made a Do Not Call Request to the Company;

- i. whether, at the time of the call, the Company had an established business relationship with the recipient of the call;
 - j. whether, at the time of the call, the Company had obtained an express written and signed agreement clearly evidencing the call recipient's authorization to receive calls from or on behalf of the Company;
 - k. whether a prerecorded message was delivered during the call and, if so, the content of the message;
 - l. how the Company obtained the telephone number that was called;
 - m. the names and addresses of all persons, entities, employees, or independent contractors who initiated or participated in the call; and
 - n. whether the Company utilized the services of a third-party to obtain the telephone number that was called and, if so, the name and address of that third-party.
- I- 22. If the Company claims that an Outbound Telephone Call to a telephone number on the National Do Not Call Registry was permitted because the Company had an established business relationship with a person at that telephone number at the time the call was placed, state:
- a. the specific entity with whom the person had an established business relationship;
 - b. the nature of the established business relationship (transaction or inquiry);
 - c. the date of the last transaction or inquiry;
 - d. the product or service that was the subject of the alleged established business relationship;
 - e. the product or service that was the subject of the call; and
 - f. the nature of the last transaction or inquiry.
- I- 23. If the Company claims that an Outbound Telephone Call made by or on behalf of the Company to a telephone number on the National Do Not Call Registry was permitted because a person had given express written consent to receive such calls, state the date and manner in which such consent was obtained.
- I- 24. For each Outbound Telephone Call made on or on behalf of the Company in which a prerecorded message was delivered, state:
- a. whether the Company had the call recipient's express written agreement to receive prerecorded Outbound Telephone Calls on behalf of the Company;
 - b. whether the call was transferred to a live representative; and

- c. whether the call offered an automated interactive voice or keypress-activated opt-out mechanism that permitted recipients to assert Do Not Call Requests or provided a toll-free telephone number that recipients could call to assert Do Not Call Requests.
- I- 25. If the Company claims that an Outbound Telephone Call that delivered a prerecorded message was permitted because a person at that telephone number had given the Company express written consent to receive calls from the Company that delivered prerecorded messages, state the date and manner in which such consent was obtained.
- I- 26. For each Calling Party Number transmitted to any caller identification service in use by the recipient of an Outbound Telephone Call made by or on behalf of the Company:
- a. identify the telephone number or network address to which calls placed to the Calling Party Number were directed through direct inward dialing or other call-forwarding or transfer service;
 - b. identify the entity, if any, who answered calls made to the Calling Party Number;
 - c. describe the prerecorded message, if any, delivered to persons who called the Calling Party Number; and
 - d. state whether the Company utilized the services of a Caller Identification Management Service in connection with the call, and if so, the name and address of the service.

IV. DOCUMENT REQUESTS

Please produce copies of the following documents:

- D- 1. All documents identified in your Interrogatory responses.
- D- 2. All documents relating to the Company's practices for retaining or disposing of documents, records, and data related to the Company's Telemarketing services.
- D- 3. The Company's Articles of Incorporation and By-Laws.
- D- 4. All documents sufficient to identify any parents, subsidiaries, or affiliates of the Company.
- D- 5. Organizational charts for the Company and any other documents describing the organization or responsibilities of Company personnel.
- D- 6. The Company's tax returns, including all schedules and attachments thereto.
- D- 7. All of the Company's books of account and financial records, including all balance sheets, income statements, profit and loss statements, and cash flow statements.

- D- 8. All studies, reports, summaries, analyses, and other documents relating to the revenue that the Company receives from Telemarketing.
- D- 9. All documents relating to access by the Company or by third-parties acting on behalf of the Company to the National Do Not Call Registry for purpose of initiating Outbound Telephone Calls on behalf of the Company.
- D- 10. All documents that the Company has used to communicate to employees or third-parties acting on the Company's behalf about compliance with the National Do Not Call Registry.
- D- 11. All documents relating to any procedures used by the Company or by third-parties acting on behalf of the Company to prevent initiating Outbound Telephone Calls to telephone numbers listed on the National Do Not Call Registry.
- D- 12. All documents relating to any procedures used by the Company or third-parties acting on behalf of the Company to determine whether the Company has an established business relationship with recipients of Outbound Telephone Calls made by the Company or on the Company's behalf.
- D- 13. If the Company claims that an Outbound Telephone Call to a telephone number on the National Do Not Call Registry was permitted because the Company had an established business relationship with a person at that telephone number at the time the call was placed, produce all documents sufficient to support your claim, including documents that identify the specific entity with whom the person had an established business relationship, the nature of the established business relationship (transaction or inquiry), the date of the last transaction or inquiry, the product or service that was the subject of the alleged established business relationship, the product or service that was the subject of the call, and the nature of the last transaction or inquiry.
- D- 14. All documents relating to any procedures used by the Company or any third-parties acting on behalf of the Company to determine whether the Company has the express written agreement of recipients of Outbound Telephone Calls made by the Company or on the Company's behalf.
- D- 15. If the Company claims that an Outbound Telephone Call to a telephone number on the National Do Not Call Registry was permitted because a person had given express written consent to permit Telemarketing calls to that number, produce all documents sufficient to support your claim, including executed written consent forms and documents referencing the date and manner in which such consent was obtained.
- D- 16. All documents relating to any Entity-Specific Do Not Call List maintained by the Company.
- D- 17. All documents relating to Do Not Call Requests made by recipients of Outbound Telephone Calls made by or on behalf of the Company.

- D- 18. All documents relating to how the Company addresses and processes Do Not Call Requests made by recipients of Outbound Telephone Calls made by or on behalf of the Company.
- D- 19. All documents that the Company has used to communicate to employees or third-parties acting on the Company's behalf about compliance with Do Not Call Requests.
- D- 20. All documents relating to any procedures established by the Company or by any entity acting on behalf of the Company to prevent initiating Outbound Telephone Calls to telephone numbers of persons who have made a Do Not Call Request to the Company or are on the Company's Entity-Specific Do Not Call List.
- D- 21. All documents relating to any procedures established by the Company or by any entity acting on behalf of the Company to prevent Abandoned Calls.
- D- 22. All documents describing the actions performed by the Company when an Outbound Telephone Call is answered by a person, or answered by an answering machine or voice mail system, or not answered at all.
- D- 23. All documents relating to any procedures established by the Company or any entity acting on behalf of the Company for disconnecting Outbound Telephone Calls that are not answered, including how long or how many rings occur before a call is disconnected.
- D- 24. All documents relating to any procedures established by the Company or entities acting on behalf of the Company to prevent initiating Outbound Telephone Calls that deliver a prerecorded message in violation of 16 C.F.R. § 310.4(b)(1)(v).
- D- 25. All documents that the Company has used to communicate to employees or third-parties acting on the Company's behalf about restrictions on the delivery of prerecorded messages to recipients of Outbound Telephone Calls made by or on behalf of the Company.
- D- 26. If the Company claims that an Outbound Telephone Call that delivered a prerecorded message to a telephone number was permitted because a person at that telephone number had given the Company express written consent to receive calls from the Company that delivered prerecorded messages, produce all documents sufficient to support your claim, including executed written consent forms and documents referencing the date and manner in which such consent was obtained.
- D- 27. All documents relating to any procedures established by the Company or any entity acting on behalf of the Company to determine whether the Company has the call recipient's express written agreement to receive prerecorded Outbound Telephone Calls on behalf of the Company.
- D- 28. All documents relating to any procedures established by the Company or by any entity acting on behalf of the Company to ensure that any Outbound Telephone Calls that deliver a prerecorded message:

- a. offer an automated interactive voice or keypress-activated opt-out mechanism that permits recipients to assert Do Not Call Requests that meets the requirements set forth in 16 C.F.R. § 310.4(b)(1)(v)(B)(ii)(A)(1) – (3) for any call that could be answered in person;
 - b. provide a toll-free telephone number that the call recipient can use to assert a Do Not Call Request that meets the requirements set forth in 16 C.F.R. § 310.4(b)(1)(v)(B)(ii)(B)(1) – (3) for a call that could be answered by an answering machine or voicemail service; and
 - c. offer opt-out mechanisms to recipients of such calls that do, in fact, add the number of recipients who use the opt-out mechanism to the Company's Entity-Specific Do Not Call List.
- D- 29. All studies, reports, analyses, or other documents relating to whether automated interactive voice and/or keypress-activated opt-out mechanisms used by or on behalf of the Company or third-parties acting on behalf of the Company for Outbound Telephone Calls that deliver a prerecorded message are effective.
- D- 30. All documents relating to how the Company transmits a Calling Party Number and company name to any caller identification service in use by recipients of Outbound Telephone Calls made by or on the Company's behalf.
- D- 31. All documents relating to any Caller Identification Management Services utilized by the Company in connection with any Outbound Telephone Calls made by or on behalf of the Company, including any contracts with third-parties to provide such services and any invoices, bills, or other documents relating to charges or payment for such services.
- D- 32. All documents relating to the Company's compliance with caller identification requirements set forth in 16 C.F.R. § 310.4(a)(8) relating to the transmission of the Company's name and Calling Party Number to any caller identification service in use by the recipients of Outbound Telephone Calls made by or on behalf of the Company, including any procedures established by the Company relating to compliance with caller identification requirements.
- D- 33. Audio recordings of the following:
- a. all Outbound Telephone Calls made by or on behalf of the Company;
 - b. all prerecorded messages delivered as part of any Outbound Telephone Calls made by or on behalf of the Company;
 - c. all return telephone calls made by persons who called the Calling Party Number that was transmitted to the caller identification service of the recipients of Outbound Telephone Calls made by or on behalf of the Company;

LMS Packing Slip

Package ID: 1878861

Tracking Number: 798882509480
Package Recipient: Carrie Morra
Recipient Company: Greenspoon Marder, P.A.
Recipient Address: Trade Center South Suite 700 100 W
Cypress Creek Rd Fort Lauderdale FL
33309 USA
Phone Number: 9544911120 1076

Package Contents:

Transmittal Number	Case Number	Title of Action
10286138	0123145	United States of America vs. Caribbean Cruise Line, Inc.

RECEIVED
SEP 05 2012
BY: Fedex

7988 8250 9480



CORPORATION SERVICE COMPANY

Notice of Service of Process

Transmittal Number: 10286138
Date Processed: 09/04/2012

Primary Contact: Carrie Morra
Greenspoon Marder, P.A.
Trade Center South
Suite 700 100 W Cypress Creek Rd
Fort Lauderdale, FL 33309

Entity:	Caribbean Cruise Line, Inc. Entity ID Number 2721314
Entity Served:	Caribbean Cruise Line, Inc.
Title of Action:	United States of America vs. Caribbean Cruise Line, Inc.
Document(s) Type:	Request for Production
Nature of Action:	Other
Court/Agency:	Federal Trade Commission, District Of Columbia
Case/Reference No:	0123145
Jurisdiction Served:	Florida
Date Served on CSC:	09/04/2012
Answer or Appearance Due:	09/19/2012
Originally Served On:	CSC
How Served:	Federal Express
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EXHIBIT B

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

IN THE MATTER OF

FILE NO. 0123145

CARIBBEAN CRUISE LINE, INC.

DECLARATION OF JENNIFER POOLE

Pursuant to 28 U.S.C. § 1746, I, Jennifer Poole, declare as follows:

1. I, Jennifer Poole, am the Marketing Director for Caribbean Cruise Line (“CCL”). I have personal knowledge of the facts stated herein or through a review of records over which I have care, custody, and control, and am competent to testify as follows. This Declaration is made in support of CCL’s Petition to Limit or Quash Civil Investigation Demand.

2. CCL does not have access to business records of completely separate and distinct entities such as those purportedly sought under the Civil Investigative Demand’s (“CID”) definition of “Company”.

3. CCL does not “initiate” outbound calls with consumers in that it does not call make any unsolicited calls to consumers, thus it does not have any records of unsolicited outbound calls.

4. Before CCL produces all of the information and documents responsive to the CID, CCL, in conjunction with its counsel, must: (1) determine what information is responsive; (2) ascertain where the documents or information are physically located and/or electronically stored and who possesses knowledge responsive to each interrogatory; and then (3) review and physically redact any attorney/client privileged documents, if any.

5. The information and documents requested by the CID require the search of several tens of thousands of electronic mails, as well as on and off site computer servers. In addition to these electronic files, CCL would have to search paper files as well.

6. For CCL to search for, retrieve, and produce a response to such detailed interrogatories and document requests demanded by the FTC would require CCL to, one-by-one, examine potentially millions of pages of documents.

7. CCL estimates that searching for, reviewing, and producing information and documents responsive to the CID would necessitate the involvement of six (6) to seven (7) of its employees, and possibly might require CCL to hire assistance outside the company.

8. Thus, after the involvement of the 6-7 CCL employees to gather information, even assuming (1) that there are only one million documents at issue here; and (2) CCL could devote two (2) employees to reviewing these documents full time; then these employees could review 400 documents an hour, thus 6,400 documents per day if they never took a break, went to the bathroom, or ate lunch. Doing the math, this

would mean that these employees – doing absolutely nothing but reviewing documents, could review 192,000 documents in a month. Therefore, even under this unrealistically efficient hypothetical, even if the universe of documents was only comprised of one million documents here, it would take 2 full time employees nearly 6 months to review these documents.

9. The employees needed to review these documents earn approximately \$42,500 in a six month period. Thus, compliance with the CID, without modification, would cost CCL \$85,000.

10. Beyond gathering the information and reviewing documents, the CID would also require CCL to have the documents organized and copied at an additional expense and many more hours of labor.

11. Given these realities, complying with the CID by October 19, 2012 will cause grave disruption to the course of CCL's business, and a great hardship.

[signature appears on the following page]

*Declaration of Jennifer Poole
in Support of Petition to Quash
File No. 0123145*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury and of the laws of the United States that the foregoing is true and correct.

Dated this 20th day of September, 2012 in Broward County, Florida.

Jennifer Poole

A handwritten signature in black ink, appearing to read 'Jennifer Poole', written over a horizontal line.