

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

**In the matter of**

**H&R BLOCK INC.,**  
a corporation,

**HRB DIGITAL LLC,**  
a limited liability company, and

**HRB TAX GROUP, INC.,**  
a corporation.

**DOCKET NO. 9427**

**COMPLAINT COUNSEL'S MOTION FOR IN CAMERA TREATMENT  
OF CONSUMERS' SENSITIVE PERSONAL AND FINANCIAL  
INFORMATION**

Complaint Counsel have obtained numerous complaints from consumers about Respondents' unfair downgrade practices and deceptive advertising of its Free Online product. When complaining to the FTC and other contributors to the FTC's Consumer Sentinel complaint database about Respondents' unfair and deceptive conduct, some consumers have disclosed certain sensitive personal and financial information. Because "[t]he personal privacy interests of consumers did not disappear when they complained to the FTC," *Lakin Law Firm, P.C. v. FTC*, 352 F.3d 1122, 1124 (7th Cir. 2003), Complaint Counsel moves for permanent in camera treatment of such information.

**Standard.** Under FTC Rule 3.45(b), the Court shall order that material be accorded permanent in camera treatment if the material constitutes "sensitive personal information." 16 C.F.R. § 3.45(b). "Sensitive personal information" includes, but is not limited to, "an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state issued identification number, passport number, date of birth (other than year), and

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any sensitive health information identifiable by individual, such as an individual's medical records." *Id.* In addition to the listed categories of information, this Court has previously found that even individuals' names and addresses, among other information, can constitute sensitive personal information. *See, e.g., In re LabMD, Inc.*, 2014 WL 2331029, at \*1 (F.T.C. May 6, 2014).<sup>1</sup> In addition to protecting sensitive personal information, this Court may "make any other order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense." 16 C.P.R. § 3.31(d).

**Sensitive personal and financial information in this matter.** Complaint Counsel seek permanent in camera treatment for the following categories of sensitive personal and financial information of consumers who have complained about Respondents: (1) phone numbers, (2) addresses, (3) email addresses; (4) financial account numbers, (5) credit card or debit card numbers, (6) financial transaction numbers, (7) tax identification numbers (including Social Security Numbers), and (8) dates of birth. The Court has granted in camera protection to such information in other cases. *See, e.g., In re Jerk, LLC*, 2015 WL 926508, at \*3-5 (F.T.C. Feb. 23, 2015); *LabMD*, 2014 WL 2331029, at \*1.

To protect this information, Complaint Counsel seeks in camera treatment for these categories of sensitive personal and financial information for any material to be introduced into the evidentiary record. In addition to seeking in camera treatment for these categories of information, Complaint Counsel seeks in camera treatment for the entirety of the following specific exhibits, which contain significant amounts of sensitive information – indeed there is little else in many of these exhibits:

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<sup>1</sup> Federal courts also require litigants to redact personal data identifiers from public filings. *See, e.g., Fed. R. Civ. P.* 5.2(a).

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Exhibit Number	Description	Volume of Material
PX789 – PX800/ RX0091 – RX0101	Sentinel Complaints produced by Complaint Counsel in Initial Disclosures – Category I	1,012 records 4,056 pages
RX0086 – RX0089	Better Business Bureau Complaints produced by Complaint Counsel in Initial Disclosures – Category E	Approx. 2,070 records 3,688 pages
RX0108	Sentinel Complainant Contact Information produced by Complaint Counsel in Initial Disclosures – Revised Appendix B	1 .xls file

In the case of these 18 exhibits, due to the volume of material, the number of consumer records, and the sensitivity of the information contained therein, redaction would not be practical.

**Authority.** Courts have traditionally accorded strong protection against public disclosure of information voluntarily provided by witnesses and informants. *See Forrester v. United States Dep’t of Labor*, 433 F. Supp. 987, 989 (S.D.N.Y. 1977) (recognizing that “public policy requires that individuals may furnish investigative information to the government with complete candor and without the understandable tendency to hedge or withhold information out of fear that their names and the information they provide will later be open to public view”) (citing cases). Similarly, the Commission’s strong interest in protecting the personal information of consumer complainants has been widely recognized by this Court and federal courts. *See, e.g., Jerk*, 2015 WL 926508, at \*3–5 (granting in camera treatment to consumer information including names, phone numbers, addresses, email addresses, etc.); *Lakin Law Firm*, 352 F.3d at 1124; *Carter, Fullerton & Hayes LLC v. FTC*, 520 F. Supp. 2d 134, 144–45 (D.D.C. 2007) (upholding the FTC’s decision to withhold from public review the names, addresses, and telephone numbers of consumers who complained to the FTC).

Personal identifying information in consumers’ complaints submitted to the FTC have received protection from disclosure in light of the “substantial privacy interest of protecting victims ... from abuse, harassment, and embarrassment given the very real

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risk of their being identified.” *Ayuda, Inc. v. FTC*, 70 F. Supp. 3d 247, 266 (D.D.C. 2014) (shielding from release under FOIA “personal identifying information in the form of names, addresses, telephone numbers, and email addresses” of complainants in the FTC’s Consumer Sentinel database). The court in *Ayuda* cautioned that “[i]f an individual is identified through his or her personal information, the release of such information may result in ... potential embarrassment and harassment.” *Id.*

Regarding sensitive financial information, Rule 3.45 identifies dates of birth, financial account, tax identification, and credit card or debit card numbers as sensitive personal information. *See also, e.g., True the Vote v. Hosemann*, No. 3:14-cv-532, 2014 WL 4273332, at \*25-26 (S.D. Miss. Aug. 29, 2014) (recognizing, in light of growing concerns of identity theft, the threat posed by combining pieces of personal information to obtain “a host of other highly personal information about an individual, particularly in this day of computers with vast searching powers”). Absent this litigation, this information would not ordinarily be released in the public domain. Nor would in camera treatment of this information undermine the full and fair resolution of this case. Complaint Counsel therefore request permanent in camera treatment for any sensitive personal financial information disclosed in this matter.

**Conclusion.** Recognizing this Court’s preference against adjudicating piecemeal requests for in camera treatment, *see In re McWane*, Trial Tr. at 2235:6-8 (Sept. 14, 2012), Complaint Counsel request that the Court grant in camera treatment to the requested categories of personal sensitive information for any material to be introduced into the evidentiary record in this matter, including the entirety of the 18 exhibits listed above which contain voluminous sensitive information.

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Dated: October 3, 2024

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**UNITED STATES OF AMERICA  
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**[Proposed] ORDER GRANTING COMPLAINT COUNSEL'S  
MOTION FOR IN CAMERA TREATMENT OF  
CONSUMERS' SENSITIVE  
PERSONAL AND FINANCIAL INFORMATION**

Complaint Counsel for the Federal Trade Commission ("FTC") filed a Motion for In Camera Treatment of Sensitive Personal and Financial Information ("Motion").

Having fully considered all arguments in the Motion and Response, Complaint Counsel's Motion is GRANTED.

It is hereby ORDERED that the following sensitive consumer information is granted in camera treatment in this matter: (1) phone numbers, (2) addresses, (3) email addresses; (4) financial account numbers, (5) credit card or debit card numbers, (6) financial transaction numbers, (7) tax identification numbers (including Social Security Numbers), and (8) dates of birth. Unless otherwise ordered by the court, such sensitive consumer information should not be placed on the public record. If it is necessary to present or file a document that already contains such information, the

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sensitive consumer information should be “blacked out” or redacted before the document is presented in open court or a public version is submitted for filing. It is further ORDERED that the following thirteen exhibits are granted in camera treatment in their entirety: PX789 through PX800 / RX0091 through RX0101, RX0086 through RX0089, and RX0108.

**SO ORDERED.**

Dated:

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Hon. Jay L. Himes  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on October 3, 2024, I filed the foregoing Complaint Counsel's Motion for In Camera Treatment of Consumers' Sensitive Personal and Financial Information electronically using the FTC's E-Filing system, and I caused courtesy copies to be sent via email to:

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Clerk of the Court*

Hon. Jay L. Himes  
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Federal Trade Commission  
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*Administrative Law Judge*

I further certify that on October 3, 2024, I caused the foregoing document to be served via email on:

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