
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FEDERAL TRADE COMMISSION and
UTAH DIVISION OF CONSUMER
PROTECTION,

Plaintiffs,

v.

ZURIXX, LLC, *et al.*,

Defendants.

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION TO COMPEL
NONPARTY MATT DAVIS TO
PRODUCE DOCUMENTS IN
COMPLIANCE WITH RULE 45
SUBPOENA (DOC. NO. 218)**

Case No. 2:19-cv-00713-DAK-DAO

District Judge Dale A. Kimball

Magistrate Judge Daphne A. Oberg

Before the court is Plaintiffs' Short Form Motion to Compel Nonparty Matt Davis to Produce Documents in Compliance with Rule 45 Subpoena ("Motion," Doc. No. 218). Having considered the Motion and attachments thereto, the Opposition filed on behalf of the subpoenaed nonparty Matt Davis (Doc. No. 223), and argument of counsel at the hearing on February 24, 2021, and for the reasons stated at the hearing, the court GRANTS the Motion in part and ORDERS as follows:

1. Pending subsequent briefing, the court reserves ruling on the issue of which party should bear the costs of compliance with the subpoena.
2. The FTC and Mr. Davis are directed to agree on a staggered return to produce responsive documents, not to exceed 30 days after entry of this Order.
3. For any responsive document withheld on privilege grounds, Mr. Davis must produce a privilege log. However, Mr. Davis does not need to produce a privilege log for

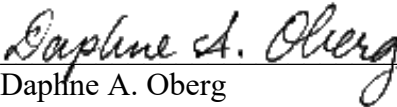
documents created after July 30, 2020, the date the document Subpoena was served on Mr. Davis.

4. The Subpoena is hereby modified to require the production of documents created only from February 1, 2016 until the present.
5. Request No. 1 is modified as follows: “Documents Referring To or Relating To the products or services that You provided to each of the Defendants, excluding their wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, dbas (doing business as), and other related entities, and all directors, members, employees, agents, contractors, consultants, and other persons working for or on behalf of the Defendants that are not known to You.”
6. Request No. 2 is modified as follows: “All contracts and agreements You entered into with each of the Corporate Defendants, and only those entities You know to be Corporate Defendants’ subsidiaries, successors, or assigns, and all contracts and agreements You entered into with any of the Individual Defendants that relate to real estate transactions or to real estate loans between You and any of the Individual Defendants.”
7. Request No. 4 is modified as follows: “Documents that show all Communications between You and any companies, including Seed Capital and Foundation Funding, that You know offered financing to consumers, whether to purchase any of Defendants’ products or services or to invest in real estate.”
8. The court defers ruling upon Mr. Davis’s compliance with Request No. 29 as unripe. In the event there is a dispute over Mr. Davis’s future compliance with Request No. 29, as limited by the agreement between the FTC and Mr. Davis, the FTC or Mr. Davis may follow the provisions of DUCivR 37-1 to bring such a dispute to the court’s attention.

9. There are no other modifications to the Subpoena as served on Mr. Davis on July 30, 2020.

DATED this 26th day of February, 2021.

BY THE COURT:


Daphne A. Oberg
United States Magistrate Judge