



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah Department of Commerce

FRANCINE A. GIANI
Executive Director

THOMAS A. BRADY
Deputy Director

October 7, 2014

Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.
PO Box 927
Madison, CT 06443

also by email: [REDACTED]

RE: Appeal From Denial of Records Request

Dear Ms. Smith:

On October 3, 2014, the Executive Director of the Department of Commerce, Ms. Francine Giani, received your letter appealing a decision of the Division of Consumer Protection ("Division"), which granted part of your records request and denied part of it. Pursuant to the Government Records Access and Management Act ("GRAMA"), Utah Code Ann. § 63G-2-401(9), Ms. Giani has delegated to me the duty of making a determination on this appeal.

On August 28, 2014, the Division received a letter from Fran Silverman, Editor of truthinadvertising.org. Ms. Silverman's letter requested copies of citations against Vapex LLC and Sinless Vapor LLC, as well as the settlement agreement with OZN Web LLC. The letter also requested copies of complaints filed against these companies, with the names of consumers redacted to protect their privacy.

On September 3, 2014, the Division responded to Ms. Silverman's request and provided citations against the named entities and the settlement agreement with OZN Web LLC with redactions of the consumers' last names and the cities where they resided. The Division denied the request for complaints, however, on the grounds that complaints are classified under GRAMA as protected and private records.

On appeal, you again request the complaints and argue that any complainant identifying information can be redacted. After reviewing this matter, I find that the Division's denial was appropriate. Two of those matters are still pending enforcement proceedings, and releasing the complaints, even if the name of the complainant is redacted, could reasonably be expected to interfere with enforcement proceedings. Utah Code Ann. Subsection 63G-2-305(10). Even though the OZN Web LLC is a closed case, the complaint in the OZN Web LLC case appears to refer to one of the pending cases, and could reasonably be expected to interfere with enforcement proceedings of the open case.

October 7, 2014

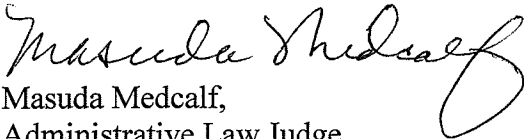
You may appeal to the Records Committee as provided in Utah Code Ann. § 63G-2-403 or petition for judicial review in district court as provided in Utah Code Ann. § 63G-2-404. If you decide to appeal to the Records Committee, you must file a Notice of Appeal with the Executive Secretary within 30 days after the date of this determination. Your Notice of Appeal must contain your name, your mailing address, your daytime telephone number, statement of the relief you seek, and a copy of this determination. With your Notice of Appeal, you may also file a short statement of facts, reasons, and legal authority in support of the relief you seek from the Committee.

Appeals to the Executive Secretary should be addressed to:

State Archives Building
State Records Committee
Attention: Nova Dubovik, Executive Secretary
346 S. Rio Grande
Salt Lake City, UT 84101-1106

If you decide to file an appeal with the district court, you must do so within 30 days after the date of this determination and you must comply with the procedures set forth in Section 63G-2-404.

Sincerely,


Masuda Medcalf,
Administrative Law Judge

cc: Jennifer Bolton, Public Information Officer, Department of Commerce
Daniel O'Bannon, Director, Division of Consumer Protection