

Diana Lin

Subject: adjudication matter #1412MU14: subpoenas
Attachments: subpoenas signed by RG 2.19.15.pdf

From: Maya Nayak
Sent: Friday, February 20, 2015 10:50 AM
To: Michael Cooke
Cc: reachingback@aol.com; Shane Creamer; Elizabeth Downey
Subject: adjudication matter #1412MU14: subpoenas

Michael,
The signed originals of the attached administrative subpoenas that you requested are being hand delivered to you.
Please let me know if you have any questions.

Maya Nayak
General Counsel
City of Philadelphia Board of Ethics
maya.nayak@phila.gov
(215) 686-9450

Confidential

COMMONWEALTH OF PENNSYLVANIA :

S.S.

City and County of Philadelphia

ADMINISTRATIVE SUBPOENA

To: **T. MOBILE LAW ENFORCEMENT RELATIONS GROUP**
4 Sylvan Way
Parsippany, NJ 07054

Pursuant to §§ 8-409 and 4-1100 of the Philadelphia Home Rule Charter, §§ 20-606 and 20-1008 of The Philadelphia Code, and the Local Agency Law, 2 Pa. C. S. §§ 551-555, you are hereby commanded:

☐ To testify under oath regarding

Place of testimony:

Date:

Time:

☒ To produce the documents identified on the attached schedule.

Place of production: Board of Ethics, 1515 Arch Street,
18th Floor, Philadelphia, PA 19102


Date: February 27, 2015

Time: 05:00 PM

Witness the BOARD OF ETHICS of the City of Philadelphia,

at Philadelphia this 19 day of February, 2015.

ATTEST:


Richard Glazer
Hearing Officer

Inquiries concerning this Administrative Subpoena should be addressed to:

Jordan E. Segall, Esq.
Board of Ethics
1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Law Enforcement Relations Group, T. Mobile
For production by February 27, 2015

Documents and Things Requested

1. Records of all telephone calls (but not the content of those calls) to and from telephone # (267) 235-0091 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

2. Text message communications (but not the content of those communications) to and from telephone # (267) 235-0091 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

Definitions

As used in this subpoena, the following terms mean:

1. "You" and "your," mean the subpoenaed individual and/or the subpoenaed individual's political committee and includes any agents, representatives and anyone acting on the subpoenaed individual's or the political committee's behalf.
2. The term "document" or "documents" means any writing, electronic file or recording, computer data, or thing including, but not limited to, memoranda, correspondence, reports, notes, invoices, bills, letters, emails (including associated attachments), communications, drawings, diagrams, mock-ups, order forms, print samples, bank records and statements, canceled checks, books, magazines, writings, microfilm, graphs, photographs, charts, tape recordings, videotapes, information stored electronically on digital media, and every other data compilation from which information can be obtained.
3. As used herein, the term "communications" means all means and methods by which information can be exchanged, including but not limited to written correspondence, pictures, photographs, electronic correspondence (e.g., electronic mail or "e-mail" (including associated attachments), text messages, or facsimile transmissions), oral exchanges of information, including without limitation telephone conversations and voice messaging systems, and notes reflecting such communications.
4. As used herein, the term "relating" means referring to, reflecting, containing, pertaining, indicating, showing, concerning, constituting, evidencing, describing, discussing or mentioning.
5. "Any" shall include "all" and "all" shall include "any."
6. "And" and "or" shall mean both the conjunctive and the disjunctive, and wherever the disjunctive is used, responses shall be given separately for each element.

COMMONWEALTH OF PENNSYLVANIA

S.S.

City and County of Philadelphia

ADMINISTRATIVE SUBPOENA

To: CUSTODIAN OF RECORDS, CRICKET COMMUNICATIONS
ATTN: NEUSTAR
5887 Copley Drive
San Diego, CA 92111

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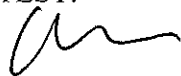
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Richard Glazer
Hearing Officer

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Jordan E. Segall, Esq.
Board of Ethics
1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Custodian of Records, Cricket Communications
For production by February 27, 2015

Documents and Things Requested

1. Records of all telephone calls (but not the content of those calls) to and from telephone # (267) 592-7187 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

2. Text message communications (but not the content of those communications) to and from telephone # (267) 592-7187 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

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COMMONWEALTH OF PENNSYLVANIA :

S.S.

City and County of Philadelphia

ADMINISTRATIVE SUBPOENA

To: VERIZON WIRELESS LAW ENFORCEMENT RESOURCE TEAM
180 Washington Valley Road
Bedminster, NJ 07921

Pursuant to §§ 8-409 and 4-1100 of the Philadelphia Home Rule Charter, §§ 20-606 and 20-1008 of The Philadelphia Code, and the Local Agency Law, 2 Pa. C. S. §§ 551-555, you are hereby commanded:

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To testify under oath regarding

Place of testimony:

Date:

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18th Floor, Philadelphia, PA 19102

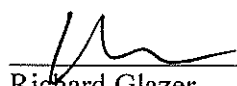
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Richard Glazer
Hearing Officer

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Jordan E. Segall, Esq.
Board of Ethics
1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Law Enforcement Resource Team, Verizon Wireless
For production by February 27, 2015

Documents and Things Requested

1. Records of all telephone calls (but not the content of those calls) to and from telephone # (484) 280-6760 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

2. Text message communications (but not the content of those communications) to and from telephone # (484) 280-6760 in your company's possession for the dates:

June 1, 2014 – June 30, 2014

Definitions

As used in this subpoena, the following terms mean:

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Diana Lin

Subject: Creamer v. Gordon, #1412MU14 - Request for Administrative Subpoena for documents
Attachments: Creamer v Gordon, #1412MU14 - Administrative Subpoenas.pdf

From: Michael Cooke
Sent: Friday, February 06, 2015 3:13 PM
To: rglazer@comcast.net; Maya Nayak
Cc: Shane Creamer; Elizabeth Downey; reachingback@aol.com; Jordan Segall
Subject: Creamer v. Gordon, #1412MU14 - Request for Administrative Subpoena for documents

Richard and Maya,

In the supplement to her answer that Ms. Gordon submitted yesterday, she stated "Phone messages for 6/12/14 are needed." Presumably, this statement refers to Paragraphs 19-22 of the Notice which describe telephone contact between Ms. Gordon and Leslie Miles on June 12, 2014.

While it is our understanding that a telephone carrier will not provide the content of phone calls and text messages except in response to a court order, a carrier will provide records of calls and texts made and received by a particular phone number in response to an administrative subpoena.

Regulation No. 2 provides at Paragraph 2.16(c):

Subpoenas. The Board and its designees shall have the power pursuant to Charter § 8-409 to issue subpoenas to compel the attendance of witnesses and the production of documents and materials relevant to the alleged violations that are the subject of the hearing. After the Board issues subpoenas for administrative adjudication hearings, the Executive Director and respondents shall have the authority to apply for enforcement of the subpoenas in the appropriate Court of Common Pleas if any person refuses to comply with any such subpoena, or while appearing pursuant to it, refuses to answer any question or produce any records or materials.

Section 6(E) of the Board's memo on Procedures for Administrative Enforcement Proceedings provides:

Issuance and Service of Subpoenas. The Board, Board Chair, or a Hearing Officer may issue subpoenas. The subpoenas that are issued will be provided to the requesting party who shall be responsible for service of the subpoenas.

However, the memo only seems to address the procedure for subpoenas that direct a witnesses to appear at a hearing. *See* Section 6(B). Thus, it is unclear whether the Executive Director can, on his own initiative, issue a subpoena for documents relevant to an administrative enforcement proceeding. The term "designee" in Paragraph 2.16(c) would seem to include the Executive Director, which would mean that he could issue such a subpoena on his own initiative. That said, we believe a conservative approach is appropriate under the circumstances and therefore the Board, Board Chair, or Hearing Officer should issue subpoenas for documents relevant to an administrative proceeding, if requested to do so by a party.

I note that the Procedures memo does not address the timing of a request for the issuance of a subpoena for documents relevant to an administrative enforcement proceeding. Given that the parties must exchange documents in advance of a hearing, we believe a subpoena for documents should be issued and served as far in advance of the hearing as possible.

Accordingly, the Executive Director respectfully requests that either the Board, Board Chair, or the Hearing Officer sign the attached Administrative Subpoenas seeking phone records for phone numbers held by Tracey

Gordon and Leslie Miles. The request is limited to records (not including the content of any text messages or phone calls) for June of 2014. The return date of the subpoena is February 27, 2015. As provided by Section 6(E) of the Procedures memo, enforcement staff will be responsible for service of the subpoenas.

We are happy to answer any questions you may have.

Please note that Ms. Gordon is cc'd on this email. I have not cc'd Michael Coard because he no longer represents her.

Regards,

Michael J. Cooke, Esq.
Director of Enforcement
Board of Ethics
of the City of Philadelphia
1515 Arch St., 18th Floor
Philadelphia, PA 19102
(215) 686-9459
(f) (215) 686-9453

COMMONWEALTH OF PENNSYLVANIA :
City and County of Philadelphia S.S.

ADMINISTRATIVE SUBPOENA

To: T. MOBILE LAW ENFORCEMENT RELATIONS GROUP
4 Sylvan Way
Parsippany, NJ 07054

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To testify under oath regarding

Place of testimony:

Date:

Time:

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Place of production: Board of Ethics, 1515 Arch Street,
18th Floor, Philadelphia, PA 19102

Date: February 27, 2015

Time: 05:00 PM

Witness the BOARD OF ETHICS of the City of Philadelphia,

at Philadelphia this _____ day of _____, 2015.

ATTEST:

Richard Glazer
Hearing Officer

Inquiries concerning this Administrative Subpoena should be addressed to:

Jordan E. Segall, Esq.
Board of Ethics
1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Law Enforcement Relations Group, T. Mobile
For production by February 27, 2015

Documents and Things Requested

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COMMONWEALTH OF PENNSYLVANIA :
City and County of Philadelphia S.S.

ADMINISTRATIVE SUBPOENA

**To: CUSTODIAN OF RECORDS, CRICKET COMMUNICATIONS
ATTN: NEUSTAR
5887 Copley Drive
San Diego, CA 92111**

Pursuant to §§ 8-409 and 4-1100 of the Philadelphia Home Rule Charter, §§ 20-606 and 20-1008 of The Philadelphia Code, and the Local Agency Law, 2 Pa. C. S. §§ 551-555, you are hereby commanded:

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1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Custodian of Records, Cricket Communications
For production by February 27, 2015

Documents and Things Requested

1. Records of all telephone calls (but not the content of those calls) to and from telephone # (267) 592-7187 in your company's possession for the dates:

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COMMONWEALTH OF PENNSYLVANIA :
City and County of Philadelphia S.S.

ADMINISTRATIVE SUBPOENA

To: VERIZON WIRELESS LAW ENFORCEMENT RESOURCE TEAM
180 Washington Valley Road
Bedminster, NJ 07921

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1515 Arch Street, 18th Floor, Philadelphia, PA 19102
215 686-9457

SCHEDULE OF REQUESTED DOCUMENTS
Law Enforcement Resource Team, Verizon Wireless
For production by February 27, 2015

Documents and Things Requested

1. Records of all telephone calls (but not the content of those calls) to and from telephone # **(484) 280-6760** in your company's possession for the dates:

June 1, 2014 – June 30, 2014

2. Text message communications (but not the content of those communications) to and from telephone # **(484) 280-6760** in your company's possession for the dates:

June 1, 2014 – June 30, 2014

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