

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

TAXI TOURS INC.,

Plaintiff,

-against-

GO NEW YORK TOURS, INC.,

Defendant.

Index No. 653012/2019

I.A.S. Part 54

Hon. Jennifer G. Schecter, J.S.C.

COUNTERCLAIM-DEFENDANTS'
FIRST NOTICE OF DISCOVERY
AND INSPECTION TO
COUNTERCLAIM-PLAINTIFF GO
NEW YORK TOURS, INC.
CONCERNING EXPERT
DISCLOSURE

GO NEW YORK TOURS, INC.,

Counterclaim-
Plaintiff,

-against-

BIG BUS TOURS LIMITED, OPEN TOP
SIGHTSEEING USA, INC., TAXI TOURS,
INC., GO CITY LIMITED, GO CITY NORTH
AMERICA, LLC, GO CITY, INC., GRAY LINE
NEW YORK TOURS, INC., TWIN AMERICA,
LLC, and SIGHTSEEING PASS LLC,

Counterclaim-
Defendants.

Counterclaim-Defendants Open Top Sightseeing USA, Inc., Taxi Tours, Inc., Go City North America, LLC, and Go City Inc., by their attorneys Olshan Frome Wolosky LLP, hereby request that Counterclaim-Plaintiff Go New York Tours, Inc. produce and permit inspection, copying, testing, or photographing of the documents and things described herein at the office of the undersigned counsel within 20 days or as otherwise agreed by counsel or ordered by the Court.

The “Instructions” and “Definitions and Rules of Construction” set forth in Counterclaim-Defendants’ Fifth Set of Requests for Production to Counterclaim Plaintiff Go New York Tours, Inc., dated October 14, 2022, are incorporated herein by reference.

REQUESTED DOCUMENTS

Expert Reports of Steven M. Sheffield (the “Sheffield Reports”)

1. All data consulted or relied upon (in native format, including Microsoft Excel if existing) by Mr. Sheffield in arriving at his expert opinions reflected in the Sheffield Reports, including but not limited to the following:
 - a. all reviews “scraped” in connection with Mr. Sheffield’s analysis underlying his opinions in the Sheffield Reports, including the “6,416 reviews” referenced in the Sheffield Reports;
 - b. all compilations (in native format) of the customer reviews consulted by Mr. Sheffield for his analysis underlying his opinions in the Sheffield Reports;
 - c. communications with counsel or client reflecting or containing any information or assumptions relied upon by Mr. Sheffield in arriving at his opinions in the Sheffield Reports; and
 - d. notes of communications with counsel or client reflecting or containing any information or assumptions relied upon by Mr. Sheffield in arriving at his opinions in the Sheffield Reports.
2. All charts / tables reproduced in the Sheffield Report, in native format, and data used to produce the charts / tables, also in native format.

Expert Report of Richard Gering (the “Gering Report”)

3. All data consulted or relied upon (in native format, including Microsoft Excel if existing) by Mr. Gering in arriving at his expert opinions reflected in the Gering Report, including but not limited to the following:

- a. all documents listed in Appendix B to the Gering Report;
- b. documents and data consulted by Mr. Gering in connection with the creation of Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4, including but not limited to sales reports, revenue and profit statements, and commission reports provided by Go New York (*see, e.g.,* Exhibit 1, n.6, of the Gering Report);
- c. communications with counsel or client reflecting or containing any information or assumptions relied upon by Mr. Gering in arriving at his opinions in the Gering Report (*see* p.3 of the Gering Report); and
- d. notes of communications with counsel or client reflecting or containing any information or assumptions relied upon by Mr. Gering in arriving at his opinions in the Gering Report (*see* p.3 of the Gering Report).

4. Documents sufficient to reflect street sales (including number of tickets sold and revenues from those sales) for Go New York’s hop-on / hop-off bus tours in New York City on a monthly basis for the period January 2014 through February 2020.

5. Documents sufficient to reflect online sales (including number of tickets sold and revenues from those sales) for Go New York’s hop-on / hop-off bus tours in New York City on a monthly basis for the period January 2014 through February 2020.

6. For “online” sales referenced in the prior request, documents sufficient to reflect sales generated from Go New York’s website, and, separately, sales generated from Go New York’s mobile application, for the period January 2014 through February 2020.
7. Financial statements, including profit and loss statements, for Go New York’s hop-on / hop-off bus tours in New York City for the period January 2014 through February 2020.
8. Documents sufficient to show commissions, bonuses, and other compensation actually paid to Go New York ticket agents for the sale of hop-on / hop-off bus tours in New York City between January 2014 through February 2020.
9. Commission schedules reflecting commissions, bonuses, and other compensation payable to Go New York ticket agents for the sale of hop-on / hop-off bus tours in New York City between January 2014 through February 2020.
10. Form contracts between Go New York and its ticket agents for the sale of hop-on / hop-off bus tours in New York City in use between January 2014 through February 2020.
11. Documents sufficient to show the number of tour buses owned or leased by Go New York by month between January 2014 through February 2020.
12. Documents sufficient to show the number and identification of NYC Department of Consumer Affairs-licensed buses in Your hop-on / hop-off sightseeing tour bus fleet for the period between January 2014 through February 2020, including documents sufficient to show when each bus was purchased or leased by Go New York, and when each bus became licensed to operate in New York City.
13. Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4 to the Gering Report, in native format, and data used to produce Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4, in native format.

14. Transcript of the deposition of Mr. Gering taken in the matter *Jalinski Advisory Group, Inc. v. Franklin Retirement Solutions, Inc.*, E.D. Pa., C.A. No. 18-cv-00801-AB.

Dated: New York, New York
April 7, 2023

OLSHAN FROME WOLOSKY LLP

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