

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
) v.) Civil No. WMN 05 CV 1297
)
JOHN BAPTIST KOTMAIR, JR., et al.,)
)
) Defendants.)

UNITED STATES' L.R. 104.7 CERTIFICATE OF CONFERENCE

In addition to the Certificate of Conference filed with the Court on January 10, 2006, by Attorney Anne Graham, I certify as follows:

1. I am a trial attorney with the United States Department of Justice, Tax Division, and am assigned to the above-captioned matter.
2. On December 27, 2005, Kotmair faxed to the United States an amended response to the United States' discovery requests. That amended response is attached as Exhibit G to Docket Entry 16.
3. On December 28, 2005, Mr. Harp called this office to discuss our discovery dispute. He informed me that SAPF would be amending some of its discovery responses, and that he would fax me those amended responses either that afternoon or the following morning. With regard to the United States' request for member information, Mr. Harp explained that SAPF would not produce that information absent a court order.
4. Mr. Harp stated that he felt that our discovery request for the members' Social Security numbers was a violation of the Privacy Act, 28 U.S.C. § 552a. He said that an uncodified amendment to the Privacy Act, in Section 7 of Public Law 93-579, required the

Government to notify individuals when it requested Social Security numbers. He also referred me to 42 U.S.C. § 408(a)(8), which makes it a crime to “disclose[], use[], or compel[] the disclosure of the social security number of any person in violation of the laws of the United States.” Mr. Harp was told that neither citation appeared to have any bearing on the United States discovery requests, and he admitted that he was unaware of any court decision applying these citations to preclude the United States from asking a party, in civil discovery, for its customers’ Social Security numbers.

5. On December 29, 2005, Mr. Harp faxed SAPF’s amended discovery responses, which are attached as Exhibit H to Docket Entry 16.

6. On December 30, 2005, the United States served the Defendants with a Notice of Service of Motion to Compel and an accompanying brief in support of the motion. Docket No. 16.

7. Kotmair filed and served a reply to the Notice of Service of Motion to Compel on January 17, 2006. Docket No. 17.

8. SAPF filed and served an untimely reply to the Notice of Service of Motion to Compel on February 1, 2006. Docket No. 21.

9. The United States served and filed a response to Kotmair’s reply on January 30, 2006. Docket No. 20.

10. The United States served and filed a response to Kotmair’s reply on February 8, 2006. Docket No. 22.

11. On April 24, 2006, I called to discuss this discovery with SAPF’s attorney, Mr. Harp, but he did not return my call.

12. On April 25, 2006, the undersigned called to discuss this discovery dispute with Mr. Kotmair at the SAPF office. A message was left but the call was not returned.

13. On April 25, 2006, the undersigned called to discuss this discovery with SAPF's attorney, Mr. Harp. During the call Mr. Harp stated that he did not intend to amend the responses to Interrogatories Nos. 2-3, 6-7, 9(a) and (b), 10-11, 21-22, and 24-25, and Requests for Production of Documents Nos. 4, 7-8, 10, and 16. Thus, the United States requests that this Court compel responses to these requests.

14. Since Mr. Kotmair was failed to return the call requesting a conference, and refuses to amend any responses after being served with the United States' Motion to Compel, plaintiff requests this Court compel responses to United States' Interrogatories Nos. 2 to 7(a) and 9 to 13 and Requests for Production Nos. 4 to 8 and 11 to 13.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of April, 2006.

ROD J. ROSENSTEIN
United States Attorney

/s/Thomas M. Newman
THOMAS M. NEWMAN
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing UNITED STATES' L.R. 104.7
CERTIFICATE OF CONFERENCE has been made upon the following by depositing a copy in
the United States mail, postage prepaid, this 25th day of April, 2006.

John Baptist Kotmair, Jr.
P.O. Box 91
Westminster, MD 21158

George Harp, Esq.
610 Marshall St., Ste. 619
Shreveport, LA 71101

/s/Thomas M. Newman
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