

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU
July 26, 2013

ADMINISTRATIVE PROCEEDING
File No. 2013-CFPB-0002

In the Matter of :
: PROTECTIVE ORDER
3D Resorts-Bluegrass, LLC :
:
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On July 10, 2013, the Consumer Financial Protection Bureau (CFPB) filed a Motion Regarding Protection of Confidential or Sensitive Personal Information and Produced Materials (Motion), pursuant to 12 C.F.R. § 1081, and a proposed Protective Order. According to the Motion, counsel for the Chapter 11 Trustee (Trustee) considered the first two paragraphs of the proposed Protective Order unnecessary as a restatement of the applicable rules and the third paragraph as imposing significant cost. Motion at 1-3. There has been no response to the Motion within the ten-day opposition period. 12 C.F.R. § 1081.205.

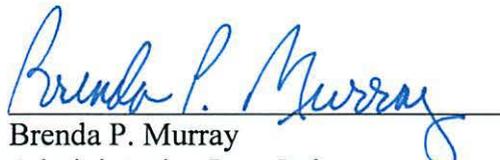
I GRANT the Motion because the CFPB has stated sound reasons for the request. The first paragraph defines sensitive personal information, the second paragraph makes clear that the filing party is responsible for redaction and what is required if there is a misstep, and the third paragraph limits use of the material to this proceeding and prescribes return or destruction of the materials at the conclusion of the proceeding to avoid dissemination. Even though the first two paragraphs restate language from 12 C.F.R. §§ 1081.112(e), (f), and .119, repetition is not a bad thing, and the destruction alternative followed by an affidavit eliminates the significant cost that the Trustee finds objectionable. For these reasons I ORDER the following:

Sensitive Personal Information. As set forth in 12 C.F.R. § 1081.112(e), sensitive personal information means an individual's Social Security Number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. Sensitive personal information shall not be included in, and must be redacted or omitted from, filings unless the person filing the paper determines that such information is relevant or otherwise necessary for the conduct of the proceeding. If the person filing a paper determines the sensitive personal information contained in the paper is relevant or necessary to the proceeding, the person shall file the paper in accordance with 12 C.F.R. § 1081.112(f), including filing an expurgated copy of the paper with the sensitive personal information redacted.

Confidential Material. Motions seeking confidential treatment of information contained in a filing under 12 C.F.R. §§ 1081.112(f) and 1081.119 must meet the strict standards set forth in 12 C.F.R. § 1081.119(b). It is the burden of the party filing a paper or introducing an exhibit at a hearing to redact or omit personal information pursuant to 12 C.F.R. § 1081.112(e). Neither the

hearing officer nor the CFPB will review each pleading for compliance with this rule. Any party inadvertently filing or introducing sensitive personal information without prior authorization shall take immediate steps to withdraw the exhibit or filing and shall notify the hearing officer and/or CFPB Office of Administrative Adjudication to remove such sensitive information from public view.

Materials Produced. Materials produced by the CFPB to the Respondent may only be used for the purposes of this administrative proceeding, including all appeals. Within sixty (60) days after the conclusion of proceedings, by settlement or otherwise, and all appeals, the Respondent shall return to the CFPB all materials, copies, and any other medium containing, summarizing, or otherwise embodying any sensitive personal information or its contents (including sensitive personal information provided to all experts and receiving parties pursuant to this Order), except that the receiving party's counsel may, solely for record-keeping purposes, retain her or his files intact; however, such counsel shall not use or disclose any sensitive personal information for any purpose other than preserving the integrity of her/his files. All disposition and hearing transcripts (or portions thereof), exhibits, and any similar such materials that contain sensitive personal information shall be returned to the CFPB as set forth above. To the extent material containing sensitive personal information has been disclosed to a non-party whose identity has not been revealed (such as a consulting expert), the receiving party that disclosed the sensitive personal information agrees to secure from the non-party the return of such material. Alternatively, the Respondent may destroy any sensitive personal information. If the receiving party elects to destroy the sensitive personal information, it shall promptly destroy the information and give the producing party an affidavit confirming that it has destroyed the requested information.


Brenda P. Murray
Administrative Law Judge