

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

_____)	
In the Matter of)	
Intuit, Inc.,)	
a corporation,)	Docket No. 9408
Respondent.)	
_____)	

**ORDER ON COMPLAINT COUNSEL’S
MOTION FOR *IN CAMERA* TREATMENT**

I.

Pursuant to Rule 3.45(b) of the Rules of Practice of the Federal Trade Commission (“FTC” or “Commission”) and the Scheduling Order entered in this matter, FTC Complaint Counsel filed a motion for *in camera* treatment for designated materials that Complaint Counsel and/or Respondent Intuit, Inc. (“Respondent”) have listed on their exhibit lists as materials that might be introduced at trial (“Motion”). Respondent filed an opposition. For the reasons set forth below, the Motion is GRANTED in part and DENIED in part.

II.

Under Rule 3.45(b) of the FTC Rules of Practice, after finding that material constitutes “sensitive personal information,” (“SPI”) the Administrative Law Judge shall order that such material be given *in camera* treatment. 16 C.F.R. § 3.45(b). “[S]ensitive personal information . . . shall be accorded permanent *in camera* treatment unless disclosure or an expiration date is required or provided by law.” 16 C.F.R. § 3.45(b)(3).

“Sensitive personal information” is defined as including, but not limited to, “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.” 16 C.F.R. § 3.45(b). In addition to these listed categories of information, in some circumstances, individuals’ names and addresses and witness telephone numbers have been found to be “sensitive personal information” and accorded *in camera* treatment. *In re Illumina, Inc.*, No. 9401, 2021 WL 3701608, at *3 (F.T.C. Aug. 12, 2021); *In re Altria Group, Inc.*, No. 9393, 2021 WL 2258803, at *3 (F.T.C. May 19, 2021); *In re LabMD, Inc.*, No. 9357, 2014 FTC LEXIS 127 (F.T.C. May 6, 2014). In instances where SPI can be redacted from an exhibit, there is no basis for withholding an entire document from the public record. *Illumina*, 2021 WL 3701608, at *5; *Altria*, 2021 WL 2258803 at *6; *see also In re Basic*

Research, LLC, No. 9318, 2006 FTC LEXIS 14, at *5-6 (F.T.C. Jan. 25, 2006) (permitting the redaction of information concerning particular consumers' names or other personal data when it was not relevant).

III.

Complaint Counsel seeks permanent *in camera* treatment for 13 exhibits that Complaint Counsel contends contain the following categories of SPI and financial information belonging to consumers who have complained about TurboTax and/or who provided discovery in this matter: (1) phone numbers; (2) addresses; (3) email addresses; (4) financial account numbers; (5) credit card or debit card numbers; (6) financial transaction numbers; (7) tax identification numbers (including Social Security numbers); and (8) dates of birth. Respondent does not oppose *in camera* treatment for the SPI.

This information constitutes SPI and is entitled to permanent *in camera* treatment. 16 C.F.R. § 3.45(b); *In re Jerk, LLC*, No. 9361, 2015 WL 926508, at *3-5 (F.T.C. Feb. 23, 2015); *LabMD*, 2014 FTC LEXIS 127, at *1-2.

Complaint Counsel asserts that because of the volume of the material and the number of consumer records containing SPI, redaction of the SPI from the exhibits would not be practical. Respondent opposes Complaint Counsel's request to withhold the exhibits from the public record in their entirety and maintains that the proper course is for Complaint Counsel to redact the SPI from the exhibits.

The exhibits for which Complaint Counsel seeks *in camera* treatment have been carefully reviewed. While the process of redacting the SPI from the exhibits may well be time consuming, this is not a basis for withholding documents from the public record. Therefore, Complaint Counsel shall redact the SPI from the following 11 exhibits: GX502, GX503, GX504, RX264 (Attachment A only), RX266, RX269, RX277 (Attachment A only), RX278, RX279, RX280, and RX357 (Attachment A only). Two of the thirteen exhibits consist entirely of SPI. Therefore, Complaint Counsel is not required to redact the SPI contained therein and permanent *in camera* treatment is granted to: RX231 (Attachment A only) and RX256.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: February 28, 2023