

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 16-CVS-19851

FILED
2017 JUL 10 P 4:04
MECKLENBURG CO., C.S.C.

 GEA, INC., VALARIA DEVINE, and
 LESLIE FARKAS,
 Plaintiffs, *BY* _____
 v.
 LUXURY AUCTIONS MARKETING, INC.
 and JEREMY LECLAIR,
 Defendants.

ORDER

This matter coming before the Court on *Plaintiffs' Motion to Show Cause to Avoid Contempt* brought by Plaintiffs GEA, Inc. ("GEA"), Valaria Devine ("Devine") and Leslie Farkas ("Farkas") against Defendants Luxury Auctions Marketing, Inc. ("LAMI") and Jeremy LeClair ("LeClair"); and this Court having considered the arguments and materials on file pertaining to the Plaintiffs' Motion, the Court FINDS and ORDERS the following:

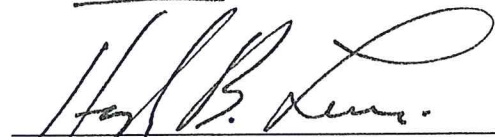
1. The Court FINDS, pursuant to Defendant LeClair's deposition testimony and otherwise, that LeClair intentionally destroyed or physically disposed of computers and materials at issue in this case. On the basis of Defendant LeClair's destruction or physical disposal of certain computers and materials, the Court FINDS as not credible LeClair's assertion that he does not possess the password(s) and other credentials necessary to access the Dell PowerEdge 2950 server (the "Server"). Though the parties dispute ownership of the Server, the Server shall not be returned to Defendants unless provided for by further disposition of this Court.

2. Defendant LeClair has not produced his personal laptop computer described in the Plaintiff's Motion to Show Cause and Defendants LeClair and LAMI have not produced all backups and other computers and devices, if any, in either of their possession, custody or control. Accordingly, Defendants LeClair and LAMI are found to be in violation of this Court's June 12, 2017 Order mandating that they "shall make available for inspection the server, the accounting computer, any other computer hardware equipment which is the subject of this action, still existing, as well as all downloaded and stored contents and data from all computers which were destroyed or disposed of by Defendants. Unless otherwise agreed by the parties, this shall occur within twenty (20) days from May 18, 2017."
3. Accordingly, the Court ORDERS the following:
 - a. By no later than ten (10) days following the June 28, 2017 hearing, *i.e.*, noon on July 10, 2017, LeClair and LAMI shall provide LeClair's laptop used for LAMI business to the Plaintiffs' IT firm, Reliance Forensics LLC, for copying and imaging, together with all passwords and other means of accessing the data contained therein.
 - b. By no later than ten (10) days following the June 28, 2017 hearing, *i.e.*, noon on July 10, 2017, LeClair and LAMI shall provide all other computers, backups, and data in either of their possession, custody or control, if any, that pertain in any way to the business of LAMI and/or any of the Plaintiffs to the Plaintiffs' IT firm, Reliance Forensics LLC, for copying and imaging, together with all passwords and other means of accessing the data contained therein.

- c. By no later than ten (10) days following the June 28, 2107 hearing, *i.e.*, noon on July 10, 2017, LeClair and LAMI shall provide to Plaintiffs, their IT firm and their counsel all passwords and other credentials necessary to access the data stored on the Server;
4. If the Defendants fail to comply with any of the relief set forth in Paragraph 3 of this Order, the Court ORDERS as a sanction for their noncompliance that, as of 12:01 p.m. on July 10, 2017 all of Defendants' defenses in this action be stricken and that judgment by default enter in Plaintiffs' favor and against Defendants as to all of Plaintiffs' claims, with only the issues of injunctive relief and damages remaining for further hearing and/or trial.
5. The Court will consider Plaintiffs' request for recovery of their attorneys' fees and costs associated with their motion to compel and the underlying motion for contempt and/or sanctions at a later date following Defendants' compliance or noncompliance with the orders contained in this motion.

6. Also, Defendants' requests for "Approval to file Motion for Reconsideration" and "Motion for In Camera Inspection" are denied. HBL

So ordered this the 14th of July, 2017.



Hugh B. Lewis
Superior Court Judge