

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

IRA GREEN, INC. :
 :
 v. : C.A. No. 10-207S
 :
 MILITARY SALES & :
 SERVICE CO. :

MEMORANDUM AND ORDER

Pending before me for determination (28 U.S.C. § 636(b)(1)(A); LR Cv 72) is Plaintiff's Motion to Compel Responses and Supplemental Responses to Requests for Production and Answers to Interrogatories. (Document No. 21). A hearing was held on March 16, 2011. At the hearing, the parties reported that they had reached agreement on many of the disputed issues and were directed to submit a Proposed Order on those issues. The parties also reported that two issues regarding the scope of discovery remained in dispute, and I heard argument as to them. They are resolved as follows:

1. Financial Information

This dispute is temporal in nature. The parties agree that such discovery should not predate September 2009. Plaintiff contends that, since such discovery relates to its claimed damages, Defendant should provide such discovery to the present and supplement its responses in the future. See Fed. R. Civ. P. 26(e)(1). Defendant counters that such an obligation is unreasonable and that the damages discovery requested by Plaintiff should be limited to the eight-month period from September 2009 through the date of filing of the Complaint in early May 2010. Since Plaintiff alleges that its business relationships have been damaged as a result of Defendant's allegedly tortious

conduct, Defendant has shown no reasonable basis for arbitrarily limiting Plaintiff's damages discovery to the Complaint filing date. Also, Defendant has not shown that the burden of producing such information would sufficiently outweigh its value to warrant a limiting order under Fed. R. Civ. P. 26(b)(2)(C). Thus, Defendant shall, within thirty (30) days, respond to Plaintiff's discovery requests for financial information for the period September 2009 to the present. Defendant shall also supplement its responses in the future as required by Fed. R. Civ. P. 26(e)(1). Defendant may, as appropriate, produce such financial discovery as "Confidential-Attorneys' Eyes Only" under the Protective Order entered on September 7, 2010. (Document No. 12).

2. Other Military Exchanges

Defendant has limited its discovery responses to information and documents concerning the AAFES¹ and has not responded as to other, smaller military exchanges. Plaintiff contends that it is entitled to discovery beyond AAFES. Under Fed. R. Civ. P. 26(b)(1), a party is entitled to discovery regarding any nonprivileged matter that is relevant to any party's claim or defense. In addition, under Fed. R. Civ. P. 26(b)(2)(C), the Court has the discretion to limit the extent of discovery under certain circumstances.

Here, Plaintiff's Complaint is plainly limited on its face to claims of tortious interference with Plaintiff's relationships with AAFES (Count I) and certain vendors (Count II). The only reference to "other military exchanges" is in a paragraph describing the nature of Defendant's business. (See Document No. 1 at ¶ 12). For instance, in Count I, Plaintiff asserts that Defendant intentionally interfered with its "agreements with AAFES with the objective of causing [Plaintiff]

¹ Plaintiff alleges that the AAFES (Army & Air Force Exchange Service) operates over 3,100 PXs (or post exchanges) worldwide and that it has sold merchandise to AAFES for at least twenty seven years. It is plain that Plaintiff's Complaint and the bulk of the disputed business is focused on AAFES.

to default on its contracts with AAFES.” Id. at ¶ 21. In Count III, Plaintiff contends that Defendant “intentionally interfered with [its] business relationships with AAFES and certain vendors” and has lost “the advantage of its business relationships with AAFES and its vendors.” Id. at ¶¶ 30-31. Finally, as to Count II, Plaintiff argued at the hearing that its claim as to interference with vendor contracts was not limited to AAFES. However, Count II, on its face, references the agreements between Plaintiff and the vendors “for the purchase of military gear for ultimate resale to AAFES” and that Defendant’s objective was to cause Plaintiff “to default on its contracts with AAFES.” Id. at ¶¶ 24-25. Plaintiff’s claims simply cannot be reasonably read to extend to other military exchanges, and Plaintiff has offered no alternative theory supporting its claim of relevance for discovery purposes. Thus, Plaintiff’s proposed extension of discovery to military exchanges other than AAFES exceeds the permissible scope of discovery, and Defendant’s Objections in that regard are sustained.

Conclusion

The remaining issues in dispute as to Plaintiff’s Motion to Compel (Document No. 21) are resolved as provided herein, and the Motion is GRANTED in part and DENIED in part as specified.

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
March 24, 2011