

IN THE DISTRICT COURT, COUNTY OF CASS, NORTH DAKOTA

Sierra Corporate Design, Inc.,            )  
  )  
      Plaintiff,                                )  
  )  
v.    )       File No. 09-05-C-01660  
  )  
David Ritz,                                    )  
  )  
      Defendant.                             )

**DEFENDANT DAVID RITZ'S FIRST**  
**REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**  
**TO PLAINTIFF SIERRA CORPORATE DESIGN, INC.**

**DEFINITIONS**

1. "Communication(s)" (without regard to capitalization) shall mean any oral or written transmittal or receipt of words or information, by whatever manner or means, and regardless of how or by whom the Communication was initiated. The term shall include, but not be limited to, letters, memoranda, telegrams, telexes, e-mails, facsimiles (faxes), face-to-face meetings, telephone conferences, IM (Instant Message) conversations, and all other forms of information transfer. Reference to Communications with business entities shall be deemed to include all officers, directors, employees, Agents, or other representatives of such entities.

2. "Date" (without regard to capitalization) shall mean the exact date, month, and year, if ascertainable or, if not,

the best approximation of the date (based upon relationship with other events).

3. "Defendant" (without regard to capitalization or pluralization) refers to David Ritz.

4. "Sierra" or "Plaintiff" refers to Plaintiff Sierra Corporate Design, Inc. and/or any subsidiary, division, department, or other wholly-owned or otherwise controlled entity.

5. "Document" (without regard to capitalization) includes, without limitation, the original and any non-identical copy, whether different from the original because of handwritten notes, underlinings on the copy, or otherwise, regardless of origin or location, of written, typed, printed, or graphic matter (however produced or reproduced), electrical or magnetic sound or video recordings, film, or photographic prints, or any other writings or recordings of every kind and description. This term includes, but is not limited to, papers, letters, correspondence, agreements, contracts, e-mails, IM's, calendars, telegrams, handwritten notes, notations, memoranda (including memoranda of conversations or meetings), notebooks, reports, records, articles, books, tables, charts, graphs, lists (including lists of e-mail addresses), diaries, diary entries, facsimiles, specimens, models, schedules, accounts, ledgers,

audits, computer printouts, telephone or other bills or invoices and indices, and drafts, revisions, or amendments of any of the above, and generally, any kind of tangible, permanent records that are now, or formerly were, in Your possession, custody, or control. "Document" specifically includes any other data compilations from which information can be obtained, and translated, if necessary, by You through computers or detection devices into reasonably usable form. (Note that pursuant to the foregoing definition, "document" always and necessarily includes digitally or electronically-stored data, including hard drives, diskettes, CD's, tape, and any other form of mass data storage.)

6. "Identify" shall mean, when used in relation to:

(a) a real person: the provision of: that person's full name; social security number if known; last known home and work addresses; last known home and work phone numbers; and a description of his/her relationship to You;

(b) a document: the provision of: the name and address of the custodian of the document; the location of the document and all copies; and a general description of the document, including: (1) the type of document (i.e., correspondence, memorandum, facsimile, etc.); (2) the general subject matter of the document; (3) the dates of creation and distribution; (4) Identification of the author of the document; (5) Identification

of the recipients of the document; and (6) the relationship of the author and each recipient to each other;

(c) a communication: the provision of: Identification of all parties to the communication; the date of the communication; the manner of the communication; and the substance of the communication;

(d) a corporate or business entity or other non-individual association or entity: the provision of: full entity name; "dba" or trade name (if any); principal business address; state of incorporation (if any); Identification of the officers, directors, and registered agent of the entity; and the Tax ID number of the entity; and

(e) any other object or thing (i.e., when "Identify" is not capitalized as a term-of-art): its normal and customary meaning in the context of the particular discovery request in which it appears.

7. "Person" (without regard to capitalization) means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization, or group of persons.

8. "You," or "Your," refers to the specific Plaintiff this discovery was served upon amongst those listed in the title of this document, as well as any officers, directors, employees,

agents, representatives, and/or other persons acting, or purporting to act, on behalf of the specific Plaintiff this discovery was served upon.

9. "Third-party" or "third-parties" (without regard to capitalization) refers to individuals or entities that are not party to this action.

10. The following rules of construction shall apply to this discovery and Your responses thereto:

(a) Any form of the word "include" shall always be read as "including but not limited to."

(b) The connectives "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

(c) The use of the singular form of any word shall be taken to mean the plural as well as the singular, and the use of the plural form of any word shall be taken to mean the singular as well as the plural.

(d) The use of a verb in any tense, mood, or voice shall be construed as the use of the verb in all other tenses, moods, or voices, as necessary to bring within the scope of discovery request all responses that might otherwise be construed to be outside the scope.

(e) The use of any particular term of relationship shall be read as implying all terms of relationship. As used in this paragraph, "term of relationship" shall refer individually and collectively to the following terms, or any form thereof: regarding, pertaining to, relating to, referring to, containing, concerning, describing, embodying, touching upon, mentioning, constituting, supporting, corroborating, demonstrating, proving, evidencing, and showing, as well as all other similar terms.

#### **INSTRUCTIONS**

##### Requests For Production

##### 1. Generally

Your response to each request for production of documents and things shall state, with respect to each requested item or category, that inspection or production will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified. In the event that any document requested herein was, but is no longer, in Your possession, custody, or control, please state what disposition was made of the document and the name, current or last known address, telephone number, and employer of the person or entity who now has possession, custody, or control of the document. In the event that any document requested herein

was in Your possession, custody, or control, but has now been destroyed, please specify the date and manner of destruction, the reason for destruction, the identity of the person who destroyed the document, and the identity of the custodian of the document on the date and at the time of its destruction. In the event that the documents requested are not produced as a part of Your response, the response shall state, with respect to each item or category, that inspection or production will be permitted as requested.

2. Specific Objections

If You object to Identifying a document or communication because of a privilege, You must nevertheless provide, pursuant to N.D.R.Civ.P. 34, sufficient information to permit Defendant to respond substantively to each specific objection.

3. Production Of Documents

The materials subject to the request to produce shall be produced at a place mutually convenient and agreed upon by counsel and at a time later than the 33<sup>rd</sup> day following service of this discovery. In lieu of production for inspection of the original documents requested at that time and place, legible photocopies may be served by mail upon counsel for these Defendants on or before the specified date. In such case, propounding counsel will pay the reasonable costs of copying the

documents requested. All documents that exist in computer-readable format and paper format must be made available for copying in both formats. Moreover, to the extent that the date or timing of a document becomes an issue, this Defendant reserves the right to insist upon production of the original storage device and/or a "ghosted copy" thereof, rather than a regularly-prepared copy.

#### **REQUESTS**

1. Produce all documents, reports, or other materials produced by Sierra or any employee, manager, director, officer, or agent thereof, or any independent contractor operating on Sierra's behalf relating in any way to any alleged trespass or use of any Sierra computer system or resource by Defendant.

2. Produce all documents, reports, or other materials produced by any employee, manager, director, officer, or agent thereof, or any independent contractor operating on Sierra's behalf relating in any way to any alleged trespass or unauthorized use of any Sierra computer system or resource by any person from February 27, 2005 to the present.

3. Produce all documents used, consulted, or referenced by You in your response to any Interrogatory served on You by Defendant.



4. Produce all correspondence (including e-mail correspondence, instant message and/or chat logs) originating with and/or received by any officer, employee, director, agent, or manager of Sierra referencing or referring to David Ritz.

5. Produce all correspondence (including e-mail correspondence, instant message and/or chat logs) originating with and/or received by any officer, employee, director, agent, or manager of Sierra referencing or referring to Ed Falk.

6. Produce all documents, including correspondence, sent to or received from any law enforcement agency or other government entity referencing or referring to David Ritz.

7. Produce all registration records relating to any Internet domain name registered by, for, or on behalf of Sierra. Your response shall include any Internet domain name used by Sieera and registered via any proxy service, where registration records indicate the proxy service (rather than Sierra) as the owner.

8. Produce all registration, transfer, ownership, or other records relating to any Internet Protocol Address ("IP Address") or blocks of IP Addresses used or assigned to sierra from January 1, 2004 to the present.

9. Produce all computer log files, in electronic and text format, relating to any access to, use, or alleged incursion

into any Sierra computer or computer network by David Ritz for all dates from January 1, 2005 to the present.

10. Produce all computer log files, in electronic and text format, relating to any "port scanning" of any Sierra computer or computer network by David Ritz for all dates from January 1, 2005 to the present.

11. Produce all computer log files, in electronic and text format, relating to any "hacking" of any Sierra computer or computer network by David Ritz for all dates from January 1, 2005 to the present.

12. Produce all documents identifying the user of usenet newsgroup posting account "\$\$fdw\_7f".

13. Produce all documents identifying the user of usenet newsgroup posting account "\$\$gxz\$".

14. Produce all documents identifying the user of e-mail address "kyle@jam.net".

15. Produce all documents identifying any usenet newsgroup posting accounts associated with William Moffat from January 1, 2005 to the present.

16. Produce all documents showing the corporate formation, bylaws, ownership, and organizational structure of Sierra Corporate Design, Inc.

Submitted this 29<sup>th</sup> day of December, 2006.

WELLBORN & WALLACE, LLC

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ATTORNEYS FOR DEFENDANT DAVID RITZ

IN THE DISTRICT COURT, COUNTY OF CASS, NORTH DAKOTA

Sierra Corporate Design, Inc.,            )  
  )  
      Plaintiff,                                )  
  )  
v.    )     File No. 09-05-C-01660  
  )  
David Ritz,                                    )  
  )  
      Defendant.                              )

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused a copy of the foregoing Defendant's First Requests for Production of Documents and Things To Plaintiff Sierra Corporate Design, Inc. in the above-styled case to be mailed to counsel of record for Plaintiff Sierra Corporate Design, Inc., by placing a copy of said document in the United States mail in an envelope bearing proper postage and addressed as follows:

Timothy M. O'Keefe  
Kennelly & O'Keefe, Ltd.  
Alerus Financial Building  
15 Broadway, Suite 604  
P.O. Box 2105  
Fargo, ND 58107-2105

Christopher J. Harristhal  
Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Wells Fargo Plaza  
7900 Xerxes Avenue South  
Minneapolis, MN 55431-1194

This 29<sup>th</sup> day of December, 2006.

**WELLBORN & WALLACE, LLC**

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