

ESTTA Tracking number: **ESTTA670705**

Filing date: **05/05/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218616
Party	Plaintiff Brown Brothers Harriman & Co.
Correspondence Address	ALLEN J BADEN EDGE LAW GROUP 236 N SANTA CRUZ AVE, STE 228 LOS GATOS, CA 950030-7279 UNITED STATES abaden@edgelawgroup.com
Submission	Motion to Compel Discovery
Filer's Name	Allen J. Baden
Filer's e-mail	docket@edgelawgroup.com
Signature	/Allen J Baden/
Date	05/05/2015
Attachments	Motion to Compel Deposition of Robert Berry.pdf(352317 bytes ) EXHIBIT 1.pdf(1542126 bytes ) EXHIBIT 2.pdf(396946 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the Application of:	Robert Berry
Serial No.:	86160577
Filed:	January 8, 2014
For the Alleged Mark:	BBH

*Published in the Official Gazette on June 3, 2014,*

Brown Brothers Harriman & Co.,	)	
	)	Opposition No. 91218616
Petitioner,	)	
	)	
v.	)	
	)	
Robert Berry,	)	
	)	
Applicant.	)	
_____	)	

**MOTION TO COMPEL THE DEPOSITION OF APPLICANT, ROBERT BERRY, AND TO COMPEL THE PRODUCTION OF DOCUMENTS AND THINGS BY APPLICANT**

Pursuant to TBMP §523.01 and 37 CFR §2.120(e), Petitioner Brown Brothers Harriman & Company ("Petitioner") moves the Board for an order compelling Applicant Robert Berry ("Applicant") to participate in his deposition and to produce documents and things according to the subpoena attached in Exhibit 1 below. Applicant's conduct demonstrates that an order from the Board compelling his deposition is necessary and as such, this motion should be granted.

**A. BACKGROUND**

On January 8, 2014, Applicant filed U.S. Trademark Application Serial No. 86160577 for the BBH mark under Section 1(a), asserting use of the mark since June 1, 2010 for a laundry list of goods in Class 25, namely, clothing, namely, tops, bottoms, shirts, shoes, socks, underwear, sleepwear, sweat shirts,

sweat pants, hooded sweat shirts, sweat jackets, sweat shorts, gloves, jackets, hats, head wear, and pants.

Applicant does business as Black Beverly Hills, which Applicant also refers to as BBH. Applicant does not appear to have incorporated or otherwise formed or registered an entity under the BBH or Black Beverly Hills names with any local or state authorities. Applicant's operation of an entity under the BBH name or Black Beverly Hills name without registration is unlawful under the laws of the state of California. See California Corporate Code Section 2105(a) and California Business and Professions Code Section 17918.

On October 1, 2014, Petitioner lodged the instant Opposition Proceeding against Mr. Berry's application. Therein, Petitioner plead priority of use and that Applicant's BBH trademark is identical and confusingly similar to Petitioner's BBH trademarks.

Petitioner served Interrogatories and Requests for Production of Documents on Applicant on December 1, 2014. Applicant responded to Petitioner's Requests for Production on January 2, 2015, with the majority of the response containing the phrase, "The documents can be made available for inspection at 4401 W Slauson Ave, Los Angeles CA, 90043 at a mutually convenient time and, if necessary, subject to an appropriate protective order." See *TTAB Docket #5, Exhibit E, in the instant proceeding*. Shortly thereafter, Petitioner's counsel attempted unsuccessfully to arrange a date and time for inspection of Applicant's documents and things.

Given issues raised by Applicant's responses to Petitioner's Interrogatories and Request for Production of Documents, as well as Petitioner's own investigation, Petitioner filed a Motion for Leave to File a First Amended Notice of Opposition on January 29, 2015, to assert Applicant's lack of ownership

of the BBH mark and fraud perpetrated by Applicant on the USPTO. *See TTAB Docket #5 in the instant proceeding*

**1. Petitioner's Good Faith Attempts to Schedule the Deposition Have Been Unavailing**

On April 2, 2015, Petitioner sent a Notice of Deposition to Applicant via U.S. mail and email. Therein, Petitioner noticed Applicant's deposition in Los Angeles for April 23, 2015 (at the office of a law firm about nine miles from Applicant's office). Petitioner also subpoenaed Applicant to produce those documents and things Applicant claimed to possess and have available in his responses to Petitioner's discovery requests. Petitioner attaches copies of the Deposition Notice and associated subpoena as Exhibit 1. Concurrently and repeatedly thereafter, Petitioner asked Applicant both in writing (emails) and by telephone to: (a) confirm his availability for the noticed deposition, or (b) propose alternative dates for his deposition.

April 29, 2015, six days after the date noticed for his deposition, Applicant responded via email requesting to reschedule the deposition. Immediately thereafter, Petitioner's counsel requested Applicant's availability during the weeks of May 11 and May 25, 2015. Petitioner attaches copies of the relevant correspondence reflecting the foregoing as Exhibit 2. As of the date of this filing, Applicant has not responded to Petitioner's request and Petitioner's counsel has no reasonable expectation that Applicant will respond.

**B. ARGUMENT**

Petitioner's request to compel discovery of Applicant is reasonable. Petitioner sought to and continues to seek to depose Applicant, as he is the owner of the application in question and has vital knowledge regarding this matter that Petitioner cannot secure by other means. In addition, Petitioner's requests for production of documents and things at the deposition are necessary to answer Petitioner's questions regarding: (1) Applicant's ownership in the trademark application in question; (2) Applicant's

usage of the BBH mark; (3) products and services associated with Applicant's use of the BBH mark; and (4) trade channels and customers of Applicant.

Petitioner tried in vain repeatedly to obtain Applicant's cooperation regarding the scheduling of his deposition. As required by the Board rules, Petitioner asked Applicant to suggest convenient deposition dates for his deposition. TBMP §§401, 404.05. For weeks, and to the date of this filing, Applicant simply failed to respond, in violation of his duty under TBMP §408.01.

A motion to compel discovery is appropriate, "in the event of a failure to provide discovery requested by means of discovery depositions, interrogatories, and requests for production of documents and things." TBMP §523.01; 37 CFR §2.120(e); TBMP §404.03(a)(1) ("When such a proposed deponent fails to appear for a noticed deposition, the deposing party may seek to compel attendance by a motion to compel").

Petitioner made a good faith effort to resolve this matter, as required by Trademark Rules 2.120(e)(1) and 2.10(h)(1), prior to seeking the Board intervention. Applicant's lack of cooperation and communication makes intervention by the Board appropriate and necessary.

#### **C. REQUEST**

Petitioner seeks an order requiring Applicant to attend and participate in his deposition at a date (or dates) to be set by the Board. Petitioner also seeks an order requiring Applicant to produce those documents and things listed in Petitioner's subpoena at Applicant's deposition.

#### **D. CONCLUSION**

In view of Petitioner's failure to cooperate and produce himself for deposition and for his failure to produce documents and things on the date noticed, Petitioner believes it is appropriate for the Board to issue an order compelling Applicant to attend his deposition and produce required documents and

things in response to Petitioner's subpoena. The Board's authority to do so is clear, and the Applicant's conduct underscores the need for such an order.

For the foregoing reasons, Petitioner requests that the Board grant this motion to compel and order Applicant to appear for his deposition and produce documents pursuant to Petitioner's subpoena dated April 2, 2015.

Dated: May 5, 2015

Respectfully submitted,

Edge Law Group

/Allen J. Baden/

Allen J. Baden  
236 N Santa Cruz Ave., Ste. 228  
Los Gatos CA 95030-7279

abaden@edgelawgroup.com

Attorneys for Brown Brothers Harriman & Co.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petitioner's Motion to Compel the Deposition of Robert Berry and for the production of documents and things was transmitted to the named Applicant by email with service by First Class Mail, postage prepaid, the 5th day of May 2015, addressed as follows:

Robert Berry  
4401 W Slauson Ave.  
Los Angeles California 90043  
thisisrobchina@gmail.com; blackbeverlyhills@gmail.com

/Allen J. Baden/  
Allen J. Baden

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the Application of:	Robert Berry
Serial No.:	86160577
Filed:	January 8, 2014
For the Alleged Mark:	BBH

*Published in the Official Gazette on June 3, 2014,*

Brown Brothers Harriman & Co.,	)	
	)	Opposition No. 91218616
Petitioner,	)	
	)	
v.	)	
	)	
Robert Berry,	)	
	)	
Applicant.	)	
_____	)	

**DECLARATION OF ALLEN BADEN**

I, Allen Baden, declare:

1. I am the counsel for Brown Brothers Harriman & Co. ("Petitioner"), the Petitioner in the above captioned matter.
2. Together with the Senior Vice President and Senior Counsel for Petitioner, I personally participated in all aspects of this matter, including discovery, settlement negotiations, and communications with Applicant in the above captioned matter.
3. I submit this declaration in support of Petitioner's Motion to Compel the Deposition of Robert Berry.
4. Exhibit 1 and Exhibit 2 are true and correct copies of discovery documents and written correspondence that have been sent by Petitioner between April 2, 2015 and this date. Applicant responded to Petitioner's Deposition Notice via email on April 29, 2015, asking

Petitioner to reschedule his deposition. Petitioner emailed Applicant back within hours asking his availability for the weeks of May 11 and May 25. As of this date, Applicant has not responded to Petitioner's availability request.

I declare under penalty of perjury that the foregoing is true and correct.

/Allen J. Baden/

4826-8755-3571, v. 1

# **EXHIBIT 1**



1 DATED: 2 April, 2015



By: \_\_\_\_\_  
Allen J. Baden  
Christopher J. Bella  
Edge Law Group  
236 N. Santa Cruz Avenue, Suite 228  
Los Gatos, CA 95030  
408-827-4461 Telephone  
408-827-4296 Fax  
abaden@edgelawgroup.com  
California Bar No. 255805

Attorneys for the Opposer  
BROWN BROTHERS HARRIMAN & CO.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Deposition was transmitted to the named Applicant by email with service by First Class Mail, postage prepaid, this the 26 day of April 2015, addressed as follows:

Robert Berry  
4401 W Slauson Ave.  
Los Angeles, California 90043  
thisisrobchina@gmail.com

Dated: April 2, 2015

/Christopher J. Bella/  
Christopher J. Bella  
Edge Law Group  
236 N. Santa Cruz Avenue, Suite 228  
Los Gatos, California 95030

4835-4641-2834, v. 1

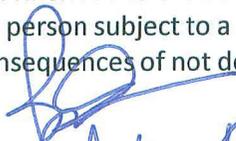


The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Attorney's Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

  
Allen Baden  
2 April 2015

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The name, address, e-mail address, and telephone number of the attorney representing Plaintiffs Brown Brothers Harriman & Co., who issues or requests this subpoena, are:

Allen J. Baden (abaden@edgelawgroup.com); Edge Law Group, 236 N. Santa Cruz Ave., Ste. 228, Los Gatos, CA 95030 Tel: 408.827.4461

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## **ATTACHMENT A**

1. Documents sufficient to identify each item of "Clothing, namely, tops, bottoms, shirts, shoes, socks, underwear, sleepwear, sweat shirts, sweat pants, hooded sweat shirts, sweat jackets, sweat shorts, gloves, jackets, hats, head wear, and pants" sold by Applicant bearing or marketed in packaging imprinted with or otherwise bearing the designation BBH.
2. A representative sample or specimen of each and every package for each and every product ever sold by Applicant on which the designation BBH appears.
3. All documents and things relating to the conception, adoption, acquisition and application for registration of the BBH designation.
4. Documents and things sufficient to identify Applicant's total expenses for each year for advertising and/or marketing goods bearing or packaged under the BBH mark.
5. Documents and things sufficient to identify all events and trade shows at which Applicant has promoted goods bearing or packaged under the BBH mark.
6. Representative samples of each magazine, newspaper, trade directory, website, and other publication in which an advertisement for Applicant's goods bearing or packaged under the BBH designation has appeared.
7. Documents and things sufficient to identify the geographic areas in which the BBH designation has ever been marketed or used on goods or packaging bearing or otherwise imprinted with the designation.
8. Documents and things sufficient to identify Applicant's sales force, wholesalers, distributors, and retail channels for goods marketed or sold under the BBH designation.
9. Documents and things sufficient to identify the class of customers for goods marketed or sold under the BBH designation.
10. Documents and things sufficient to identify the annual dollar sales on a yearly basis for goods marketed or sold under the BBH designation.
11. All documents and things relating to discontinued sales or distribution of goods bearing or packaged with the BBH designation.
12. Documents and things sufficient to identify any instance where Applicant has licensed or offered to license the BBH designation.
13. To the extent not previously produced, a sample of each document, including each advertisement, sign or display of any nature bearing the BBH designation.

**(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Deposition was transmitted to the named Applicant by email with service by First Class Mail, postage prepaid, this the 2<sup>nd</sup> day of April 2015, addressed as follows:

Robert Berry  
4401 W Slauson Ave.  
Los Angeles, California 90043  
thisisrobchina@gmail.com

Dated: April 2, 2015

/Christopher J. Bella/  
Christopher J. Bella  
Edge Law Group  
236 N. Santa Cruz Avenue, Suite 228  
Los Gatos, California 95030

4823-5536-1826, v. 1

# **EXHIBIT 2**

From: Christopher Bella <cbella@edgelawgroup.com>  
Sent: Thursday, April 02, 2015 4:35 PM  
To: 'blackbeverlyhills@gmail.com'; 'thisisrobchina@gmail.com'  
Cc: 'Allen Baden'  
Subject: BBH | BBH Opposition (Subpoena and Notice of Deposition)  
Attachments: Berry - Subpoena to Testify and Production of Documents.pdf; Berry - Notice of Deposition.pdf

Mr. Berry

Please review and take notice of the attached Subpoena and Notice of Deposition.

If you cannot attend the deposition at the proposed date and time, please propose a different date and time as soon as possible.

Sincerely,

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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From: Christopher Bella <cbella@edgelawgroup.com>  
Sent: Monday, April 06, 2015 2:40 PM  
To: 'blackbeverlyhills@gmail.com'; 'thisisrobchina@gmail.com'  
Cc: 'Allen Baden'  
Subject: RE: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Mr. Berry

Per the Subpoena and Notice of Deposition attached in the email below, please confirm that you are available for the deposition on April 23, 2015 at 11:00 a.m. at Fox Rothschild LLP, 1055 W 7th Street, Suite 1880, Los Angeles, CA 90017.

Thank you.

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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From: Christopher Bella [mailto:cbella@edgelawgroup.com]  
Sent: Thursday, April 02, 2015 4:35 PM  
To: 'blackbeverlyhills@gmail.com'; 'thisisrobchina@gmail.com'  
Cc: 'Allen Baden'  
Subject: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Mr. Berry

Please review and take notice of the attached Subpoena and Notice of Deposition.

If you cannot attend the deposition at the proposed date and time, please propose a different date and time as soon as possible.

Sincerely,

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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From: Christopher Bella <cbella@edgelawgroup.com>  
Sent: Thursday, April 16, 2015 11:42 AM  
To: 'thisisrobchina@gmail.com'; 'blackbeverlyhills@gmail.com'  
Cc: 'Allen Baden'  
Subject: BBH | Scheduling Your Deposition  
Attachments: Robert Berry re Scheduled Deposition 2015-04-16.pdf

Dear Mr. Berry

Please review the attached letter carefully. Your response is required.

Sincerely,

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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April 16, 2015

Atty. Ref. No. 7001.187

Via U.S. Mail and Email ([thisisrobchina@gmail.com](mailto:thisisrobchina@gmail.com) and [blackbeverlyhills@gmail.com](mailto:blackbeverlyhills@gmail.com))

Robert Berry  
4401 W. Slauson Avenue  
Los Angeles, CA 90043

**RE: BBH | Scheduling Your Deposition**

Mr. Berry

I write concerning your failure to respond to our repeated requests for you to confirm your availability for the deposition we noticed for April 23, 2015.

Please immediately either:

- a. Confirm your availability for the deposition; or
- b. Propose a new date and time for your deposition.

If you do not respond to our request by Monday, April 20, 2015, we will move to compel your attendance and the Board may set date and time that is not convenient for you.

Additionally, your failure to respond may ultimately result in the Board's imposition of sanctions under the Trademark Trial and Appeal Board Manual Section 411 and the Federal Rules of Civil Procedure Rule 37. Specifically, the Board may:

1. Not allow you to support or oppose designated claims or defenses;
2. Draw adverse inferences against you;
3. Prohibit you from introducing evidence to support your claims; and
4. Enter a judgment against you.

I also take this moment to remind you that our settlement proposal remains on the table, though not indefinitely. We can resolve this matter if you cooperate with us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Allen J. Baden', with a long horizontal flourish extending to the right.

Allen J. Baden

cc: Christopher J. Bella

From: Robert China Berry <thisisrobchina@gmail.com>  
Sent: Wednesday, April 29, 2015 7:58 AM  
To: Christopher Bella  
Subject: Re: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Please reschedule me.

On Apr 6, 2015, at 2:40 PM, Christopher Bella <cbella@edgelawgroup.com> wrote:  
Mr. Berry

Per the Subpoena and Notice of Deposition attached in the email below, please confirm that you are available for the deposition on April 23, 2015 at 11:00 a.m. at Fox Rothschild LLP, 1055 W 7th Street, Suite 1880, Los Angeles, CA 90017.

Thank you.

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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From: Christopher Bella [mailto:cbella@edgelawgroup.com]  
Sent: Thursday, April 02, 2015 4:35 PM  
To: 'blackbeverlyhills@gmail.com'; 'thisisrobchina@gmail.com'  
Cc: 'Allen Baden'  
Subject: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Mr. Berry

Please review and take notice of the attached Subpoena and Notice of Deposition.

If you cannot attend the deposition at the proposed date and time, please propose a different date and time as soon as possible.

Sincerely,

CHRISTOPHER J. BELLA  
EDGE LAW GROUP  
236 N Santa Cruz Ave | Ste 228 | Los Gatos | California | 95030-7279  
direct +1.408.359.5772 | tel +1.408.827.4461 | fax +1.408.827.4296  
cbella@edgelawgroup.com | <http://www.edgelawgroup.com>

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From: Allen Baden <abaden@edgelawgroup.com>  
Sent: Wednesday, April 29, 2015 11:37 AM  
To: Robert China Berry  
Cc: Christopher Bella  
Subject: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Importance: High

Mr. Berry

Your failure to respond to our repeated messages and reminders until after the scheduled date of your deposition is disappointing and improper.

That said, we would prefer to maintain a professional, cordial outlook on this matter and, to that end, invite you to advise us of your availability the weeks of May 11 (excluding May 11) and May 25 (excluding May 25, which is Memorial Day). Once you tell us what date(s) will work for you, we will compare those dates to our schedule, then send you an updated deposition notice.

Please respond promptly, so that we can make the necessary arrangements.

Thank you.

Allen

ALLEN J. BADEN

EDGE LAW GROUP

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Each

taxpayer should seek advice from their own independent tax adviser, based on the taxpayer's particular circumstances.

Begin forwarded message:

From: Robert China Berry <thisisrobchina@gmail.com>

Date: April 29, 2015 at 7:58:00 AM PDT

To: Christopher Bella <cbella@edgelawgroup.com>

Subject: Re: BBH | BBH Opposition (Subpoena and Notice of Deposition)

Please reschedule me.

On Apr 6, 2015, at 2:40 PM, Christopher Bella <cbella@edgelawgroup.com> wrote:

Mr. Berry

Per the Subpoena and Notice of Deposition attached in the email below, please confirm that you are available for the deposition on April 23, 2015 at 11:00 a.m. at Fox Rothschild LLP, 1055 W 7th Street, Suite 1880,