

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

ROSE BANKS, GWENDOLYN SOLOMON, KENDRA HAUGHTON,
JANETTE WILLIAMS, BARBARA McKENZIE, THOMAS E. WILLIAMS Jr.,
CHARLISA STEWART, MICHELE HARRIS, and SHARON PARKS

Plaintiffs,

v.

THE DEPARTMENT OF JUSTICE; and THE FEDERAL BUREAU OF
INVESTIGATION,

Defendants.

COMPLAINT

The Plaintiffs, by and through their attorney, Alison Ruttenberg, complain against the Defendants as follows:

PARTIES AND PARTICIPANTS

1. Rose Banks is the Pastor of the Colorado Springs Fellowship Church. The other Plaintiffs have been members of the Colorado Springs Fellowship Church at all times relevant to this complaint.

2. At all times relevant to this complaint, Rose Banks had a personal bank account with Wells Fargo Bank, N.A.
3. At all times relevant to this complaint, Gwendolyn Solomon (formerly known as Gwendolyn Jewell) had personal bank accounts with Ent Federal Credit Union and Academy Bank.
4. At all times relevant to this complaint, Kendra Haughton had personal bank accounts with Bank One, Compass Bank and Security service Federal Credit Union.
5. At all times relevant to this complaint, Janette and William Williams had a joint personal bank account at U.S. Bank.
6. At all times relevant to this complaint, Barbara McKenzie had a personal bank account at Ent Federal Credit Union.
7. At all times relevant to this complaint, Thomas E. Williams Jr. had a personal bank account at Ent Federal Credit Union.
8. At all times relevant to this complaint, Charlisa Stewart had a personal bank account at U.S. Bank.
9. At all times relevant to this complaint, Michelle Harris had a personal bank account at Wells Fargo Bank, N.A.
10. At all time relevant to this complaint, Sharon Parks (formerly known as Sharon Ruff) had a personal bank account at Wells Fargo Bank, N.A.
11. The Plaintiffs are “customers” within the meaning of 12 U.S.C. §3401(5). No Plaintiff authorized the release of their financial records to the Defendants.
12. The Federal Bureau of Investigation and the Department of Justice are “government authorities” within the meaning of 12 U.S.C. §3401.

13. IRP Solutions Corporation (“IRP”) is a Colorado-based software development company that specializes in the development of investigative case management and criminal intelligence systems for federal, state and local law enforcement agencies. Between 2003 and 2005, IRP was heavily engaged in the sale of its software to the Department of Homeland Security (“DHS”), the New York City Police Department (NYPD) and many other agencies across the country. IRP brought in retired government agents from the FBI and Immigration Customs Enforcement to assist as subject matter experts in further development of its flagship software, Case Investigative Life Cycle (“CILC”). DHS management was impressed with the capabilities of the CILC package as a potential replacement for the now failed FBI Virtual Case File initiative, and as the solution to satisfy the Federal Investigative Case Management System (“FICMS”).
14. DKH Enterprises LLC (“DKH”) is a Colorado-based Information Technology consulting and staffing company and was the on-site vendor management company for IRP. This business arrangement is a well established convention for the industry. Vendor management companies provide staff augmentation, temporary employees, contract workers and sub-contractor services.
15. David Banks, Demetrius Harper, Gary Walker, Clinton Stewart, David Zirpolo and Kendrick Barnes (“the IRP officers”) are members of the Colorado Springs Fellowship Church, and are officers or directors of IRP and/or DKH and were instrumental in developing CILC. David Banks is the son of Pastor Rose Banks.

16. Gregory Goldberg is a former Assistant United States Attorney, and is now a partner at Holland and Hart, a Denver based law firm.

JURISDICTION AND VENUE

17. This Court has original jurisdiction over the Claim for Relief pursuant to 12 U.S.C. §3416.
18. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(2) since a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

FACTUAL BACKGROUND

19. Once CILC attracted the attention of the Department of Homeland Security, competitors became concerned and looked for ways to either steal the software or develop competing software to push IRP out of the market.
20. On or about March 8, 2004, Gregory Goldberg sought to exploit his former ties to the United States Attorney's Office on behalf of one of his clients. He sent an eleven page letter to Matt Kirsch, an Assistant U. S. Attorney in Denver complaining that IRP, DKH and the IRP officers were engaged in a conspiracy to defraud staffing companies by engaging their services and then refusing to pay. In this letter, Goldberg implies that either he or Holland and Hart was contacted by one of the allegedly defrauded staffing companies. However, the exact identity of all of Goldberg's interested clients is unclear. Upon information and belief, Goldberg solicited various staffing companies who engaged in business with IRP and tried to convince them to sign statements that they were defrauded by IRP, but the solicited staffing companies never signed such a statement. Upon information and belief, Goldberg's actual client or another one of his clients was a

competitor of IRP. Goldberg's letter to the US Attorney's office was either an attempt to have a criminal investigation initiated against IRP so that IRP would be shut down, and then Goldberg's client could steal CILC or have time to develop a competitive product, or was an effort to use the FBI as a free collection agent to collect alleged debts owed by IRP to various staffing companies.

21. In response to Goldberg's letter, on March 24, 2004, the FBI opened a case against the IRP officers. By the end of 2004, due to the investigation and surrounding publicity, it became impossible for IRP, DKH and the IRP Defendants to market CILC.
22. Grand Jury 06-1 issued subpoenas for records throughout 2005 and 2006 and heard testimony on February 6 and March 14, 2007. No indictment was requested from this Grand Jury. On June 8, 2009, Grand Jury 09-1 heard testimony that consisted of transcripts of the 2007 grand jury sessions and previously submitted documents. The government did not submit any materially significant evidence to the 09-1 grand jury other than the evidence from the 06-1 grand jury. An indictment was returned on June 9, 2009 against the IRP officers.
23. Sometime during the course of the investigation, the Plaintiffs' bank records (from the financial institutions identified in paragraphs 2-10 above) were obtained by the FBI and the US Attorney's Office for the District of Colorado. These records are "financial records" within the meaning of 12 U.S.C. §3401(2). It is unclear how these records were obtained. No Plaintiff ever received any notice pursuant to the Right to Financial Privacy Act, 12 U.S.C. §3401 *et seq.*, and their financial institutions deny that they were ever served with a subpoena (grand jury or otherwise), a search warrant or other request for records. The

Plaintiffs did not discover that their financial records had been obtained by the Defendants until after June 2009.

24. The Plaintiff's financial records are irrelevant to any prosecution of the IRP officers. Therefore, these financial records were required to be destroyed or returned to the financial institutions in accordance with 12 U.S.C. §3420(a)(3) (if in fact the records were obtained via a grand jury subpoena). Instead, the records continue to be disseminated by the Defendants. A significant portion of the discovery, released by the US Attorney to the IRP officers pursuant to the criminal prosecution, are personal bank records of the Colorado Springs Fellowship Church and its members.

CLAIM FOR RELIEF

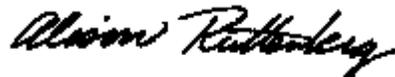
Violation of the Right to Financial Privacy Act, 12 U.S.C. §3401 *et seq.*

25. The Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 24 as though fully set forth herein.
26. Officers and employees of the Department of Justice and the Federal Bureau of Investigation willfully and intentionally violated the Plaintiffs' right to financial privacy by willfully or intentionally violating the provisions of the Right to Financial Privacy Act.
27. The Defendants obtained the Plaintiffs' financial records, and then further disseminated them in the criminal case against the IRP in violation of 12 U.S.C. §3402.
28. Upon information and belief, no delayed notification Order was obtained pursuant to 12 U.S.C. §3409(b) and/or the Defendants misrepresented the facts in applying for a delayed notification Order and/or the Defendants failed to comply with 12 U.S.C. §3409(b)(2), (b)(c) and/or (c).

WHEREFORE, the Plaintiffs pray for entry of judgment, in accordance with the Right to Financial Privacy Act, for their damages, in an amount to be determined at trial; prejudgment interest; attorney fees and costs; and all other relief the Court deems just and appropriate.

DATED: This 5th day of July 2010.

Respectfully submitted,



/s/ Alison Ruttenberg
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