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Order on Plaintiff's Motion to Quash Subpoena (MICHAEL MACKE)

Elizabeth E. Long
Superior Court of Fulton County

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DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY
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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

MICHAEL MACKE,	)(	
Plaintiff,	)(	
v.	)(	Civil Action No. 2008-CV-158015
CADILLAC JACK INC., SMART GAMES GROUP CORP., EUGENE CHAYEVSKY, AND OLEG BOYKO,	)(	
Defendants.	)(	

ORDER ON PLAINTIFF'S MOTION TO QUASH SUBPOENA

This case is before the Court on Plaintiff's motion to quash a subpoena served by Defendant Cadillac Jack Inc. ("Cadillac Jack") on a third-party, King Industrial Realty Group ("King Realty"). After reviewing the briefs submitted on the motion and considering the record in the case, the Court finds as follows.

Defendant Cadillac Jack has asserted counterclaims against Plaintiff for alleged violations of non-competition and non-solicitation covenants in a shareholder agreement and an employment agreement it has with Plaintiff. Cadillac Jack suspects that Plaintiff is working through a company called Primero Games in violation of his obligations under the restrictive covenants. In late May 2010, Cadillac Jack received a piece a misdirected mail that was sent by King Realty to Plaintiff at Primero Games.

To probe a possible connection between Plaintiff and Primero Games, Cadillac Jack subpoenaed King Realty on June 15, 2010. Plaintiff has filed a motion to quash that subpoena. In support of his motion, Plaintiff argues that the King Realty subpoena provides for a return date that is after the close of discovery in this case which was June 30, 2010.

The Court finds that Cadillac Jack served the King Realty subpoena on June 15, 2010 which is approximately two weeks before discovery ended in this case and, as such, the subpeona should not be quashed as untimely. However, for reasons of relevancy, the Court finds that King Realty need only respond to the subpoena to the extent it seeks information relating to an alleged connection between Plaintiff and Primero Games.

Plaintiff's motion to quash is hereby **DENIED**.

SO ORDERED this 26th day of August, 2010.

ELIZABETH E. LONG, SENIOR JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

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