

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

Complaint of GameFly, Inc.

Docket No. C2009-1

MOTION OF THE PUBLIC REPRESENTATIVE  
FOR ACCESS TO DIRECT CASE OF  
THE UNITED STATES POSTAL SERVICE  
(July 19, 2010)

Pursuant to Presiding Officer's Ruling No. C2009-1/27, the Public Representative hereby requests access to non-public materials described in that ruling. In support of this motion, and pursuant to rule 3007.40, the undersigned state that (1) they are the Public Representatives in this proceeding and have no affiliation with or interest in other parties and (2) they need access to the Postal Service's direct case in order to perform their assigned duties. The Public Representative has been in contact with counsel for the Postal Service and is authorized to say that the Postal Service does not oppose this request. The certifications required by Ruling No. C2009-1/27 are attached.

Respectfully submitted,

Emmett Rand Costich  
Public Representative

John Klingenberg  
Public Representative

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**APPENDIX B****SPECIAL PROTECTIVE CONDITIONS****STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS  
FOR TESTIMONY**

The Postal Service (or a third party) has filed non-public materials identified as

USPS-T-1, Direct Testimony of Nicholas F. Barranca  
USPS-T-2, Direct Testimony of Larry J. Belair  
USPS-T-3, Direct Testimony of Troy R. Seanor  
USPS-T-4, Direct Testimony of Robert Lundahl

in Commission Docket No. C2009-1. The Postal Service requests confidential treatment of the materials (hereinafter "these materials").

The following protective conditions limit access to these materials identified as testimony by the Postal Service. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is provisionally limited to a person, as defined in rule 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as docket C2009-1. However, no person either excluded under Paragraph 2 below, or involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. Access to these materials is further provisionally limited so as to exclude each of GameFly's institutional witnesses, namely Sander Glick and David Hodess, as well as GameFly's legal counsel who is involved in any witness preparation or presentation for the hearings on July 28, 2010. Other persons excluded from access are any of GameFly's

representatives or any subordinate personnel or affiliates who are involved in any witness preparation or presentation for the hearings on July 28, 2010. No person granted access to these materials is permitted to disseminate them in whole or in part to any person before the end of hearings on July 28, 2010, except as expressly allowed under P.O. Ruling C2009-1/27 for conducting discovery subject to these protective requirements.

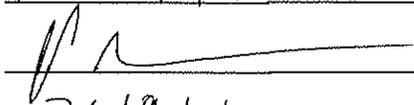
3. On July 28, 2010, at the end of hearings, persons attaining access to these materials shall be permitted to disseminate them in whole or in part to any person, unless otherwise ordered.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of information or excerpts from or parts of these materials.
5. All persons who obtain access to these materials are required to use the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of these materials as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.
6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as docket C2009-1.
7. The duty of nondisclosure of each person obtaining access to these materials is continuing except as expressly indicated herein, terminable only by specific order of the Commission, or as specified in paragraph 3.
8. Each person granted access to these materials consents to these and such other conditions as the Commission may approve.
9. Any written materials that describe, quote, or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal with the special legend. Such documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate until the end of hearings on July 28, 2010.

10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

## CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as docket C2009-1 by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as docket C2009-1 until the end of hearings on July 28, 2010. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraphs 1 and 2 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

|              |  |
|--------------|--|
| Name         | <u>John Klingenberg</u>  |
| Firm         | <u>Public Representative</u>   |
| Title        | <u>Economist</u>   |
| Representing | <u>Public Representative</u>   |
| Signature    | <u></u> |
| Date         | <u>7/19/10</u>   |

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|              |                            |
|--------------|----------------------------|
| Name         | <u>Emmett Rand Costich</u> |
| Firm         | <u>PRC</u>                 |
| Title        | <u>Attorney</u>            |
| Representing | <u>Public Rep</u>          |
| Signature    | <u>ER Costich</u>          |
| Date         | <u>7/19/2010</u>           |