

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

COMPLAINT OF GAMEFLY, INC.                    )  
  )  
  )                   Docket No. C2009-1

**RESPONSES OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS  
F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.  
(GFL/USPS-T1-1-12)  
(August 30, 2010)**

Pursuant to Rules 26 and 27 of the Commission's Rules of Practice and Procedure, the Postal Service provides its responses to the following discovery requests from GameFly, Inc.: GFL/USPS-T1-1-12, filed on August 16, 2010.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:  
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August 30, 2010

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-1.** Please produce copies of all documents that you received in connection with your work in this case.

**RESPONSE:**

I received the following:

- 1) Complaint of GameFly, Inc., PRC Docket No. C2009-1 (April 23, 2009).
- 2) Memorandum of GameFly, Inc., Summarizing Documentary Evidence, PRC Docket No. C2009-1 (April 12, 2010).
- 3) Testimony of Sander Glick for GameFly, Inc., PRC Docket No. C2009-1 (April 12, 2010).
- 4) Joint Statement of Undisputed Facts, PRC Docket No. C2009-1 (July 20, 2009).
- 5) United States Postal Service documents and related documents cited in item 2, above (encompassed by the range of documents GFL1 through GFL81118).
- 6) Direct Testimony of Larry J. Belair (USPS-T-2), PRC Docket No. C2009-1 (July 7, 2010).
- 7) Direct Testimony of Troy R. Seanor (USPS-T-3), PRC Docket No. C2009-1 (July 7, 2010).
- 8) Direct Testimony of Robert Lundahl (USPS-T-4), PRC Docket No. C2009-1 (July 8, 2010).
- 9) Letter to David M. Levy, Esq., from R. Andrew German, dated May 17, 2010.

The documents listed have been filed previously in this docket.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F.  
BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-2.** Please produce copies of all documents that you reviewed in connection with your work in this case.

**RESPONSE:**

I reviewed the documents listed in the response to GFL/USPS-T1-1. These documents have been filed previously in this docket.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-3.** Please describe in any detail any oral information you received from the Postal Service in connection with your testimony in this case.

**RESPONSE:**

The Postal Service has objected to this discovery request in part. During the preparation of my testimony, I had brief conversations with Postal Service counsel and with personnel in Operations regarding the substance of GameFly's Complaint and the procedural steps necessary to present a Postal Service defense. I was provided with little or no information not also contained in the documents I reviewed. Information not necessarily encompassed by those documents would have consisted of brief comments concerning GameFly's contentions and brief discussion of what might constitute effective approaches to rebutting GameFly's factual assertions and legal conclusions.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F.  
BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-4.** Please produce your contract and any other instructions or other documents concerning the scope of your testimony in this case. If your instructions were entirely oral, please describe them.

**RESPONSE:**

The Postal Service has objected to this discovery request in part. There is no contract; I am employed by the Postal Service. I received no "instructions."

See my response to GFL/USPS-T1-3.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F.  
BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-5.** When were you asked to become a witness in this case?

**RESPONSE:**

My best recollection is that I was asked on June 24, 2010.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-6.** Before you were asked to become a witness in this case, did you discuss any of the following subjects with any employee or agent of the Postal Service? If so, please identify the individuals and state the date, location and substance of each discussion.

- (a) GameFly.
- (b) Netflix.
- (c) Blockbuster.
- (d) The processing of DVD mailers.
- (e) Rates or classifications for DVD mailers.
- (f) Causes of or remedies for DVD breakage.
- (g) Similarities or differences between GameFly and Netflix.

**RESPONSE:**

The Postal Service has objected to this discovery request in part. I do not recall having had specific discussions regarding these topics with Postal Service personnel during, at least, the past two years. Other than conversations with Postal Service counsel, I discussed the possibility of providing testimony on one occasion with Krista Finazzo, Manager, Operations Integration and Support. In the more distant past, I may have had discussions with other Postal Service personnel concerning the processing of DVD mail. I do not recall specific individuals or dates, although they would have been general discussions, not related to GameFly's specific relationship with the Postal Service, and unrelated to its Complaint. I do not recall any specific discussions or references to GameFly, Netflix, or Blockbuster. See also the response to GFL/USPS-T1-3.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-7.** Before you were asked to become a witness in this case, did you send or receive any emails or other documents to or from any employee or agent of the Postal Service concerning any of the following subjects? If so, please produce the documents.

- (a) GameFly.
- (b) Netflix.
- (c) Blockbuster.
- (d) The processing of DVD mailers.
- (e) Rates or classifications for DVD mailers.
- (f) Causes of or remedies for DVD breakage.
- (g) Similarities or differences between GameFly and Netflix.

**RESPONSE:**

The Postal Service produced all responsive documents in response to earlier discovery requests. Please see GFL505-506 and GFL2422-2423.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F.  
BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-8.** Have you ever had a discussion with any employee or agent of GameFly about its mail or business? If so, please identify the individuals and state the date, location and substance of the discussion.

**RESPONSE:**

No.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-9.** Have you ever had a discussion with any employee or agent of Netflix about its mail or business? If so, please identify the individuals and state the date, location and substance of the discussion.

**RESPONSE:**

At Postal Forums during the past several years, or on other occasions, I may have encountered acquaintances who were then employed by Netflix. My conversations with such individuals would have been social in nature and unrelated to Netflix's mail or business. I do not recall any specific individuals, dates, or the contents of such discussions, if one assumes they did occur.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-10.** Have you ever had a discussion with any employee or agent of Blockbuster about its mail or business? If so, please identify the individuals and state the date, location and substance of the discussion.

**RESPONSE:**

While I know that several former postal employees have worked for Netflix, I am not familiar with who may have worked for Blockbuster. It is possible that, on certain occasions, I may have encountered previous acquaintances who were employed by Blockbuster at the time. My conversations with such individuals would most likely have been social in nature and unrelated to Blockbuster's mail or business. I do not recall any specific individuals, dates, or the contents of such discussions, if one assumes they did occur.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-11.** Please produce all written communications between you and any employee or agent of Netflix concerning any of the following matters:

- (a) The rates, classifications, mail preparation requirements, or standards for processing offered by the Postal Service to Netflix.
- (b) Any rate or service arrangement (whether formal or informal) established by the Postal Service for Netflix.
- (c) The terms of service established by the Postal Service for the DVD mail of Netflix.
- (d) The Postal Service's actual performance in processing and delivering DVDs to or from Netflix.
- (e) The breakage or loss of DVDs sent to or from Netflix.

**RESPONSE:**

There are no such communications.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS NICHOLAS F. BARRANCA TO DISCOVERY REQUESTS OF GAMEFLY, INC.

**GFL/USPS-T1-12.** Please produce all written communications between you and any employee or agent of Blockbuster concerning any of the following matters:

(a) The rates, classifications, mail preparation requirements, or standards for processing offered by the Postal Service to Blockbuster.

(b) Any rate or service arrangement (whether formal or informal) established by the Postal Service for Blockbuster.

(c) The terms of service established by the Postal Service for the DVD mail of Blockbuster.

(d) The Postal Service's actual performance in processing and delivering DVDs to or from Blockbuster.

(e) The breakage or loss of DVDs sent to or from Blockbuster.

**RESPONSE:**

There are no such communications.