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11 **UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF NEVADA**

13 **FEDERAL TRADE COMMISSION,**
14 Petitioner,

15 v.
16

17 **RALPH PAGLIA,**
18 Respondent.

Case No.

19
20 **PETITION OF THE FEDERAL TRADE COMMISSION**
21 **FOR AN ORDER ENFORCING CIVIL INVESTIGATIVE DEMANDS**

22 The Federal Trade Commission (FTC or Commission), pursuant to Section 20 of
23 the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 57b-1, respectfully petitions
24 this Court for an order requiring Respondent, Ralph Paglia, to comply with two civil
25 investigative demands (CIDs) issued in an FTC investigation. The CIDs seek
26 documentary materials, responses to interrogatories, and oral testimony relevant to an

1 ongoing investigation into whether certain participants in the retail automotive
2 industry, including dealers and consultants, may have engaged in “unfair methods of
3 competition” in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by means of their
4 participation in a concerted refusal to deal (a group boycott).
5

6 The Commission submits herewith the Declaration of Melissa Westman-Cherry,
7 designated as Petitioner’s Exhibit (Pet. Exh.) 1, to verify the allegations herein, and
8 alleges as follows:

9
10 **Jurisdiction and Venue**

11 1. This Court has jurisdiction to enforce the Commission’s duly issued CIDs
12 under Sections 20(e) and (h) of the FTC Act, 15 U.S.C. §§ 57b-1(e), (h). This Court also
13 has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

14 2. Venue is proper in this judicial district pursuant to Section 20(e) of the
15 FTC Act, 15 U.S.C. § 57b-1(e), because Respondent, Ralph Paglia, is found, resides, or
16 transacts business in this District. Venue is also proper pursuant to 28 U.S.C. § 1391.
17

18 **The Parties**

19 3. Petitioner, the Federal Trade Commission, is an administrative agency of
20 the United States, organized and existing pursuant to the FTC Act, 15 U.S.C. §§ 41 *et*
21 *seq.* Section 5 of the FTC Act, 15 U.S.C. § 45, prohibits “unfair methods of competition
22 in or affecting commerce,” and authorizes and directs the Commission to prevent such
23 conduct. Sections 3 and 6(a) of the FTC Act, 15 U.S.C. §§ 43 & 46(a), authorize the
24 Commission to “prosecute any inquiry necessary to its duties in any part of the United
25 States,” and to “gather and compile information concerning, and to investigate from
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1 time to time the organization, business, conduct, practices and management of, any
2 person, partnership, or corporation” subject to the Commission’s jurisdiction. Section
3 20(c) of the FTC Act, 15 U.S.C. § 57b-1(c), authorizes the Commission to issue CIDs that
4 require the recipients to produce documents, prepare answers to interrogatories, or
5 provide oral testimony under oath, relating to the subject of any Commission
6 investigation.
7

8 4. Respondent Ralph Paglia resides or is found in this District, and transacts
9 business in this District and throughout the United States. He is President of
10 Automotive Media Partners LLC, which has its principal place of business in Las Vegas,
11 Nevada. *See* Pet. Exh. 1 (Westman-Cherry Decl.), ¶5.
12

13 **The Commission’s Investigation and Civil Investigative Demands**

14 5. On January 17, 2014, the Commission issued a Resolution Authorizing Use
15 of Compulsory Process in Non-Public Investigation, File No. 131-0206 (Pet. Exh. 2). The
16 Compulsory Process Resolution sets forth the nature and scope of the investigation as
17

18 [t]o determine whether firms in the retail automobile industry, including
19 automobile dealers and industry consultants, may be engaging in, or may
20 have engaged in, conduct violating Section 5 of the Federal Trade
Commission Act, 15 U.S.C. §45, as amended, by agreeing to restrain
competition, including by agreeing to refuse to deal with TrueCar, Inc.

21 Pet. Exh. 2, at 1.
22

23 6. TrueCar, Inc. is in the business of helping auto dealers market their cars
24 by operating websites that provide extensive information about specific vehicles to
25 prospective car buyers, and that seek to match buyers and sellers. *See* Pet. Exh. 1
26 (Westman-Cherry Decl.) ¶2. As part of the investigation, FTC staff is examining

1 whether certain persons or businesses may have organized or participated in a group
2 boycott of, or a concerted refusal to deal with, TrueCar, thereby unlawfully restraining
3 competition. *See* Pet. Exh. 2 (Compulsory Process Resolution), at 1; Pet. Exh. 1
4 (Westman-Cherry Decl.) ¶¶2-4. Mr. Paglia provides auto dealers with consulting
5 services, information, and training relating to online marketing. *Id.* ¶¶5-6. Information
6 related to the subject of the investigation has appeared on websites and web logs (blogs)
7 that Mr. Paglia operates or administers. *Id.*

9 7. On May 2, 2014, under the authority of the Compulsory Process
10 Resolution, the Commission issued a CID (Pet. Exh. 3), requiring Mr. Paglia to produce
11 specified documents and to respond to written questions, no later than May 21, 2004.
12 *See* Pet. Exh. 3, at 1. To date, Mr. Paglia has not produced any documents or
13 information in response to the May 2 CID. *See* Pet. Exh. 1 (Westman-Cherry Decl.)
14 ¶¶8-10.

16 8. On June 18, 2014, under the authority of the Compulsory Process
17 Resolution, the Commission issued another CID (Pet. Exh. 4), requiring Mr. Paglia to
18 appear and provide oral testimony under oath at an investigational hearing, which was
19 set for July 10, 2014, in Las Vegas. *See* Pet. Exh. 4, at 1. Mr. Paglia failed to appear at
20 the investigational hearing at the specified time and place. *See* Pet. Exh. 1 (Westman-
21 Cherry Decl.) ¶¶11-13.

23 9. Mr. Paglia's failures to comply with the May 2 CID and June 18 CID have
24 impeded the Commission's ongoing investigation. *See* Pet. Exh. 1 (Westman-Cherry
25 Decl.) ¶14.

Prayer For Relief

WHEREFORE, the Commission invokes the aid of this Court and prays for:

- a. Immediate issuance of an order, substantially in the form attached, directing Mr. Paglia to show cause why he should not comply in full with the Commission's CIDs, and setting forth a briefing schedule pursuant to LR 16.1(c)(4); and
- b. A prompt determination of this matter and entry of an order:
 - (i) Compelling Mr. Paglia to produce the documents and information specified in the May 2 CID within ten (10) days of such order; and
 - (ii) Compelling Mr. Paglia to appear and testify under oath, as directed by the June 18 CID, ten (10) days from the date of issuance of such order, or at such later date as the FTC may establish; and
 - (iii) Granting such other and further relief as this Court deems just and proper.

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Respectfully submitted,

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Dated: September 12, 2014

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner, the Federal Trade Commission (FTC or Commission), pursuant to Section 20 of the FTC Act, 15 U.S.C. § 57b-1, seeks an order of this Court enforcing two civil investigative demands (CIDs) that the FTC issued to Respondent, Ralph Paglia, as part of an ongoing law enforcement investigation. The CIDs required Mr. Paglia to produce documents, respond to written questions, and to appear and testify under oath at an FTC investigational hearing. *See* Pet. Exhs. 3-4. Mr. Paglia’s failure to comply with the CIDs has impeded an FTC investigation of conduct that may constitute an “unfair method of competition,” in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

JURISDICTION AND VENUE

Section 20 of the FTC Act, 15 U.S.C. §57b-1, authorizes the Commission to issue a CID to any person who may have documents or other information relevant to an investigation into potential unfair methods of competition. 15 U.S.C. § 57b-1(a)(8), (c)(1).¹ The Commission is authorized to use such process to require any person to produce documents, *id.* § 57b-1(c)(3), (c)(11), respond to written questions, *id.* § 57b-1(c)(5), (c)(13), or give oral testimony under oath at an FTC investigational hearing, *id.* § 57b-1(c)(6), (c)(14). If the CID recipient does not comply, the Commission may petition a district court for an enforcement order, *id.* § 57b-1(e); the court is

¹ A CID is a form of administrative compulsory process akin to a subpoena *duces tecum* or subpoena *ad testificandum*. Congress modeled the FTC’s CID authority on the Antitrust Civil Process Act, 15 U.S.C. § 1311, which grants similar authority to the U.S. Department of Justice. *See* H.R. Cong. Rep. No. 917, 96th Cong., 2d Sess. 32 (1980), *reprinted in* 1980 U.S.C.C.A.N. 1143, 1149; S. Rep. No. 500, 96th Cong., 1st Sess. 23–25 (1979), *reprinted in* 1980 U.S.C.C.A.N. 1102, 1124–26. *See also Gen. Fin. Corp. v. FTC*, 700 F.2d 366, 367-68 (7th Cir. 1983) (Posner, J.) (describing FTC’s Section 20 CID as “a type of subpoena”).

1 authorized “to hear and determine the matter so presented, and to enter such order or
2 orders as may be required to carry into effect the provisions of this section.” *Id.*
3 § 57b-1(h).

4
5 The Commission may institute such proceedings by filing a petition seeking the
6 issuance of an order to show cause in any judicial district where the CID recipient
7 “resides, is found, or transacts business.” 15 U.S.C. § 57b-1(e). This Court is authorized
8 to issue such an order to show cause because Mr. Paglia “resides, is found, or transacts
9 business” in this judicial district. *See* Pet. Exh. 1 (Westman-Cherry Decl.) ¶5.

10 **STATEMENT OF FACTS**

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12 The FTC is investigating whether certain participants in the retail auto industry,
13 including auto dealers and industry consultants, have engaged in an unlawful group
14 boycott of TrueCar, Inc., a firm that helps auto dealers market their cars. TrueCar
15 operates websites that provide detailed information about specific vehicles to potential
16 automobile buyers, and attempts to match potential buyers with sellers. In late 2011
17 and early 2012, numerous comments about TrueCar appeared on various websites,
18 online blogs, and online social networks that are frequented by auto dealers. These
19 comments criticized TrueCar’s program of online reverse auctions, and other features of
20 TrueCar’s websites, as unfavorable to dealers, and asserted that TrueCar was inducing
21 dealers to sell cars at prices that were too low. Many of the comments urged dealers to
22 discontinue their participation in TrueCar’s reverse auctions, and to terminate their
23 dealings with TrueCar. During this period of time, the number of dealers participating
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1 in the TrueCar program and the number of auto sales consummated using TrueCar's
2 websites declined. *See* Pet. Exh. 1 (Westman-Cherry Decl.) ¶2.

3 In February 2012, TrueCar announced that it was eliminating the reverse
4 auction feature on its websites and narrowing the set of pricing and cost information
5 that its sites would reveal to consumers. After TrueCar made these changes, numerous
6 auto dealers resumed doing business with TrueCar. These changes may have made it
7 more difficult for consumers to comparison-shop using TrueCar's websites, thus
8 relieving pressure on dealers to offer aggressive bids to consumers, and possibly leading
9 to retail price increases. *See* Pet. Exh. 1 (Westman-Cherry Decl.) ¶3.

10 On January 17, 2014, the Commission issued a Resolution Authorizing Use of
11 Compulsory Process in Non-Public Investigation, File No. 131-0206 (Pet. Exh. 2). As
12 part of the investigation, the FTC staff is inquiring whether certain consultants,
13 dealers, or other persons or firms involved in the retail automobile industry may have
14 organized, facilitated, or participated in a group boycott of TrueCar. Such actions can
15 constitute "unfair methods of competition," which are prohibited by Section 5 of the FTC
16 Act, 15 U.S.C. § 45. *See* Pet. Exh. 1 (Westman-Cherry Decl.) ¶¶2-4.

17 Respondent, Ralph Paglia, provides auto dealers with consulting services,
18 information, and training relating to online marketing. Mr. Paglia writes frequently
19 about online marketing and other topics of interest to auto dealers, and disseminates
20 his writing through blog postings, comments on online social media networks, and
21 publications on other online forums and websites. He also operates, manages, or
22 moderates several such blogs, websites, and online social networks. *See* Pet. Exh. 1
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1 (Westman-Cherry Decl.) ¶¶5-6. Many of the communications criticizing TrueCar's
2 business model and urging auto dealers not to participate in TrueCar's reverse auction
3 program appeared on websites and blogs that Mr. Paglia operates or administers.
4 Moreover, materials on Mr. Paglia's websites and blogs indicate that some industry
5 consultants, dealer groups, and other businesses may have communicated with one
6 another outside of the websites about matters relevant to this investigation. *Id.* ¶6.
7 FTC staff asked Mr. Paglia to provide such information on a voluntary basis, but those
8 efforts were unsuccessful. *Id.* ¶7.

9
10 On May 2, 2014, the Commission issued a CID (Pet. Exh. 3) requiring Mr. Paglia
11 to produce specified documents and to respond to written questions. On June 18, 2014,
12 the Commission issued another CID (Pet. Exh. 4), requiring Mr. Paglia to appear and
13 give oral testimony under oath at an investigational hearing to be conducted by FTC
14 staff at the Office of the United States Attorney in Las Vegas, Nevada. Pet. Exh. 4, at 1.
15 See Pet. Exh. 1 (Westman-Cherry Decl.) ¶¶8, 11. The Commission served both CIDs via
16 Federal Express, with receipt-signature requested (and secured). *Id.* ¶¶9, 12; see Pet.
17 Exhs. 5, 6.

18
19 Mr. Paglia failed to comply with either the May 2 CID or the June 18 CID. He
20 has not produced the documents or other information specified in the May 2 CID, and
21 did not appear at the investigational hearing, as required by the June 18 CID. See Pet.
22 Exh. 1 (Westman-Cherry Decl.) ¶¶10, 13. Mr. Paglia neither petitioned the Commission
23 to quash or modify the CIDs pursuant to the applicable statute and Commission rules,
24 see 15 U.S.C. § 57b-1(f); 16 C.F.R. § 2.10, nor did he submit any objections to any of the
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1 particular specifications or terms in the CIDs. *See* Pet. Exh. 1 (Westman-Cherry Decl.)
 2 ¶¶10, 12. To date, Mr. Paglia has not communicated with FTC staff concerning either
 3 of the CIDs, nor responded to their other attempts to reach him. *Id.* ¶14.

4 **LEGAL STANDARD FOR ENFORCEMENT**

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 6 Actions to enforce administrative compulsory process are “summary procedure[s]
 7 designed to allow ‘speedy investigation of [agency] charges.’” *EEOC v. Karuk Tribe*
 8 *Hous. Auth.*, 260 F.3d 1071, 1078 (9th Cir. 2001) (quoting *EEOC v. St. Regis Paper Co.*,
 9 717 F.2d 1302, 1304 (9th Cir. 1983), *abrogated on other grounds, Church of Scientology*
 10 *of Cal. v. U.S.*, 506 U.S. 9 (1992)).² For this reason, discovery is permitted only in
 11 “exceptional circumstances,” *St. Regis Paper*, 717 F.2d at 1304; *see* Fed. R. Civ. P.
 12 26(a)(1)(B)(v) (no initial discovery disclosures in such cases), and courts are limited in
 13 these proceedings to determining: “(1) whether Congress has granted the authority to
 14 investigate; (2) whether procedural requirements have been followed; and (3) whether
 15 the evidence is relevant and material to the investigation.” *United States v. Golden*
 16 *Valley Elec. Ass’n*, 689 F.3d 1108, 1113 (9th Cir. 2012) (quoting *EEOC v. Children’s*
 17 *Hosp. Med. Ctr. of N. Cal.*, 719 F.2d 1426, 1428 (9th Cir.1983) (*en banc*), *abrogated on*
 18 *other grounds, Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20 (1991)); *see also*
 19 *EEOC v. Fisher Sand & Gravel, Co.*, No. 2:12-cv-0649-JCM-CWH, 2012 WL 3996138, *1
 20 (D. Nev. Sept. 11, 2012) (same); *accord United States v. Morton Salt Co.*, 338 U.S. 632,
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 23
 24 ² Courts apply the same legal standards to petitions to enforce CIDs under Section 20 of
 25 the FTC Act as those governing enforcement of the FTC’s and other agencies’
 26 administrative subpoenas. *See, e.g., FTC v. Ken Roberts Co.*, 276 F.3d 583, 586 (D.C.
 Cir. 2001); *Gen. Fin. Corp.*, 700 F.2d at 367-68; *FTC v. Response Makers, LLC*, No. 3:10-
 cv-1768-WQH-BLM, 2010 WL 4809953, *1-2 (S.D. Cal., Nov. 19, 2010); *FTC v. Nat’l*
Claims Svc., Inc., No. S 98-283-FCD-DAD, 1999 WL 819640 (E.D. Cal., Feb. 9, 1999).

1 652 (1950) (“[I]t is sufficient if the inquiry is within the authority of the agency, the
2 demand is not too indefinite, and the information sought is reasonably relevant.”). The
3 government’s burden to demonstrate that these requirements have been met is a “slight
4 one” and “may be satisfied by a declaration from an investigating agent.” *United States*
5 *v. Dynavac, Inc.*, 6 F.3d 1407, 1414 (9th Cir. 1993).

7 When these requirements are met, courts “must enforce administrative
8 subpoenas unless the evidence sought by the subpoena is plainly incompetent or
9 irrelevant to any lawful purpose of the agency.” *Golden Valley*, 689 F.3d at 1113-14
10 (quoting *Karuk Tribe Hous. Auth.*, 260 F.3d at 1076). *See also Children’s Hosp. Med.*
11 *Ctr.*, 719 F.2d at 1428 (“If these factors are shown by the agency, the subpoena should
12 be enforced unless the party being investigated proves the inquiry is unreasonable
13 because it is overbroad or unduly burdensome”) (citing *Okl. Press Publ’g Co. v. Walling*,
14 327 U.S. 186, 217 (1946)).
15

16 ARGUMENT

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18 The requirements for judicial enforcement of the Commission’s CIDs are satisfied
19 here, as the accompanying declaration of the FTC’s lead investigating attorney in this
20 matter demonstrates. *See* Pet. Exh. 1 (Westman-Cherry Decl.). The May 2 CID and the
21 June 18 CID, as well as the investigation in which they were issued, are within the
22 Commission’s authority; the CIDs were duly issued; and the documents, information,
23 and testimony sought are reasonably relevant to the FTC investigation. Accordingly,
24 the CIDs should be enforced without delay.
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1 **I. THE COMMISSION HAS THE AUTHORITY TO CONDUCT THE**
2 **INVESTIGATION**

3 The Commission unequivocally is authorized to conduct the investigation and
4 issue the CIDs at issue here. Congress has granted the FTC broad authority to
5 investigate acts or practices that may violate the FTC Act's proscription on "unfair
6 methods of competition." 15 U.S.C. § 45(a). Section 3 of that Act empowers the
7 Commission to "prosecute any inquiry necessary to its duties in any part of the United
8 States." *Id.* § 43. Section 6(a), in turn, authorizes the Commission "[t]o gather and
9 compile information concerning, and to investigate * * * the organization, business,
10 conduct, practices, and management of any person, partnership, or corporation engaged
11 in or whose business affects commerce," with certain exceptions not applicable here. *Id.*
12 § 46(a). And, as noted above, Section 20(c) of the FTC Act authorizes the Commission to
13 issue a CID to any person who may be in possession of documents or other information
14 relevant to an FTC investigation. *Id.* § 57b-1(c)(1).

17 The two CIDs at issue here concern an investigation into whether certain
18 automobile dealers, consultants, or other businesses engaged in "unfair methods of
19 competition," in violation of Section 5 of the FTC Act, by "agreeing to restrain
20 competition" or "agreeing to refuse to deal with TrueCar, Inc." Pet. Exh. 2 (Compulsory
21 Process Resolution), at 1. Accordingly, the investigation to which the CIDs pertain is
22 well within the scope of the FTC Act's Section 5 prohibition. *See* 15 U.S.C. § 45(a)
23 ("Unfair methods of competition in or affecting commerce, * * * are hereby declared
24 unlawful.").
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1 Thus, the Commission indisputably is authorized to conduct its investigation and
2 to issue the CIDs to Mr. Paglia.

3 **II. THE COMMISSION COMPLIED WITH ALL APPLICABLE**
4 **PROCEDURAL REQUIREMENTS FOR COMPULSORY PROCESS**

5 The Commission's May 2 CID (Pet. Exh. 3) and June 18 CID (Pet. Exh. 4) fully
6 comport with the applicable procedural requirements of the authorizing statute and its
7 implementing FTC Rules of Practice. *See* 15 U.S.C. § 57b-1; 16 C.F.R. §§ 2.7, 4.4.

8
9 First, the CIDs satisfy the FTC Act's requirements of "definiteness and certainty"
10 in specifying the categories of documents to be produced and information sought in
11 responses to questions, 15 U.S.C. §§ 57b-1(c)(3)(A) and (c)(5)(A), as well as setting forth
12 the "date, time, and place at which oral testimony shall be commenced" and the FTC
13 staff member (Melissa Westman-Cherry) who would conduct the oral examination, *id.*
14 §§ 57b-1(c)(6)(A) and (c)(6)(B). *See* Pet. Exh. 3 (May 2 CID), Schedule, Specs. 1-6; Pet.
15 Exh. 4 (June 18 CID), at 1; Pet. Exh. 1 (Westman-Cherry Decl.) ¶11. The May 2 CID
16 prescribed a return date of two weeks after the date on which the CID was served, *see*
17 Pet. Exh. 1 (Westman-Cherry Decl.) ¶9, giving Mr. Paglia a "reasonable amount of time"
18 to assemble the specified documents and prepare the responses to questions. 15 U.S.C.
19 §§ 57b-1(c)(3)(B), (c)(5)(B). It also "identif[ied] the custodian" (Geoffrey Green) to whom
20 the documents are to be produced and to whom the responses are to be provided. *See id.*
21 §§ 57b-1(c)(3)(C), (c)(5)(C); Pet. Exh. 3 (May 2 CID), at 1.

22 Moreover, both CIDs were validly "signed by a Commissioner" (Maureen K.
23 Ohlhausen), "acting pursuant to a Commission resolution." 15 U.S.C. 57b-1(i); *see* Pet.
24 Exh. 2 (Compulsory Process Resolution), at 1; Pet. Exh. 3 (May 2 CID), at 1; Pet. Exh. 4
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1 (June 18 CID), at 1. Duly executed copies of both CIDs were properly served. *See*
2 15 U.S.C. §§ 57b-1(c)(9)(A), (c)(10); Pet. Exh. 5 (receipt for delivery of May 2 CID); Pet.
3 Exh. 6 (receipt for delivery of June 18 CID); Pet. Exh. 1 (Westman-Cherry Decl.) ¶¶9,
4 12.
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6 Finally, both CIDs included copies of the Commission's Compulsory Process
7 Resolution (Pet. Exh. 2), which gave Mr. Paglia adequate notice of "the nature of the
8 conduct constituting the alleged violation which is under investigation and the provision
9 of law applicable to such violation." 15 U.S.C. § 57b-1(c)(2); Pet. Exh. 3 (May 2 CID), at
10 17; Pet. Exh. 4 (June 18 CID), at 3; *see FTC v. O'Connell Assocs., Inc.*, 828 F. Supp. 165,
11 170-71 (E.D.N.Y. 1993) (the notice requirement is met by "cit[ing] to a resolution giving
12 the FTC authority to use compulsory process.").

14 **III. THE EVIDENCE SOUGHT IS RELEVANT AND MATERIAL TO THE** 15 **INVESTIGATION**

16 Both CIDs are designed to elicit material information that is relevant to the
17 Commission's investigation. The specific document requests and interrogatories set
18 forth in the May 2 CID required Mr. Paglia to produce documents containing or relating
19 to Mr. Paglia's communications, correspondence, or meetings with TrueCar and other
20 auto dealers, as well as documents, including blog posts, pertaining to the effect of
21 TrueCar's services on retail auto prices, auto dealers' decisions on whether to stop
22 participating in the TrueCar reverse auction program, and Mr. Paglia's role in
23 operating and controlling the content of the relevant websites and blogs. *See* Pet. Exh.
24 3, Schedule, Specs. 1-6. The June 18 CID sought Mr. Paglia's oral testimony on the
25 same topics. *See* Pet. Exh. 4, at 1, 3. The FTC investigation is focused on whether those
26

1 communications or other interactions among such parties constituted or related to a
2 potential group boycott of TrueCar. As the FTC's lead investigating attorney has
3 testified, "the investigation would be furthered by obtaining information Mr. Paglia may
4 have in his possession relating to the online communications, direct communications,
5 and other activities at issue in the investigation." Pet. Exh. 1 (Westman-Cherry Decl.)
6 ¶7; *see id.* ¶¶5-6, 14. *See Dynavac*, 6 F.3d at 1414 (in seeking judicial enforcement of its
7 compulsory process, the government's "slight" burden "may be satisfied by a declaration
8 from an investigating agent.").

9
10 The CIDs seek information that is demonstrably *neither* "incompetent [n]or
11 irrelevant," to the Commission's lawful investigation. *Golden Valley*, 689 F.3d at 1113-
12 14; *see also Karuk Tribe Hous. Auth.*, 260 F.3d at 1076 (same); *Children's Hosp. Med.*
13 *Ctr.*, 719 F.2d at 1428 (same). They should, therefore, be promptly enforced by this
14 Court.
15

16 CONCLUSION

17
18 For the foregoing reasons, this Court should grant the FTC's petition and enter
19 an order, substantially in the form filed herewith, requiring Mr. Paglia to comply with
20 the FTC's May 2 CID and June 18 CID, within 10 days of the entry of such order.
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Respectfully submitted,

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