

# **Exhibit C**

## Freedom of Information Act/Privacy Act Appeal

**Office of Regulations and Rulings  
United States Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Mint Annex, 5<sup>th</sup> Floor  
Washington, D.C. 20229**

Dear FOIA Appeals Officer,

I am in receipt of your response to my client Edward Hasbrouck's Privacy Act request, identified by CBP as file number **2007F4114**. His request was for all of his records contained in the ATS system of records. The CBP has failed to release all of the categories of information responsive to this request that I have reason to believe exist in the ATS system of records. Similar requests by other individuals confirm that data, not provided to my client, is included in typical ATS records.

My client's request stated:

My request is for all information relating to myself referenced in the Categories of Records in the System section of the SORN. Specifically, I am asking for any records relating to any risk assessments, the rules used for determining the assessments, any pointer or reference to the underlying records from other systems that resulted in the assessments, and any API (Advance Passenger Information) and PNR (Passenger Name Record) information obtained from commercial air, rail, or road carriers, CRSs (Computerized Reservation Systems), GDSs (Global Distribution Systems), PNR aggregators or intermediaries, or other third parties... .

My client appeals the CBP's response to his records request due to its failure to disclose any information other than the 16 pages (erroneously described in Ms. Brown's cover letter as 14 pages) attached to Ms. Brown's letter of August 13, 2007. Appealed is CBP's failure to disclose any of the following:

- A. ATS and PNR records relating to Mr. Hasbrouck's travel prior to June 23, 2003.
- B. PNRs containing data entered by, or otherwise identifiable with, Mr. Hasbrouck in his capacity as a travel agent. These include, but are not limited to, PNRs from the Sabre computerized reservation system showing PNR history entries from pseudo-city code A787 and agent sines A24 or AEH, and all records identifiable with ARC/IATA travel agency ID number 05626515 and agent "EH" or "EDWARD".
- C. Portions of responsive PNRs not displayed on the "face" (front page) or "history" (audit trail) of the PNR. The existence of additional categories of PNR data in ATS records is

specifically confirmed both in the SORN and in the portions of PNRs disclosed in response to Mr. Hasbrouck's request, described in lines such as "ELECTRONIC [ticket] DATA EXISTS ] \*HTE", "LINEAR FARE DATA EXISTS ] \*LF", and "VCR COUPON DATA EXISTS \*VI TO DISPLAY". This data includes, but is not limited to, ticketing records (including electronic and paper ticket records), frequent flyer data, and seating records. This data typically exists buried within PNRs without explicit mention of their existence on the face of the PNR. Without access to the complete PNRs in their original electronic form, as well as the specifications for the systems in which they were created and stored and the protocols by which they were transmitted, it is impossible to know with certainty what other data might be contained in the responsive PNRs.

D. Split PNRs identifiable with Mr. Hasbrouck through "SPLIT" or "DIVIDED" references in PNRs (as mentioned in the SORN and visible in the portions of PNRs disclosed to Mr. Hasbrouck), as well as any API data and any other ATS information associated with those split PNRs.

E. Risk assessments pertaining to Mr. Hasbrouck or to risk assessments records identifiable with Mr. Hasbrouck, as mentioned in the SORN.

F. The rules used for determining the risk assessments, as mentioned in the SORN.

G. API data concerning Mr. Hasbrouck, including API data corresponding to the air travel PNRs disclosed in the CBP's response to Mr. Hasbrouck request as well as API data received from rail and road carriers. Mr. Hasbrouck has been specifically told by air, rail, and road carriers that they have provided API data concerning Mr. Hasbrouck to the CBP.

Mr. Hasbrouck has reason to believe that as-yet-undisclosed information responsive to his request in each of the categories listed above exists in the ATS system of records. The CBP has not listed or described any of the responsive information that it has not disclosed, has not indicated the amount of responsive information not disclosed, has not given any explanation as to its reasons for not fully complying with his request for this information, and has not claimed that any of this information is exempt from the requirements for complete and unredacted disclosure.

It is unclear whether the CBP's failure to disclose this information indicates incompetence (in particular, lack of sufficient technical knowledge of PNRs to know how to identify or retrieve all elements of a PNR, to determine their meaning sufficiently to know which

records are responsive to his request, or to determine which records are properly exempt from disclosure), lack of due diligence in searching and retrieval of records, or bad faith. In light of the CBP's manifest failure to disclose all categories of responsive records or all portions of those records, Mr. Hasbrouck requests a diligent, good faith, de novo search for responsive records and de novo review to determine which records or portions of records should be disclosed. In light of the CBP's failure to provide all portions of PNRs, even where the existence of additional PNR components is clear from the portions of PNRs disclosed, Mr. Hasbrouck also requests that all PNR's be disclosed in their original and unredacted electronic format in addition to their disclosure in hardcopy form. Disclosure of records in electronic form is particular appropriate and necessary here where the original electronic records contain meaningful but non-ASCII display and storage characters typical of PNRs, which cannot be fully or unambiguously rendered into ASCII or typical printer character sets.

The CBP's claimed exemptions, noted next their redactions in the documents provided, are arbitrary, inconsistent, and appear unjustified. For example, some of Mr. Hasbrouck's own business telephone numbers ("AIRTREKS.COM ... EDWARD") were redacted on the purported grounds that their disclosure would infringe the rights of third parties -- when in fact they are the requester's own numbers. Mr. Hasbrouck appeals all of CBP's redactions and their associated claimed exemptions.

Executed on this day: September 13, 2007

Signature:

James Harrison  
The First Amendment Project  
1736 Franklin St., 9<sup>th</sup> Floor  
Oakland, CA 94560