

FEDERAL BUREAU OF INVESTIGATION
FACSIMILE COVER SHEET



PRECEDENCE

Immediate Priority Routine

CLASSIFICATION

Top Secret Secret Confidential Sensitive Unclassified

TO

Name of Office: Cloudflare, Inc.	Facsimile Number: 650-230-7173	Date: 03/06/2013
Attn: Jamie Tomasello	Room:	Telephone Number:

FROM

Name of Office: FBI Dallas	Number of Pages: (including cover) 7	
Originator's Name: SA Robert Smith	Originator's Telephone Number: 972-559-5537	Originator's Facsimile Number: 972-559-5613
Approved:		

DETAILS

Subject:
Subpoena

Special Handling Instructions:
Please accept enclosed subpoena for immediate service.

Brief Description of Communication Faxed:

WARNING

Information attached to the cover sheet is U.S. Government Property. If you are not the intended recipient of this information disclosure, reproduction, distribution, or use of this information is prohibited (18.U.S.C. § 641). Please notify the originator or local FBI Office immediately to arrange for proper disposition.



U.S. Department of Justice

United States Attorney
Northern District of Texas

1100 Commerce Street, Third Floor Main: 214.659.8600
Dallas, Texas 75242-1699 Fax: 214.659.8812

March 5, 2013

Cloudflare, Inc.
Attention Ms. Jamie Tomasello, Policy and Investigations
665 Third Street
Suite 207
San Francisco, CA 94107

RE: *United States of America v. Barrett Lancaster Brown*
 No. 3:12-CR-317-L

Dear Ms. Jamie Tomasello:

Enclosed is a trial subpoena requesting the Custodian of Records to produce documents in the above referenced case. These documents will be used by the government as exhibits at a trial scheduled to begin on April 8, 2013, in *United States of America v. Barrett Lancaster Brown*, 3:12-CR-317-L. In order to authenticate the documents, the government needs either an Affidavit of Custodian or the presence at trial of a Custodian of Records. A form for Affidavit of Custodian of Records and a trial subpoena for a Custodian of Records are also enclosed.

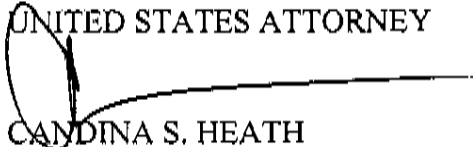
If you choose to execute the Affidavit of Custodian, in lieu of appearance at trial, please execute the Affidavit and return it with the requested documents from Cloudflare, Inc. to Special Agent Robert Smith, FBI. If Special Agent Smith does not receive the copies of the Cloudflare, Inc.'s documents and the executed Affidavit of Custodian by **March 29, 2013**, a representative of Cloudflare, Inc. who can act as a Custodian of Records must appear to testify at trial and produce the documents.

Please comply with the subpoena by sending the requested items to Special Robert Smith, Federal Bureau of Investigation, One Justice Way, J. Gordon Shanklin Building, Dallas, Texas 75220.

If you have any questions or need further information, please contact Special Agent Smith at 972.559.5537. Questions regarding legal matters should be referred to me at 214.659.8600. Thank you for your prompt attention to this request.

Sincerely,

SARAH R. SALDAÑA
UNITED STATES ATTORNEY


CANDINA S. HEATH
Assistant United States Attorney

Enclosures: (1) subpoena; (2) Attachment; (3) Affidavit form;

United States District Court
for the
Northern District of Texas

United States of America)

v.)

Barrett Lancaster Brown)

Defendant)

Case No. 3:12-CR-317-L

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Cloudflare, Inc., Attention Ms. Jamie Tomasello, Policy and Investigations
665 Third Street, Suite 207, San Francisco, CA 94107
Phone: 415-713-9307; Fax: 650-230-7173

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance:

UNITED STATES DISTRICT COURT
1100 Commerce Street, Dallas, TX 75242

Courtroom No.:

Judge Lindsay 1546

Date and Time:

4/8/2013 at 9:00 a.m.

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please see attachment

Date: 3/5/2013



CLERK OF COURT

[Handwritten Signature]

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) United States of America

, who requests this subpoena, are:

CANDINA S. HEATH Assistant United States Attorney
1100 Commerce Street, 3rd Floor, Dallas, Texas 75242
214.659.8600
candina.heath@usdoj.gov

Attachment for Trial Subpoena

TO:

Cloudflare, Inc.
Attention Ms. Jamie Tomasello, Policy and Investigations
665 Third Street
Suite 207
San Francisco, CA 94107
Voice: 415-713-9307
Fax: 650-230-7173

REQUEST:

Please provide the following information or records related to the account(s) currently or previously associated with the domain, echelon2.org, and any sub-domains to include the following records:

- All subscriber information including but not limited to names, telephone numbers, email addresses, instant messaging addresses, physical addresses associated with the account;
- Type of service provided and length of service for the account;
- Payment and billing records to include bank account, Paypal or credit card account information used to pay for the account charges;
- Identification of other domain names serviced by Cloudflare and associated with the same customer;
- DNS configuration information for the domain;
- Account access history including any and all authentication, file transfer, web server logs or other transaction logs containing source Internet Protocol addresses related to the subscriber's use of the Cloudflare services.

INSTRUCTIONS:

If you have any questions regarding the above request, please contact Federal Bureau of Investigation Special Agent Robert Smith at 972.559.5537 or fax 972.559.5613 or email robert.smith5@ic.fbi.gov. Documents or items produced in compliance with this subpoena should be sent to the Federal Bureau of Investigation, One Justice Way, Dallas, TX, 75220 ATTN: SA Robert Smith. Please provide an affidavit verifying the authenticity of the documents. A sample affidavit has been provided for your convenience.

AFFIDAVIT OF CUSTODIAN OF RECORDS
AS TO AUTHENTICITY OF BUSINESS RECORDS
PURSUANT TO RULE 902(11) FEDERAL RULES OF EVIDENCE

I, _____, hereby declare under penalty of perjury, the following statements of fact to be true and correct:

1. I am associated with Cloudflare, Inc. as custodian of records. In this position I have the responsibility for Cloudflare, Inc. compliance with the trial subpoena duces tecum in the above referenced case which calls for the production of certain documents or tangible things before the Court at a trial, on the date stated in the subpoena.

2. I personally have conducted or supervised compliance by Cloudflare, Inc. with the trial subpoena. To the best of my knowledge, information and belief, based upon due diligence and reasonable inquiry, the documents or tangible things produced hereby or enclosed herewith, and delivered to a law enforcement agent constitute all the documents or tangible things in the possession, custody or control of Cloudflare, Inc. which fall within the terms of the trial subpoena.

3. No documents or tangible things responsive to the trial subpoena have been withheld by Cloudflare, Inc. pursuant to a claim of privilege or otherwise, unless such documents or tangible things are specifically described and referred to by privilege on an attachment to this Affidavit, and incorporated herein as if fully set forth verbatim. No one has directed the destruction of any documents or tangible things responsive to the trial subpoena, and no such documents or tangible things have been destroyed, unless such documents or tangible things are specifically described and referred to by privilege on an attachment to this Affidavit, and incorporated herein as if fully set forth verbatim.

4. The documents made by Cloudflare, Inc. and produced in compliance with the trial subpoena are memoranda, reports, records or data compilations of acts, events, conditions, opinions or

diagnoses that were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters, and that have been kept in the course of Cloudflare, Inc.'s regularly conducted business activity. It has been Cloudflare, Inc.'s regular practice in that business activity to make those memoranda, reports, records, or data compilations. Neither the source of information, nor the method or circumstances of preparation, indicate a lack of trustworthiness for those memoranda, reports, records or data complications.

5. I understand that the furnishing of these documents or tangible things to counsel for the United States or to Cloudflare, Inc. in response to the trial subpoena, and the execution of this Affidavit, are at the sole discretion and election of myself and Cloudflare, Inc. and are in lieu of personally producing the documents or tangible things before the Court, which right to appear is expressly waived.

6. I am authorized by Cloudflare, Inc. to execute this Affidavit; I have reviewed all its terms and I have had an opportunity to consult with counsel for Cloudflare, Inc. before signing and swearing to it.

Printed Name:
Custodian of Records for Cloudflare, Inc..

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20__ at

(Location).

Notary Public
Printed Name:
Date Commission Expires:



READ THE INFORMATION CONTAINED ON THIS FORM BEFORE YOUR COURT APPEARANCE. PLEASE CALL THE INDIVIDUAL(S) LISTED BELOW FOR INFORMATION REGARDING TRAVEL ARRANGEMENTS AND SPECIFIC ENTITLEMENTS. IF YOU HAVE A MEDICAL CONDITION OR FAMILY SITUATION THAT REQUIRES SPECIAL CONSIDERATION, PLEASE ADVISE THE INDIVIDUAL LISTED BELOW AS SOON AS POSSIBLE.

CONTACT PERSON(S): Lisa D. Shedden
Carole Henderson

TELEPHONE NUMBER: 1-800-496-8341

≈ VERIFY YOUR ATTENDANCE ≈

On the last business day BEFORE you travel to court, call the above number to verify that your attendance is required. This may prevent a wasted trip in the event the trial date is changed.

≈ APPEARANCE IN ANOTHER CITY ≈

If you are required to travel to another city to appear in court, immediately contact the individual listed above and request instructions. Any amount advanced to you will be deducted from your fees and allowances.

≈ REIMBURSEMENT OF EXPENSES AND ATTENDANCE FEES ≈

- A. ATTENDANCE FEE:** You will be paid a fee of \$40 per day, including travel days.
- B. TRANSPORTATION:** Call the individual listed above to obtain information on transportation. Reimbursement will be made for travel by the least expensive method reasonably available to you. The following rules apply to transportation expenses:

- 1. **Local Travel:** The recommended method of travel in the local area of court is transit bus/subway;
- 2. **Privately Owned Vehicles (POV):** You will be reimbursed the following amounts:

Motorcycle 52.5 per mile Automobile 56.5 per mile Airplane 1.31 per mile

In addition to the above mileage allowance, necessary tolls, parking and other fees may be reimbursed. You must keep a record of your odometer readings if you travel by motorcycle or automobile. If two or more witnesses travel in the same vehicle, only one reimbursement for mileage can be made.

IF POV EXPENSES, INCLUDING MILEAGE, TOLLS, PARKING AND OTHER ASSOCIATED COSTS, ARE GREATER THAN COACH CLASS AIRFARE, YOU WILL BE RESPONSIBLE FOR THE DIFFERENCE.

- 3. **Common Carrier:** If you are located outside the local court area, **CALL THE INDIVIDUAL LISTED ABOVE FOR INSTRUCTIONS.** Train, bus or airfare will be reimbursed at COACH or other Non-PREMIUM rate. Reimbursement **WILL NOT** be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. **DO NOT** purchase non-refundable tickets. If your appearance date changes or is cancelled you **WILL NOT** be reimbursed for non-refundable tickets. If you have any questions concerning transportation arrangements, please contact the individual(s) listed above.

- C. MEALS:** If it is necessary for you to remain away from home **overnight**, you will receive the following daily meal allowances:

\$ 35.50 for each travel day PLUS \$ 71.00 for each full day at court

- D. LODGING:** If it is necessary for you to remain away from home **overnight**, you will be reimbursed for the **ACTUAL COST** of your hotel/motel room, which may not exceed \$ 113.00 per night including tax.

≈ YOU MUST RETAIN RECEIPTS ≈

ALL CLAIMS FOR PARKING MUST BE SUPPORTED BY A RECEIPT. OTHER EXPENSES EQUAL TO \$25 OR MORE MUST BE SUPPORTED BY A RECEIPT, WITH THE EXCEPTION OF MEALS AND MILEAGE.

≈ DISMISSAL ≈

When you are advised that your attendance is no longer required, you should request information regarding the payment of the fees and allowances outlined above. The individual requiring your attendance will provide you with a Fact Witness Voucher. You will be required to list your expenses on this Voucher. The Voucher will be submitted to the U.S. Marshals Service for payment. The U.S. Marshals Service will process the voucher and **MAIL** the payment to you. If you require funds to return home, you must bring this fact to the attention of the individual requiring your attendance, who will notify the U.S. Marshals Service.