

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



_____ )	
In the Matter of )	<b>PUBLIC</b>
)	
<b>NORTH CAROLINA BOARD OF )</b>	<b>Docket No. 9343</b>
<b>DENTAL EXAMINERS, )</b>	
)	
Respondent. )	
_____ )	

**COMPLAINT COUNSEL’S OPPOSITION TO RESPONDENT’S MOTION  
FOR DISCLOSURE OF NON-PRIVILEGED AND NON-RESTRICTED  
AGENCY INFORMATION**

Respondent filed a motion styled as “Respondent's Motion For Disclosure of Non-Privileged and Non-Restricted Agency Information” on January 25, 2011. The fact-discovery deadline passed two months ago, Scheduling Order at 2, and a motion for disclosure of agency information is not a discovery method recognized by the Commission Rules, in any case. *See* Rule 3.31. The only alternative Commission rule permitting disclosure of agency information is Rule 4.11.

A request for disclosure of agency information under Rule 4.11 is to be filed with, and ruled upon by, the Office of the General Counsel in accordance with the procedures specified in Rule 4.11. Accordingly, the Court should deny this motion, as improvidently filed, without prejudice to refileing a request for agency information in accordance with Rule 4.11.

For the foregoing reason, the Court should deny Respondent's motion for disclosure of agency information.

Respectfully submitted,

s/Richard B. Dagen  
Richard B. Dagen  
William L. Lanning  
Michael J. Bloom  
Melissa Westman-Cherry  
Counsel Supporting Complaint  
Bureau of Competition  
Federal Trade Commission  
601 New Jersey Avenue NW  
Washington, DC 20580

Dated: January 28, 2011

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BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of	)	
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<b>NORTH CAROLINA BOARD OF DENTAL EXAMINERS,</b>	)	<b>Docket No. 9343</b>
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	)	

**[PROPOSED] ORDER DISMISSING RESPONDENT’S MOTION FOR DISCLOSURE  
OF NON-PRIVILEGED AND NON-RESTRICTED  
AGENCY INFORMATION**

On January 25, 2011, Respondent filed its motion for disclosure of agency information. Complaint Counsel filed its opposition on January 28, 2011, on the grounds that the Respondent’s request for disclosure of agency information was not filed in accordance with Rule 4.11.

Because the Respondent’s motion for agency information was not filed in accordance with Rule 4.11, the Respondent’s Motion for Disclosure is DENIED without prejudice to refiling in accordance with Rule 4.11.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date:

**CERTIFICATE OF SERVICE**

I hereby certify that on January 28, 2011, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

I also certify that I delivered via electronic mail and hand delivery a copy of the foregoing document to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the foregoing document to:

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*Counsel for Respondent  
North Carolina State Board of Dental Examiners*

**CERTIFICATE FOR ELECTRONIC FILING**

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

January 28, 2011

By: s/ Richard B. Dagen  
Richard B. Dagen