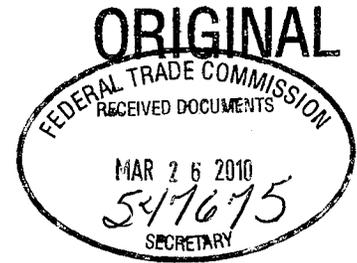


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



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In the Matter of )  
)  
GEMTRONICS, INC., )  
a corporation, and ) DOCKET NO. 9330  
)  
WILLIAM H. ISELY, )  
Respondents. )  
\_\_\_\_\_)

**ORDER CLOSING PROCEEDINGS ON APPLICATION  
FOR AN AWARD OF ATTORNEY FEES AND OTHER EXPENSES**

On December 2, 2009, Respondents submitted their Application for an Award of Attorney Fees and Other Expenses Pursuant to Rule 3.81 of the Commission Rules of Practice (“Application”). Complaint Counsel submitted its Answer in Opposition to Respondents’ Application on January 6, 2010. Respondents submitted a reply on January 20, 2010.

Thereafter, a number of related motions were submitted by the parties. On January 7, 2010, Respondents submitted a Motion to Exclude Complaint Counsel’s Answer as untimely, which Motion was later withdrawn by Respondents, as stated on the record at the status hearing held on March 2, 2010. *See* March 4, 2010 Order Confirming Bench Rulings on Pending Motions. On February 1, 2010, Complaint Counsel submitted a Motion for Leave to Submit a Further Response in Support of its Answer in Opposition to Respondents’ Application for an Award Under the Equal Access to Justice Act, along with its proposed Response. On February 3, 2010, Complaint Counsel submitted a Motion to Amend an Attachment to its proposed Response, along with the proposed Amendment. Respondents submitted responses in opposition to Complaint Counsel’s filings on February 2, February 4, February 8, and March 10, 2010.

Pursuant to Commission Rule 3.83(f), the Administrative Law Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing, when necessary for full and fair resolution of the issues arising from an application for attorney fees. By Order dated February 4, 2010, Complaint Counsel and Respondents were directed to attend a status hearing regarding the Application, pursuant to Commission Rule 3.83(f). The hearing, originally scheduled for February 11, 2010, was rescheduled due to the weather conditions that necessitated the closure of the federal government. Pursuant to the February 19, 2010 Revised Order for Further Proceedings on

Respondents' Application for Award of Attorney Fees and Other Expenses, a status hearing was conducted on March 2, 2010, by telephone conference on the record, at which all parties were present.

During the March 2, 2010 status hearing, with the exception of the Application for Attorney Fees, the pending motions, as set forth above, were addressed and ruled upon. *See* March 4, 2010 Order Confirming Bench Rulings on Pending Motions. In addition, after the March 2, 2010 status hearing, the parties were directed to engage in settlement negotiations. The parties were further directed to provide the Administrative Law Judge with a status of their settlement negotiations by March 24, 2010.

On March 24, 2010, each party reported separately that they had not been able to reach a mutually acceptable resolution to Respondents' Application. Complaint Counsel's submission states that Complaint Counsel believes that mediation by a third party would facilitate a final resolution of Respondents' Application and requests the Administrative Law Judge to appoint a mediator to facilitate further discussion and settlement of Respondents' claim. Complaint Counsel has cited no authority for such request, and, therefore, mediation will not be ordered. The parties are, however, encouraged to continue settlement discussions.

All pending motions ancillary to Respondents' Application have been resolved, and all the parties' written submissions on the Application have been submitted.<sup>1</sup> No further conference, oral argument, evidentiary hearing, or additional written submissions are necessary for a full and fair resolution of the issues arising from the Application. Accordingly, pursuant to Commission Rule 3.83(g), the proceedings on the Application are hereby closed.

An Initial Decision on the Application shall be issued pursuant to Commission Rule 3.81(g) on April 27, 2010. If the parties' continued negotiations result in a settlement before April 27, 2010, a joint proposed settlement shall be submitted pursuant to Commission Rule 3.83(e).<sup>2</sup>

ORDERED:

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

Date: March 26, 2010

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<sup>1</sup> Unrelated to the instant Application, on February 26, 2010, Respondents submitted their Motion to Sanction Complaint Counsel for conduct in the underlying adjudication, which concluded by Initial Decision issued on September 16, 2009. Complaint Counsel submitted its response on March 18, 2010. That motion is pending.

<sup>2</sup> Rule 3.83(e) states in pertinent part: "The applicant and complaint counsel may agree on a proposed settlement of the award before final action on the application . . . . A proposed award settlement entered into after the underlying proceeding has been concluded will be considered and may be approved or disapproved by the Administrative Law Judge subject to Commission review . . . ."