

ORIGINAL

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of )  
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POLYPORE INTERNATIONAL, INC. )

Docket No. 9327

PUBLIC DOCUMENT

MOTION TO QUASH SUBPOENA OF ERIC HEGLIE

Pursuant to Federal Trade Commission Rule of Practice § 3.34, Eric Heglie (“Mr. Heglie”), through his counsel, respectfully moves the Commission to quash the subpoena to testify issued to him in the above-referenced matter (the “Subpoena”).

Background

Mr. Heglie is a director at Industrial Growth Partners (“IGP”). He lives in LaFayette, California and works in San Francisco, California. Neither Mr. Heglie nor IGP is a party in this litigation. Mr. Heglie has provided sworn testimony in this matter already; once at an Investigation Hearing (an “IH”), and once at a deposition at which all parties were represented.

On May 14, 2009, Mr. Heglie received the Subpoena issued by Polypore International, Inc. (“Polypore”), ordering him to appear live at the ongoing hearing in this matter at an unspecified date and time. A copy of the Subpoena is attached to this Motion as Exhibit A. The letter accompanying the Subpoena requests that Mr. Heglie appear live in Washington, D.C. for trial testimony sometime “after May 22, 2009.” Counsel for Polypore has provided no further information about the proposed date for Mr. Heglie’s testimony.

Counsel for Mr. Heglie have attempted to confer with counsel for Polypore as required by the Commission’s Rule of Practice 3.22(g) on May 26, 2009, regarding the substantial burden

imposed by Polypore's late-issued Subpoena and the ongoing uncertainty of the date for Mr. Heglie's appearance. (*See* attached Certificate of Conference).

### Argument

Mr. Heglie moves to quash the Subpoena because his live appearance at trial – which, presumably, would be called for sometime over the next two weeks – would be highly burdensome, especially given the long distance he must travel to appear and his prior work commitments during this time period. His earlier testimony under oath in this case makes such a live appearance unnecessary, and therefore Mr. Heglie requests that his appearance be excused as “impractical” under FTC Rule 3.33(g)(1)(iii)(B).

Compelling Mr. Heglie to travel over 3000 miles, with minimal to no notice, will impose substantial hardships on him. He is a principal in ongoing IGP business transactions and has committed himself to various meetings and events occurring in Ohio, Pennsylvania, California, and elsewhere over the next few weeks. Compounding the burden associated with his live appearance is the lack of notice about the expected date of his testimony. Compelling him to appear live on very short notice is, in any event, unnecessary in this case. Mr. Heglie has already appeared in this litigation both at an IH held on July 23, 2008, and at a deposition held on January 29, 2009. Polypore was represented by counsel from Parker Poe LLP at the deposition, and Parker Poe has access to Mr. Heglie's IH transcript.

During the course of the IH and the deposition, Mr. Heglie provided hundreds of pages of testimony on matters at issue in this litigation and about which he is expected to testify at trial. IGP has also produced substantial numbers of documents from Mr. Heglie's files and the files of IGP. There is no reason why that earlier testimony and the related documents should not be

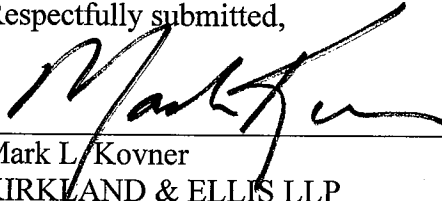
sufficient, especially given the extremely tight timing, long distance, and associated work and travel burdens in having him appear live.

In short, Mr. Heglie's appearance at trial in Washington, D.C. with exceptionally little notice – and we still do not know when he is supposed to appear – is unwarranted and outside of the requirements of the FTC's Rules of Procedure. *See*, FTC Rule 3.33(g). The Commission's Rules specifically provide for the use of existing deposition testimony in circumstances such as this, where the deponent "is located at such a distance that his attendance would be impracticable." FTC Rule 3.33(g)(1)(iii)(B).

For the foregoing reasons, Mr. Heglie respectfully requests that the Commission quash the Subpoena.

Date: May 26, 2009

Respectfully submitted,



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Mark L. Kovner  
KIRKLAND & ELLIS LLP  
655 15th Street, N.W.  
Washington, D.C. 20005  
Tel: (202) 879-5000  
Fax: (202) 879-5200

Attorney for Eric Heglie

## CERTIFICATE OF SERVICE

This is to certify that on this 26th day of May, 2009, I electronically filed the original, an electronic, and ten (10) true and correct copies of the foregoing MOTION TO QUASH SUBPOENA OF ERIC HEGLIE to be filed with:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, Room H-159  
Washington, D.C. 20580  
Email: secretary@ftc.gov

I further hereby certify that on May 26, 2009, I caused to be served via electronic mail and Federal Express copies of the foregoing MOTION TO QUASH SUBPOENA OF ERIC HEGLIE upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580  
rrobertson@ftc.gov


Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580  
sdahm@ftc.gov

William L. Rikard, Jr.  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
williamrikard@parkerpoe.com

I further certify that on May 26, 2009, I caused to be served via hand delivery two copies of the foregoing MOTION TO QUASH SUBPOENA OF ERIC HEGLIE upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Hearing Room 532  
Washington, D.C. 28202

Dated: May 26, 2009



Mark L. Kovner

**CERTIFICATE OF CONFERENCE**

This is to certify, pursuant to Rule 3.22(g), that I, as counsel for Mr. Eric Heglie and Industrial Growth Partners (IGP), attempted in good faith via electronic mail and telephone on Tuesday, May 26, 2009, to confer with counsel for Polypore International, Inc. regarding resolution of the issues raised in the attached Motion to Quash the Subpoena of Eric Heglie. I sent e-mail messages to Eric Welsh and William Rickard of Parker Poe Adams & Bernstein LLP at 12:53 pm and 2:19 pm on May 26, 2009, conveying the substance of this Motion to Quash, and also attempted to reach them by telephone. This effort to contact counsel for Polypore was in part in response to William Rickard's voicemail message left on Friday, May 22, 2009, with my partner, James Basile, who is also counsel to IGP. I intend to continue to attempt to confer with counsel for Polypore regarding the resolution of the issues discussed herein.

  
Mark L. Kovner

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

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**In the Matter of**

**POLYPORE INTERNATIONAL, INC.**

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) **Docket No. 9327**  
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**PUBLIC DOCUMENT**

**[PROPOSED] ORDER QUASHING SUBPOENA OF ERIC HEGLIE**

Having considered the Motion to Quash of Eric Heglie pursuant to Rule 3.34(c) of the Commission's Rules of Practice, 16 C.F.R. § 3.34(c), and having considered the opposition filed by the Complaint Counsel, it is hereby

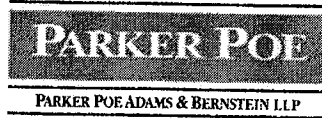
ORDERED that the Motion to Quash of Eric Heglie is GRANTED. It is further

ORDERED that the Subpoena sent via Federal Express to Eric Heglie on May 14, 2009 is QUASHED.

ORDERED this \_\_\_ May/June, 2009

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D. Michael Chappell  
Administrative Law Judge



William L. Rikard, Jr.

*Partner*

Telephone: 704.335.9011

Direct Fax: 704.335.9689

williamrikard@parkerpoe.com

*Attorneys and Counselors at Law*

Three Wachovia Center  
401 South Tryon Street  
Suite 3000  
Charlotte, NC 28202-1942  
Telephone 704.372.9000  
Fax 704.334.4706  
www.parkerpoe.com

May 13, 2009

**VIA FEDERAL EXPRESS**

Mr. Eric Heglie  
3 Maloyan Lane  
Lafayette, California 94549

Re: In the Matter of Polypore International, Inc., Docket No. 9327

Dear Mr. Heglie:

This firm represents Polypore International, Inc. in the above matter before the Federal Trade Commission. Pursuant to Administrative Law Judge D. Michael Chappell's May 12, 2009 Order, enclosed is a Subpoena requiring you to appear and testify at the adjudicative hearing in this matter. The Subpoena requires your attendance on Tuesday, May 12, 2009. Please disregard that date. We will contact you to inform you of the date you are scheduled to testify. We anticipate it will be after May 22, 2009. We appreciate your cooperation and we will attempt to give you as much notice as possible.

Please contact my office if you have any questions about this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William L. Rikard, Jr.".

William L. Rikard, Jr.

WLR:psa

Enclosure

cc: J. Robert Robertson, Esq.  
Steven A. Dahm, Esq.

CHARLESTON, SC  
COLUMBIA, SC  
MYRTLE BEACH, SC  
RALEIGH, NC  
SPARTANBURG, SC





United States of America  
Federal Trade Commission

**SUBPOENA**

1. TO

Eric Heglie  
3 Maloyan Lane  
Lafayette, CA. 94549

This subpoena requires you to appear and give testimony at the date and time specified in Item 3 at the request of Counsel listed in Item 7 at a hearing in the proceeding described in Item 4.

2. LOCATION OF HEARING

Federal Trade Commission  
600 Pennsylvania Ave, NW  
Hearing Room 532  
Washington, D.C. 20580

3. DATE AND TIME OF HEARING

May 12, 2009 @ 10am

4. SUBJECT OF PROCEEDINGS

Polypore International, Inc. Docket No. 9327

5. RECORDS YOU MUST BRING WITH YOU

none

6. ADMINISTRATIVE LAW JUDGE

D. Michael Chappell

7. COUNSEL REQUESTING SUBPOENA

William Rikard (704) 335 9011  
Eric Welsh (704) 335 9052

DATE ISSUED

5/12/09

ADMINISTRATIVE LAW JUDGE'S SIGNATURE

*Dm Chappell*

**GENERAL INSTRUCTIONS**

**APPEARANCE**

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

**MOTION TO LIMIT OR QUASH**

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the motion must be filed with the Secretary of the Federal Trade Commission. Send one copy to the Requesting Counsel named in Item 7 and to all other parties prescribed in the Rules of Practice.

**TRAVEL EXPENSES**

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 7 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 7.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**RETURN OF SERVICE**

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

*In person.*

*by registered mail.*

*by leaving copy at principal office or place of business, to wit:*

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*on the person named herein on:*

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(Month, day, and year)

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(Name of person making service)

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(Official title)

**CERTIFICATE OF SERVICE**

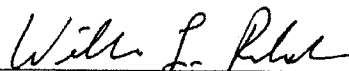
I hereby certify that on May 13, 2009, I served via Federal Express delivery two copies of the foregoing trial Subpoena issued to Eric Heglie upon:

Eric Heglie  
3 Maloyan Lane  
Lafayette, California 94549

I hereby certify that on May 13, 2009, I caused to be served via electronic mail and Federal Express delivery two copies of the foregoing trial Subpoena issued to Eric Heglie upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



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401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9052  
Facsimile: (704) 334-4706