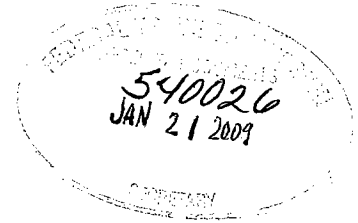


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



\_\_\_\_\_  
In the Matter of )  
 )  
DANIEL CHAPTER ONE, )  
a corporation, and ) DOCKET NO. 9329  
 )  
JAMES FEIJO, )  
Respondents. )  
\_\_\_\_\_ )

**ORDER DENYING RESPONDENTS'  
MOTION FOR STAY OF DISCOVERY**

**I.**

On January 13, 2009, Respondents filed a Motion for Stay of Discovery ("Motion"). Complaint Counsel filed its Memorandum in Opposition to Respondents' Motion ("Opposition") on January 16, 2009. For the reasons set forth below, Respondents' Motion is DENIED.

**II.**

Respondents request that discovery be stayed pending resolution of their Motion to Dismiss the Complaint ("Motion to Dismiss"), filed simultaneously with the instant Motion. They argue that their Motion to Dismiss, which raises certain jurisdictional and constitutional defenses, could dispense with any requirement to produce discovery. Respondents contend that allowing discovery to proceed before a ruling on the Motion to Dismiss would be "unduly and unnecessarily" costly and burdensome for the parties and this Court, while a stay would conserve these resources without prejudicing Complaint Counsel.

Complaint Counsel contends that a stay is contrary to the policy of expeditious resolution, expressed in the F.T.C. Rules governing adjudicative proceedings, and that Respondents' Motion for Stay and Motion to Dismiss are untimely, "eleventh hour" attempts to delay or avoid complying with discovery. Complaint Counsel asserts that Respondents, in the Initial Scheduling Conference, expressly agreed to the discovery schedule, subsequently incorporated into the Scheduling Order, and that, although Complaint Counsel has complied with discovery in accordance with the schedule, Respondents have failed to provide timely or sufficient discovery. Complaint Counsel

further notes that by Order dated January 9, 2009, its Motion to Compel Production of Documents was granted, and documents were held to be relevant and thus subject to discovery, notwithstanding Respondents' jurisdictional and constitutional claims ("January 9, 2009 Order").

### III.

Respondents cite no authority for the proposition that the mere filing of a Motion to Dismiss should stay discovery, particularly where, as here, there appear to be numerous factual issues in dispute.

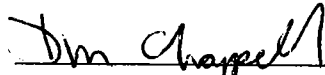
The January 9, 2009 Order stated that discovery of relevant information would not be barred on the basis of Respondents' jurisdictional and constitutional claims. There is similarly no reason to stay such discovery simply because Respondents' Motion to Dismiss, raising these very same issues, "could" prevail.

To stay discovery simply on the basis that a motion to dismiss is pending would conflict with the F.T.C.'s rules of practice that adjudicative proceedings be resolved expeditiously. 16 C.F.R. 3.1. Further, to delay discovery pending resolution of the Motion to Dismiss unnecessarily threatens the ability to meet deadlines in the Scheduling Order, including the date set for the evidentiary hearing.

Finally, allowing discovery to proceed will not unfairly prejudice any party. Discovery has been proceeding since at least November 17, 2008 when Complaint Counsel served written discovery requests on Respondents. Under the Scheduling Order, the fact discovery deadline is January 21, 2009.

For all the foregoing reasons, Respondents' Motion is DENIED.

ORDERED:

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

January 21, 2009