

ORIGINAL

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION



In the Matter of _____

Polypore International, Inc.
a corporation

Docket No. 9327

PUBLIC DOCUMENT

COMPLAINT COUNSEL’S RESPONSE
TO RESPONDENT’S MOTION FOR SANCTIONS

I. INTRODUCTION

On April 17, 2009, Respondent Polypore submitted a Motion for Sanctions based on Exide purported “interference” with respondent’s expert witness. As discussed in more detail below, Respondent's motion should be denied for the following reasons: (1) Respondent improperly seeks sanctions against Complaint Counsel for alleged conduct of non-party Exide Technologies, an action unsupported by any rule or law, (2) Respondent’s counsel filed this motion without conferring with Complaint Counsel on the issues raised in the motion, and (3) the evidence does not support Respondent’s contention that Exide has interfered with Respondent’s expert.

II. ARGUMENTS AND AUTHORITIES

To be clear, Respondent is attempting to have the Judge sanction Complaint Counsel - not Exide - by excluding relevant, material, and reliable evidence that Complaint Counsel will elicit from witnesses of Exide, a customer of Respondent. See Motion for Sanctions, at 8

(moving to exclude testimony from Exide at the hearing). Respondent's request for sanctions excluding Complaint Counsel's evidence should be denied because Respondent's motion provides no authority supporting the imposition of sanctions against Complaint Counsel based on alleged conduct by non-party Exide. Respondent's motion for sanctions against its customer Exide should also be denied on the basis that Respondent yet again failed to confer with Complaint Counsel prior to filing this motion, as required by the Scheduling Order. Moreover, Respondent's arguments regarding Exide's conduct are simply not grounded in fact or law - the facts show that neither Exide nor Complaint Counsel have prevented Exide's use of Dr. James Mark Stevenson as an expert in this case. Rather, Exide has merely exerted its contractual right to protect its confidential information.

A. Respondent May Not Exact Sanctions Against Complaint Counsel Based on the Alleged Conduct of Non-Party Exide.

Although solely alleging sanctionable conduct by Exide, Respondent's motion seeks sanctions against Complaint Counsel. Respondent motion requests that Your Honor "preclud[e] Exide from offering any testimony, whether by deposition or otherwise, at the hearing in this case." Motion for Sanctions, at 8. It is not Exide, however, that will "offer" evidence in this case. The only parties in this investigation are the Commission and the Respondent, Polypore. It is Complaint Counsel that puts on evidence on behalf of the Commission. Thus, a sanction seeking to exclude the testimony of witnesses from Exide - Complaint Counsel's evidence - is a sanction against Complaint Counsel.

Complaint Counsel must present its case regardless of whether third parties voluntarily comply with discovery or not. Indeed, we often elicit evidence from parties that resist compliance with the rules. Exide, however, has been subpoenaed to produce documents and will testify in this case, and frankly has been far more compliant in its discovery obligations than

Respondent, which continues to produce documents to Complaint Counsel long after discovery has closed.¹

Respondent has not asserted that Complaint Counsel has done anything wrong here, and it cannot. We have never had any reason to object to Dr. Stevenson's testimony. Indeed, we have not even seen his expert report, which is now overdue. Respondent therefore seeks to sanction Complaint Counsel solely based on actions of non-party Exide.

There is simply no basis under the rules or at law to sanction Complaint Counsel based on the actions of a non-party. There is also no provision under the rules for the Judge to sanction a non-party - Exide - by excluding Complaint Counsel's evidence. *See, e.g.*, Rule 3.38(b) (providing for sanctions solely against a "party"); Rule 3.42(c) (describing the powers of the Judge). Rather, the Commission has stated when sanctions under Rule 3.38(b) are warranted.

Sanctions under Rule 3.38 should be imposed only if (1) production of the requested material has been mandated by a subpoena or specific discovery order issued by an ALJ or the Commission. . . ; (2) the party's failure to comply is unjustified; and (3) the sanction imposed "is reasonable in light of the material withheld and the purposes of Rule 38(b).

In re ITT Corp., 104 F. C. 280, 449 (1984) (quoting *In re Grand Union Co.* 102 F. C. 812 1087 (1983)); *see also In re Basic Research, LLC*, Docket No. 9318, Order on Motions to Exclude a Witness, For Sanctions, or For Leave to Reopen Discovery for a Limited Purpose, slip op. at 3-4 (applying rule in denying sanctions) (McGuire, J.).

Here, Respondent seeks sanctions based on Exide's purported interference with Polypore's expert witness. There is no suggestion that Complaint Counsel has done anything

¹ Respondent's comments regarding Exide's alleged discovery delays are merely an attempt to smear a witness before trial. Of all the hundreds of thousands of pages of discovery Respondent insisted it needed from Exide, it marked just over 50 documents as exhibits. It has never raised any issue with Complaint Counsel about needing any more evidence from Exide. Moreover, its motion for sanctions is clearly not based on Exide's discovery conduct.

wrong here. Nor, as explained further below, could there be such an allegation. As Respondent's motion indicates, there is no support under the law or rules for the Judge to sanction one party for the actions of another.

B. Respondent Did Not Confer With Complaint Counsel As Required By Provision 5 Of The Scheduling Order.

As this is a motion for sanctions, Respondent's counsel had an obligation to meet and confer with Complaint Counsel on these issues before filing its motion. *See* 16 C.F.R. 3.22(f) (requiring meet and confer for motions for sanctions filed pursuant to Rule 3.38(b)) and Respondent's Motion for Sanctions, at 1 (admitting that this motion is a motion for sanctions filed pursuant to Rule 3.38(b)).

The rules require that counsel certify that there has been a meet and confer

by a signed statement representing that counsel for the moving party has conferred with opposing counsel in an effort in good faith to resolve by agreement the issues raised by the motion and has been unable to reach such an agreement. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such conference between counsel, and the names of all parties participating in each such conference.

Rule 3.22(f). This is the fourth time that Respondent's counsel has filed a motion before bothering to comply with this Rule of Practice.

Complaint Counsel's knowledge of the issues are as follows. Respondent's counsel sought an extension from its original deadline of March 20, 2009, because Dr. Stevenson had received a letter from Exide regarding a confidentiality agreement and required additional time to resolve the issue. Accordingly, Complaint Counsel consented to Respondent's motion to extend deadlines related to its expert, Dr. Stevenson. *See* Respondent's Motion For Extension of Time, para. 14 (March 23, 2009). Subsequently, Respondent's counsel, Eric Welsh told Complaint Counsel, Robert Robertson and Steven Dahm, that they were negotiating with Exide

over the confidentiality agreement issue and needed a further extension of time to produce Dr. Stevenson's expert report. We agreed and told Mr. Welsh that we had no problem with an extension of time for Dr. Stevenson's report so long as it didn't prejudice our ability to take his deposition and to provide rebuttal opinions prior to trial.

No counsel from Respondent, neither Mr. Welsh nor anyone, has conferred with Complaint Counsel about moving to exclude Complaint Counsel's evidence because of some issue between Respondent and Exide. Counsel for respondent incorrectly represents that "Parker Poe and Complaint Counsel discussed these issues in written correspondence on March 26, 2009 and March 31, 2009." The content of that "discussion" consisted solely of Respondent's counsel copying Complaint Counsel on its letter to Exide's counsel, *see* Exhibit D to Respondent's Motion for Sanctions, and Complaint Counsel's March 31, 2009 letter, specifically asking Polypore's counsel "What remedy" they think "Judge Chappell can provide." *See* Exhibit 1 to Complaint Counsel Response to Respondent's Motion for Sanctions. Respondent's Counsel failed to have any conference with Complaint Counsel on the issues raised in its motion, and particularly, that it seeks to exclude Complaint Counsel's evidence as a remedy for Exide's supposed interference with Dr. Stevenson's testimony.

There is a reason why the Commission has its meet and confer rule, which is nearly identical to the one used in federal courts: the rules require that we make the "effort in good faith to resolve by agreement the issues raised by the motion." Once again, Respondent failed to even try to do so. And for this reason alone, its motion should be denied.

C. Exide Has Not Interfered With Exide's Expert.

Finally, there is no evidence to support Respondent's claim that Exide has interfered with Respondent's expert. Respondent's motion merely accuses Exide of exerting its contractual right to prevent its former employee, Dr. Stevenson, from disclosing confidential information to

Respondent as Respondent's paid, testifying expert. To Complaint Counsel's knowledge, Exide has never said that Dr. Stevenson could not testify. That is apparent from the attached documents to Respondent's motion. *See, e.g.*, Exhibit G to Motion for Sanctions ("If Dr. Stevenson does not disclose confidential Exide information, he is perfectly free to do as he chooses."). Indeed, Respondent's claims that Dr. Stevenson refuses to testify due to fear of reprisals from Exide are not based on fact at all, but merely Respondent's "information and belief." *See* Motion for Sanctions, at para. 8-9. Polypore provides no affidavit or declaration to substantiate its claims. There is no basis under the rules for Polypore to demand a sanction against Complaint Counsel due to mere "information and belief."

It seems odd that Respondent fails to understand why Exide would question the disclosure of its confidential information to Polypore, the same company that has been exerting monopoly power over it for some time. Respondent admits that Dr. Stevenson has a confidentiality agreement with Exide that precludes him from disclosing confidential information to others. *See* Motion for Sanctions, Para. 7. Dr. Stevenson was apparently employed for over 20 years under the terms of that confidentiality agreement. *See id.* It would clearly be harmful to Exide for Dr. Stevenson to reveal proprietary information and business secrets to the very company that is using its monopoly power to extract higher prices from Exide.

The confidentiality issue should not have come as a surprise to Respondent, who gave Complaint Counsel Dr. Stevenson's resume, listing his positions at Exide in Europe (albeit only in motive (or traction)). *See* Exhibit 2, Respondent's Expert Witness List, Tab 2 (listing positions with Chloride and Exide from 1974 to 2006). Yet, Respondent apparently never asked

Dr. Stevenson whether he had a confidentiality agreement with his former employer.²

Moreover, the delay in dealing with this issue is not Exide's fault; it is Respondent's. Respondent apparently never checked with Exide's attorneys about Dr. Stevenson. Indeed, Exide seemed surprised when Complaint Counsel, in preparation for Dr. Stevenson's deposition (which has still not occurred), asked Exide about Dr. Stevenson's experience (or lack thereof) in the field.

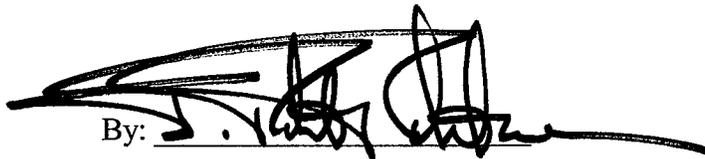
III. CONCLUSION

In short, the evidence is clear that (i) Exide has a confidentiality agreement with Dr. Stevenson; (ii) Exide has not disobeyed any order or rule in this proceeding; (iii) Exide is not a party in this case, and no rule would support a sanction against Complaint Counsel for a non-party's conduct; and (iv) Complaint Counsel has acceded to every request by Respondent's counsel on this issue. Finally, Respondent has not followed the rules once again and has failed to negotiate this issue in good faith with Complaint Counsel. There are simply no facts, law or rule that warrant a sanction against Complaint Counsel or Exide. The Judge should have the opportunity to hear all the appropriate facts in this case, including Dr. Stevenson's testimony if it is relevant, material, and reliable.

² Complaint Counsel takes no position as to whether the other relief that Respondent seeks, *i.e.*, allowing Dr. Stevenson's evidence to be received in camera, are sufficient protection under Exide's agreement with Dr. Stevenson. Respondent has neither briefed the terms of that agreement nor its legal scope.

Dated: April 22, 2009

Respectfully submitted,

By: 

J. ROBERT ROBERTSON
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., NW
Washington, DC 20580
Telephone: (202) 325-2008
Fax: (202) 326-2884

Complaint Counsel

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2009 I filed *via* hand and electronic mail delivery an original and two copies of the foregoing with:

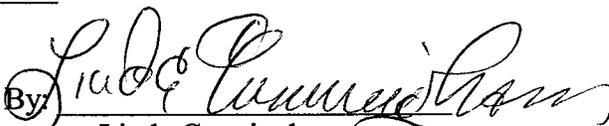
Donald S. Clark, Secretary
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-135
Washington, DC 20580

I hereby certify that on April 22, 2009, I served *via* electronic mail and mail delivery a copy of the foregoing with:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, H-106
Washington, DC 20580
oadj@ftc.gov

I hereby certify that on April 22, 2009, I served *via* electronic mail delivery and first class mail two copies of the foregoing with:

William L. Rikard, Jr., Esq.
Eric D. Welsh, Esq.
Parker, Poe, Adams & Bernstein, LLP
401 South Tryon Street, Suite 3000
Charlotte, North Carolina 28202
williamrikard@parkerpoe.com
ericwelsh@parkerpoe.com

By 

Linda Cunningham
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2638
lcunningham@ftc.gov



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Competition
Mergers II Division

March 31, 2009

VIA EMAIL AND U.S. MAIL

Eric D. Welsh, Esq.
Parker Poe Adams & Bernstein LLP
Three Wachovia Center
Suite 3000
401 South Tryon Street
Charlotte, NC 28202

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

Dear Mr. Welsh:

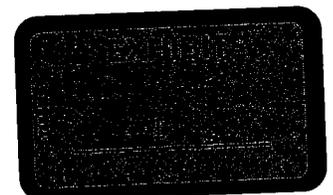
We have reviewed your letter to Exide dated March 26, 2009, on which you copied Complaint Counsel. To the extent your letter suggests that your expert designations are non-public, or that we are not entitled to investigate Dr. Stevenson's background, we disagree with your assertions. If you are suggesting that there is something improper about Complaint Counsel having lunch with the counsel and witness for Exide during lunch at his deposition, we disagree with that as well. Complaint Counsel takes no position with respect to whether Exide's assertion of its NDA with Dr. Stevenson is "improper," though we question what remedy judge Chappell can provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Dahm", with a long horizontal line extending to the right.

Steven A. Dahm
Attorney
Federal Trade Commission
(202) 326-2192

cc: Donald J. Russell, Esq.



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

In the Matter of)
)
)
Polypore International, Inc.)
a corporation.)
)

Docket No. 9327

RESPONDENT'S EXPERT WITNESS LIST

Pursuant to the Scheduling Order dated October 22, 2008, Respondent hereby identifies the following persons as expert witnesses in this matter:

1. **Henry J. Kahwaty, Ph. D, Director, LECG**
LECG, LLC
1725 Eye Street, N.W. Suite 800
Washington, DC 20006

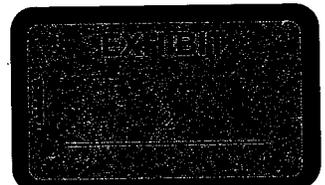
A copy of Dr. Kahwaty's current curriculum vitae, listing his experience and qualification, including any cases in which he has testified as an expert witness at trial or in a deposition during the past four years and any publications authored by him within the prior 10 years, is attached at Tab 1.

Dr. Kahwaty's hourly rate for this engagement is \$565 per hour.

2. **Dr. James Mark Stevenson**
213 Higher Lane
Lymm
Cheshire
WA13 0RN
UK

A copy of Dr. Stevenson's current curriculum vitae, listing his experience and qualification, including any cases in which he has testified as an expert witness at trial or in a deposition during the past four years and any publications authored by him within the prior 10 years, is attached at Tab 2.

Dr. Stevenson is being compensated on a monthly basis in an amount of \$14,000, not to exceed the sum of \$70,000.



Dated: December 18, 2008

Respectfully submitted,



William L. Rikard, Jr.

Eric D. Welsh

PARKER POE ADAMS & BERNSTEIN, LLP

Three Wachovia Center

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Telephone: (704) 372-9000

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williamrikard@parkerpoe.com

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John F. Graybeal

PARKER POE ADAMS & BERNSTEIN, LLP

Wachovia Capitol Center

150 Fayetteville Street, Suite 1400

Raleigh, NC 27601

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Facsimile: (919) 834-4564

johngraybeal@parkerpoe.com

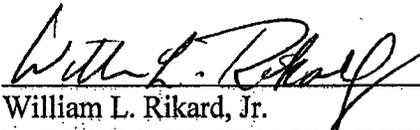
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2008, I served via electronic mail delivery and first-class mail delivery a copy of the foregoing Respondent's Expert Witness List upon the following person(s):

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



William L. Rikard, Jr.
PARKER POE ADAMS & BERNSTEIN, LLP
Three Wachovia Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202
Telephone: (704) 335-9011
Facsimile: (704) 334-4706

TAB 1

LECG

Henry J. Kahwaty, PhD, Director, LECG



LECG, LLC
1725 Eye Street, N.W., Suite 800
Washington, DC 20006
United States of America
direct: +1 202 973 9863
main: +1 202 466 4422
fax: +1 202 466 4487
email: hkahwaty@lecg.com

LECG Limited
Davidson Building
5 Southampton Street
London WC2E 7HA
United Kingdom
direct: +44 20 7632 5070
main: +44 20 7632 5000
fax: +44 20 7632 5050

BIO

Henry Kahwaty works out of LECG's London and Washington, DC offices. His areas of expertise include microeconomics, industrial organization, antitrust economics, and econometrics. He has completed numerous market power studies as part of reviews of mergers and other contractual relationships between competitors, monopolization and abuse of dominance inquiries, and deregulation and market-based pricing proposals. His merger work includes studies of mergers in metals, computer hardware and software, defense electronics, pharmaceuticals, electricity, consumer goods, waste services, and telecommunication services and equipment. In addition, he has experience analyzing competition issues in the mining, luxury goods, banking, chemicals, software development tools, and hardware emulation industries. He has completed studies of vertical restraints and vertical integration, and the impact of such vertical relationships on competition. His work also includes the study of price fixing allegations, class certification, and antitrust and patent damages.

Dr. Kahwaty has presented analyses to the Directorate-General for Competition of the European Commission, the Antitrust Division of the U.S. Department of Justice, the U.S. Federal Trade Commission, and the U.S. Federal Energy Regulatory Commission. Prior to joining LECG, Dr. Kahwaty was an Economist with the Antitrust Division of the U.S. Department of Justice. At the Antitrust Division, he specialised in market power analysis for merger and monopolization cases with a focus on the computer software, banking, and defense industries. He received his PhD in economics from the University of Pennsylvania in 1991.

LECG

QUALIFICATIONS

PhD, Economics, University of Pennsylvania, Graduate School of Arts and Sciences, Philadelphia, Pennsylvania, 1991

Thesis Title: *Essays on Vertical Relationships*

Thesis Topic: Vertical Relationships with Asymmetric Information and Incomplete Contracting
Concentrations: Industrial Organization, Public Economics, Monetary Economics

MA, Economics, University of Pennsylvania, Graduate School of Arts and Sciences, Philadelphia, Pennsylvania, 1988

BA, *magna cum laude* and Phi Beta Kappa, Mathematics and Economics, University of Pennsylvania, College of Arts and Sciences, Philadelphia, Pennsylvania, 1986

PROFESSIONAL MEMBERSHIPS

American Economic Association

PRESENT POSITION

LECG, Director, 2002 to present

PREVIOUS POSITIONS

LECG, Principal, 1999–2002

LECG, Senior Managing Economist, 1997–1999

LECG, Senior Economist, 1995–1996

U.S. Department of Justice, Antitrust Division, Economic Litigation Section, Economist, 1991–1995

- Prepared economic models and analysis for antitrust cases.
- Prepared antitrust investigation plans.
- Reviewed civil investigative demands, second requests, subpoenas, complaints, affidavits, and other documents.
- Assisted attorneys with gathering evidence, including conducting witness interviews and assisting with witness depositions.
- Recommended whether to initiate enforcement actions.

PROFESSIONAL EXPERIENCE

Consultant to Rational Software Corp. in proposed acquisition of Pure Atria Corp., 1997.

Consultant to Aptix Corporation in Aptix Corporation v. Quickturn Design Systems, Inc., 1998.

Consultant to New England Electric System in proposed acquisition by National Grid Group plc, 1999.

Consultant to New England Electric System in proposed acquisition of Eastern Utilities Associates, 1999.

Consultant for third party in proposed acquisition of Reynolds Metals by Alcoa, 1999-2000.

Consultant to SmithKline Beecham in proposed merger with Glaxo Wellcome, 2000.

Consultant to National Grid USA in proposed acquisition of Niagara Mohawk, 2000-2001.

Consultant to Edison Electric Institute in Notice of Proposed Rulemaking on Standards of Conduct for Transmission Providers, 2001.

LECG

Consultant to BT Ignite in Public Consultation regarding Draft Recommendation on Relevant Product and Service Markets related to the European Commission's Guidelines on Market Analysis and the Assessment of Significant Market Power under the Community Regulatory Framework for Electronic Communications Networks and Services, 2002.

Consultant to Alcoa Flexible Packaging in *H.S. Crocker, Inc. v. Alcoa Flexible Packaging*, 2003-2004.

Consultant to the Competition Authority (Ireland) regarding its Study of Competition in the Irish Banking Sector, 2003 – 2004.

Consultant to Financial Services Authority (United Kingdom) regarding its approach to the implementation of the Capital Requirements Directive, 2004-2005.

Consultant to the Competition Authority (Ireland) regarding its Study of Competition in the Irish Insurance Sector, 2004-2005.

Consultant to the Generic Pharmaceutical Association regarding the benefits of developing a pathway for generic biologics, 2007.

Consultant to Republic Services in proposed merger with Allied Waste, 2008.

Consultant to the Generic Pharmaceutical Association regarding the costs associated with implementing e-pedigrees and serialization for the generic pharmaceutical industry, on-going.

Consultant to pharmaceutical companies with regard to potential exposure to patent damages from at-risk launches of generic products.

Consultant to parties regarding class certification, competitive effects, and damages estimates in antitrust class actions.

Consultant to parties in other private antitrust cases, intellectual property cases, and merger reviews.

Testimony

Provided deposition testimony in *Aptix Corporation v. Quickturn Design Systems, Inc.*, C-96-20909 JF (EAI), U.S. District Court for the Northern District of California, 1998.

Provided declaration relating to the acquisition of New England Electric System by National Grid Group plc, Federal Energy Regulatory Commission, Docket No. EC99-49-000, 1999.

Provided declaration relating to acquisition of Eastern Utilities Associates by New England Electric System, Federal Energy Regulatory Commission, Docket No. EC99-70-000, 1999.

Provided declaration relating to the acquisition of Niagara Mohawk by National Grid USA, Federal Energy Regulatory Commission, Docket No. EC01-63-000, 2001.

Provided deposition testimony in *H.S. Crocker, Inc. v. Alcoa Flexible Packing*, No. 02 C 50010, U.S. District Court for the Northern District of Illinois (Western Division), 2004.

Provided deposition testimony in *Energy Alternatives, Inc. v. Tropitone Furniture Co., Inc.*, 06-CVS-8782, North Carolina General Court of Justice, Superior Court Division, 2008.

Dr. Kahwaty has also provided hearing testimony before the Directorate-General for Competition of the European Commission.

Reports

Provided report titled "Vertical Integration, Economic Efficiency, and Standards of Conduct Regulation of Electric and Natural Gas Transmission Providers." Notice of Proposed Rulemaking on Standard of Conduct for Transmission Providers, Federal Energy Regulatory Commission, Docket No. RM01-10-000, 2001.

LECG

Provided report titled "Market Definition and Market Power Analysis: Public Consultation on a Draft Commission Recommendation." Public Consultation of the European Commission, 2002 (joint with Richard Shin and Richard Levine).

Provided report titled "Submission to the Commission of the European Communities on Green Paper on the Review of Council Regulation (EEC) No. 4064/89." European Commission, 2002 (joint with R. Shyam Khemani, David Painter, Richard Shin and Kamil Kiljański).

Provided report titled "Submission Regarding the Economic Analysis in the Competition Authority's Guidelines for Merger Analysis: A Consultative Document." The Competition Authority (Ireland), 2002 (joint with Jacob Glanville and Kamil Kiljański).

Provided report titled "Submission Regarding the Economic Analysis in the Office of Fair Trading Consultation Paper Mergers: Substantive Assessment." The Office of Fair Trading (U.K.), 2003 (joint with Bob Young, Jacob Glanville, and Kamil Kiljański).

Provided report titled "Submission regarding the European Commission Notice on the appraisal of horizontal mergers." European Commission, 2003 (joint with Bob Young, Jacob Glanville, Kamil Kiljański, and Eileen Reed).

Provided report titled "Study of Competition in the Provision of Non-investment Banking Services in Ireland: Phase 1 Report." The Competition Authority (Ireland), 2003 (joint with Andy Baziliauskas and John Evans).

Provided report titled "The Proposed EC Technology Transfer Block Exemption Regulation: An Economic Assessment." European Commission, 2003 (joint with Peter Grindley, Edward Sherry, and David Teece).

Provided report titled "Study of Competition in the Provision of Non-investment Banking Services in Ireland: Report and Recommendations." The Competition Authority (Ireland), 2004 (joint with Andy Baziliauskas).

Provided report titled "Survey of the Impacts of CRD Implementation on the UK Financial Services Industry." Financial Services Authority, 2005 (joint with Mark Tilden, Colin Lawrence, Thomas Ortenzi, and Karen Forseter).

Speeches

"Antitrust Damages," Litigation Services Subcommittee of the Greater Washington Society of Certified Public Accountants, Washington, D.C., January 28, 1999.

"Unregulated Affiliates and the Market Power Problem," Forum on Electric Power Market Restructuring, Washington, D.C., February 19, 1999.

"The Analysis of Market Power," Deregulation Progress Report: Issues and Insights Conference, Vail, Colorado, August 4, 1999.

"Worldwide Convergence in Competition Enforcement," XXXV International Association of Financial Executives Institutes World Congress, Florence, Italy, October 11, 2004.

Papers

"The Analysis of Market Concentration, Market Power and the Competitive Effects of Mergers in the Electricity Industry" (joint with Richard Gilbert), June 1997.

"Unregulated Affiliates and the Market Power Problem," February 1999.

"The Use of Econometrics by the European Commission and the U.S. Antitrust Agencies" (joint with Mary Coleman), *International Antitrust Bulletin*, Spring/Summer 2004, 35-40.

LECG

"The Competition Authority's Study of the Irish Banking Sector" (joint with John Evans), *International Antitrust Bulletin*, Summer/Fall 2005, 24-31.

TEACHING EXPERIENCE

University of Pennsylvania, Philadelphia, Pennsylvania, 1988-1991

Course taught include Industrial Organisation, Topics in Microeconomics, Topics in Macroeconomics, Intermediate Microeconomics, Introductory Microeconomics, Introductory Macroeconomics.

December 2008

TAB 2

CURRICULUM VITAE

PERSONAL DETAILS

TITLE : Dr

NAME : STEVENSON James Mark

ADDRESS : 213 Higher Lane
Lymm
Cheshire
WA13 0RN
UK

TELEPHONE NO. : +44 1925 757104

E-MAIL : mjs.stevenson@btinternet.com

DATE OF BIRTH : 6th October 1949

MARITAL STATUS : Married

CHILDREN : 2

RELIGION : Church of England

DRIVING LICENCE : Full

POSITIONS HELD DURING CAREER WITH CHLORIDE AND EXIDE

- 1974-1978** - Process Development Chemist – Traction.
- 1978-1980** - Product and Material Design Engineer - Traction Team Member Over Hulton Project.
- 1980-1981** - Chief Chemist, Over Hulton.
- 1981-1985** - Quality Director, Chloride Industrial Batteries.
- 1985-1989** - Technical Director Traction including Overseas operations in India, South Africa and USA.
- 1989-1995** - Operations Director, Over Hulton.
Technical Director, CEAc including Lille Plant.
- 1995-2000** - Managing Director, CMP Batteries.
UK Country Manager with full P& L responsibility for Auto, Traction and Industrial in the EXIDE Organisation including operations in India, Dubai and Russia – turnover 250M US\$ PBT 25M US\$.
- 2000-2006** - Vice President Operations Industrial Europe.

RESPONSIBILITIES - VP OPERATIONS INDUSTRIAL EUROPE

➤ Manufacturing Plants

- Bad Lauterberg (Germany)
- Over Hulton (UK)
- Bodingen (Germany)
- Lille (France)
- La Catuja (Spain)
- Castanheira (Portugal)
- Horten (Norway)
- Trafford Park (UK)

➤ R & D

- Traction
- Gel Bloc and 2v Tubular cell
- AGM Bloc
- Submarine

➤ Purchasing

➤ Quality

➤ Environmental

➤ Engineering

RELEVANT PROJECTS/ACTIVITIES DURING CAREER

TECHNOLOGY SALES

- **Bulgaria - Balkan Trucks - Traction Tubular Flooded, 2 Plants, 2 million cells per annum.**
- **India - Exide Industries - Traction 2V cell.**
- **Luxemburg - Continuous Tubular Gauntlet Manufacture to Amersil.**

TRACTION TECHNOLOGY

Process Development

- **Patent Holder : Tubular Positive Plate Filtration Fill.**
- **Doctorate : Electrochemistry of the Tubular Positive Plate including an extensive study of Formation Parameters – University of Manchester.**
- **Patent Holder : Continuous Gauntlet Manufacture Tubular Positive Plate.**

Product Design

- **Full details of Product Design data including Active Material.**
- **Utilisations and Alloy Specifications.**
- **Developed the Low Maintenance concept for Traction batteries.**

Material Development

- **Designer of current Non Woven Gauntlet (Active Material Retainer Tubular Positive) used extensively in the Industry for Traction and Standby cells.**
- **The first to develop and introduce polyethylene separators into Industrial battery applications.**

Charger Technology

- **Designs for Traction Chargers including Charging Profiles and Charge Factors.**

PAPERS PUBLISHED

1982-1995

25 Scientific papers all related to Lead Acid Batteries published in various journals including Power Sources and presented world-wide, for example, during ELBAC Symposiums.

TECHNOLOGY TRANSFERS WITHIN CHLORIDE/ EXIDE

- **South Africa / India /Australia / USA** - Preferred Traction Tubular Technology.
- **Germany** - Gel 2v cell.
- **USA to Portugal** - AGM, FT, Standby Power products.
- **UK to USA** - Tubular Plate Traction.

TECHNOLOGY CO-OPERATIONS

- **VARTA , Germany** - Traction.
- **ENERSYS, USA** - Traction.
- **YUASA , Japan** - Traction.

TECHNOLOGY TRANSFERS WITHIN CHLORIDE/ EXIDE

- **SPAIN** - Orbital AGM Spiral bloc.
- **AUSTRALIA** - Traction Tubular Assembly and Formation.
- **GERMANY/FRANCE/SPAIN/UK** - Standardisation of common DIN Traction 2v cell.

RELEVANT PROJECTS/ACTIVITIES DURING CAREER

CHARGER TECHNOLOGY/MANUFACTURE

- **Conventional and High Frequency Technology Development.**

- Charging Applications and Regimes Development.
- Manufacturing Facility of 40,000 chargers per annum implementation.

PLANT CLOSURES

- | | | | | |
|---|----------------|------------|----------------------|--------|
| ➤ | Sweden | Nol | - Traction | - 1999 |
| ➤ | Germany | Weiden | - Gel 2v Traction | - 2004 |
| ➤ | Spain | Malpica | - Orbital AGM Spiral | - 2004 |
| ➤ | Italy | Casalnuovo | - 2v Traction cell | - 2005 |

MANUFACTURING PROJECTS

2000-2005

- Implementation Director for Exide Lean Manufacturing Programme, Excel into the Industrial Energy European plants.
- Introduction of ISO 14000 Environmental system into all plants.
- Championed the Exide QMS Quality system into all plants.

CONSULTANCY

2007-2009

Consultant to Battery Industry on a Global Reach

Assignments and contracts included, but not comprehensive :

- Green field traction plant in China – BB Batteries with responsibility for project validation, market demand evaluation, equipment and process identification, product and material design specifications, quality standards and manufacturing know-how and support.
- Traction technology agreement with Exide Industries Ltd (India) to upgrade their product range.
- Gel bloc and 2v Tubular cell technology Agreement with BB Batteries (China) and Exide Industries Ltd (India).
- Greenfield traction plant Middle East – as a full project management contract including product technology and manufacturing.

- **Technology aid agreement – for automotive batteries with BM machines (Austria) for Greenfield site in Armenia.**
- **Consultancy contract with Material suppliers to the Battery Industry. These suppliers are based in the UK, USA, Italy and India with Global sales.**