

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



\_\_\_\_\_  
In the Matter of )

Polypore International, Inc. )  
a corporation. )

Docket No. 9327

PUBLIC

**RESPONSE TO RESPONDENT’S MOTION FOR A COURT ORDER ALLOWING  
RESPONDENT TO REVIEW THE DECLARATION OF DOUGLAS GILLESPIE**

\_\_\_\_\_,

Respondent (“Polypore”) improperly seeks to gain access to the declaration provided to the Court by a senior executive at Exide responsible for negotiating with Respondent. Mr.

Gillespie’s declaration is entitled to protection pursuant to paragraph 1 of the Protective Order in this matter. Mr. Gillespie’s declaration is replete with highly confidential information about

\_\_\_\_\_

\_\_\_\_\_. The information provided in the declaration restates and reinforces much of the testimony provided by Mr. Gillespie during *in camera* sessions of the hearing in May. This testimony is not available to Respondent’s business executives under the protective order in this matter for the obvious reason that disclosure of such non-public confidential information to Respondent would open Exide to serious and irreparable commercial harm. Polypore executives have no greater right today to Exide’s confidential information than they did during the hearing in this matter.

Further, Respondent has failed to challenge the confidentiality of the information provided by Mr. Gillespie in the declaration as provided in paragraph 5 of the Terms and Conditions of the Protective Order issued on October 23, 2008 in this matter.

Nor is it even necessary for Respondent's counsel to provide Mr. Gillespie's declaration to Polypore executives in order to elicit responses to the facts stated in the declaration. The facts provided in Mr. Gillespie's declaration fall into three main categories: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Respondent's Reply

Memorandum in Support of its Second Motion to Reopen the Hearing addresses the first and second categories above, presumably without the need to show Mr. Gillespie's declaration to

Polypore executives. Regarding the third category, Respondent's counsel should be capable of questioning its client concerning the status of any factual information it possesses regarding [REDACTED]

[REDACTED]

without the need to disclose Exide's confidential information.<sup>1</sup> Moreover, Respondent claimed to have evidence in the first instance that [REDACTED]

[REDACTED], any such evidence should have been provided to the Court without the need to disclose Exide's confidential information.

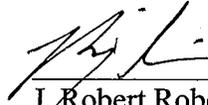
For the foregoing reasons, the Court should deny Respondent's motion to review the declaration of Mr. Gillespie with its client.

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<sup>1</sup> Respondent's suggestion that Complaint Counsel improperly revealed in camera material to Exide in order to obtain Mr. Gillespie's declaration is false, baseless, and inappropriate.

Dated: October 8, 2009

Respectfully submitted,



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J. Robert Robertson  
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Bureau of Competition  
Federal Trade Commission  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 8, 2009, I filed via hand and electronic mail delivery an original and two copies of the foregoing public version of Response to Respondent's Motion for a Court Order Allowing Respondent to Review the Declaration of Douglas Gillespie 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 October 8, 2009, I filed via hand delivery two copies of the foregoing public version of Response to Respondent's Motion for a Court Order Allowing Respondent to Review the Declaration of Douglas Gillespie with:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[ojl@ftc.gov](mailto:ojl@ftc.gov)

I hereby certify that on October 8, 2009, I filed via electronic mail delivery a copy of the foregoing public version of Response to Respondent's Motion for a Court Order Allowing Respondent to Review the Declaration of Douglas Gillespie with:

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