

ORIGINAL

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**



**COMMISSIONERS: Jon Leibowitz, Chairman
Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch**

**In the Matter of
DANIEL CHAPTER ONE,
a corporation, and**

**JAMES FEIJO,
individually, and as an officer of
Daniel Chapter One.**

Docket No. 9329

PUBLIC DOCUMENT

**COMPLAINT COUNSEL'S OPPOSITION
TO RESPONDENTS' PETITION FOR RECONSIDERATION OF FINAL ORDER**

Complaint Counsel hereby opposes the Petition for Reconsideration of Final Order filed by Respondents Daniel Chapter One and James Feijo on January 19, 2010. Respondents assert that there is tension between the Commission's Final Order in this case and Commission Rule 3.56(a) and Section 5(g) of the FTC Act. Respondents further submit that this tension requires the Commission to set aside the Final Order. Respondents are wrong.

Parts V.A, V.B, VII, and X of the Final Order require Respondents to take certain acts within a specified number of days of service of the Final Order. Commission Rule 3.56(a) and Section 5(g) of the FTC Act provide that a final order shall become effective sixty days after service of the order.

Apparently, Respondents were confused as to how the time provisions contained in Parts V.A, V.B, VII, and X intersected with Commission Rule 3.56(a) and Section 5(g) of the FTC

Act. Respondents inquired of the Secretary on this issue. On January 15, 2010, the Secretary informed all counsel of record via an e-mail message (attached as Exhibit A) that:

As I advised in my January 7, 2010 message, the Final Order in this matter will become effective, pursuant to Section 5(g) of the FTC Act, 15 U.S.C 45, and Commission Rule 3.56(a), 16 C.F.R. 3.56(a), on Thursday, March 4, 2010. The time periods specified in the Final Order will therefore begin on Friday, March 5, 2010, and will end as noted below:

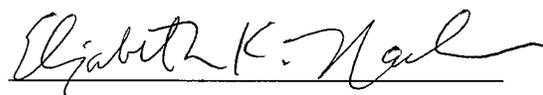
1. The 7-business-day period specified in Part V.A. of the Order will end on Monday, March 15, 2010.
2. The 45-calendar-day period specified in Part V.B. of the Order will end on Monday, April 19, 2010.
3. The 30-calendar-day period specified in Part VII. of the Order -- with respect to delivery of the Order to current personnel -- will end on Monday, April 5, 2010.
4. The 60-calendar-day period specified in Part X of the Order will end on Monday, May 3, 2010.

The Secretary's e-mail made clear that there is no conflict between the Final Order and the Commission Rule and the FTC Act. The time provisions in Parts V.A, V.B, VII, and X of the Final Order are in addition to the provisions of Commission Rule 3.56(a) and Section 5(g) of the FTC Act. The Secretary did not alter the Commission's Final Order. Rather, he clarified confusion on the part of Respondents. The Secretary's courtesy in this regard does not provide a basis for setting aside the Final Order.

Moreover, to the extent that the Commission believes that there is ambiguity or tension between the time provisions in Parts V.A, V.B, VII, and X of the Final Order and Commission Rule 3.56(a) and Section 5(g) of the FTC Act, the proper remedy is not to stay or set aside the

Final Order as Respondents request. Instead, a short order stating that the time periods provided in Parts V.A, V.B, VII and X of the Order begin to run after the effective date of the Order is more than sufficient to alleviate Respondents' confusion.

Respectfully submitted,



Leonard L. Gordon (212) 607-2801
Theodore Zang, Jr. (212) 607-2816
Elizabeth K. Nach (202) 326-2611

Federal Trade Commission
Alexander Hamilton U.S. Custom House
One Bowling Green, Suite 318
New York, NY 10004

Dated: January 25, 2010

Nach, Elizabeth

From: Clark, Donald S.
Sent: Friday, January 15, 2010 11:32 AM
To: 'Martin Yerick'; 'Betsy Lehrfeld'; 'Jim Turner'; Gordon, Leonard; Zang, Theodore; Paynter, Carole A.; Nach, Elizabeth; Marrone, Deborah; 'wjo@mindspring.com'; 'htitus@cox.net'
Cc: Kaufman, Daniel; Pierce, Diane E.; Donohue, Richard C.; Rop, Ami; Daly, John F.; Wagman, Lawrence; Mathias, Sarah M.; Frisby, Robert M.
Subject: Timetable Arising From Service of Commission Opinion and Final Order in In the Matter of Daniel Chapter One and James Feijo, Docket No. 9329

As I advised in my January 7, 2010 message, the Final Order in this matter will become effective, pursuant to Section 5(g) of the FTC Act, 15 U.S.C 45, and Commission Rule 3.56(a), 16 C.F.R. 3.56(a), on Thursday, March 4, 2010. The time periods specified in the Final Order will therefore begin on Friday, March 5, 2010, and will end as noted below:

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4. The 60-calendar-day period specified in Part X of the Order will end on Monday, May 3, 2010.

Please let me know if you have any questions about this process. Thank you.

Don Clark

Donald S. Clark, Esq., Secretary

Federal Trade Commission Washington, D.C. 20580

Telephone: (202) 326-2514; FAX: (202) 326-2496

CONFIDENTIALITY NOTE: This message is intended only for the individual or entity to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication by mistake, please notify the sender immediately by telephone, and destroy the original message and any copies of it. Thank you.

EXHIBIT A

1/22/2010

CERTIFICATE OF SERVICE

I certify that on January 25, 2010, I served and filed **Complaint Counsel's Opposition to Respondents' Petition for Reconsideration of Final Order**, as follows:

The original and twelve paper copies via hand delivery and one electronic copy via email to:

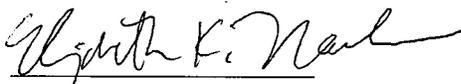
Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-135
Washington, DC 20580
Email: secretary@ftc.gov

One paper copy via hand delivery and one electronic copy to:

Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-106
Washington, DC 20580
Email: oalj@ftc.gov

One paper copy via Federal Express for delivery the next business day, and one electronic copy to:

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William J. Olson, Esq.
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Elizabeth K. Nach