

Original

William H. Isely, Respondent
964 Walnut Creek Rd.
Franklin, NC, 28734

b.isely@ftpmailbox.com
Tel/FAX 828-369-7590
Feb. 4 , 2010

ORIGINAL

Honorable D. Michael Chappell
Chief Administrative Law Judge (Acting)
Federal Trade Commission
H113
600 Pennsylvania Ave, NW
Washington DC, 20580

248843

546841

Re: Gemtronics, Inc and William H. Isely, FTC Docket No 9330

Enclosed is My

**MOTION TO OBJECT AND TO OPPOSE COMPLAINT COUNSEL'S THREE MOTIONS,
FEB 1 THROUGH FEB 3, 2010,**

**COMPLAINT COUNSEL'S MOTION FOR LEAVE TO FILE A RESPONSE IN SUPPORT OF
ITS ANSWER IN OPPOSITION TO RESPONDENTS' APPLICATION FOR AN AWARD
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**COMPLAINT COUNSEL'S RESPONSE OF ITS ANSWER IN OPPOSITION TO
RESPONDENT'S APPLICATION FOR AN AWARD UNDER THE EQUAL ACCESS TO
JUSTICE ACT.**

**COMPLAINT COUNSEL'S MOTION FOR LEAVE TO FILE AN AMENDED ATTACHMENT A
TO ITS RESPONSE IN SUPPORT OF ITS ANSWER IN OPPOSITION TO RESPONDENT'S
APPLICATION FOR AN AWARD UNDER THE EQUAL ACCESS TO JUSTICE ACT.,**

Your consideration will be greatly appreciated.

Respectively Submitted

William H. Isely  Feb 4 , 2010

964 Walnut Creek Rd.
Franklin NC, 28734

828-369-7590 b.isely@ftpmailbox.com

CC: Ms. Barbara E. Bolton
Complaint Counsel

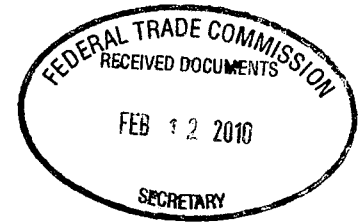
Honorable Donald S. Clark
Secretary FTC

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

ORIGINAL

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

PUBLIC



In the Matter of
GEMTRONICS INC
a corporation and,
WILLIAM H. ISELY

DOCKET NO. 9330

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Background

The **Decision** of the ALJ in favor of the Respondent by dismissal became final
on Nov 9th , 2009

The Respondent's Counsel filed an **Application for an Award of Fees and
Other Expenses Pursuant to Commission Rule 3,83, et seq** on 2nd Dec 2009

Respondent notified the Commission Dec, 22nd, 2009 that Matthew Van Horne, was no

longer his Attorney of record and that Respondent would represent himself.

Respondent supplied the Commission on December 23rd 2009 the promised **Supplement to Attorney's Fees and Expenses, Attachment C of the Request For Award** submitted December 2nd 2009.

Respondent submitted to the Commission on December 23rd 2009 a **Petition for Rulemaking On Maximum Rates for Attorney Fees Under Rule 3.81(g)**

Complaint Counsel submitted her **Answer in Opposition to Respondent's Application for Attorney's Fees and Expenses Under the Equal Access to Justice Act**, served on the Respondent January, 7th, 2010

Respondent submitted a **Motion for the ALJ to Deny the Belated answer of the Complaint Counsel** on January 8th, 2010. This motion was withdrawn when The Commission's Secretary announced changes in scheduling which made the Complaint Counsel's submission in timely fashion. The Response is then due Jan 22, 2010

Respondent submitted his **Response** to the Complaint Counsel Jan 20, 2010 with hard copy served on Jan 22, 2010. on Complaint Counsel.

The ALJ scheduled a telephone conference for Feb. 11.

Feb 1, The Complaint Counsel submitted a motion to ask for leave to submit an amended answer to what she had submitted Jan 6, and simultaneously provided the amended motion & a 44 page attachment, along with a draft order for the signature of the ALJ to accept the motion.

Feb 2, The respondent submitted a motion asking for leave to submit his own motion and

Indicated disapproval of the whole process of deviating from the established order. Earlier he had asked about this very problem happening and was assured by the FTC Secretary's office that the ordered schedule would be rigidly adhered to.

Feb. 3. The Complaint Counsel called the Respondent for his approval of her supplying a further motion with an amendment. The respondent indicated he objected and that the only amendment she was justified was comments on the additional costs the Respondent had provided on Dec. 23, 2009. The Complaint Counsel said she would relay Respondent's objections but would send in her second amendment anyway.

Respondent is finding the actions of the Complaint Counsel extremely disturbing and strongly objects. The material she has supplied in the last several days is two to three times the volume of the original Answer which cut-off date was Jan 8. She has indicated no hardship or other reason why she could submit information more than three weeks after her deadline. **In reporting her phone call in the motion she misrepresented the Respondent's position.**

If Complaint Counsel's motions were to be accepted, She would have had the advantage of having seen the Respondent's Response. She even erroneously criticizes it in her motion by stating that additional costs were supplied in the Response which were not. Nine duplicate costs, of which one or two had been noted by the Complaint Counsel, were deducted, none were added after the supplement of December 23.

The 44 pages of the Attachment A that Complaint Counsel wants to add include no new facts. She takes each entry of the costs that were supplied by the Respondent's Ex Counsel and applies her judgment. Without a standard her words should be discarded as just opinions .

While Respondent would need several months to analyze Complaint Counsel's amendments to be able to respond with his judgments, such an exercise would greatly extend the proceedings for no purpose. A surface inspection of the Attachment A shows it to be highly biased and pre-judgmental. For example, those costs that were in the time period that the proceedings were delayed are marked to be removed for delay, while who caused the delay has yet to be decided by the ALJ. Respondent claims the delay was caused by the Complaint Counsel insisting he commit an unlawful act by signing a letter in order to achieve a settlement, a letter that at best could be described as a forgery. The Respondent refused to commit an unlawful act which Complaint Counsel characterizes as a delaying tactic.

Complaint Counsel continues in ways which raises questions of her good faith. At the end of her Telephone conversation of Feb, 3, 2010 she said in her submission she was going to make Feb 3, she would note the Respondent objected to her submission. The Respondent stated his objection on at least three occasions in the conversation, Instead she reported in her motion,

"Complaint Counsel has conferred with Mr. Isely, who is representing himself, in an attempt to discuss EAJA issues related to fees and expenses, and the motions pertaining thereto. Said discussion did not produce any articulable* resolution."

*Not found in dictionary or spell check!

Respectfully Submitted:

GEMTRONICS, INC &

WILLIAM H. ISELY, Respondents

By 
William H. Isely

964 Walnut Creek Rd.
Franklin, NC, 28734

This 4th day of February, 2010

Respondent Isely certifies that to his best knowledge all the information contained in this document is correct and truthful.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this

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In the above entitled action upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, properly addressed to the attorney or attorneys for the parties as listed below.

One (1) e-mail copy and two (2) paper copies served by United States mail to

Honorable D. Michael Chappell
Chief Administrative Law Judge (Acting)
Federal Trade Commission, H113
600 Pennsylvania Ave., NW
Washington, D.C. 20580

The original and one (1) paper copy via United States mail delivery and one (1) electronic copy via e-mail:

Honorable Donald S. Clark
Secretary
Federal Trade Commission H135
600 Pennsylvania Ave., NW
Washington, D.C. 20580

One (1) electronic copy via e-mail and one (1) paper copy via United States mail delivery to:

Ms. Barbara E. Bolton- FTC, .. Suite 1500
225 Peachtree Street, N.E, Atlanta, GA 30303

William H. Isely - Respondent

William H. Isely
This 4th day of Feb. 2010