



containing “Wood County Hospital Data” covering the time period from January 1, 2004 to March 31, 2011. In discussions with Complaint Counsel, WCH understands that Complaint Counsel plans on submitting exhibits to the Commission based upon information that is presented in an “aggregate” format, a format that would protect the identity of individual hospitals. However, the “underlying data” upon which the aggregate information is based does, in fact, include specific sensitive competitive data of WCH that has been produced to the FTC. Should it become necessary for the WCH underlying data to be produced at the hearing, WCH desires to have that underlying data treated *in camera* so as to preserve the confidentiality of the underlying WCH data supporting Exhibit PX01816 and to thus avoid making public competitive sensitive data of WCH.

The underlying data that WCH seeks to have treated *in camera* is described in the Declaration of Stanley Korducki (WCH’s President), attached as Exhibit A, and represents sensitive financial and patient data the public disclosure of which is likely to cause a direct and serious harm to WCH’s competitive position. The underlying data sought to be treated *in camera* includes:

WCH Revenue by Financial Class Department Summary from fiscal years 2007 to 2011 with data thru March 21, 2011 (“revenue summaries”); WCH Revenue by Department by Service Financial Class from fiscal years 2007 to 2011 with data thru February 2011 (“revenue details”); WCH Comparative Statement of Revenues and Expenses from fiscal years 2007 to 2011 with data thru February 2011; WCH Estimate for Contractuals for fiscal years 2008 to 2011 with data thru February 2011; and inpatient financial data for fiscal years 2006 to 2011 with data thru February 28, 2011.

(Korducki Declaration, ¶ 5.)

WCH understands that it may not become necessary for the underlying WCH data to be presented at the hearing. However, if that eventuality does develop, WCH requests that the WCH-specific underlying data to Exhibit PX01816 be treated *in camera*.

**B. Applicable Legal Standard.**

In considering a request for *in camera* treatment, the following criteria set forth in *Bristol-Myers Co.*, 90 F.T.C. 455, 456 (1977), should be considered:

(1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

*Bristol-Myers Co.*, 90 F.T.C. 455, 456 (1977).

In addition, as explained by the Commission in regards to requests for *in camera* treatment by non-parties, such requests should be given “special solicitude.”

Moreover, as third parties, the requests of these companies deserve special solicitude. As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.

*Kaiser Aluminum & Chemical Corp.*, 103 F.T.C. 500, 501 (1984).

As set forth below, WCH’s request for *in camera* treatment should be granted because it satisfies the 6-factor test and, as a non-party, WCH should be afforded solicitude and allowed to maintain as confidential its sensitive financial information and data.

**C. WCH’s Underlying Data Meets the Standard for *In Camera* Treatment.**

WCH’s underlying data meets the standard for *in camera* treatment of its confidential information and data. First, WCH’s sensitive financial and patient data is not known to others outside of its business. (See Korducki Declaration, ¶¶ 3, 6-7.) Of course, WCH’s attorneys, accountants, and other professionals who assist WCH may have knowledge of particular portions of this information when necessary to accomplish their professional tasks. However, these

professionals are governed by professional standards that do not allow them to breach the confidentiality of WCH's sensitive information and data with which they come into contact.

Second, WCH's sensitive information and data are maintained as confidential by WCH internally. The information is only shared with those individuals employed by WCH who have a need to know. (*See* Korducki Declaration, ¶¶ 3, 7.) Third, WCH guards against the disclosure of its sensitive financial and patient data by using: segregated computer systems for accounting information; password protections and secured log-on features changed on a quarterly basis; differing levels of access privileges; and a Chief Information Officer whose duties include assessing and maintaining the integrity of the computer systems on which the confidential information and data is stored. (*See* Korducki Declaration, ¶ 7.)

Fourth, the value of WCH's confidential information is great because the public disclosure of the WCH data would cause a direct, serious competitive injury to WCH. If other hospitals were to learn of the WCH underlying data that supports Exhibit PX01816, those other hospitals could use that information for their own benefit and the detriment of WCH. (*See* Korducki Declaration, ¶ 6.) Fifth, WCH has expended significant efforts in developing the underlying information and data. As described by Mr. Korducki in his Declaration (*see* ¶ 5), the information was developed over the course of many years and includes financial summaries and detailed analyses, including WCH Revenue by Financial Class Department Summary from fiscal years 2007 to 2011 with data thru March 21, 2011 ("revenue summaries"); WCH Revenue by Department by Service Financial Class from fiscal years 2007 to 2011 with data thru February 2011 ("revenue details"); WCH Comparative Statement of Revenues and Expenses from fiscal years 2007 to 2011 with data thru February 2011; WCH Estimate for Contractuals for fiscal

years 2008 to 2011 with data thru February 2011; and inpatient financial data for fiscal years 2006 to 2011 with data thru February 28, 2011.

Sixth, absent a breach of confidentiality or improper conduct, it would be extremely difficult for the sensitive and confidential information and data underlying Exhibit PX01816 to be acquired or duplicated by others. (See Korducki Declaration, ¶ 7.) As an analysis of these six factors demonstrates, the underlying data relating to Exhibit PX01816 includes specific sensitive competitive data of WCH deserving of *in camera* treatment to preserve its confidentiality. In order to avoid making public the competitive sensitive data of WCH, it should be granted *in camera* treatment.

**D. Conclusion.**

For the foregoing reasons, and pursuant to 16 C.F.R. § 3.45(b) and the Protective Order filed on January 6, 2011, WCH respectfully requests *in camera* treatment of WCH data that is included in the underlying data supporting Exhibit PX01816 designated by Complaint Counsel for possible introduction at the hearing of this matter set for May 31, 2011. WCH requests *in camera* treatment for a period of three (3) years, to expire June 1, 2014, for WCH underlying data supporting Exhibit PX01816.

Dated: May 11, 2011

Respectfully submitted,

/s/ Edward A. Matto *Edward A. Matto*  
Edward A. Matto  
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Counsel for Non-Party  
Wood County Hospital



## CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2011, I caused the foregoing Non-Party Wood County Hospital's Motion for *In Camera* Treatment of Confidential Data Designated by Complaint Counsel to be filed electronically using the Federal Trade Commission's E-Filing System and overnight Federal Express with:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room H-113  
Washington, DC 20580

I also certify I delivered via electronic mail and overnight Federal Express on May 11, 2011, a true and correct copy of the foregoing Non-Party Wood County Hospital's Motion for *In Camera* Treatment of Confidential Data Designated by Complaint Counsel to:

Honorable D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room H-110  
Washington, DC 20580  
oalj@ftc.gov

I also certify that I served true and correct copies of the foregoing Non-Party Wood County Hospital's Motion for *In Camera* Treatment of Confidential Data Designated by Complaint Counsel by electronic mail on May 11, 2011 to:

Matthew J. Reilly  
Jeffrey H. Perry  
Sara Y. Razi  
Jeanne H. Liu  
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UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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

ProMedica Health System, Inc. )  
a corporation. )  
\_\_\_\_\_ )

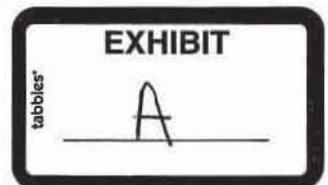
DOCKET NO: 9346  
PUBLIC

Chief Administrative Law Judge  
D. Michael Chappell

DECLARATION OF STANLEY KORDUCKI

After having been duly sworn, Stanley Korducki deposes and states:

1. I am the President of Wood County Hospital ("WCH"), a private, not-for-profit hospital based in Bowling Green, Ohio. I have held the position of President since 2001. My duties as President include managing the day-to-day operations of WCH, promoting WCH's mission, and developing WCH's vision for the future. WCH is a very low cost provider of health care services in our primary service area. I have personal knowledge of the matters set forth in this Declaration.
2. WCH is not a party to the above-captioned matter.
3. As a non-party, WCH has provided information and electronic files pursuant to a civil investigation demand and a subpoena served in this matter. Under the subpoena, information and electronic files provided by WCH were produced under the Protective Order Governing Discovery Material filed in this matter on January 6, 2011 and have been designated as "Confidential." The data and information contained in WCH's electronic files that have been designated as Confidential are not public, are internally maintained as confidential by WCH, and are only internally available to those who have a need to know.



4. I am aware that Complaint Counsel has designated for possible introduction at the hearing in the above-captioned matter Exhibit PX01816 which contains confidential data produced by WCH, and which may be introduced at the upcoming hearing as underlying data in support of Exhibit PX01816.

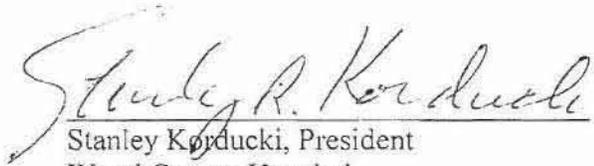
5. In particular, the data and information contained in the electronic files produced by WCH that is part of the aggregate data being used by Complaint Counsel includes: WCH Revenue by Financial Class Department Summary from fiscal years 2007 to 2011 with data thru March 21, 2011 (“revenue summaries”); WCH Revenue by Department by Service Financial Class from fiscal years 2007 to 2011 with data thru February 2011 (“revenue details”); WCH Comparative Statement of Revenues and Expenses from fiscal years 2007 to 2011 with data thru February 2011; WCH Estimate for Contractuals for fiscal years 2008 to 2011 with data thru February 2011; and inpatient financial data for fiscal years 2006 to 2011 with data thru February 28, 2011. This data also includes confidential detailed inpatient and outpatient data. This data is sensitive information of WCH the public disclosure of which is likely to cause a direct and serious harm to WCH’s competitive position.

6. The underlying data in support of Exhibit PX01816 includes WCH confidential information (as described in ¶ 5 above) the dissemination of which would harm the interests of WCH. I believe the public disclosure of the WCH data described in ¶ 5 above would cause a direct, serious competitive injury to WCH. If other hospitals were to learn of the WCH underlying data that supports Exhibit PX01816, those other hospitals could use that information for their own benefit and to the detriment of WCH.

7. As stated above, the information and data described in ¶ 5 is kept confidential within WCH and is only known by a limited number of WCH personnel on a need-to-know

basis. The information and data described in ¶ 5 is not known by members of the general public and WCH takes significant precautions to guard against the disclosure of such information by maintaining the confidentiality of the information internally within WCH, and only allowing those with a need to know to have access to the information. The precautions taken by WCH include segregated computer systems for accounting information, password protections and secured log-on features changed on a quarterly basis, differing levels of access privileges, and a Chief Information Officer whose duties include assessing and maintaining the integrity of the computer systems on which the confidential information and data is stored. Absent a breach of confidentiality or improper conduct, it would be extremely difficult for the information described in ¶ 5 to be acquired or duplicated by others.

Date: May 11, 2011

  
Stanley Korducki, President  
Wood County Hospital