

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF THE ADMINISTRATIVE LAW JUDGES  
Washington, D.C.



In the Matter of

ECM BioFilms, Inc.,  
a corporation, also d/b/a  
Envioplastics International,

Respondent.

Docket No. 9358

ORIGINAL

PUBLIC

**RESPONDENT’S RENEWED MOTION FOR *IN CAMERA* TREATMENT OF  
CERTAIN PROPOSED TRIAL EXHIBITS**

Pursuant to Rule 3.45(b) of the Commission’s Rules of Practice, Respondent ECM BioFilms, Inc. (ECM) hereby seeks *in camera* treatment of various documents that have been designated as potential exhibits for trial.<sup>1</sup>

**INTRODUCTION**

On June 11, 2014, Complaint Counsel provided ECM with its final proposed exhibit list, containing over 800 proposed exhibits. On June 25, 2014, ECM provided Complaint Counsel with its own exhibit list, containing over 450 exhibits. ECM has carefully reviewed these exhibits to determine whether they contain confidential and sensitive information that should be subject to *in camera* treatment. While it would be ECM’s preference that the majority of these documents be subject to such treatment, ECM understands that only those documents for which public exposure would likely result in a clear and defined serious injury, or documents containing sensitive personal information, can be subject to *in camera* treatment. To that end, ECM respectfully requests that this Court grant *in camera* treatment to a total of 28 proposed

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<sup>1</sup> In accordance with Rule 3.45(e), ECM submits contemporaneously with this Motion all of the confidential exhibits identified below to the Office of the Administrative Law Judge.

exhibits.<sup>2</sup> As explained below and in the Affidavit of Robert Sinclair, attached as Exhibit A, all 28 of these documents contain truly confidential information, such as customer lists, financial information, personal information, and business strategy.

### **LEGAL STANDARD**

Upon motion, this Court may order that material, or portions thereof, offered into evidence be subject to *in camera* treatment. 16 C.F.R. § 3.45(b). In order to designate material for in camera treatment, this Court must find that public disclosure of such material “will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment or after finding that the material constitutes sensitive personal information.” *Id.* “The showing may consist of extrinsic evidence or, in certain instances, may be inferred from the nature of the documents themselves.” *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184 (Mar. 14, 1961).

In determining whether to grant in camera treatment of certain material, this Court weighs the six factors first articulated in *Bristol-Myers*:

(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.

*Matter of Bristol-Myers Co.*, 90 F.T.C. 455 (Nov. 11, 1977). The Commission has since explained that “serious injury” can mean “[t]he likely loss of business advantages.” *Hoechst Marion Roussel, Inc.*, 200 F.T.C. LEXIS at \*6. In sum, “[a] party must make a clear showing

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<sup>2</sup> On July 23, 2014, this Court denied ECM’s original motion for *in camera* treatment without prejudice, and allowed ECM to file this renewed motion.

that the information concerned is sufficiently secret and sufficiently material to their business that disclosure would result in serious competitive injury.” *In the Matter of Polypore Int’l, Inc.*, 2011 WL 668505 (Feb. 11, 2011) (citation omitted).

### ARGUMENT

Throughout this litigation, ECM has produced over 116,000 documents to Complaint Counsel. Initially, ECM marked all of these products as “confidential.” The 28 documents<sup>3</sup> ECM requests *in camera* treatment for amounts to less than 0.02% of all documents produced by ECM. All 28 of these documents contain either information that will either likely result in a serious and clearly defined injury to ECM, or material consisting sensitive personal information. *See* Exhibit A (Affidavit of Robert Sinclair).

ECM is a small company with six employees that competes in a competitive plastics market. *See id.* It sells additives that render plastic materials biodegradable. *See id.* ECM faces intense market competition from companies selling competing technologies each trying to elevate their methods of dealing with the issues and disparaging other solutions. *See id.* ECM also faces intense competition within the biodegradable additives sector. *See id.*

ECM customers have shown that they are willing to purchase products from ECM competitors who FTC has not targeted. *See id.* It is very easy for these customers who use products like the ECM additive to switch to a competitor’s product. *See id.* [REDACTED]

[REDACTED]

[REDACTED]

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<sup>3</sup> While the list below only contains 24 numbered paragraphs, there are 28 individual exhibits contained within those 24 paragraphs.

**IN CAMERA TREATMENT SHOULD BE GRANTED FOR THE FOLLOWING  
PROPOSED EXHIBITS**

For the reasons explained in Exhibit A, *in camera* treatment should be granted for the following proposed exhibits or portions thereof:

1. RX-132. This potential exhibit contains e-mail correspondence between ECM and various companies, including Multiplast Systems Inc. The e-mail correspondence between Multiplast Systems Inc. contains pricing information for the ECM additive. ECM requests at the very least that this information be redacted from this exhibit and that it remain confidential until 8/1/2017.<sup>4</sup>
2. RX-330 and RX-331. These potential exhibits are ECM's pricing sheets from 2010. ECM requests that these exhibits remain confidential until 8/1/2017.<sup>5</sup>
3. CCX-234. This potential exhibit is a list of ECM's international customers and ECM's sales to these customers by Year 2009–2013. ECM requests that this exhibit remain confidential until 8/1/2019.<sup>6</sup>
4. CCX-322. This potential exhibit contains email correspondence between ECM and Airbag Packing®. Some of the email correspondence contains specific pricing information for

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<sup>4</sup> Complaint Counsel consented to *in camera* treatment of this whole document. This document is nonetheless included in this motion because 16 C.F.R. § 3.45(b) provides that a “party . . . may obtain in camera treatment for material, or portions thereof, offered into evidence only by motion to the Administrative Law Judge.” Thus, even though the parties have agreed to *in camera* status for this exhibit, it is still necessary to include it in this motion. Other documents that Complaint Counsel has consented to, in whole or in part, are addressed in footnotes below. They are included in this motion for the same reasons as RX-132.

<sup>5</sup> Complaint Counsel consented to *in camera* treatment for both of these documents in their entirety.

<sup>6</sup> Complaint Counsel consented to *in camera* treatment for this document in its entirety.

ECM's additive. ECM requests that this pricing information be redacted from this exhibit and that it remain confidential until 8/1/2017.<sup>7</sup>

5. CCX-392. This potential exhibit contains specific pricing information of the ECM additive. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>8</sup>

6. CCX-395. This potential exhibit contains specific information on the amount of money spent by IMEX Vinyl Packaging in deciding whether to use the ECM additive. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>9</sup>

7. RX-130. This potential exhibit contains, *inter alia*, a 2008 contract negotiation between ECM and a potential distributor for ECM's product, Agulla Int'l Co. ECM requests that the information concerning the contract negotiation be redacted from this exhibit and remain confidential until 8/1/2019.<sup>10</sup>

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<sup>7</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of, as applicable, the price of ECM's additive, the amount of additive that was purchased/requested, personal cell phone numbers, personal email accounts, shipping account information (e.g., FedEx or UPS account numbers), credit card information, customer names that have not been previously disclosed, and the number of ECM customers. ECM is willing to redact information that this Court agrees is deserving of *in camera* treatment.

<sup>8</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*.

<sup>9</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*.

<sup>10</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the removal and *in camera* treatment of the email from Agulla Int'l Co. that begins on page 7 of the PDF file and ends on page 9 of the PDF file so long as the remainder of the document is turned into a new, public exhibit.

8. CCX-305. This potential exhibit contains an e-mail from ECM to FabriTRAK systems, Inc. wherein ECM explicitly mentions the size of its customer's order. ECM requests that this information be redacted from this exhibit and remain confidential until 8/1/2017.<sup>11</sup>
9. CCX-676. This potential exhibit contains a discussion between ECM and one of its distributors on how to obtain specific types of customers. ECM requests that this information be redacted from this exhibit and remain confidential until 8/1/2017.<sup>12</sup>
10. CCX-408. This potential exhibit contains ordering information, payment information, and other sensitive information regarding the contacts between American Plastic Mfg. Inc. and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>13</sup>
11. CCX-410. This potential exhibit contains ordering information, payment information, and other sensitive information regarding the contacts between Bio-Tec Environmental, LLC and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>14</sup>
12. CCX-413. This potential exhibit contains ordering information, payment information, ordering terms, and other sensitive information regarding the contacts between EcoSmart Plastics and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>15</sup>

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<sup>11</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*.

<sup>12</sup> Complaint Counsel does not consent to *in camera* treatment of this document.

<sup>13</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>14</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>15</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

13. CCX-414. This potential exhibit contains ordering information, payment information, personal cell phone numbers, specific ordering terms, and other sensitive information regarding the contacts between Flexible Plastics, Inc. and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>16</sup>

14. CCX-416. This potential exhibit contains ordering information, payment information, personal cell phone numbers, specific ordering terms, and other sensitive information regarding the contacts between Hi-De Liners, LLC. and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>17</sup>

15. CCX-417. This potential exhibit contains ordering information, payment information, specific ordering terms, and other sensitive information regarding the contacts between Myers Industries Lawn and Garden and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>18</sup>

16. CCX-418. This potential exhibit contains ordering information, payment information, specific ordering terms, and other sensitive information regarding the contacts between PolyFusion LLC and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.

17. CCX-419. This potential exhibit contains ordering information, payment information, specific ordering terms, shipping costs, cell phone numbers, UPS account numbers, and other

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<sup>16</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>17</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>18</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

sensitive information regarding the contacts between Sealed Air Corporation and ECM. ECM requests that this exhibit remain confidential until 8/1/2019.<sup>19</sup>

18. CCX-420. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and costs, and other sensitive information regarding the contacts between Automated Packaging Systems Group and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>20</sup>

19. CCX-421. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts, and other sensitive information regarding the contacts between Bemis PPD and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>21</sup>

20. CCX-422. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, and other sensitive information regarding the contacts between Shields Bag and Printing Company and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>22</sup>

21. CCX-423. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, and other sensitive information regarding

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<sup>19</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>20</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>21</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>22</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

the contacts between Westchem, Inc. and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>23</sup>

22. CCX-429. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, a UPS account number, and other sensitive information regarding the contacts between Contempo Card Company and ECM. ECM requests that this exhibit remain confidential until 8/1/2019.<sup>24</sup>

23. CCX-392. This potential exhibit contains ordering information, payment information, cell phone numbers, and other sensitive information regarding the contacts between Geneva Watch Group and ECM. ECM requests that this exhibit remain confidential until 8/1/2017.<sup>25</sup>

24. CCX-813; CCX-816; CCX-818; CCX-819; CCX-820. These potential exhibits are the deposition transcripts of ECM employees and executives Robert Sinclair, Kenneth Sullivan, Alan Poje, and Thomas Nealis. These transcripts contain confidential information related to sales, customers, and other sensitive and personal information. ECM requests that specific excerpts of these exhibits remain confidential until 8/1/2019.<sup>26</sup> See Exhibit A.

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<sup>23</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Some or all of that information has already been redacted.

<sup>24</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*.

<sup>25</sup> Complaint Counsel consented to *in camera* treatment for a portion of this document. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*.

<sup>26</sup> Complaint Counsel consented to *in camera* treatment for a portion of these documents. Specifically, Complaint Counsel consents to the redaction of the types of information identified in footnote 7, *supra*. Additionally, Complaint Counsel also consents to the redaction of ECM's personal financial information, such as statements concerning its line of credit or incentive program. Complaint Counsel does not consent to the redaction of statements generalizing the types of customers ECM has, e.g., a statement describing its customers as big or small. Nor does Complaint Counsel consent to statements generalizing whether a customer has asked to be

**RELIEF**

For the foregoing reasons and the reasons stated in Exhibit A, ECM respectfully requests this Court grant in Camera treatment to those exhibits list above.

Respectfully submitted,



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Jonathan W. Emord (jemord@emord.com)  
EMORD & ASSOCIATES, P.C.  
11808 Wolf Run Lane  
Clifton, VA 20124  
Telephone: 202-466-6937  
Facsimile: 202-466-6938

DATED: July 30, 2014

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indemnified. Complaint Counsel will consent, however, to the redaction of specific terms in a distributor agreement.

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF THE ADMINISTRATIVE LAW JUDGES  
Washington, D.C.

In the Matter of

ECM BioFilms, Inc.,  
a corporation, also d/b/a  
Envioplastics International,

Respondent.

Docket No. 9358

PUBLIC

**[PROPOSED] ORDER GRANTING RESPONDENT ECM BIOFILMS, INC.'S MOTION  
FOR *IN CAMERA* TREATMENT OF PROPOSED TRIAL EXHIBITS**

This matter having come before the Administrative Law Judge on July \_\_\_\_, 2014, upon a Motion for *In Camera* Treatment (“Motion”) filed by Respondent ECM BioFilms, Inc. (“ECM”) pursuant to Commission Rule 3.45(b), for an Order to grant *in camera* treatment to specific proposed trial exhibits.

Having considered ECM’s Motion and all supporting and opposing submissions, and for good cause appearing, it is hereby ORDERED that ECM’s Motion is GRANTED; it is ORDERED that all of the documents, or portions thereof, identified by ECM for *in camera* treatment shall be treated as such.

ORDERED:

Date:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on July 30, 2014 I caused a true and correct copy of the foregoing to be served as follows:

One hard copy to the **Office of the Secretary** through overnight mail to the address below:

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Room H-113  
Washington, DC 20580  
Email: [secretary@ftc.gov](mailto:secretary@ftc.gov)

One hardcopy and electronic copy (on CD) to the **Office of the Administrative Law Judge**:

The Honorable D. Michael Chappell  
Administrative Law Judge  
600 Pennsylvania Ave., NW, Room H-110  
Washington, DC 20580

One electronic copy to **Counsel for Complainant**:

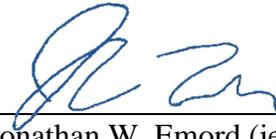
Katherine Johnson  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Mail stop M-8102B  
Washington, D.C. 20580  
Email: [kjohnson3@ftc.gov](mailto:kjohnson3@ftc.gov)

Arturo Decastro  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Mail stop M-8102B  
Washington, D.C. 20580  
Email: [adecastro@ftc.gov](mailto:adecastro@ftc.gov)

Jonathan Cohen  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Mail stop M-8102B  
Washington, D.C. 20580  
Email: [jcohen2@ftc.gov](mailto:jcohen2@ftc.gov)

I certify that I retain a paper copy of the signed original of the foregoing document that is available for review by the parties and adjudicator consistent with the Commission's Rules.

Respectfully submitted,



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Jonathan W. Emord (jemord@emord.com)  
EMORD & ASSOCIATES, P.C.  
11808 Wolf Run Lane  
Clifton, VA 20124  
Telephone: 202-466-6937  
Facsimile: 202-466-6938

DATED: Wednesday, July 30, 2014

**STATEMENT CONCERNING MEET AND CONFER**

Pursuant to 21 C.F.R. § 3.22(g), the undersigned counsel certifies on July 30, 2014, Respondent's counsel conferred via telephone with Complaint Counsel in a good faith effort to resolve by agreement the issues raised in the foregoing Motion. The parties have been unable to reach an agreement on all of the issues raised in the attached motion.

Respectfully submitted,



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Jonathan W. Emord (jemord@emord.com)  
EMORD & ASSOCIATES, P.C.  
11808 Wolf Run Lane  
Clifton, VA 20124  
Telephone: 202-466-6937  
Facsimile: 202-466-6938

DATED: Wednesday, July 30, 2014

# Respondent's Exhibit A

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF THE ADMINISTRATIVE LAW JUDGES  
Washington, D.C.

In the Matter of

ECM BioFilms, Inc.,  
a corporation, also d/b/a  
Enviroplastics International,

Respondent.

Docket No. 9358

PRIVATE

AFFIDAVIT OF ROBERT SINCLAIR

I, Robert Sinclair, declare under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I am over the age of eighteen years and I make this affidavit on personal knowledge of its contents and in further support of Respondent's Motion for *In Camera* Treatment of Certain Proposed Trial Exhibits.
2. I am the President and CEO of ECM BioFilms, Inc.
3. Throughout this litigation, ECM has produced over 116,000 documents to Complaint Counsel. Initially, ECM marked all of these products as "confidential."
4. Given FTC's standard for granting *in camera* treatment, ECM now requests *in camera* treatment for only 28 of those documents produced by ECM and identified by either ECM or Complaint Counsel as potential trial exhibits. The 28 documents ECM requests *in camera* treatment for amounts to less than 0.02% of all documents produced by ECM.
5. All 28 of these documents contain information that will likely result in a serious and clearly defined injury to ECM or that is sensitive personal information.

6. ECM is a small company with six employees that competes in a competitive plastics market. It sells additives that render plastic materials biodegradable.
7. Though plastics in one form or another have been used for thousands of years, the vast majority of the kinds, uses and production of plastic materials have only been in the last seventy years and the quantities increase every year. Of all that plastic being produced, the vast majority of it will remain intact and substantially unchanged from the day they left the factory for hundreds or thousands of years or more. Due to this fact, in the last twenty years or so a number of different technologies have emerged to change this end-of-life scenario including, but not limited to, photodegradable, oxodegradable and biodegradable additives to the otherwise not degradable plastics and alternative plastic resins with other end-of-life properties to replace the nondegradable plastic resin currently primarily in use. ECM faces intense market competition from companies selling competing technologies each trying to elevate their methods of dealing with the issues and disparaging other solutions. ECM also faces intense competition within the biodegradable additives sector.
8. ECM customers have shown that they are willing to purchase products from ECM competitors who FTC has not targeted. It is very easy for these customers who use products like the ECM additive to switch to a competitor's product. [REDACTED]  
[REDACTED]  
[REDACTED]
9. Therefore, for the specific reasons given below, the following documents would likely result in a serious and clearly defined injury to ECM:

- a. RX-132. This potential exhibit contains e-mail correspondence between ECM and various companies, including Multiplast Systems Inc. The e-mail correspondence between Multiplast Systems Inc. contains specific pricing information for the ECM additive. Such information is generally not known outside of ECM's business or by persons other than its employees, except to the extent that ECM has disclosed its pricing information to its prospective, former, and/or current customers (collectively referred to as "customers") for business purposes as necessary. ECM has tried to protect its pricing information by limiting its disclosure to it to its employees and customers. Although this pricing information is more than three years old, it remains competitively sensitive because ECM's competitors can use it to predict ECM's current prices and undercut them. ECM requests that this information be redacted from this exhibit and that it remain confidential until 8/1/2017.
- b. RX-330 and RX-331. These potential exhibits are ECM's pricing sheets from 2010. Although these pricing sheets are more than three years old, the pricing information they contain remains competitively sensitive for the reasons discussed above in subparagraph (a), which is hereby incorporated. ECM requests that these exhibits remain confidential until 8/1/2017.
- c. CCX-234. This potential exhibit is a list of ECM's international customers and ECM's sales to these customers by Year 2009–2013. ECM has not previously released these figures to the public. Although some of this information is more than three years old, it remains competitively sensitive because it shows the international sales growth and/or decline ECM has experienced between 2009 and

2013. Additionally, because this exhibit shows the amount ECM's individual international customers have spent on its additive, ECM's competitors could use such information to target ECM's bigger customers and steal them away from ECM. ECM requests that this exhibit remain confidential until 8/1/2019.
- d. CCX-322. This potential exhibit contains email correspondence between ECM and Airbag Packing®. Some of the email correspondence contains specific pricing information for ECM's additive. As explained above in subparagraph (a), which is hereby incorporated, ECM has taken measures to guard the secrecy of its pricing information because the disclosure of such information will give its competitors an unfair advantage. ECM requests that this pricing information be redacted from this exhibit and that it remain confidential until 8/1/2017.
- e. CCX-395. This potential exhibit contains specific information on the amount of money spent by IMEX Vinyl Packaging in deciding whether to use the ECM additive. ECM's competitors could use such information to get an unfair advantage. ECM requests that this exhibit remain confidential until 8/1/2017.
- f. RX-130. This potential exhibit contains, *inter alia*, a 2008 contract negotiation between ECM and a potential distributor for ECM's product, Agulla Int'l Co. Specifically, the distributor includes excerpts from ECM's distributor agreement and proposes revisions. Although this negotiation is more than three years old, it remains competitively sensitive because it demonstrates the types of provisions ECM's distributorship agreements contain. ECM requests that this information be redacted from this exhibit and remain confidential until 8/1/2019.

- g. CCX-305. This potential exhibit contains a 2011 e-mail from ECM to FabriTRAK systems, Inc. wherein ECM explicitly mentions the size of its customer's order. An ECM competitor could use this information, which ECM has not previously publicly disclosed, to assess the purchasing power of FabriTRAK and use such information as a basis to try to steal FabriTRAK's business from ECM. ECM requests that this information be redacted from this exhibit and remain confidential until 8/1/2017.
- h. CCX-676. This potential exhibit contains a discussion between ECM and one of its distributors on how to obtain specific types of customers. ECM currently employs the business strategy that was discussed in 2009. Thus, although this information is more than three years old, ECM's competitors can use it to compete with ECM. ECM requests that this information be redacted from this exhibit and remain confidential until 8/1/2017.

10. In addition to any information that would likely result in a serious and clearly defined injury to ECM, the following documents contain sensitive personal information:

- a. CCX-408. This potential exhibit contains ordering information, payment information, and other sensitive information regarding the contacts between American Plastic Mfg. Inc. and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.

- b. CCX-410. This potential exhibit contains ordering information, payment information, and other sensitive information regarding the contacts between Bio-Tec Environmental, LLC and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- c. CCX-413. This potential exhibit contains ordering information, payment information, ordering terms, and other sensitive information regarding the contacts between EcoSmart Plastics and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- d. CCX-414. This potential exhibit contains ordering information, payment information, personal cell phone numbers, specific ordering terms, and other sensitive information regarding the contacts between Flexible Plastics, Inc. and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.

- e. CCX-416. This potential exhibit contains ordering information, payment information, personal cell phone numbers, specific ordering terms, and other sensitive information regarding the contacts between Hi-De Liners, LLC. and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- f. CCX-417. This potential exhibit contains ordering information, payment information, specific ordering terms, and other sensitive information regarding the contacts between Myers Industries Lawn and Garden and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- g. CCX-418. This potential exhibit contains ordering information, payment information, specific ordering terms, and other sensitive information regarding the contacts between PolyFusion LLC and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.

- h. CCX-419. This potential exhibit contains ordering information, payment information, specific ordering terms, shipping costs, cell phone numbers, UPS account numbers, and other sensitive information regarding the contacts between Sealed Air Corporation and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2019.
- i. CCX-420. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and costs, and other sensitive information regarding the contacts between Automated Packaging Systems Group and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- j. CCX-421. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts, and other sensitive information regarding the contacts between Bemis PPD and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.

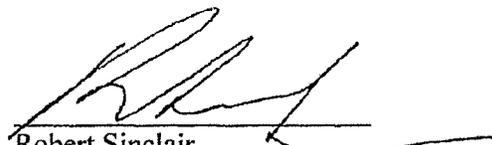
- k. CCX-422. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, and other sensitive information regarding the contacts between Shields Bag and Printing Company and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- l. CCX-423. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, and other sensitive information regarding the contacts between Westchem, Inc. and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- m. CCX-429. This potential exhibit contains ordering information, payment information, specific ordering terms including amounts and prices, a UPS account number, and other sensitive information regarding the contacts between Contempo Card Company and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2019.

- n. CCX-392. This potential exhibit contains ordering information, payment information, cell phone numbers, and other sensitive information regarding the contacts between Geneva Watch Group and ECM. Although some of this information is more than three years old, as explained above, it remains competitively sensitive because ECM's competitors can use this information to predict its current prices and as a basis to pursue this company as a customer. ECM requests that this exhibit remain confidential until 8/1/2017.
- o. CCX-813; CCX-816; CCX-818; CCX-819; CCX-820. These potential exhibits are the deposition transcripts of ECM employees and executives Robert Sinclair, Kenneth Sullivan, Alan Poje, and Thomas Nealis. These transcripts contain confidential information related to sales, customers, and other sensitive and personal information. Disclosure of such information will harm ECM because it will give ECM's competitors an unfair business advantage. For example, ECM's competitors could use the sales and customer information to take business away from ECM. ECM requests that the following specific excerpts of these exhibits remain confidential until 8/1/2019:
- i. CX-813 at: 11:1-14:4 (discussing: the type, size and number of ECM customers; whether ECM has better sales success with smaller or bigger companies; and what ECM needs to know about customers to make a sale); 18:23-19:18 (discussing the steps ECM goes through to get a customer); 49:2-12 (discussing ECM's marketing strategies); 54:2-55:19 (discussing what ECM needs to know about its customers to make a sale).
  - ii. CX-816 at 14:12-15:7 (describing ECM's customers).

- iii. CX-818 at: 47:19-49:10 (discussing how ECM gets its customers); 61:8-62:21 (explaining why ECM chose to sell to plastic manufacturers); 161:23-167:10 (discussing the composition of ECM's additive); 196:5-201:19 (discussing the number of ECM's customers).
- iv. CX-819 at: 327:19-343:14 (explaining in detail what each ECM employee does at the company).
- v. CX-820 at: 29:24-41:19 (discussing ECM's sales fluctuations, type of customers it has, typical order sizes, credit and payment terms, the terms of its distributorship agreements); 76:3-82:21 (discussing the number of ECM customers and its line of credit, expenses and payment of incentives).

11. For the foregoing reasons, ECM believes that each document specifically identified above deserves *in camera* treatment.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of July, 2014.

  
Robert Sinclair

# Respondent's Exhibit B

