

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

ORIGINAL



In the Matter of)

The North Carolina Board of)
Dental Examiners,)
Respondent.)

DOCKET NO. 9343

**ORDER GRANTING RESPONDENT'S MOTION
FOR LEAVE TO FILE A MOTION
FOR *IN CAMERA* TREATMENT**

On June 6, 2011, Respondent filed a Motion for Leave to File a Motion for *In Camera* Treatment/Protected Treatment of Respondent's Confidential Information in the Record and Complaint Counsel's Post-Trial Filings ("Motion for Leave to File"). Respondent files its motion in response to the Orders dated May 16, 2011 and June 3, 2011, which, respectively, denied without prejudice and then denied Respondent's Motion to Prevent Public Posting of Complaint Counsel's Post-Trial Brief and Proposed Findings of Fact and Conclusions of Law Containing Confidential Information on the Federal Trade Commission's Website.¹ As the Orders stated, the material sought to be withheld from the public website was not subject to an *in camera* order and did not constitute Sensitive Personal Information, as those terms are defined in Commission Rule 3.45. Respondent states, as a basis for the Motion for Leave to File, that Respondent did not receive a Rule 3.45(b) notice from Complaint Counsel regarding the planned use of Respondent's information and, thus, Respondent had no opportunity to move for *in camera* treatment under the Scheduling Order in this case. Respondent also states that it has conferred with Complaint Counsel and that Complaint Counsel has agreed to not oppose Respondent's Motion for Leave to File.


Respondent's Motion for Leave to File is GRANTED. Any motion for *in camera* treatment shall be filed by June 14, 2011.

¹ The Office of the Secretary of the Federal Trade Commission refrained from posting the Post-Trial Filings on the Federal Trade Commission's website pending the resolution of Respondent's Motion to Prevent Public Posting of Complaint Counsel's Post-Trial Brief and Proposed Findings of Fact and Conclusions of Law Containing Confidential Information ("Post-Trial Filings") on the Federal Trade Commission's Website. The Office of the Secretary of the Federal Trade Commission will continue to refrain from posting the Post-Trial Filings until resolution of Respondent's anticipated motion for *in camera* treatment.

Respondent is hereby directed to Additional Provision 6 of the Scheduling Order regarding the strict standards and requirements for motions seeking *in camera* treatment.

Ordinarily, parties move for *in camera* treatment before documents and information are offered into evidence and identify such information by exhibit number. In this case, Respondent seeks to file a motion for *in camera* treatment after the conclusion of the trial. In the event Respondent's motion for *in camera* treatment is granted, such a ruling might require redactions from the public version of post-trial filings and from the hearing transcript. The burden is on Respondent to identify not only the exhibit numbers for which it seeks *in camera* treatment, but also the specific information, with reference to each specific proposed finding of fact, or page in briefs filed by the parties. With respect to the hearing transcript, Respondent is required to indicate by trial volume number, page(s), line numbers, and first word to last word of text, the passages for which it seeks *in camera* treatment.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: June 7, 2011