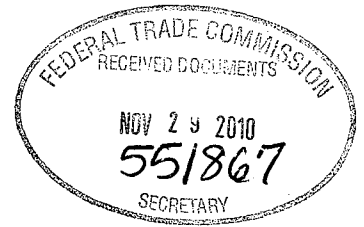


**ORIGINAL**



**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of	)	<b>PUBLIC</b>
	)	
THE NORTH CAROLINA [STATE] BOARD	)	DOCKET NO. 9343
OF DENTAL EXAMINERS,	)	
	)	
Respondent	)	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rules 3.22(a) and (f) and 4.3(b) of the Rules of the Federal Trade Commission, Respondent the North Carolina State Board of Dental Examiners (“Respondent” or the “State Board”) respectfully requests that the Commission grant Respondent until 5:00 PM Eastern Standard Time on December 10, 2010, to file responsive pleadings to the Commission’s Motion for Partial Summary Decision (“Response”). Currently, Respondent’s responsive pleadings are due at 5:00 PM Eastern Standard Time on Tuesday, November 30, 2010.

Respondent also respectfully requests that the Commission grant Respondent until 5:00 PM on December 20, 2010 to file its reply to the Commission’s response to Respondent’s Motion to Dismiss (if any such response is filed) (“Reply”). Currently, Respondent’s Reply is due at 5:00 PM Eastern Standard Time on Friday, December 10, 2010.

Respondent’s Counsel has conferred with Complaint Counsel in a good-faith effort to resolve by agreement the issues raised by this motion, and has been unable to

reach such agreement. Complaint Counsel informs Respondent's Counsel that they will oppose this motion.

Due to the limited time frame within which Respondent's responsive pleadings must be filed, Respondent respectfully requests expedited consideration of this Motion.

In support of this Motion, Respondent respectfully submits that:

1. The Commission's Motion for Partial Summary Decision and supporting documents—including over ninety (90) exhibits—were filed electronically on November 2, 2010, but was not served personally served on Respondent until the next day, November 3, 2010.
2. The Commission's Motion for Partial Summary Decision presents over nine hundred (900) pages of evidence, including materials not previously produced through discovery.
3. Despite the pendency of the Commission's Motion for Partial Summary Decision, discovery continued, and included the depositions of the current Board Chair [President] and the Chief Operating Officer of the Board.
4. Respondent received notice of the availability of those transcripts on the day before the Thanksgiving holidays. Respondent did not receive those transcripts until today, November 29, 2010.
5. Respondent also received, on November 18, 2010, Complaint Counsel's Responses to Respondent's Interrogatories and Complaint Counsel's Responses to Respondent's Request for Production of Documents, which were produced electronically on three (3) discs totally over 430 MB in size.

6. Notwithstanding said discovery responses from Complaint Counsel, Complaint Counsel failed or refused to answer numerous requests and made baseless claims of privilege over an unknown number of documents, in what appears to be an attempt to intentionally subvert the purpose of discovery. Complaint Counsel's course of conduct, intentional or not, has obscured meaningful information and sought to expand the issues at hand.
7. Respondent has worked through the holidays and weekends but represents that it cannot complete a good faith review of the newly-produced documents and likely must seek to obtain evidence critical to its defenses through motions to compel production.
8. A response to a motion for partial disposition should not be a futile exercise requiring Respondent to fulfill its extra burden under the Commission's rules without the benefit of critical discovery. For example, the Commission is allowed to base its Motion for Partial Summary Decision upon false and unsubstantiated claims of undisputed fact, but Respondent is obliged under the Commission's rules to rebut all such assertions with a verified counter-statement of facts.
9. The Commission refused to rule on the unopposed motion to stay discovery for twelve (12) days before denying the request. The tactic of refusing to allow even the minimum amount of time allowed under the federal rules of civil procedure to respond to a dispositive motion—made worse by the fact that Respondent has not yet received complete responses to discovery and just today received key transcripts—will unduly prejudice Respondent's ability to adequately respond to a dispositive motion.

10. Complaint Counsel's announced intention to oppose this request is evidence of their desire to rush to a predetermined judgment in this matter. It would appear that the Commission's denial would be an abuse of discretion and further evidence that the Commission has no interest in a complete view of the evidence and has already determined the outcome of this issue.

WHEREFORE, Respondent respectfully requests that the Commission grant an extension of time until 5:00 PM Eastern Standard Time on December 10, 2010, to file its responsive pleadings to the Commission's Motion for Partial Summary Decision. Respondent also respectfully requests that the Commission grant an extension of time until 5:00 PM Eastern Standard Time on December 20, 2010, to file its Reply.

This the 29th day of November, 2010.

ALLEN AND PINNIX, P.A.

/s/ Alfred P. Carlton, Jr.

By: \_\_\_\_\_

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Alfred P. Carlton, Jr.  
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## CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of November, 2010, I electronically filed the foregoing Motion for Extension of Time with the Federal Trade Commission using the Federal Trade Commission E-file system, which will send notification of such filing to the following:

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-159  
Washington, D.C. 20580

I also hereby certify that I served a courtesy copy of the foregoing upon Secretary Clark by electronic mail at the following address: [dclark@ftc.gov](mailto:dclark@ftc.gov).

I hereby further certify that the undersigned has this date served copies of the foregoing upon all parties to this cause by electronic mail as follows:

William L. Lanning  
Bureau of Competition  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room NJ-6264  
Washington, D.C. 20580  
[wlanning@ftc.gov](mailto:wlanning@ftc.gov)

Steven L. Osnowitz  
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Washington, D.C. 20580  
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Federal Trade Commission  
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Washington, D.C. 20580  
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Tejasvi Srimushnam  
Bureau of Competition  
Federal Trade Commission  
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Washington, D.C. 20580  
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Richard B. Dagen  
Bureau of Competition  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-374  
Washington, D.C. 20580  
[rdagen@ftc.gov](mailto:rdagen@ftc.gov)

I also certify that I have sent courtesy copies of the document via Federal Express and electronic mail to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Room H-113  
Washington, D.C. 20580  
[oalj@ftc.gov](mailto:oalj@ftc.gov)

This the 29th day of November, 2010.

/s/ Alfred P. Carlton, Jr.

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Alfred P. Carlton, Jr.

#### **CERTIFICATION FOR ELECTRONIC FILING**

I further certify that the electronic copy sent to the Acting Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and by the adjudicator.

/s/ Alfred P. Carlton, Jr.

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Alfred P. Carlton, Jr.

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

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THE NORTH CAROLINA [STATE] BOARD	)	DOCKET NO. 9343
OF DENTAL EXAMINERS.	)	
	)	
	)	

**[PROPOSED] ORDER FOR EXTENSION OF TIME**

Upon consideration of Respondent the North Carolina State Board of Dental Examiner's Motion for Extension of Time, it is hereby ORDERED that Respondent's Motion is GRANTED. Respondent is hereby granted until 5:00 PM Eastern Standard Time on December 10, 2010, to file responsive pleadings to the Commission's Motion for Partial Summary Decision, and until 5:00 PM Eastern Standard Time on December 20, 2010, to file a reply to the Commission's response to Respondent's Motion to Dismiss (if any such response is filed).

By the Commission.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-159  
Washington, D.C. 20580