Interlocutory Orders, Etc.

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Docket No. 9338, Order, October 14, 2009

Order withdrawing the Matter from adjudication.

ORDER

On August 11, 2009, the Commission issued an Order granting a joint motion filed by Complaint Counsel and the Respondent to withdraw this matter from adjudication for the purpose of considering a proposed consent agreement. On September 9, 2009, the Commission issued an Order extending both the withdrawal from adjudication and the deadline for Respondent to file its Answer to the Complaint until October 14, 2009. On October 6, 2009, the Commission accepted for public comment an Agreement Containing Consent Orders ("Consent Agreement") and issued an Order To Maintain Assets. At that point, Commission Rule 3.25(f), 16 C.F.R. § 3.25(f), became applicable to this proceeding. Accordingly,

IT IS ORDERED THAT this matter will remain withdrawn from adjudication as provided by Commission Rule 3.25(f) – and Respondent's obligation to file an Answer to the Complaint will remain stayed – pending a determination by the Commission with respect to the proposed Consent Agreement, pursuant to Commission Rule 3.25(f).

By the Commission.

Interlocutory Orders, Etc.

DANIEL CHAPTER ONE
AND
JAMES FEIJO

Docket No. 9329, Order, October 16, 2009

Order denying motion to reschedule the Oral Argument.

ORDER DENYING MOTION TO RESCHEDULE ORAL ARGUMENT

On October 13, 2009, the Commission issued a Notice scheduling the Oral Argument in this matter for Thursday, December 3, 2009, at 1 p.m. Complaint Counsel have now filed a Motion requesting that the Commission reschedule the Oral Argument to December 10, 2009 or a later date. Complaint Counsel advised in the Motion that Leonard L. Gordon, the Director of the Commission's Northeast Regional Office, and Lead Complaint Counsel in this proceeding, will be out of the country for the ten days immediately preceding December 3, 2009. Complaint Counsel further advise that Respondents do not object to the Motion.

The Commission understands and is sympathetic to the timing concerns that Complaint Counsel cite in their Motion. However, the Motion does not indicate that Director Gordon's absence from the United States for the ten days preceding December 3 will either prevent him from participating in the Oral Argument or prevent Complaint Counsel from adequately preparing for the Oral Argument. Moreover, Respondents' Reply Brief must be filed by November 4, 2009, and, as a consequence of January 2009 revisions to in a number of the Commission Rules governing adjudicative proceedings in January of this year, Commission Rule 3.52(b)(2) now provides that the Commission "will schedule oral argument within 15 days after the deadline for the filing of any reply briefs." 16 C.F.R. § 3.52(b)(2). While the revised Rules technically do not apply to this proceeding -- because the Administrative Complaint was issued last year[1] -- the

[1] *See generally* Federal Trade Commission, *Interim Final Rules With Request for Comment*, 74 Fed. Reg. 1804 (January 13, 2009); *see also* Federal Trade Commission, *Final Rule*, 74 Fed. Reg. 20205 (May 1, 2009).