THE NORTH CAROLINA BOARD OF DENTAL EXAMINERS

Docket No. D-9343. *Order, August 12, 2011*

Order granting parties' joint motion to withdraw the matter from adjudication to enable the Commission to consider a proposed consent agreement.

ORDER ON RESPONDENT'S MOTION FOR EXTENSION OF TIME

Respondent North Carolina Board of Dental Examiners has filed a Motion for Extension of Time, in which it requests an additional two weeks to file its appeal brief to the Commission. Complaint Counsel do not oppose the motion so long as Complaint Counsel receives a comparable extension to file its answering brief. For the reasons described below, the Commission grants the parties an additional ten days to file their respective appeal and answering briefs.

Commission Rule 3.52(b), 16 C.F.R. § 3.52, gives parties 30 days from service of the Initial Decision to file an appeal brief to the Commission. The time periods prescribed by the Commission Rules of Practice ordinarily should afford parties to FTC proceedings sufficient time to file pleadings and briefs of sufficient quality and detail to aid in the preparation of Commission opinions and orders. Absent a Commission order granting an extension of time to the parties in this case, Respondent's appeal brief would be due on August 15, 2011.

Respondent has requested that its time to file an appeal brief be extended two weeks and for Complaint Counsel's time to file an answering brief likewise be extended an additional two weeks. Respondent seeks additional time because "Respondent's Counsel moved to new office space on July 22, 2011. . . . Respondent's Counsel and staff have necessarily been engaged in packing and unpacking activity, and as a consequence have not been able to devote the full amount of time contemplated by the FTC's rules as being adequate for the preparation of Respondent's opening appeal brief." (Motion ¶¶ 1-2.)

Under these circumstances, the Commission is willing to grant Respondent additional time to prepare its appeal brief. Respondent's request for a two week extension, however, appears excessive, particularly in light of the late hour of Respondent's motion. In addition, the Commission is mindful that in any litigation involving alleged anti competitive conduct, unnecessary procedural delays may increase the risk of ongoing injury to consumers and competition. Accordingly,

IT IS ORDERED that Respondent shall file its appeal brief on or before Thursday, August 25, 2011 and that Respondent's appeal shall be deemed perfected for purposes of Rule 3.51(a), 16 C.F.R. § 3.51(a), if Respondent files its appeal brief by that date;

IT IS FURTHER ORDERED that Complaint Counsel shall file their answering brief on or before Tuesday, October 4, 2011;

IT IS FURTHER ORDERED that Respondent shall file its reply brief within seven days after service of Complaint Counsel's answering brief.

By the Commission, Commissioner Brill recused.

Interlocutory Orders, Etc.

TOPS MARKET LLC