

Interlocutory Orders, Etc,

IN THE MATTER OF

**TRAFFIC JAM EVENTS, LLC,
AND
DAVID J. JEANSONNE II**

Docket No. 9395. Order, May 3, 2021

Order returning this matter to adjudication because further consideration of the consent proposal is no longer in the public interest.

**ORDER RETURNING THE MATTER TO ADJUDICATION AND SETTING A NEW EVIDENTIARY HEARING
DATE**

On December 28, 2020, the Commission issued an order withdrawing this matter from adjudication for purposes of considering a consent proposal. Pursuant to that Order, the Commission stayed all proceedings before the Administrative Law Judge in this matter pending a determination by the Commission with respect to the consent proposal.¹ The Commission has twice extended the withdrawal of this matter from adjudication;² absent further extension, this matter is scheduled to revert to adjudicative status on May 4, 2021.

Once a matter has been withdrawn from adjudication, the Commission “may accept a proposed consent agreement, reject it and return the matter or affected portions thereof to adjudication for further proceedings, or take such other action as it may deem appropriate.” 16 C.F.R. § 3.25(f). Further consideration of the consent proposal is no longer in the public interest. Therefore, the Commission has determined to return this matter to adjudication. Accordingly,

IT IS HEREBY ORDERED that this matter be returned to adjudicative status and the stay in these proceedings be lifted; and

IT IS FURTHER ORDERED that the evidentiary hearing in this matter before the Administrative Law Judge of the Federal Trade Commission be rescheduled to commence on September 14, 2021, at 10:00 a.m.; and

1 *Traffic Jam Events, LLC*, No. 9395, Order Withdrawing Matter from Adjudication for the Purpose of Considering a Proposed Consent Agreement (Dec. 28, 2020), https://www.ftc.gov/system/files/documents/cases/d09395_commission_order_withdrawing_matter_from_adjudication_pursuant_to_commission_rule_3.25cpublic.pdf.

2 *Traffic Jam Events, LLC*, No. 9395, Order Extending Withdrawal of This Matter Until April 5, 2021 (Mar. 1, 2021), https://www.ftc.gov/system/files/documents/cases/d09395_commission_order_extending_withdrawalpublic.pdf; *Traffic Jam Events, LLC*, No. 9395, Order Extending Withdrawal of This Matter Until May 3, 2021 (Apr. 2, 2021), https://www.ftc.gov/system/files/documents/cases/d09395trafficjamorderextendwithdrawalmay3_002.pdf.

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IT IS FURTHER ORDERED that the Administrative Law Judge establish a revised prehearing schedule that will permit the evidentiary hearing to commence on the date set by the Commission.

By the Commission.

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IN THE MATTER OF

**HEALTH RESEARCH LABORATORIES, LLC,
WHOLE BODY SUPPLEMENTS, LLC,
AND
KRAMER DUHON**

Docket No. 9397. Order, May 14, 2021

Order granting in part and denying in part Respondents' motion to enter a new scheduling Order or, in the alternative, to transfer the case to the Commission.

ORDER FOR FURTHER PROCEEDINGS BEFORE THE COMMISSION

On April 20, 2021, the Administrative Law Judge (ALJ) granted Respondents' motion to transfer this matter to the Commission for further proceedings pursuant to Commission Rule 3.12(b)(2), 16 C.F.R. § 3.12(b)(2). Order Granting In Part and Denying In Part Respondents' Motion to Enter New Scheduling Order or, in the Alternative, to Transfer Case to the Commission (Apr. 20, 2021) ("April 20 Order").¹

Rule 3.12(b)(2) provides that a respondent who elects not to contest the allegations of fact in the complaint can, as Respondents did here, file an answer admitting all of the material allegations to be true. Such an answer constitutes a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, provides a record basis for the Commission to issue a final decision. Rule 3.12(b)(2). A Rule 3.12(b)(2) answer does not, however, necessarily terminate all proceedings in the case. For example, the respondent can -- and in this case, did -- reserve its rights to submit proposed findings of fact and conclusions of law. *Id.* Respondents' Answer also asserts a legal defense that challenges the constitutionality of the FTC's administrative process and of some elements of the FTC's structure.

Respondents argued to the ALJ that the case is now "ripe for a decision" without further discovery on the basis of a "record" consisting of the Complaint and Respondents' Answer. Respondents' Expedited Motion to Enter New Scheduling Order or, in the Alternative, Transfer Case to the Commission at 1-2 (Mar. 31, 2021). Similarly, Respondents have now argued that "the Commission is required to issue its final decision based solely on the facts alleged in the complaint." Response to Motion to Withdraw Expedited Motion to Reschedule Hearing Date and Request for Schedule at 2 (Apr. 26, 2021). Respondents have also filed Respondents'

¹ Transfer to the Commission moots a motion filed by Complaint Counsel to reschedule the evidentiary hearing. Expedited Motion to Reschedule Evidentiary Hearing Date (Mar. 30, 2021) ("Motion to Reschedule"). Complaint Counsel have subsequently filed a Motion to Withdraw Complaint Counsel's Expedited Motion to Reschedule Evidentiary Hearing Date and Request for Schedule (Apr. 26, 2021). Withdrawal of the Motion to Reconsider is granted; this Order sets out our determinations regarding scheduling. Respondents have moved for an extension of time to respond to the Motion to Reschedule. Respondents' Motion to Extend Time to Respond to Complaint Counsel's Motion to Reschedule the Evidentiary Hearing Date (Apr. 16, 2021). Respondents' motion for an extension is denied as moot.