

Interlocutory Orders, Etc.

IN THE MATTER OF

**HACKENSACK MERIDIAN HEALTH, INC.,
AND
ENGLEWOOD HEALTHCARE FOUNDATION***Docket No. 9399. Order, May 25, 2021*

Order granting Complaint Counsel and Respondents' motion to postpone the commencement of the administrative hearing in this proceeding.

ORDER GRANTING CONTINUANCE

On May 20, 2021, Complaint Counsel and Respondents Hackensack Meridian Health, Inc. ("HMH") and Englewood Healthcare Foundation ("Englewood") moved to postpone by 30 days the commencement of the administrative hearing in this proceeding, currently scheduled to begin on June 15, 2021, and to stay all pre-hearing deadlines by corresponding 30-day periods. Joint Expedited Motion for a Continuance of Administrative Proceedings ("Joint Motion") at 1, 4.

This Joint Expedited Motion follows the Commission's issuance on December 3, 2020, of an administrative complaint challenging a proposed transaction whereby HMH would acquire Englewood ("the Proposed Transaction"). The Commission at that time also filed a complaint in the U.S. District Court for the District of New Jersey seeking a preliminary injunction barring the Proposed Transaction until completion of the administrative proceeding. The preliminary injunction hearing concluded on May 18, 2021, and closing arguments are scheduled for June 2, 2021. The parties anticipate a decision in the federal district court action within the next several months. *Id.* at 2. The parties state that "[i]t is highly likely that [the preliminary injunction] ruling will cause these administrative proceedings to be suspended or rendered moot." *Id.* at 4.

The parties argue that granting the requested continuance and extending pre-hearing deadlines would protect the parties and third parties and their witnesses from unnecessary burdens and expense, without prejudicing the Commission. *Id.* at 1-4. They explain that third parties will need to review voluminous documents, submit line-by-line proposed redactions of confidential information, and prepare legal memoranda requesting *in camera* treatment of those materials. *Id.* at 3. Furthermore, all parties will have to bear the expense of preparing for a full trial, including document and data review and motion practice. *Id.* And party and third-party witnesses face the burden and disruption of preparing to testify and testifying. *Id.* According to the parties, these witnesses include operators of hospitals and clinicians, whose burdens are of particular concern during a time of global pandemic. *Id.* at 2.

Commission Rule 3.41(f) provides, in relevant part, that a pending "collateral federal court action that relates to the administrative adjudication shall not stay the proceeding [u]nless a court of competent jurisdiction, or the Commission for good cause, so directs." 16 C.F.R. § 3.41(f). This rule reflects the Commission's commitment to move forward as expeditiously as possible with its administrative hearings. *See, e.g.*, 16 C.F.R. §§ 3.1, 3.11(b)(4), 3.41(b).

Interlocutory Orders, Etc,

Yet, as we have explained in the past, the public interest is not ideally served if litigants and third parties bear expenditures that later prove unnecessary. *See, e.g., In re Sanford Health*, Docket No. 9376, 2017 WL 5845596, at *1 (F.T.C. Nov. 21, 2017). Commission Rule 3.41(b) authorizes the Commission to delay a hearing date, upon a showing of good cause. 16 C.F.R. § 3.41(b). Under the circumstances presented, we find that the requested continuance and the extension of pre-hearing deadlines are justified. Deferring the start of trial and extending pre-hearing deadlines by 30 days will provide additional time for resolution of the district court action, which could obviate the need for an administrative hearing, without unduly delaying the Commission proceeding. We have granted continuances under comparable circumstances in the past. *See, e.g., In re Thomas Jefferson Univ.*, Docket No. 9392, 2020 WL 7237952 (F.T.C. Nov. 6, 2020); *In re RAG-Stiftung*, Docket No. 9384, 2020 WL 91294 (F.T.C. Jan. 2, 2020); *In re Sanford Health*, Docket No. 9376, 2017 WL 6604532 (F.T.C. Dec. 21, 2017); *Sanford Health*, 2017 WL 5845596; *In re The Penn State Hershey Med. Ctr.*, Docket No. 9368, 2016 WL 3345405 (F.T.C. June 10, 2016); *In re Advocate Health Care Network*, Docket No. 9369, 2016 WL 3182774 (F.T.C. June 2, 2016). Accordingly,

IT IS HEREBY ORDERED that the Joint Expedited Motion for a Continuance of Administrative Proceedings is **GRANTED**; and

IT IS FURTHER ORDERED that the evidentiary hearing in this proceeding shall commence at 10:00 a.m. on July 15, 2021, and that, unless modified by the Chief Administrative Law Judge, all related pre-hearing deadlines shall be extended by 30 days.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

TRAFFIC JAM EVENTS, LLC,

AND

DAVID J. JEANSONNE II

Docket No. 9395. Order, June 9, 2021

Order granting Complaint Counsel's request for court enforcement of a subpoena to nonparty Platinum Plus Printing, LLC.

ORDER DIRECTING GENERAL COUNSEL TO ENFORCE NONPARTY SUBPOENA

On December 10, 2020, Complaint Counsel filed a motion requesting that the Chief Administrative Law Judge ("ALJ") certify to the Commission, pursuant to Commission Rule 3.38(c), 16 C.F.R. § 3.38(c), Complaint Counsel's request for court enforcement of a subpoena to nonparty Platinum Plus Printing, LLC ("PPP"). PPP opposed the motion, asserting that the subpoena was overbroad and sought information that was irrelevant or could be obtained from parties to the action. Following a period when this proceeding had been removed from adjudication, on May 13, 2021, the ALJ granted Complaint Counsel's motion, certifying their request for court enforcement of the subpoena and recommending that court enforcement be sought. Having reviewed the parties' respective filings and the ALJ's certification and recommendation, we direct the General Counsel to seek enforcement of the subpoena in federal district court.¹

Respondents Traffic Jam Events, LLC and its owner, managing member, and president, David J. Jeansonne II, provide marketing services to auto dealerships nationwide. Complaint ¶¶ 2, 3; Answer ¶¶ 2, 3. As Respondents put it, Traffic Jam Events "is in the business of creating mailers on behalf of automotive dealerships to promote automotive sales." Answer at 1. The Commission's Complaint charges that Respondents violated the FTC Act by (1) providing false or misleading information about COVID-19 stimulus relief in connection with their marketing of motor vehicles and (2) falsely or misleadingly advertising that consumers had won a specific prize that could be collected by visiting a particular auto dealership, when consumers had not won the specific prize. Complaint ¶¶ 15-19. The Complaint also charges that Respondents failed to make certain disclosures required by the Truth in Lending Act and Regulation Z, 12 C.F.R. § 226.24(d). Complaint ¶¶ 20-23.

¹ We use the following abbreviations for citations to the pleadings:

- Motion: Complaint Counsel's Motion to Certify to the Commission a Request Seeking Court Enforcement of a Subpoena *Duces Tecum* Issued to Platinum Plus Printing, LLC (Dec. 10, 2020)
- Widor Decl.: Declaration of Thomas J. Widor attached to Motion
- Opposition: Platinum Plus Printing, LLC's Response to Complaint Counsel's Motion to Certify (Dec. 21, 2020)
- ALJ Order: Order Granting Motion for Certification to the Commission of Request for Court Enforcement of Nonparty Subpoena (May 13, 2021)