

attaches hereto the Affidavit of Michael J. Knight, an employee of BP Oil International with knowledge of the harm BP will incur if its documents become public.

Complaint counsel and counsel for AspenTech have stated that they do not intend to oppose this motion.

BACKGROUND

BP is a third party witness in this proceeding. [REDACTED].

BP'S CONFIDENTIAL DOCUMENTS DESERVE IN CAMERA TREATMENT UNDER THE FEDERAL TRADE COMMISSION'S RULES OF PRACTICE

The information contained in the documents for which BP is seeking *in camera* treatment is highly competitively sensitive. If these documents were to become available to BP's competitors, [REDACTED] BP would suffer serious and immediate harm to its ability to compete if this information became known to its rivals. [REDACTED] BP has taken every possible step to insure the secrecy of its confidential documents. For these reasons, BP's documents should be afforded *in camera* treatment.

A. Disclosure of the Information Contained in BP's Documents Could Result In Serious Competitive Injury to BP

In camera treatment is warranted if public disclosure will likely result in a clearly defined, serious injury to BP. *In re Dura Lube Corp.*, 1999 F.T.C. Lexis 255, *6. A corporation can demonstrate the risk of a clearly defined, serious injury by showing that "the information in the documents is 'sufficiently secret' and 'sufficiently material' to its business that disclosure would result in serious competitive injury." *In re Rambus*, 2003 WL 21008650 (F.T.C. April 23, 2003); *see also In re Bristol-Myers Co.*, 90 F.T.C. 455, 456 (1977); *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961). Among the factors the court will consider in evaluating whether the information in BP's documents is

“sufficiently secret” and “sufficiently material” to warrant in camera treatment are the extent to which the information is known outside of BP’s business, the extent of the measures taken by BP to guard the secrecy of the information, and the value of the information to BP’s competitors. *See In re Bristol-Myers Co.*,

public record in this proceeding. The information contained in BP's documents is also not likely to be necessary to explain the rationale for the court's decision in this matter. Public release of the documents would inflict serious competitive harm on BP. The balance of interests favors *in camera* treatment of BP's confidential documents. *See In re*

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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In the Matter of)	
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ASPEN TECHNOLOGY, INC.,)	Docket No. 9310
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Respondent.)	
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[PROPOSED] ORDER

Upon consideration of Non-Party BP America, Inc.’s Unopposed Motion for *In Camera* Treatment of Business Documents Designated As Trial Exhibits, **IT IS HEREBY ORDERED** that the following documents are to be provided *in camera* treatment for a period of five yearsfive year

Stephen J. McGuire
Chief Administrative Law Judge

Dated: _____

CERTIFICATE OF SERVICE

I certify that on April 27, 2004, I cause

I also certify that on April 27, 2004, I cau