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	Foods in appropriate with this matter. In addition The dan I - 1 ODO 1
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	investigational hearing by the FTC and a deposition by both the FTC and Whole Foods. At all
	times, Trader Joe's has worked diligently to provide both the FTC and Whole Foods with the
	information that was requested.
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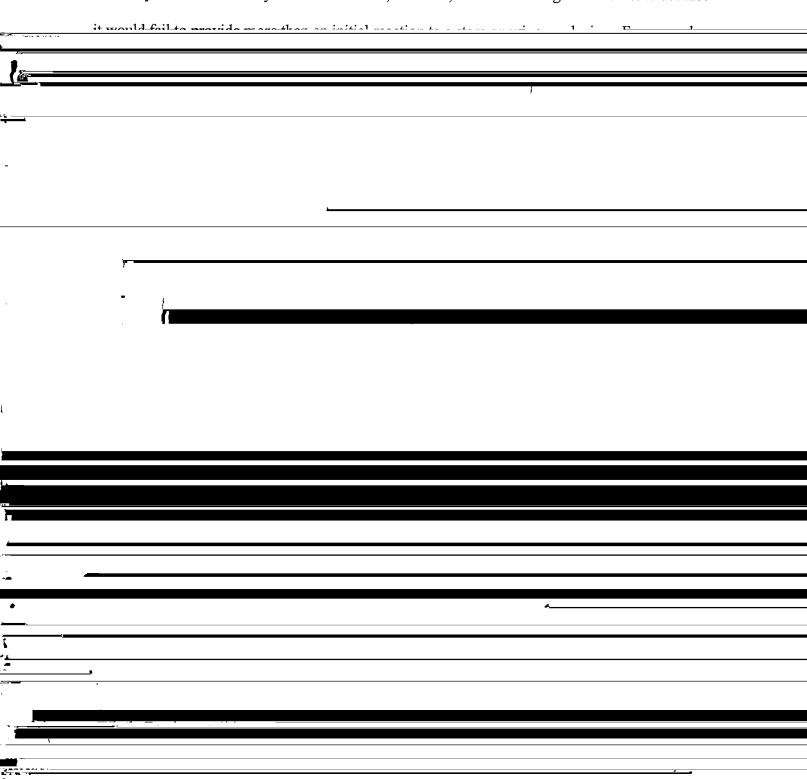
	evidence. ³ In an effort to provide Whole Foods with information that could be relevant, Trader
	Joe's offered to provide "the average sales for all Trader Joe's stores within each Geographic
	Area for the first half of 2006, 2007, and 2008." Counsel for Trader Joe's and Whole Foods
	discussed this and ather isospec relating to the Calanda and a second of the Calanda and the C
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effort to ensure that Whole Foods would receive the information it requested and needed to defend itself against the FTC.

On or about December 10, 2008, counsel for Whole Foods represented to counsel for Trader Joe's that New Seasons Market ("New Seasons") had filed a motion to quash an identical

defense, including relevant product market(s) definition, and the Court should not compel Trader Joe's to provide it.

Evidence demonstrating the impact of opening or closing of a Whole Foods or Wild Oats store on other stores in the area could be relevant to Whole Foods' defense to the Complaint issued by the FTC. Weekly sales information, however, will not shed light on that issue because



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CONCLUSION

For the foregoing reasons, Whole Foods' Motion for Enforcement of Subpoena Duces

Tecum Issued to Trader Joe's should be denied.

Dated: January 26, 2009

Richard G. Parker

Scott Reiter

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Facsimile: (202) 383-5414

Attorneys for Non-Party T.A.C.T Holding Company

UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

In the matter of	
WHOLE FOODS MARKET, INC.,))) Docket No. 9324
Respondent.	
FOR ENFORCEMENT OF	YING WHOLE FOODS MARKET, INC.'S MOTION F SUBPOENA DUCES TECUM ISSUED TO NONC.T. HOLDING COMPANY
Upon due consideration of Who	le Foods Market, Inc.'s Motion for Enforcement of
Subnoena Duces Tecum Issued to Non-	Party T.A.C.T. Holding Company it is hereby
ORDERED that Whole Food's motion i	is DENIED.
IT IS SO ORDERED.	
Date:	
	D. Michael Chappell Administrative Law Judge

CERTIFICATE OF SERVICE

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	Motion for Enforcement of Subpoena Duces Tecum Issued to Third Party T.A.C.T. Holding Company on the following persons by the indicated method:

By Hand Delivery and Electronic Mail:

Donald S. Clark, Secretary Federal Trade Commission 600 Pennsylvania Avenue, N.W. Washington, DC 20580

The Honorable D. Michael Chappell Chief Administrative Law Judge 600 Pennsylvania Avenue, N.W. Washington, DC 20580

By Electronic Mail and First Class Mail: