facts set forth ~erein are based on my personal knowledge or information made known to me in the course of my official duties.
3. Watson is a publicly held company that develops, manufactures and markets
bioequivalent generic pharmaceutical products. It is incorporated in the State of Nevada, with its principal place of business at 311 Bonnie Circle, Corona, California, and offices in Morristown, New Jersey. Paul M. Bisaro is the company's President and Chief Executive Officer, and works in Watson's New Jersey offices. Watson transacts business throughout the United States, including Washington, D.C. Watson is engaged in, and its businesses affect, "commerce," as that term is defined in Section 4 of the Federal Trade Act ("FTC Act"), 15 U.S.C. § 44.
4. Cephalon markets the patented drug Provigil, which contains modafinil. Provigil is a "wakefulness-enhancing" drug with annual sales of over $800 million.
5. The Commission issued an omnibus Resolution Authorizing Use of Compulsory
Process in a Nonpublic Investigation,

Competition are working on this matter, and where relevant documents and information are located.
6. Carlsbad, Watson's development partner, and several other generic pharmaceutical companies, filed abbreviated new drug applications ("ANDAs") to obtain Food and Drug Administration ("FDA") approval to develop, manufacture, and sell generic versions of Provigil. Each of the generic firms listed in the process resolution, other than Watson/Carlsbad, filed their ANDAs on the same day, and before any other filers, and thus were eligible under applicable law for 180 days of joint marketing exclusivity for their modafinil product at such time the ANDA is approved.
7. Cephalon

was a "first filer" for the '346 patent, and thereby could block market entry for later-filing

genencs.

10. As part of its continuing investigation of "agreements regarding any modafinil

products," the Commission issued Civil Investigative Demands ("CIDs") on May 19,2009 to

Watson and Carlsbad to detennine, inter alia, whether Watson is a party

California headquarters and on his counsel in Washington, D.C., and Mr. Bisaro has not contested service.

13. On July 30, 2009, Mr. Bisaro filed a petition to quash the July 22,2009 subpoena.
Pet. Exh. 4. On November 13,2009, Commissioner Pamela Jones Harbour, acting as the Commission's delegate, denied the July 30 petition. Pet. Exh. 5. On November 27,2009, Mr. Bisaro and Watson requested review by the full Commission of the November 13 decision. Pet. Exh.6.
14. On April 2, 2010, the full Commission denied Watson's request for review, and
ordered that Mr. Bisaro appear at an investigational hearing on April 15, 2010 or as otherwise agreed by Commission staff. Pet. Exh. 7. In a letter dated April 13, 2010, Watson's attorneys informed Commission staff that Mr. Bisaro would not appear at the April 15, 2010 investigational hearing and does not intend to comply with the July 22, 2009 subpoena issued by the Commission. Pet. Exh. 8.

15. Commission staff met with counsel for Mr. Bisaro on April 19, 2010, at counsel's
request, to discuss Mr. Bisaro's testimony. At the meeting, counsel reiterated that Mr. Bisaro would not appear to testify at an investigational hearing, as required by the July 22, 2009 subpoena and the Commission's ruling of April 2, 2010.
16. The Commission requires the testimony of Mr. Bisaro to provide crucial information
not yet provided by Watson. Mr. Buchen identified Mr. Bisaro as the only person at Watson with whom he spoken about certain key issues in this investigation. Mr. Bisaro's failure to comply with the subpoena materially impedes the Commission's investigation to determine whether Watson has entered into any agreements that unlawfully restrict competition for generic

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Provigil potentially costing consumers hundreds of millions of dollars a year.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 23, 2010

~R0 A

James Rh~' Esq.

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