





rules, or unless the Administrative Law Judge orders otherwise, the frequency or sequence of these methods is not limited." Thus the ALJ is vested with the authority to

grant Respondent's Motion, regardless of where it stands with respect to the discovery deadline or whether it is listed as a specific discovery method in Rule 3.31.

Here, there is a compelling need for such discovery. Complaint Counsel, for unknown reasons, has refused to disclose to Respondent basic information regarding the states of licensure of its individual attorneys and the capacity in which various attorneys holding themselves out to be Complaint Counsel are involved in this matter. Attorneys, including Complaint Counsel, have a professional obligation to provide such information.

~~For instance, the Disciplinary Committee of the New York State Bar Association, in its~~



WHEREFORE, Respondent requests that the Administrative Law Judge GRANT its Application for Review and certify the denial of Respondent's Motion for Disclosure for an interlocutory appeal.

This the 18th day of February, 2011.

ALLEN AND PINNIX, P.A.

/s/ Alfred P. Carlton, Jr.

By: \_\_\_\_\_

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ALLEN AND PINNIX, P.A.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of February, 2011, I electronically filed the foregoing with the Federal Trade Commission using the Federal Trade Commission E-file system, which will send notification of such filing to the following:

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room H-172  
Washington, D.C. 20548

[dclark@ftc.gov](mailto:dclark@ftc.gov)

I hereby certify that the undersigned has this date caused a copy of the foregoing to be served

upon all parties to this cause by electronic mail as follows:

William L. Lanning  
Bureau of Competition

Steven L. Osnowitz  
Bureau of Competition

I also certify that I have sent courtesy copies of the document via Federal Express and electronic mail to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.

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Room H-113  
Washington, D.C. 20580  
[oalj@ftc.gov](mailto:oalj@ftc.gov)

This the 18th day of February, 2011.

/s/ Alfred P. Carlton, Jr.  
Alfred P. Carlton, Jr.

#### **CERTIFICATION FOR ELECTRONIC FILING**

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and by the adjudicator.

/s/ Alfred P. Carlton, Jr.  
Alfred P. Carlton, Jr.



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

In the Matter of )  
 )  
The North Carolina Board of )  
Dental Examiners, )  
Respondent. )

DOCKET NO. 9343

**ORDER DENYING RESPONDENT'S MOTION FOR DISCLOSURE**

I.

On January 25, 2011, Respondent filed a motion entitled "Motion for Disclosure of Non-Privileged and Non-Restricted Agency Information" ("Motion"). Complaint Counsel filed an opposition to the Motion on January 28, 2011 ("Opposition").



In support of the Motion, Respondent cites the general motions authority under Commission Rule 3.22(a), 16 C.F.R. § 3.22(a). Respondent also states that Interrogatory 8 of Respondent's First Set of Interrogatories requested "[w]hich jurisdiction's bar rules are binding upon the Commission's legal staff including Complaint Counsel" but that Complaint Counsel's answer, which listed the states of licensure of Complaint Counsel's attorneys in the matter, collectively, without connecting these states to any particular

attorney on the matter, was insufficient. Motion ¶¶ 3-8. Respondent further contends that it has not been informed of the various Complaint Counsel's "duties, obligations, and authority," Motion ¶¶ 1-2, and the fact that multiple attorneys are acting on the same matter for Complaint Counsel has created communication difficulties. Motion ¶ 9. The Information Requested, Respondent asserts, is "relevant to Counsel for Respondent's ability to undertake prosecution of this case and to effectively represent" Respondent. Motion ¶ 10.

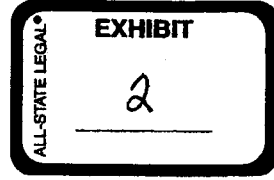
Complaint Counsel opposes the Motion on the grounds that the fact-discovery deadline in this matter passed two months ago: a "motion for disclosure" of agency

information is not a discovery method recognized by the Commission's Rules of Practice; and the only alternative rule for obtaining agency information is a Freedom of Information Act request under Commission Rule 4.11.<sup>1</sup>

### III.

Respondent's Motion is without merit. First, other than the general motions authority under Commission Rule 3.22(a), 16 C.F.R. § 3.22(a), Respondent, although



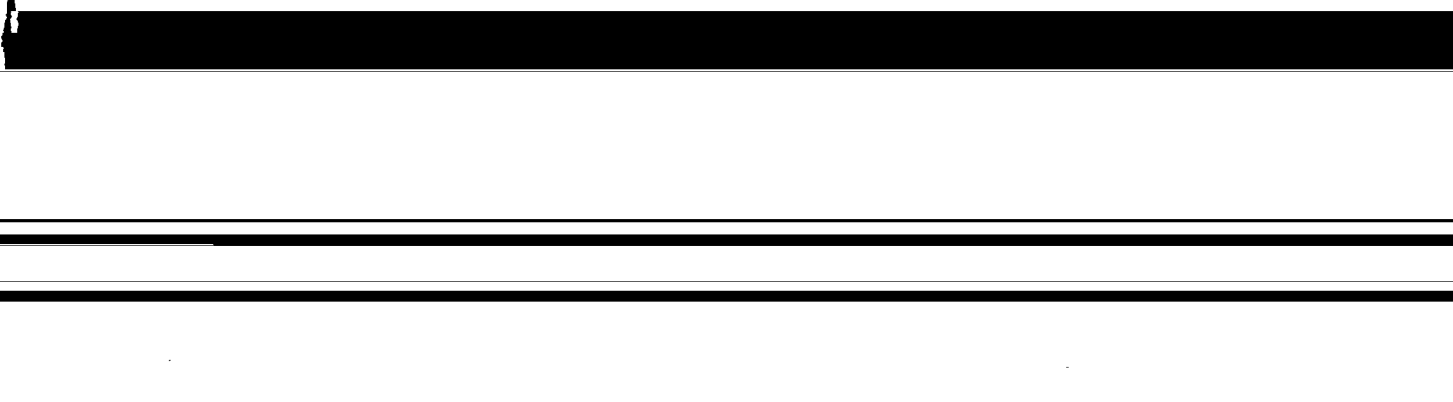


**In the Matter of:**

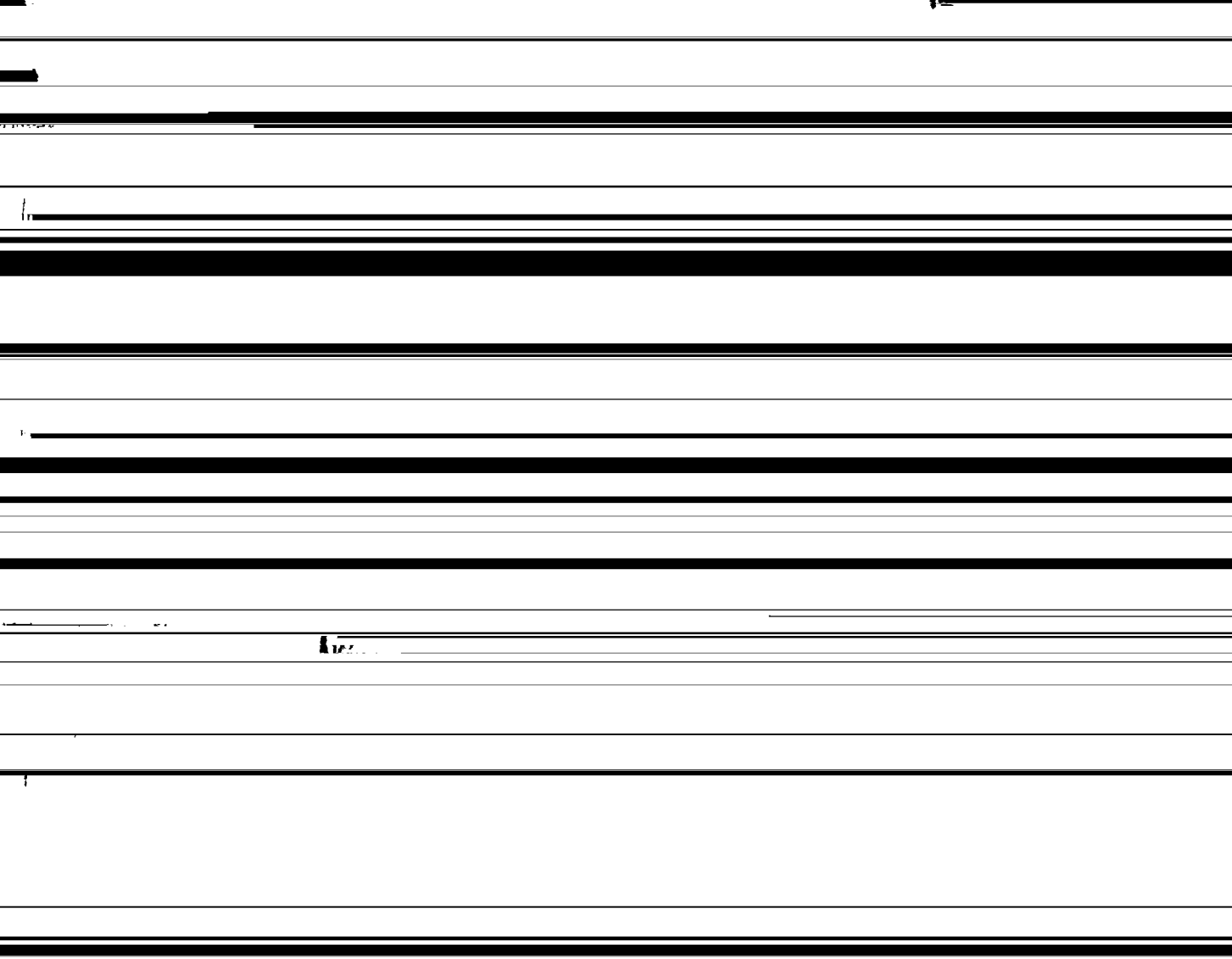
North Carolina Board of Dental Examiners

*February 4, 2011*  
*Van B. Haywood, DMD*

**Condensed Transcript with Word Index**



<p>1 UNITED STATES OF AMERICA  2 BEFORE THE FEDERAL TRADE COMMISSION  3  4 In the Matter of:  5 THE NORTH CAROLINA BOARD  6 OF DENTAL EXAMINERS                      Docket No. 9343  7  8 DEPOSITION</p>	<p>1 2 3 4 5 6 7</p>	<p style="text-align: right;">3</p> <p>1 STIPULATION: The deponent does not  2 waive the right to read and sign the deposition  3 transcript.  4 * * * * *  5 (Witness sworn.)  6 MR. CARLTON: If I may go on the record  7 for a moment. I'd like to enter an appearance, and</p>
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cc: Noel Allen; Jack Nichols; jackens.nichols@gmail.com; Kathy Clodson; Debra; Richard R

As indicated in my earlier email, I wish to speak to you this morning regarding several matters.

I am available until 1pm. I am traveling and can be reached at (304) 345-6500, Room 1615. Please let me know what time is convenient for you.

There is an additional matter I wish to discuss with you this morning. It concerns the professional information regarding Complaint Counsel we have requested on numerous occasions by phone, by Interrogatory, and by email on January 13 (to