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Upon consideration of the arguments in support of and in opposition to Respondent's Motion, as set forth below, Respondent's Motion is DENIED.

II.

In support of its Motion, Respondent argues that the Complaint in this matter charged that dentists in North Carolina, acting through the instrument of the North Carolina State Board of Dental Examiners ("Board"), are colluding to exclude non-dentists from competing

with dentists in the provision of tooth whitening services, but that Complaint General failed to

Respondent has “not suggested that this is a joint profit-sharing venture sharing the risk.”

comprise the Board compete with one another, and that “that is sufficient to show collusion and conspiracy.” Complaint Counsel argues that “accommodation or agreement” has also been demonstrated.

Next, Complaint Counsel contends that there has been evidence of loss to consumers, evidence that “distributors suffered substantial losses which caused consumer harm in North