

documents reflecting revenues of Board members. Respondent supports its motion with the Declaration of Bobby White, Chief Operating Officer of the North Carolina State Board of Dental Examiners.

The Scheduling Order entered in this case set January 7, 2011 as the deadline for filing motions for *in camera* treatment of proposed trial exhibits. In addition, the Scheduling Order set December 21, 2010 as the deadline for parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing to provide notice to the opposing party. Complaint Counsel states that it sent Respondent such notice in December 2010. Complaint Counsel's Opposition to Respondent's Motion to Prevent Public Posting at 3. Respondent states that it did not receive the notice "that would allow for it to move for *in camera* treatment." Motion at 2.

Accepting as true Respondent's statement that it did not receive the December 2010 notice, that fact does not demonstrate that Respondent was not aware of its obligation to file a

Moreover, Respondent's argument ignores the fact that the Post-Trial Filings were filed pursuant to Commission Rule 3.46, which sets forth: "Within 21 days of the closing of the hearing record, each party may file with the Secretary for consideration of the Administrative Law Judge proposed findings of fact, conclusions of law, and rule or order, together with reasons therefor and briefs in support thereof. . . . If a party includes in the proposals **information that has been granted *in camera* status** pursuant to § 3.45(b), the party shall file 2 versions of the proposals in accordance with the procedures set forth in § 3.45(e)." 16 C.F.R. § 3.46(a) (emphasis added). Thus, Rule 3.46 requires a party to file two versions of post-trial filings only where the post-trial filings contain information that has been

granted *in camera* status and not, as is the case here, where the post-trial filings contain information that was designated as confidential, but for which *in camera* status was not granted.

Following the June 3, 2011 Order that denied Respondent's motion to prevent the

CX132, CX160, CX270, CX276, CX303, CX315, CX316, CX317, CX318, CX319, CX320, CX321, CX368, CX439, CX447, CX462, CX471, CX478, CX479, CX480, CX481, CX482, CX483, CX530, CX537, CX622, CX623, CX624, CX625, CX639, CX640, CX656, CX658, CX659, and CX660.

record. Although these documents have now been accessed in various states, it is only the