UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Jon Leibowitz, Chairman**
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

PUBLIC

RESPONDENT'S APPEAL BRIEF

Counsel for Respondent:

SUBJECT INDEX

Federal Statutes

State Statutes

State Attorneys General Opinions

Other Authorities

Competition and Consumer Protection: Strange Bedfellows or Best Friends?

How N.C.'s Budget Troubles Stack Up

[illegible]

1. The State Board's Role as a State Agency.

[illegible] Id. [illegible]

See

2. The State Board's Investigative Activities.

[illegible]

[illegible] 4

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

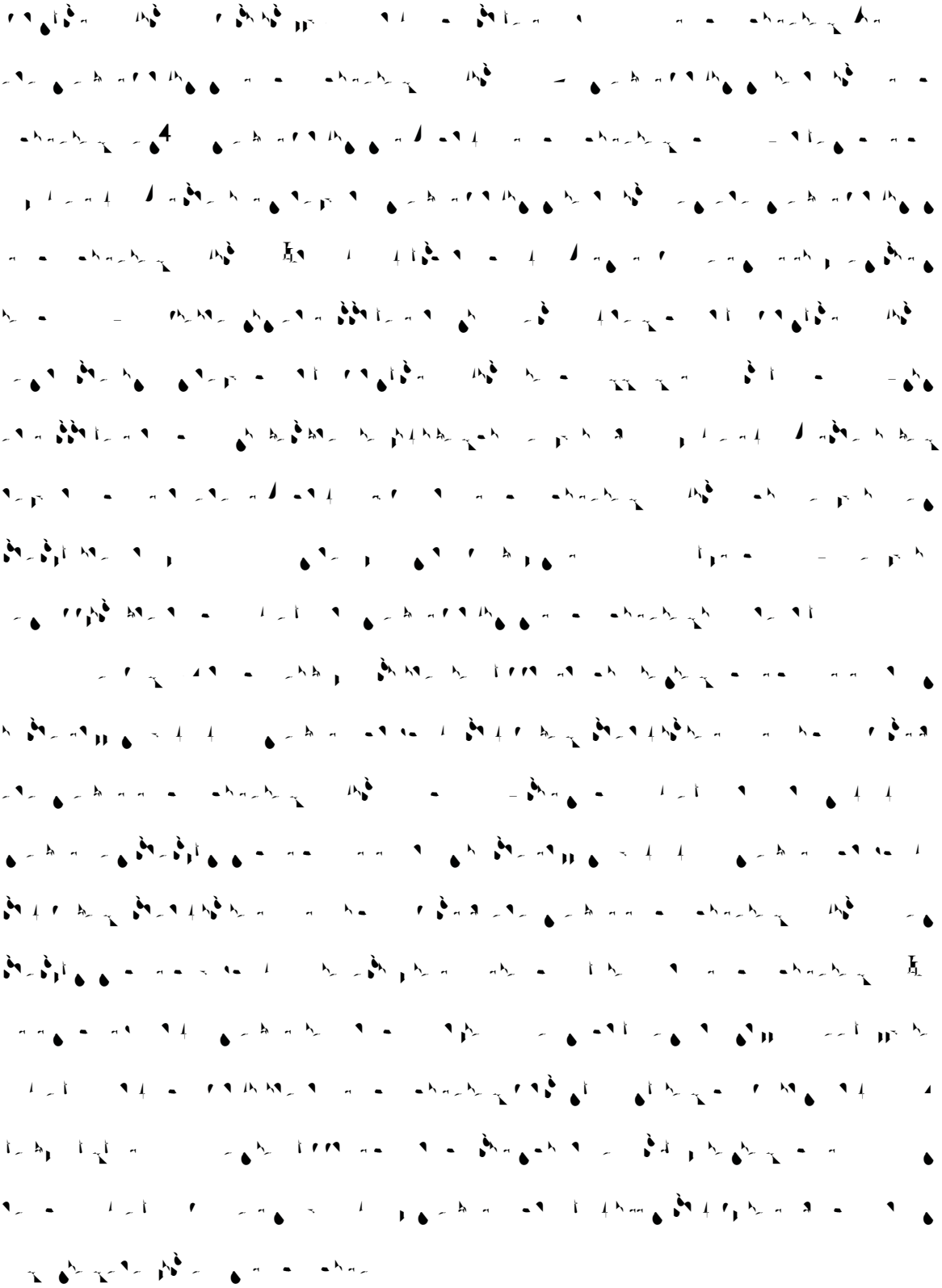
[illegible]

[illegible]

[illegible]

[illegible] e.g. [illegible] e.g. [illegible] 4 [illegible]

[illegible]



[illegible]

[illegible] **4** [illegible]

duces tecum [illegible] / [illegible]

[illegible]

[illegible]

[illegible] **many of them do not administer any in-office teeth whitening at all**

Dr. Allen [illegible]

Dr. Burnham [illegible]

Dr. Feingold [illegible]

Dr. Hardesty [illegible]

Dr. Morgan. [illegible]

[illegible] **Dr. Owens** [illegible] **44** [illegible] **44** [illegible]

Dr. Wester [illegible] **4** [illegible]

---

[4] [illegible]

[illegible]

[illegible]

[illegible]

[illegible] **<u>Nowhere in Dr. Baumer's cited testimony does he define the Board members interest as a "nontrivial financial interest."</u>**

[illegible]

6. Reliance on Dr. Giniger's Testimony Without Proper Foundation.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

7. Other Inaccuracies in the Administrative Law Judge's Findings.

[illegible]

[illegible]

[illegible]

B. Summary of the Argument.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

II. SPECIFICATION OF QUESTIONS INTENDED TO BE URGED

[illegible]

[illegible]

available at

i.e

A. The Administrative Law Judge Did Not Have Jurisdiction to Hear the Instant Case.

1. The Administrative Law Judge Incorrectly Concluded that the State Board Is a "Person" Within the Meaning of the Federal Trade Commission Act.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] e.g. [illegible]

[illegible]

[illegible]

[illegible]

et al [illegible] supra [illegible] 4

1. The State Board Did Not Undertake a Contract, Combination, or Conspiracy to Restrain Trade.

[illegible] supra [illegible] 4

[illegible]

2. The Administrative Law Judge's Relevant Market for Teeth Whitening Services in North Carolina Conflicts with Evidence Presented on Teeth Whitening Services.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

per se

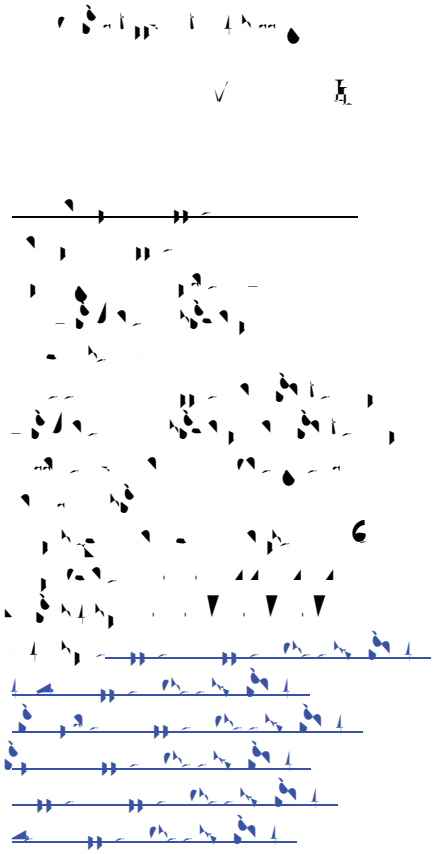
[illegible]

[illegible]

4 [illegible]

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:	**Jon Leibowitz, Chairman**
	William E. Kovacic
	J. Thomas Rosch
	Edith Ramirez



CERTIFICATE OF SERVICE

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

CERTIFICATION FOR ELECTRONIC FILING