

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

**APR 27 2010**

Clerk, U.S. District and  
Bankruptcy Courts

**FEDERAL TRADE COMMISSION**

600 Pennsylvania Ave., N.W.,  
Washington, DC 20580,

Petitioner,

v.

**PAUL M. BISARO,**

President and CEO,  
Watson Pharmaceuticals, Inc.  
360 Mt. Kemble Avenue,  
Morristown, NJ 07962

Respondent.

Misc. No.

Case: 1:10-mc-00289

Assigned To : Kollar-Kotelly, Colleen

Assign. Date : 4/27/2010

Description: Miscellaneous

**PETITION OF FEDERAL TRADE COMMISSION FOR AN ORDER**



Use of Compulsory Process in a Nonpublic Investigation (FTC File No. 0610182). Pet. Exh. 2.

The resolution authorized the use of compulsory process to determine whether Cephalon, Inc.

("Cephalon"), Teva Pharmaceutical Industries, Inc. (and its affiliate Teva Pharmaceuticals USA,

Inc.), Barr Laboratories, Inc., Rainbows Laboratories, Inc., Milan Pharmaceuticals, Inc.,

Carlat Technology, Inc. ("Carlat"), Watson Pharmaceuticals, Inc. ("Watson"), or others

have engaged in any unfair methods of competition that violate Section 5 of the FTC Act, 15

U.S.C. § 45, by entering into any agreements regarding any modafinil products. *Id.* The

resolution directed that any and all compulsory process available to it be used in connection with

this investigation. Pet. Exh. 1 at 5. Pet. Exh. 2. The investigation is nationwide in scope and is

Executive Officer. Pet. Exh. 1 ¶ 11.

8. Watson, however, provided only partial responses to the CID questions. Pet. Exh.

1 ¶ 10. Accordingly, on or about June 11, 2009, Commission staff advised Watson, by letter

that its CID responses were incomplete, identified the deficiencies, and requested that Watson

provide the missing information. *Id.* Watson, however, denied that its responses were deficient

incomplete and contradictory responses to CIDs and subpoenas, provide ample grounds for asking Mr. Bisaro to sit for an investigational hearing as part of the Commission's continuing

investigation." Pet. Exh. 1 ¶ 13; Pet. Exh. 5.

13. Thereupon, on November 27, 2009, Mr. Bisaro, by his counsel, requested review by the full Commission of Commissioner Harbour's November 13, 2009 decision, denying Mr. Bisaro's petition to quash. *See* 16 C.F.R. 2.7(f). Pet. Exh. 1 ¶ 13; Pet. Exh. 6.

14. On April 2, 2010, the Commission denied Mr. Bisaro's petition, and directed Mr.

materially impeded the Commission's law enforcement inquiry. Pet. Exh. 1 ¶ 16.

18. It is in the public interest that the Commission's investigation no longer be delayed by Respondent's refusal to provide testimony in response to the subpoena.

WHEREFORE, the Commission invokes the aid of this Court and prays:

1. That this Court enter an order directing Respondent, Paul M. Bisaro, to show cause why he should not comply with and obey the subpoena *ad testificandum* directing him to appear and provide testimony;

2. That this Court subsequently enter its own order requiring Respondent to appear and testify, as directed by the Commission's subpoena, ten days from the date of issuance of this Court's order, or at such other date as may be established by the Commission; and

That the Commission be granted whatever relief the Court deems just and

[REDACTED]

[REDACTED]

[REDACTED]

proper.

Date: April 23, 2010

Respectfully submitted,

DAVID C. SHONKA

Acting General Counsel  
(D.C. Bar No. 224576)

JOHN F. DALY  
Deputy General Counsel for Litigation

JOHN F. DALY

LESLIE RICE MELMAN  
Assistant General Counsel for Litigation  
(D.C. Bar No. 266783)

# Petition Exhibit 2



**The Commission Resolution Authorizing Use of Compulsory Process – FTC File No. 0610182 is a public document**

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman  
Pamela Jones Harbour  
Jon Leibowitz  
William E. Kovacic  
J. Thomas Rosch

[REDACTED]

# Petition Exhibit 3

**The Commission's July 22, 2009, Subpoena *Ad Testificandum* to Respondent is a public document**



**SUBPOENA AD TESTIFICANDUM**

1. TO

Paul Bisaro  
President/CEO, Watson Pharmaceuticals, Inc.  
*a/o Steven C. Sunshine, Esq.*

2. FROM

UNITED STATES OF AMERICA

**RETURN OF SERVICE**

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....  
.....  
.....

*on the person named herein on:*

.....

*(Month, day, and year)*

.....

*(Name of person making service)*

.....

*(Official title)*

