

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

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

In the Matter of	)	
	)	<b>Docket No. 9324</b>
<b>WHOLE FOODS MARKET, INC.,</b>	)	
<b>a corporation.</b>	)	<b>PUBLIC</b>
	)	
	)	

**ORDER WITHDRAWING MATTER FROM ADJUDICATION  
UNTIL FEBRUARY 5, 2009**

Respondent Whole Foods Market, Inc., has moved, pursuant to Rule 3.25(b) of the Commission Rules of Practice, to withdraw this matter from adjudication for the purpose of considering a proposed consent agreement. Respondent also requests that its motion and attachments thereto be treated as non-public. Complaint counsel have taken no position with respect to Respondent’s motion. The ALJ has certified the motion to the Commission, pursuant to Rule 3.25(d).

Upon consideration of the motion, the Commission has determined to withdraw this matter from adjudication for five (5) business days. Absent another order by the Commission, this matter will revert to Part 3 adjudicative status at 12:01 a.m. on Thursday, February 5th.

With regard to Respondent’s request for non-public treatment of its motion and attachments thereto, pursuant to Rule 3.25(b), Respondent’s proposed Agreement Containing Consent Order and proposed Decision and Order will not be placed on the public record unless and until accepted by the Commission. We can discern no good reason, however, for according non-public treatment to Respondent’s motion and other attachments. There is a strong presumption that the public has a right to know what is happening in the Commission’s litigation, and Respondent has made no showing to justify keeping these materials off the public record. Accordingly,

**IT IS ORDERED THAT** Respondent’s request to withdraw this matter from adjudication is **granted**. This matter is withdrawn from adjudication until 12:01 a.m. on Thursday, February 5, 2009, at which time it will return to adjudicative status under Part 3 of the Commission Rules of Practice.

**IT IS FURTHER ORDERED THAT** Respondent's request for non-public treatment of its motion and attachments thereto is **granted in part and denied in part**, as follows:

1. The attachments to Respondent's motion titled Agreement Containing Consent Order and proposed Decision and Order will not be placed on the public record unless and until accepted by the Commission, and
2. Respondent's motion and remaining attachments thereto will be placed on the public record.

By the Commission.

Donald S. Clark  
Secretary

Issued: January 28, 2009