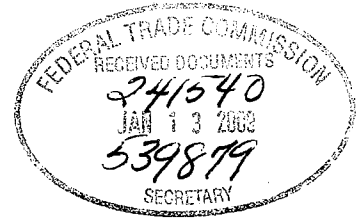


ORIGINAL

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of )  
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Polypore International, Inc. )  
a corporation )  
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Docket No. 9327

PUBLIC DOCUMENT

**MEMORANDUM IN SUPPORT OF RESPONDENT’S MOTION TO COMPEL EXIDE  
TECHNOLOGIES TO PRODUCE DOCUMENTS REQUESTED  
BY SUBPOENA DUCES TECUM**

Respondent Polypore International, Inc. (“Polypore”) respectfully submits this memorandum in support of its Motion to Compel Exide Technologies (“Exide”) to Produce Documents Requested by Subpoena *Duces Tecum*, as amended by agreement between Polypore and Exide, in accordance with Commission Rule § 3.38(a)(2).

**FACTUAL BACKGROUND**

Respondent served a subpoena *duces tecum* on Exide on November 10, 2008 (hereinafter “the Subpoena”). (Tab A). The Subpoena originated in an adjudicatory proceeding currently pending before the Federal Trade Commission (“Commission” or “FTC”) in which Polypore is alleged to have violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 45, by its acquisition of Microporous Products L.P. (“Microporous”). The Subpoena was one of several subpoenas *duces tecum* issued by the Commission’s Administrative Law Judge, on behalf of Respondent, and directed to participants in the battery separator industry – including both manufacturers of batteries and separators. Materials responsive to the Subpoena were to be produced for inspection on November 25, 2008.

Counsel for Respondent and counsel for Exide were in communication about the Subpoena soon after its service. (See generally January 7, 2009 e-mail of Eric D. Welsh,

Esq.)(Tab B). Exide did not file any motions or objections with this Court in response to the Subpoena. Since the Subpoena was first served, however, counsel for Respondent attempted to negotiate in good faith with counsel for Exide in order to discuss and resolve any concerns Exide had concerning its compliance with the Subpoena. (See e-mail correspondence of November 20, 2008, November 26, 2008, December 4, 2008, December 22, 2008, and January 5, 2009)(Tab C). In fact, Counsel for Respondent and counsel for Exide have had numerous telephone conferences, including on November 18, 2008, November 25, 2008 and January 5, 2009, and have exchanged numerous e-mails in an attempt to move towards the production of the requested documents. *Id.* Moreover, Respondent agreed to several modifications of the Subpoena in order to allow Exide to begin the production of documents as soon as possible. *Id.* It was the belief of Respondent's counsel that Exide was to have produced all documents sought by the Subpoena no later than the week of January 5, 2009. See January 7, 2009 e-mail of Eric D. Welsh, Esq.)(Tab B). As of the date of this filing, however, Respondent has received only six pages of documents from Exide – which were produced on January 9, 2009. Thus, even though Exide reached an agreement with Respondent on December 4, 2008 which addressed and resolved all discovery issues and disputes raised in connection with the Subpoena, only six documents sought by Respondent's Subpoena – which are necessary for Respondent to adequately defend itself in this proceeding – have been produced. Additionally, while Exide's counsel has represented that Exide's documents have been gathered and are being reviewed by a vendor in California and by counsel in Pennsylvania for privilege, Exide's counsel has been unable to provide any commitment as to when Exide would complete its production of documents requested by the Subpoena. (See January 7, 2009 e-mail from Eric D. Welsh, Esq.)(Tab B).

Significantly, Respondent has served five subpoenas *ad testificandum* on the following individuals and entities: (a) Mr. Pradeep Menon (Exide's Vice President of Global

Procurement), (b) Mr. Douglas Gillespie (Exide's Vice President of Global Procurement), (c) Mr. Alberto Perez (Exide's Director of Commodities), (d) Mr. Gordon Ulsh (Exide's President and Chief Executive Officer), and (e) Exide Technologies (Tab D). The depositions were originally noticed for January 14-16, 2009. By agreement, Respondent and Exide have re-scheduled the depositions for January 21-23, 2009. Consequently, it is of paramount importance that the documents requested by Respondent's Subpoena be produced immediately in order to allow Respondent to properly review and analyze such documents in preparation for the noticed deposition examinations.

Despite the efforts of Respondent's counsel, Exide has continued to delay and stall in its production efforts. Respondent cannot afford any further delay from Exide, as important deadlines are approaching, including a discovery cut-off of February 13, 2009, and therefore Respondent is left with no option but to file this motion.

### ARGUMENT

Respondent seeks the immediate production of documents and electronic data responsive to its Subpoena. Respondent's Subpoena is tailored to seek documents pertinent to the issues raised by the FTC in the Complaint and to Polypore's defense. Under the FTC's Rules, Respondent has the right to "obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations in the complaint, to the proposed relief, or to the defenses of [the] respondent." *16 C.F.R. § 3.31(c)(1)*. Moreover, "public interest requires that once a complaint issues . . . Commission counsel (and respondent's counsel when they put on their defense) be given the opportunity to develop those facts which are essential" to support or undermine the allegations in the pleadings. *In re Gen. Foods.*, No. 9085 C, 1978 FTC LEXIS 412 at \*6 (April 18, 1978). The applicant for a subpoena need only show that the materials sought are generally or reasonably relevant. *In re Kaiser Aluminum & Chem. Corp.*, 1976 FTC

LEXIS 68 at \*4 (Nov. 12, 1976). In contrast, the subpoenaed party bears “[t]he burden of showing that the request[s] are unreasonable.” *In re Rambus, Inc.*, No. 9302, 2002 FTC LEXIS 90, at \*9 (Nov. 18, 2002). Such a showing is a heavy burden, even when the subpoena is directed at a non-party. *In re Flowers Indus., Inc.*, No. 9148, 1982 FTC LEXIS 96 at \* 15 (Mar. 19, 1982).

The factual allegations of the Commission’s Complaint and the Respondent’s defenses to the allegations contained therein make it clear that the information sought by Respondent’s Subpoena is relevant. Exide does not challenge the relevance of the discovery. Indeed, Exide has agreed to produce documents and provide the requested information to Polypore.

The discovery sought by the Subpoena is necessary and relevant. By way of example, Polypore needs information about Exide’s purchasing and pricing data and the end-products for which Exide purchases battery separators (Subpoena Request Nos. 1-2, 4-6, 16, 18, 31-32) to rebut the FTC’s allegation that Polypore has monopolized any alleged battery separator market and/or the FTC’s allegation that Polypore’s acquisition of Microporous led to higher prices. Polypore needs information about Exide’s qualification and testing of products from Respondent’s competitors (Subpoena Request Nos. 3-4, 23-25, 33-34) to rebut the FTC’s allegation that testing and capital requirements prevent entry into any relevant market. Polypore needs information about Exide qualification and testing of products from Microporous (Subpoena Request Nos. 4, 12, 23-25) to rebut the FTC’s allegation that Microporous was preparing to actively compete in the SLI and UPS battery separator markets, and was testing its products with customers. Polypore needs information about Exide’s use of all types battery separator products – including products that are or may be competitive with lead acid battery separators (Subpoena Request Nos. 14-16, 19, 27-29) to rebut the FTC’s allegation that battery separators manufactured for a particular application cannot be effectively used for other

applications. And finally, Polypore needs information about Exide's dealings with other battery separator manufacturers (Subpoena Request Nos. 3-4, 6, 11-16, 21-22, 26-30) to rebut the FTC's allegation that the acquisition of Microporous removes the only alternative sources of separator supply in several alleged battery separator markets.

Clearly, the documents sought by Respondent are highly relevant to the issues raised in the pleadings and should be immediately produced. *See In re Kaiser Aluminum & Chem. Corp.*, 1976 FTC LEXIS 68, at \*4 ("The practice of the Commission has been to uphold subpoenas *duces tecum* upon a showing . . . that the requested information is generally relevant to the issues raised by the pleadings."). Moreover, Exide has already reached an agreement resolving all discovery disputes related to the Subpoena. Polypore's receipt and review of Exide's materials is necessary for its defense and any further delay or limitation on this review will tilt the playing field heavily in favor of the FTC.

Although Exide has resolved all discovery issues related to the production of documents pursuant to the Respondent's Subpoena, it has delayed its production, producing belatedly documents that were readily accessible, which had been previously provided to the FTC last July. Indeed, many of the documents sought by the Subpoena were no doubt previously provided to the FTC as part of the thousands of document submitted by Exide in response to the FTC's subpoena during the investigation stage of the proceeding. Polypore needs Exide's production so that it can move forward efficiently with depositions of Exide's witnesses. Otherwise, Polypore will be forced to proceed with the depositions without the benefit of Exide's documents and will then need to leave the depositions open, to be resumed after the production is complete. Given the current discovery schedule, such an outcome would be necessary, but ultimately not economical to Polypore due to the costs associated with traveling from North Carolina to Pennsylvania twice for these depositions.

**CONCLUSION**

For the foregoing reasons, Respondent Polypore respectfully moves this Court to enter an order compelling Exide to immediately comply with Respondent's subpoena *duces tecum*, as amended by agreement between Polypore and Exide.

Dated: January 12, 2009

Respectfully Submitted,



William L. Rikard, Jr.

Eric D. Welsh

PARKER POE ADAMS & BERNSTEIN, LLP

Three Wachovia Center

401 South Tryon Street, Suite 3000

Charlotte, NC 28202

Telephone: (704) 372-9000

Facsimile: (704) 335-9689

[williamrikard@parkerpoe.com](mailto:williamrikard@parkerpoe.com)

[ericwelsh@parkerpoe.com](mailto:ericwelsh@parkerpoe.com)

John F. Graybeal

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Raleigh, NC 27602

Telephone: (919) 835-4599

Facsimile: (919) 828-0564

[johngraybeal@parkerpoe.com](mailto:johngraybeal@parkerpoe.com)

*Attorneys for Respondent*

## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2009, I caused to be filed via hand delivery and electronic mail delivery an original and two copies of the foregoing *Memorandum in Support of Respondent's Motion to Compel Exide Technologies to Produce Documents Requested by Subpoena Duces Tecum*, and that the electronic copy is a true and correct copy of the paper original and that a paper copy with an original signature is being filed with:

Donald S. Clark, Secretary  
Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Rm. H-135  
Washington, DC 20580  
[secretary@ftc.gov](mailto:secretary@ftc.gov)

I hereby certify that on January 12, 2009, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing *Memorandum in Support of Respondent's Motion to Compel Exide Technologies to Produce Documents Requested by Subpoena Duces Tecum* upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[oalj@ftc.gov](mailto:oalj@ftc.gov)

I hereby certify that on January 12, 2009, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Memorandum in Support of Respondent's Motion to Compel Exide Technologies to Produce Documents Requested by Subpoena Duces Tecum* upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[rrobertson@ftc.gov](mailto:rrobertson@ftc.gov)

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[sdahm@ftc.gov](mailto:sdahm@ftc.gov)

Donald J. Russell, Esq.  
Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street, N.W., Suite 411  
Washington, D.C. 20006  
[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)



---

Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )

Docket No. 9327

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Polypore International, Inc. )  
a corporation )

PUBLIC DOCUMENT

**TAB A**



**SUBPOENA DUCES TECUM**  
**Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)**

<p>1. TO</p> <p>Exide Technologies          13000 Deerfield Parkway, Building 200          Alpharetta, Georgia 30004</p>	<p>2. FROM</p> <p align="center">UNITED STATES OF AMERICA          FEDERAL TRADE COMMISSION</p>
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This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

<p>3. PLACE OF PRODUCTION OR INSPECTION</p> <p>Parker Poe Adams &amp; Bernstein, LLP          Three Wachovia Center          401 S. Tryon Street, Suite 3000          Charlotte, NC 28202</p>	<p>4. MATERIAL WILL BE PRODUCED TO</p> <p align="center">Polypore International, Inc.</p>
<p>5. DATE AND TIME OF PRODUCTION OR INSPECTION</p> <p align="center">November 25, 2008      9:30 a.m.</p>	

6. SUBJECT OF PROCEEDING

In the Matter of Polypore International, Inc., Docket No. 9327

7. MATERIAL TO BE PRODUCED

See Attached Requests, Instructions and Definitions.

<p>8. ADMINISTRATIVE LAW JUDGE</p> <p>The Honorable D. Michael Chappell</p> <p>Federal Trade Commission          Washington, D.C. 20580</p>	<p>9. COUNSEL REQUESTING SUBPOENA</p> <p align="center">Eric D. Welsh          (704) 335-9052</p>
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<p>DATE ISSUED</p> <p>October 24, 2008</p>	<p>SECRETARY'S SIGNATURE</p> <p align="center"><i>Donald S. Clark</i></p>
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**GENERAL INSTRUCTIONS**

**APPEARANCE**

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

**MOTION TO LIMIT OR QUASH**

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

**TRAVEL EXPENSES**

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**SUBPOENA DUCES TECUM ISSUED TO EXIDE TECHNOLOGIES  
ON BEHALF OF POLYPORE INTERNATIONAL, INC.  
FTC DOCKET NO. 9327**

**EXHIBIT A**

**I. REQUESTS**

1. All documents (including without limitation internal email or other written communication at Exide) relating to any communication between Exide and Polypore regarding (a) any actual or potential contract for lead acid battery separators, (b) any actual or proposed change in Polypore prices and/or (c) any actual or potential increase or decrease in the volume of lead acid battery separators purchased from Polypore.

2. All documents (including without limitation internal email or other written communication at Exide) relating to any communication between Exide and Microporous regarding (a) any actual or potential contract for lead acid battery separators, (b) actual or proposed pricing of lead acid battery separators by Microporous, (c) actual or proposed development and/or testing of lead acid battery separators or (d) Polypore.

3. All documents (including without limitation internal email or other written communication at Exide) relating to any communication between Exide and ENTEK regarding (a) any actual or potential contract for lead acid battery separators, (b) actual or proposed prices for lead acid battery separators by ENTEK, (c) actual or proposed development and/or testing of lead acid battery separators or (d) Polypore.

4. All documents (including without limitation internal email or other written communication at Exide) relating to any communication between Exide and any Third Party other than Polypore, Microporous or ENTEK regarding (a) any actual or potential contract for lead acid battery separators, (b) actual or potential prices for lead acid battery separators, (c) actual or proposed development and/or testing of lead acid battery separators or (d) Polypore.

5. All documents constituting or reflecting any actual or potential contract or agreement between Exide and Polypore for the manufacture and sale by Polypore to Exide of lead acid battery separators.

6. All documents reflecting any discussion or consideration internally at Exide about Exide producing or manufacturing lead acid battery separators whether in response to Polypore's actual or potential acquisition of Microporous, any actual or potential change in price of lead acid battery separators or otherwise.

7. All documents relating to the contract entered into between Exide and Polypore for the purchase and sale of the Exide plant located in Corydon, Indiana (the "Corydon plant"), including without limitation, documents concerning the terms of payment under that contract.

8. All documents relating to the negotiation of the contract entered into between Exide and Polypore for the purchase and sale of the Corydon plant, including without limitation,

documents concerning the options discussed between Polypore and Exide for the terms of payment under that contract.

9. All documents relating to any communication between Exide and Polypore concerning (a) the contract between Polypore and Exide for the purchase and sale of the Corydon plant, (b) the financial condition and prospective business of the Corydon plant at the time of sale, and/or (c) the negotiation of the contract entered into between Exide and Polypore for the purchase and sale of the Corydon plant, including without limitation, documents concerning the options for the terms of payment under that contract.

10. All documents relating to any expression of interest of or submission of any bid by any person other than Polypore in the purchase of the Corydon plant.

11. All documents constituting or reflecting any actual or potential contract or agreement between Exide and ENTEK for the manufacture and sale by ENTEK to Exide of lead acid battery separators.

12. All documents constituting or reflecting any actual or potential contract or agreement between Exide and Microporous for the manufacture and sale by Microporous to Exide of lead acid battery separators.

13. All documents relating to any memorandum of understanding between Exide and Microporous, including without limitation, documents concerning any expiration, extension or amendment to such memorandum of understanding.

14. All documents relating to any consideration by Exide or any Third Party to sponsor, finance or support entry or expansion of a battery separator business in (a) North America or (b) the world.

15. All documents constituting or reflecting any actual or potential contract or agreement between Exide and any Third Party other than ENTEK, Polypore or Microporous for the manufacture and sale by any such Third Party to Exide of lead acid battery separators.

16. All documents or any database reflecting all lead acid battery separators purchased by Exide from any supplier, including but not limited to the specific product(s) purchased, the amount or volume of each such product(s) purchased, the price(s) of the product(s) purchased, the date(s) of purchase, the end use(s) or application(s) of the product purchased and the Exide plant to which such product was shipped.

17. All documents discussing, describing or reflecting any actual or potential ownership interest of Exide in any joint venture or other entity that manufactures led acid battery separators.

18. All documents discussing, describing or reflecting, by dollar amount, units, price, square meters and product type or brand, all battery separators purchased by Exide from any source from January 1, 2000 to the present.

19. For all product responsive to Request No. 18, all documents reflecting the actual or anticipated end use or application of the product purchased by Exide and the destination of the shipment of such product.

20. All documents discussing, describing or reflecting any internal discussions, communications or consideration given by Exide to purchasing or acquiring a supplier of lead acid battery separators; entering into a joint venture or similar relationship for the supply of lead acid battery separators, or building a plant to manufacture lead acid battery separators for use by Exide.

21. All documents discussing, describing or reflecting any actual or potential entrant in the manufacturing of lead acid battery separators.

22. All documents relating to any company or entity that entered or was viewed as a potential entrant into the production and sale of lead acid battery separators.

23. All documents relating to any actual or potential barrier to entry for suppliers or manufacturers of lead acid battery separators, including without limitation, costs of entry or achieving minimum viable scale, in (a) North America and (b) the world.

24. All documents relating to any testing or qualification by Exide of lead acid battery separators manufactured by Polypore or Microporous.

25. All documents relating to any testing or qualification by Exide of lead acid battery separators produced by any entity other than Polypore or Microporous.

26. All documents (including email or memorandum internal to Exide) reflecting or discussing any manufacturer of lead acid battery separators or market conditions including capacity for lead acid battery separators.

27. All documents describing, discussing or reflecting by brand name or manufacturer the products comprising lead acid battery separators including those products used for the following end uses: golf car or cart; floor scrubber or sweeper; automotive; motorcycle; truck; train; fork lift; pallet truck; submarine; uninterrupted power supply for hospitals, telephone companies and other uses; motive; industrial; marine; stationary; and/or nuclear power plant.

28. All documents discussing or referring to any type of battery separator, including AGM separators, other than those used in flooded lead acid batteries.

29. All documents describing, discussing or reflecting products that are or might be competitive with lead acid battery separators including those products used for the following end uses: golf car or cart; floor scrubber or sweeper; automotive; motorcycle; truck; train; fork lift; pallet truck; submarine; uninterrupted power supply for hospitals, telephone companies and other uses; motive; industrial; marine; stationary; and/or nuclear power plant.

30. Documents discussing or describing any technology used in the manufacture of battery separators for lead acid batteries.

31. All documents discussing or mentioning the actual or potential acquisition of Microporous by Polypore.

32. All documents discussing, mentioning or describing any effect, actual, potential or perceived, on Exide's business of an acquisition of Microporous by Polypore, and all documents relating to any plan or course of action considered or adopted by Exide to address such effect or otherwise respond to such acquisition.

33. All documents reflecting any product or technology that is a substitute for lead acid battery separators manufactured by Polypore or Microporous, including but not limited to, any substitute product or technology considered by Exide as an alternate technology for lead acid battery separators manufactured by Polypore or Microporous.

34. All documents referring to or discussing other sources of lead acid battery separators that Exide could or might be able to use to replace Polypore as a source of supply.

35. All documents referring to or discussing Polypore's past, present or future competitive position in the lead acid battery separator business.

36. All documents, including affidavits and statements, which Exide provided to the FTC relating in any way to Polypore.

37. A copy of any transcript of any testimony, deposition or investigational hearing conducted in the Polypore Matter.

38. All documents evidencing, relating or referring to communications between the FTC and Exide relating in any way to Polypore or Microporous.

39. All documents relating to any actual or perceived advantage to Exide of the location of its lead acid battery supplier.

## II. INSTRUCTIONS AND DEFINITIONS

1. "Document" means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic matter, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, e-mail, envelope, telegram, meeting minute, memorandum, statement, affidavit, declaration, book, record, survey, map, study, handwritten note, working paper, chart, index tabulation, graph, tape, data sheet, data processing card, printout, microfilm, index, computer readable media or other electronically stored data, appointment book, diary, diary entry, calendar, desk pad, telephone message slip, note of interview or communication or any other data compilation in your possession, custody or control, including all drafts or all such documents. "Document" also includes every writing, drawing, graph, chart, photograph, phono record, tape and other data compilations from which information can be obtained, translated, if necessary, by Exide Technologies, Inc. through detection devices into reasonably usable form, and includes all drafts and all copies of every such writing or record that contain any commentary, notes, or marking whatsoever not appearing on the original.
2. "You" "your" and "Exide" for purposes of this request, means Exide Technologies or any of its parents, divisions, subdivisions, subsidiaries, affiliates, officers, directors or managing agents, attorneys, employees, consultants and agents, as well as any predecessors in interest, and all other persons acting or purporting to act on its behalf.
3. "Polypore" for the purposes of this request, means the Polypore International, Inc. and any subsidiary or division thereof, including without limitation, Daramic, LLC, and their respective employees.

4. "Microporous" for the purposes of this request, means the Microporous Products, L.P., and any affiliate, subsidiary or division thereof, and their respective employees, officers, directors, partners, attorneys and agents.
5. "ENTEK" for the purposes of this request, means the ENTEK International LLC, and any affiliate, subsidiary or division thereof, and their respective employees, officers, directors, partners, attorneys and agents.
6. "FTC" means the Federal Trade Commission, and any of its directors, commissioners, employees, consultants and agents.
7. "Polypore matter" means the investigation conducted by the FTC under Rule No. 081-0131 and this Administrative Proceeding, Docket No. 9327.
8. "Investigation" means any FTC investigation, whether formal or informal, public or non-public.
9. "Third Party" means any person; corporate entity; partnership; association; joint venture; state, federal or local governmental agency, authority or official; research or trade association; or any other entity other than Exide or any of its subsidiaries.
10. "Complaint" means the Complaint issued by the Federal Trade Commission to Polypore International, Inc. in Docket No. 9327.
11. "Relating to" means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying or stating.
12. Unless otherwise stated, the relevant time period for these requests is January 1, 2003 to the present.
13. The use of the singular shall be deemed to include the plural and vice versa.
14. The terms "and" and "or" shall be interpreted liberally as conjunctive, disjunctive, or both, depending on the context, so as to have their broadest meaning.



15. Whenever necessary to bring within the scope of a request all documents that might otherwise be construed to be outside its scope, the use of a verb in any tense shall be construed as the use of the verb in all other tenses.

16. The term "all" includes any and vice versa.

17. If you object to any part of a document request under the FTC Rules of Practice §3.37(b), set forth the basis for your objection and respond to all parts of the document request to which you do not object. No part of a document request shall be left unanswered merely because an objection is interposed to another part of a document request.

18. If a document database is provided, provide an explanation of the definitions used and the fields existing in such database.

19. All documents that respond, in whole or in part, to any portion of any document request shall be produced in their entirety, including all attachments, enclosures, cover memoranda and post-it notes.

20. If any privilege is claimed as a ground for not producing any document, provide for each such document withheld on the basis of privilege all information required by FTC Rules of Practice §3.38A.

21. In the event that any responsive document was, but is no longer in your possession, state what disposition was made of it, when, and the reason for such disposition. In the event that a responsive document has been destroyed or returned to a Third Party, state (i) the reason for such document's destruction or return, the date on which the document was destroyed or returned, and the Third Party to whom the document was returned or on whose behalf the document was destroyed; (ii) the name, title, and location thereof within Exide Technologies of the individual in whose possession, custody or control the document was when it was destroyed or returned; and

(iii) the name, title, and location thereof within Exide Technologies of the individual who destroyed or returned the document.

22. These document requests are continuing in nature, up to and during the course of the adjudicative hearing. All documents sought by these requests that you obtain or locate after you serve your responses must be immediately produced to counsel for Polypore by supplementary response.

## CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2008, I caused a copy of a *Subpoena Duces Tecum* directed to *Exide Technologies* to be served upon the following persons, at the addresses and through the means noted below:


### Via Certified Mail:

Exide Technologies  
1300 Deerfield Parkway, Building 200  
Alpharetta, Georgia 30004

### Via Electronic Mail:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



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Eric D. Welsh  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9052  
Facsimile: (704) 334-4706

COPY

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of )

Polypore International, Inc. )  
a corporation. )

) Docket No. 9327  
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)  
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)

PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL

For the purpose of protecting the interests of the Parties and Third Parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this Matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

DEFINITIONS

For purposes of this Protective Order, the following definitions apply:

1. "Confidential Material" shall mean all Discovery Material that is confidential or proprietary information produced in discovery. Such material is referred to in, and protected by, section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f); section 21 of the Federal Trade Commission Act, 15 U.S.C. § 57b-2, the FTC Rules of Practice, Sections 4.9, 4.10, 16 C.F.R. §§ 4.9, 4.10; and precedents thereunder. Confidential Material shall include non-public trade secret or other research, development, commercial or financial information, the disclosure of which would likely cause commercial harm to the Producing Party or to Respondent. The

following is a non-exhaustive list of examples of information that likely will qualify for treatment as Confidential Material: strategic plans (involving pricing, marketing, research and development, product road maps, corporate alliances, or mergers and acquisitions) that have not been fully implemented or revealed to the public; trade secrets; customer-specific evaluations or data (e.g., prices, volumes, or revenues); sales contracts; system maps; personnel files and evaluations; information subject to confidentiality or non-disclosure agreements; proprietary technical or engineering information; proprietary financial data or projections; and proprietary consumer, customer, or market research or analyses applicable to current or future market conditions, the disclosure of which could reveal Confidential Material. Discovery Material will not be considered confidential if it is in the public domain.

2. "Document" means the complete original or a true, correct, and complete copy and any non-identical copies of any written or graphic matter, no matter how produced, recorded, stored, or reproduced. "Document" includes, but is not limited to, any writing, letter, envelope, telegraph, e-mail, meeting minute, memorandum, statement, affidavit, declaration, transcript of oral testimony, book, record, survey, map, study, handwritten note, working paper, chart, index, tabulation, graph, drawing, chart, printout, microfilm index, computer readable media or other electronically stored data, appointment book, diary, diary entry, calendar, organizer, desk pad, telephone message slip, note of interview or communication, and any other data compilation from which information can be obtained, and includes all drafts and all copies of such Documents and every writing or record that contains any commentary, notes, or marking whatsoever not appearing on the original.

3. "Discovery Material" includes without limitation deposition testimony, exhibits, interrogatory responses, admissions, affidavits, declarations, Documents, tangible thing or

answers to questions produced pursuant to compulsory process or voluntarily in lieu thereof, and any other Documents or information produced or given to one Party by another Party or by a Third Party in connection with discovery in this Matter. Information taken from Discovery Material that reveals its substance shall also be considered Discovery Material.

4. "Commission" shall refer to the Federal Trade Commission, or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.

5. "Polypore" means Polypore International, Inc., and its predecessors, divisions, and subsidiaries, and all persons acting or purporting to act on its behalf.

6. "Respondent" means Polypore.

7. "Party" means the Commission or Polypore.

8. "Third Party" means any natural person, partnership, corporation, association, or other legal entity not named as a Party to this Matter and its employees, directors, officers, attorneys and agents.

9. "Producing Party" means a Party or Third Party that produced or intends to produce Confidential Material to any of the Parties. With respect to Confidential Material of a Third Party that is in the possession, custody or control of the FTC, or has been produced by the FTC in this matter, the Producing Party shall mean the Third Party that originally provided such material to the FTC. The Producing Party shall mean the FTC for purposes of any Document or Discovery Material prepared by, or on behalf of, the FTC.

10. "Matter" means the above captioned matter pending before the Federal Trade Commission, and all subsequent administrative, appellate or other review proceedings related thereto.

## TERMS AND CONDITIONS OF PROTECTIVE ORDER

1. Any Document or portion thereof submitted by Respondent or a Third Party during the Federal Trade Commission ("FTC") investigation preceding this Matter or during the course of proceedings in this Matter that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as Confidential Material for purposes of this Protective Order. For purposes of this Protective Order, the identity of a Third Party submitting such Confidential Material shall also be treated as Confidential Material where the submitter has requested in writing such confidential treatment.

2. The Parties and any Third Parties, in complying with informal discovery requests, disclosure requirements, discovery demands or formal process in this Matter may designate any responsive document or portion thereof Confidential Material, including documents obtained by them from Third Parties pursuant to discovery or as otherwise obtained.

3. The Parties, in conducting discovery from Third Parties, shall provide to each Third Party a copy of this Protective Order so as to inform each such Third Party of his, her or its rights herein.

4. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes Confidential Material as defined in Paragraph 1 of the Definitions of this Protective Order. All deposition transcripts

shall be treated as Confidential Material.

5. If any Party seeks to challenge the Producing Party's designation of material as Confidential Material, the challenging Party shall notify the Producing Party and all other Parties of the challenge. Such notice shall identify with specificity (*i.e.*, by document control numbers, deposition transcript page and line reference, or other means sufficient to locate easily such materials) the designation being challenged. The Producing Party may preserve its designation by providing the challenging Party and all other Parties a written statement of the reasons for the designation within five (5) business days of receiving notice of the confidentiality challenge. If the Producing Party timely preserves its rights, the Parties shall continue to treat the challenged material as Confidential Materials, absent a written agreement with the Producing Party or order of the Commission providing otherwise.

6. If any conflict regarding a confidentiality designation arises and the Parties and Producing Party involved have failed to resolve the conflict via good-faith negotiations, a Party seeking to disclose Confidential Material or challenging a confidentiality designation may make written application to the hearing officer for relief. The application shall be served on the Producing Party and the other Parties to this Matter, and shall be accompanied by a certification that good-faith negotiations have failed to resolve the outstanding issues. The Producing Party and any other Party shall have five (5) business days after receiving a copy of the motion to respond to the application. While an application is pending, the Parties shall maintain the pre-application status of the Confidential Material. Nothing in this Protective Order shall create a presumption or alter the burden of persuading the hearing officer of the propriety of a requested disclosure or change in designation.



7. The Parties shall not be obligated to challenge the propriety of any designation or treatment of information as Confidential Material and the failure to do so promptly shall not preclude any subsequent objection to such designation or treatment, or any motion seeking permission to disclose such material to Persons not otherwise entitled to access under the terms of this Protective Order. If Confidential Material is produced without the designation attached, the material shall be treated as Confidential from the time the Producing Party advises Complaint Counsel and Respondent's Counsel in writing that such material should be so designated and provides all the Parties with an appropriately labeled replacement. The Parties shall return promptly or destroy the unmarked materials.

8. Material produced in this Matter may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL-FTC Docket No. 9327" or any other appropriate notice that considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL-FTC Docket No. 9327" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. The foregoing designation of "CONFIDENTIAL-FTC Docket No. 9327" shall not be required for confidentiality to apply to documents and information previously produced voluntarily or pursuant to a Civil Investigative Demand or subpoena during the investigational phase preceding this Matter for which confidential treatment was requested. Masked or otherwise redacted copies of documents may be produced where the portions deleted

contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

9. Confidential Material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the commission as experts or consultants for this proceeding, (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter, (c) court reporters in this matter, (d) outside counsel of record for Respondent, its associated attorneys and other employees of its law firm(s), provided they are not employees of Respondent, (e) Michael Shor, Polypore Special Counsel, (f) anyone retained to assist outside counsel in the preparation of hearing of this proceeding including consultants, provided they are not affiliated in any way with Respondent and have signed Exhibit A hereto; (g) any witness or deponent who may have authored or received the information in question; (h) any individual who was in the direct chain of supervision of the author at the time the Discovery Material was created or received, except that this provision does not permit disclosure of Industrial Growth partner or Warburg Pincus International documents to Polypore or former Microporous personnel who would not otherwise have had access to the Discovery Material; (i) any employee or agent of the entity that created or received the Discovery Material; (j) anyone representing the author or recipient of the Discovery Material in this Matter; and (k) any other Person(s) authorized in writing by the Producing Party.

10. Disclosure of confidential material to any person described in Paragraph 9 of this Protective Order shall be only for the purposes of the preparation and hearing of this Matter, or any appeal therefrom, and for no other purpose whatsoever; provided, however, that the

Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential materials as provided by its Rules of Practice; Sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

11. In the event that any Confidential Material is contained in any pleading, motion exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed under seal. To the extent that such material was originally submitted by a Third Party, the Party including the Materials in its papers shall immediately notify the submitter of such inclusion. Confidential Material contained in the papers shall remain under seal until further order of the Administrative Law Judge; provided, however, that such papers may be furnished to persons or entities who may receive Confidential Material pursuant to Paragraphs 9 or 10. Upon or after filing any paper containing Confidential Material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection of any such material expires, a Party may file on the public record a duplicate copy which also contains the formerly protected material.

12. If counsel plans to introduce into evidence at the hearing any document or transcript containing Confidential Material produced by another Party or by a Third Party, they shall provide ten (10) days advance notice to the other Party or Third Party for purposes of allowing that Party or Third Party to seek an order that the document or transcript be granted in camera treatment. If that Party or Third Party wishes in camera treatment for the document or transcript, the Party or Third Party shall file an appropriate motion with the Administrative Law

Judge. Where in camera treatment is granted, a duplicate copy of such document or transcript with the Confidential Material deleted therefrom may be placed on the public record.

13. If any Party receives a discovery request in another proceeding that may require the disclosure of Confidential Material submitted by another Party or Third Party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of Confidential Material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 C.F.R. §4.11(e), to discovery requests in another proceeding that are directed to the Commission.

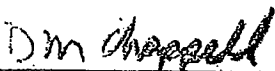
14. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 C.F.R. §4.12.

15. The inadvertent production or disclosure of any Discovery Material, which a Producing Party claims should not have been produced or disclosed because of a privilege, will not be deemed to be a waiver of any privilege to which the Producing Party would have been entitled had the privileged Discovery Material not inadvertently been produced or disclosed. The inadvertent production of a privileged document shall not in itself be deemed a waiver of any privileged applicable to any other documents relating to the subject matter.

16. This Protective Order shall not apply to the disclosure by a Producing Party or its counsel of its own Confidential Material.

17. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

ORDERED:

  
D. Michael Chappell  
Administrative Law Judge

Date: October 23, 2008

**EXHIBIT A**  
**UNITED STATES OF AMERICA**  
**FEDERAL TRADE COMMISSION**  
**OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of	)	
	)	
Polypore International, Inc.	)	Docket No. 9327
a corporation.	)	
	)	

**DECLARATION CONCERNING PROTECTIVE ORDER**  
**GOVERNING DISCOVERY MATERIAL**

I, \_\_\_\_\_, hereby declare and certify the following to be true:

1. [Statement of employment]
2. I have read the "Protective Order" governing Discovery Material ("Protective Order") issued by the Commission on October 23, 2008, in connection with the above-captioned Matter. I understand the restrictions on my access to and use of any Confidential Material (as that term is used in the Protective Order) in this Matter, and I agree to abide by the Protective Order.
3. I understand that the restrictions on my use of such Confidentiality Material include:
  - a. that I will use such Confidential Material only for the purpose of preparing for this proceeding, and hearing(s) and any appeal of this proceeding and for no other purpose;
  - b. that I will not disclose such Confidential Material to anyone, except as permitted by the Protective Order;
  - c. that I will use, store and maintain the Confidential Material in such a way as to ensure its continued protected status; and
  - d. that, upon the termination of my participation in this proceeding, I will promptly return all Confidential Materials and all notes, memoranda, or other papers containing Confidential Material, to Complaint Counsel or Respondent's Outside Counsel as appropriate.
4. I understand that if I am receiving Confidential Material as an Expert/Consultant, as that term is defined in this Protective Order, the restrictions on my use of Confidential

Material also include the duty and obligation to:

- a. maintain such Confidential Material in separate locked room(s) or locked cabinet(s) when such Confidential Material is not being reviewed;
- b. return such Confidential Material to Complaint Counsel or Respondent's Outside Counsel, as appropriate, upon the conclusion of my assignment or retention, or upon conclusion of this Matter; and
- c. use such Confidential Material and the information contained therein solely for the purpose of rendering consulting services to a Party to this Matter, including providing testimony in judicial or administrative proceedings arising out of this Matter.

5. I am fully aware that, pursuant to Section 3.42(h) of the FTC Rules of Practice, 16 C.F.R. § 3.42(h), my failure to comply with the terms of the Protective Order may constitute contempt of the Commission and may subject me to sanctions.

Date: \_\_\_\_\_

\_\_\_\_\_  
Full Name [Typed or Printed]

\_\_\_\_\_  
Signature

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

**In the Matter of**

**Docket No. 9327**

**Polypore International, Inc.  
a corporation**

**PUBLIC DOCUMENT**

**TAB B**



**From:** Welsh, Eric D.  
**Sent:** Wednesday, January 07, 2009 10:08 AM  
**To:** 'Russell, Don'  
**Subject:** RE: EXIDE: Custodian list

Don

As I discussed on the telephone with you yesterday, we need to get Exide's production done and documents to us as soon as possible. As you know the subpoena duces tecum was served on your client on or about November 10, 2008 and called for production on November 25, 2008. We worked with you and your client promptly to address issues that you raised and have been patient in waiting for the production. It was our understanding that we would have the documents produced to us by no later than this week. Unfortunately, we have yet to receive any documents from you. You did tell me yesterday that we would receive Mr. Gillespie's documents on Friday but you also could not tell me when we would receive the balance of Exide's production.

As you are aware, our discovery cutoff is approaching and we need the Exide documents to use them in the depositions that we noticed for January 14-16. You have asked to push the depositions back to the week of January 19. Our schedule poses many constraints on my ability to reschedule those depositions. We are willing to try to accommodate you in this regard and will look into rescheduling those depositions for January 21, 22 and 23. (I understand that Mr. Ush is available the morning of January 21.) I must have Exide's documents though by January 12. You told me that would not be possible. You also told me that two boxes of Exide documents are in Atlanta and have not yet been provided to you. We have no choice but to go ahead and move to compel Exide's production of documents. I will let you know if we can reschedule the depositions to the dates you requested.

As we discussed yesterday, I will continue to do what I can to expedite your production. You have suggested that we prioritize the custodians for review. I am certainly willing to do that as long as it not slow down your work at all. As I said above, we need the complete production by January 12. To the extent that it is helpful to you, please proceed with the custodian review in the following order: Gillespie, Menon, Perez, Smith, Bregman, Miller and Perzee.

Best regards,

Eric Welsh

---

**Eric Welsh**  
Partner  
Ext. 9052

-----Original Message-----

**From:** Russell, Don [mailto:drussell@robbinsrussell.com]  
**Sent:** Tuesday, January 06, 2009 5:59 PM  
**To:** Welsh, Eric D.  
**Subject:** FW: EXIDE: Custodian list

Eric, here is the list of document custodians. If you've reviewed Exide's production to the FTC, you are undoubtedly familiar with the first 6. The seventh, Kathie Perzee, if memory serves, was involved in procurement but left the company (or in any event, ended her involvement in procurement matters) years ago.

---

**From:** Sarti, Dana I Wesley  
**Sent:** Tuesday, January 06, 2009 5:51 PM

**To:** Russell, Don

**Subject:** EXIDE: Custodian list

1. Albert Perez
2. Doug Gillespie
3. Predeep Menon
4. Tom Smith
5. Mitch Bregman
6. John Miller
7. Kathie Perzee

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

**In the Matter of**

**Docket No. 9327**

**Polypore International, Inc.  
a corporation**

**PUBLIC DOCUMENT**

**TAB C**

**Welsh, Eric D.**

---

**From:** Russell, Don [drussell@robinsrussell.com]  
**Sent:** Thursday, November 20, 2008 2:22 PM  
**To:** Welsh, Eric D.  
**Subject:** RE: In re Polypore International, Inc., Docket No. 9327

Eric,

Thanks for the update. While I hope it's unnecessary, in light of this delay, will you agree that, in the event we are unable to reach agreement on the scope of the subpoena, we will have until next Friday, Nov. 28, to file a motion with the FTC?

---

**From:** Welsh, Eric D. [mailto:ericwelsh@parkerpoe.com]  
**Sent:** Thursday, November 20, 2008 2:17 PM  
**To:** Russell, Don  
**Subject:** In re Polypore International, Inc., Docket No. 9327

Don

I received your message this morning. I do not have an answer yet from my client on the issues that we discussed but hope to have more information on that score tomorrow. I will let you know as soon as I can.

Best regards,

Eric Welsh

---

**Eric Welsh**  
Partner



Three Wachovia Center | 401 South Tryon Street | Suite 3000 | Charlotte, NC 28202  
Phone: 704.335.9052 | Fax: 704.335.9755 | [www.parkerpoe.com](http://www.parkerpoe.com) | [vcard](#) | [map](#)

**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

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1/7/2009

**Welsh, Eric D.**

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**From:** Russell, Don [drussell@robbinsrussell.com]  
**Sent:** Wednesday, November 26, 2008 1:37 PM  
**To:** Welsh, Eric D.  
**Subject:** Exide subpoena modifications

Eric,

Attached is a letter describing our agreements on modifications to the subpoena issued to Exide Technologies. Please note, in the paragraph regarding the Exide legal department, that I've taken the liberty of adding that we reserve the right to object to or seek to limit any request for legal department documents that you might make at a later time. We did not discuss that reservation in our call yesterday, but I trust you will have no objection to it.

If anything in this letter requires further discussion, please call.

Happy Thanksgiving,

**Don Russell**

Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street N.W., Suite 411L  
Washington, D.C. 20006  
[www.RobbinsRussell.com](http://www.RobbinsRussell.com)  
[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)  
202-775-4502 (Direct Dial)  
202-775-4510 (Fax)

**ROBBINS, RUSSELL, ENGLERT, ORSECK, UNTEREINER & SAUBER LLP**

1801 K STREET, N.W., SUITE 411  
WASHINGTON, D.C. 20006  
PHONE (202) 775-4500  
FAX (202) 775-4510  
www.robbinsrussell.com

Donald J. Russell

(202) 775-4502  
drussell@robbinsrussell.com

November 26, 2008

BY EMAIL AND U.S. MAIL

Eric D. Welsh  
Parker, Poe, Adams & Bernstein L.L.P.  
Three Wachovia Center, Suite 3000  
401 South Tryon Street  
Charlotte, N.C. 28202-1935

Re: Subpoena Duces Tecum To Exide Technologies

Dear Eric:

I am writing to confirm our agreement to modifications of the subpoena duces tecum issued to Exide Technologies in connection with In re Polypore International, Inc. (FTC Docket No. 9327). We have agreed to the following modifications.

First, Exide will search for and produce only documents located in the United States. I have confirmed my understanding that there are no Exide personnel in other countries who have responsibilities for procurement of separator products, including responsibilities for monitoring any separator market(s) or evaluating potential suppliers of separators. I have also confirmed that to the extent (if any) Exide has considered vertical integration into the production of separators or the sponsorship of another firm's entry into separator production, such consideration has been undertaken by personnel in the United States, not by personnel in other countries.

Second, Exide will not be required now to search for documents located in the files of its legal department and will not be required to provide a privilege log for documents withheld on the basis of privilege. You have reserved the right to request documents from the legal department on a case-by-case basis, after reviewing Exide's production, and Exide has reserved the right to object to or seek to limit any such request.

**ROBBINS, RUSSELL, ENGLERT, ORSECK & UNTEREINER LLP**

Eric D. Welsh  
November 26, 2008  
Page 2

Third, Exide will not be required to retrieve and search archived or backup electronic files. Exide will search for responsive documents located on active email and file servers.

Fourth, in responding to specifications 16 and 18 of the subpoena, Exide will provide information indicating the end use(s) or applications of separator products purchased from Daramic, but will not otherwise provide material relating to its purchases of separators from Daramic. Exide will fully respond to specifications 16 and 18 with respect to separators purchased from suppliers other than Daramic. As I explained, the database containing this information contains data for "current year plus one." Exide will produce the responsive information maintained in this database, but will not otherwise be required to search for archived material.

Fifth, notwithstanding Instruction 22, Exide will not be required to provide a continuing response to the subpoena. The relevant time period for all requests will be January 1, 2003 until the date of service of the subpoena, *i.e.*, November 11, 2008.

Sixth, Exide will not be required to produce material that it has previously provided to the FTC.

We will contact your office in the near future to discuss the appropriate format(s) for Exide's production. As I indicated, Exide will endeavor to complete its production by the end of December but, especially in light of the holiday season, I cannot guarantee that Exide's production will be entirely complete by that date. We will produce documents on a rolling basis, beginning with documents from the files of Douglas Gillespie, Exide's vice president for global procurement.

Please let me know if this description of our agreement is in any way incomplete or inaccurate from your perspective.

Sincerely yours,

Donald J. Russell  
Counsel for Exide Technologies

**Welsh, Eric D.**

---

**From:** Welsh, Eric D.  
**Sent:** Thursday, December 04, 2008 3:43 PM  
**To:** 'Russell, Don'  
**Subject:** RE: Exide subpoena modifications

Don

I wanted to clarify one point that we discussed. With respect to the archival file issue, I understand that while you will not be searching archival tapes, we have reserved the right to make a request of you for specific searches to be done should it become necessary after we have received and reviewed Exide's production. Obviously, your client would reserve its rights as well with respect to those requests. I believe we are both in agreement on this point but I did not see it mentioned in your letter. Let me know if you have any questions or if my understanding in this regard is incorrect.

Also, let me know when you anticipate being in a position to begin production. If documents are being produced in electronic format, please let me know and I will put you or your staff in touch with my tech person regarding the format of the information.

Best regards,

Eric Welsh

-----Original Message-----

**From:** Russell, Don [mailto:drussell@robbinsrussell.com]  
**Sent:** Wednesday, November 26, 2008 1:37 PM  
**To:** Welsh, Eric D.  
**Subject:** Exide subpoena modifications

Eric,

Attached is a letter describing our agreements on modifications to the subpoena issued to Exide Technologies. Please note, in the paragraph regarding the Exide legal department, that I've taken the liberty of adding that we reserve the right to object to or seek to limit any request for legal department documents that you might make at a later time. We did not discuss that reservation in our call yesterday, but I trust you will have no objection to it.

If anything in this letter requires further discussion, please call.

Happy Thanksgiving,

**Don Russell**

Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street N.W., Suite 411L  
Washington, D.C. 20006  
[www.RobbinsRussell.com](http://www.RobbinsRussell.com)  
[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)



202-775-4502 (Direct Dial)  
202-775-4510 (Fax)

**Welsh, Eric D.**

---

**From:** Russell, Don [drussell@robbsrussell.com]  
**Sent:** Thursday, December 04, 2008 5:58 PM  
**To:** Welsh, Eric D.  
**Cc:** Sarti, Dana | Wesley  
**Subject:** RE: Exide subpoena modifications

Eric, your clarification is correct. Sorry I neglected to include that point in my letter.

We expect to produce in electronic form and are now in the process of collecting documents and data. Exide has a practice of closing down over the holidays. We hope and expect to have everything collected before that happens. It will then take some time for review in my office.

Some time back, the investment banking firm that handled the sale of the Corydon plant to Daramic produced its documents relating to that transaction to the FTC. We have a copy of the documents they produced to the FTC. I don't know whether you've gotten those documents from the FTC, but if not, and if you'd like to get copies from us, let me know. We can produce those very quickly.

Our document manager, Dana Sarti, has tried to contact your tech person regarding format issues. I think Dana is waiting for a response. You or your colleague should feel free to contact Dana directly.

Best regards,

Don

---

**From:** Welsh, Eric D. [mailto:ericwelsh@parkerpoe.com]  
**Sent:** Thursday, December 04, 2008 3:43 PM  
**To:** Russell, Don  
**Subject:** RE: Exide subpoena modifications

Don

I wanted to clarify one point that we discussed. With respect to the archival file issue, I understand that while you will not be searching archival tapes, we have reserved the right to make a request of you for specific searches to be done should it become necessary after we have received and reviewed Exide's production. Obviously, your client would reserve its rights as well with respect to those requests. I believe we are both in agreement on this point but I did not see it mentioned in your letter. Let me know if you have any questions or if my understanding in this regard is incorrect.

Also, let me know when you anticipate being in a position to begin production. If documents are being produced in electronic format, please let me know and I will put you or your staff in touch with my tech person regarding the format of the information.

Best regards,

Eric Welsh

1/7/2009

---

**Eric Welsh**  
Partner



Three Wachovia Center | 401 South Tryon Street | Suite 3000 | Charlotte, NC 28202  
Phone: 704.335.9052 | Fax: 704.335.9755 | [www.parkerpoe.com](http://www.parkerpoe.com) | [vcard](#) | [map](#)

-----Original Message-----

**From:** Russell, Don [mailto:[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)]  
**Sent:** Wednesday, November 26, 2008 1:37 PM  
**To:** Welsh, Eric D.  
**Subject:** Exide subpoena modifications

Eric,

Attached is a letter describing our agreements on modifications to the subpoena issued to Exide Technologies. Please note, in the paragraph regarding the Exide legal department, that I've taken the liberty of adding that we reserve the right to object to or seek to limit any request for legal department documents that you might make at a later time. We did not discuss that reservation in our call yesterday, but I trust you will have no objection to it.

If anything in this letter requires further discussion, please call.

Happy Thanksgiving,

**Don Russell**  
Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street N.W., Suite 411L  
Washington, D.C. 20006  
[www.RobbinsRussell.com](http://www.RobbinsRussell.com)  
[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)  
202-775-4502 (Direct Dial)  
202-775-4510 (Fax)

**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

**PRIVILEGED AND CONFIDENTIAL:** This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission. [ppab\_v1.0]

1/7/2009

**Welsh, Eric D.**

---

**From:** Welsh, Eric D.  
**Sent:** Monday, December 22, 2008 11:38 AM  
**To:** 'drussel@robbinsrussel.com'  
**Subject:** In re Polypore International, Inc., Docket No. 9327

Don

Just wanted to check in with you on the status of Exide's production. Do you have an expected date to begin production? I understand you will be producing on a rolling basis.

Thanks.

Eric Welsh

**Welsh, Eric D.**

---

**From:** Welsh, Eric D.  
**Sent:** Monday, January 05, 2009 4:56 PM  
**To:** 'Russell, Don'  
**Cc:** Sarti, Dana I Wesley  
**Subject:** RE: Exide subpoena modifications

Don

I hope you had a good holiday. Can you let me know when we can expect to receive documents from Exide? We need to get the production done as we are under tight deadlines. Please advise as soon as you can.

I also wanted to see if you have had a chance to talk with your client regarding the deposition subpoenas that we sent out. Let me know if you are able to accept service. We will obviously need to get the documents in advance of the depositions. Thanks.

Eric

-----Original Message-----

**From:** Russell, Don [mailto:drussell@robbinsrussell.com]  
**Sent:** Thursday, December 04, 2008 5:58 PM  
**To:** Welsh, Eric D.  
**Cc:** Sarti, Dana I Wesley  
**Subject:** RE: Exide subpoena modifications

Eric, your clarification is correct. Sorry I neglected to include that point in my letter.

We expect to produce in electronic form and are now in the process of collecting documents and data. Exide has a practice of closing down over the holidays. We hope and expect to have everything collected before that happens. It will then take some time for review in my office.

Some time back, the investment banking firm that handled the sale of the Corydon plant to Daramic produced its documents relating to that transaction to the FTC. We have a copy of the documents they produced to the FTC. I don't know whether you've gotten those documents from the FTC, but if not, and if you'd like to get copies from us, let me know. We can produce those very quickly.

Our document manager, Dana Sarti, has tried to contact your tech person regarding format issues. I think Dana is waiting for a response. You or your colleague should feel free to contact Dana directly.

Best regards,

Don

---

**From:** Welsh, Eric D. [mailto:ericwelsh@parkerpoe.com]  
**Sent:** Thursday, December 04, 2008 3:43 PM  
**To:** Russell, Don  
**Subject:** RE: Exide subpoena modifications

Don

I wanted to clarify one point that we discussed. With respect to the archival file issue, I understand that while you will not be searching archival tapes, we have reserved the right to make a request of you for specific searches to be done should it become necessary after we have received and reviewed Exide's production. Obviously, your client would reserve its rights as well with respect to those requests. I believe we are both in agreement on this point but I did not see it mentioned in your letter. Let me know if you have any questions or if my understanding in this regard is incorrect.

Also, let me know when you anticipate being in a position to begin production. If documents are being produced in electronic format, please let me know and I will put you or your staff in touch with my tech person regarding the format of the information.

Best regards,

Eric Welsh

---

**Eric Welsh**  
Partner



Three Wachovia Center | 401 South Tryon Street | Suite 3000 | Charlotte, NC 28202  
Phone: 704.335.9052 | Fax: 704.335.9755 | [www.parkerpoe.com](http://www.parkerpoe.com) | [vcard](#) | [map](#)

-----Original Message-----

**From:** Russell, Don [mailto:drussell@robbinsrussell.com]  
**Sent:** Wednesday, November 26, 2008 1:37 PM  
**To:** Welsh, Eric D.  
**Subject:** Exide subpoena modifications

Eric,

Attached is a letter describing our agreements on modifications to the subpoena issued to Exide Technologies. Please note, in the paragraph regarding the Exide legal department, that I've taken the liberty of adding that we reserve the right to object to or seek to limit any request for legal department documents that you might make at a later time. We did not discuss that reservation in our call yesterday, but I trust you will have no objection to it.

If anything in this letter requires further discussion, please call.

Happy Thanksgiving,

**Don Russell**

Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street N.W., Suite 411L  
Washington, D.C. 20006  
[www.RobbinsRussell.com](http://www.RobbinsRussell.com)  
[drussell@robbinsrussell.com](mailto:drussell@robbinsrussell.com)  
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**PRIVILEGED AND CONFIDENTIAL:** This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission. [ppab\_v1.0]

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

**In the Matter of**

**Docket No. 9327**

**Polypore International, Inc.  
a corporation**

**PUBLIC DOCUMENT**

**TAB D**





# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO</p> <p>Mr. Alberto Perez Exide Technologies 13000 Deerfield Parkway Building 200 Alpharetta, GA 30004</p>	<p>2. FROM</p> <p>UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
--	---

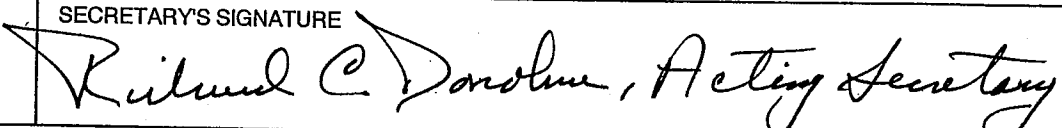
This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING</p> <p>Arnall Golden Gregory LLP 171 17th Street NW Suite 2100 Atlanta, GA 30363-1031 Phone: 404-873-8684</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE</p> <p>Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION</p> <p>1/16/09 at 9:00 AM</p>
--	---

6. SUBJECT OF PROCEEDING

In the Matter of Polypore International, Inc., Docket No. 9327

<p>7. ADMINISTRATIVE LAW JUDGE</p> <p>The Honorable D. Michael Chappell</p> <p>Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA</p> <p>Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
--	--

<p>DATE ISSUED</p> <p>December 10, 2008</p>	<p>SECRETARY'S SIGNATURE</p> 
---	---

## GENERAL INSTRUCTIONS

### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**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)

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )

Docket No. 9327

Polypore International, Inc., )  
a corporation. )

PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Mr. Alberto Perez  
Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Alpharetta, GA 30004

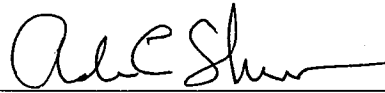
I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Subpoena Ad Testificandum upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Subpoena Ad Testificandum* upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



---

Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
 )

Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327

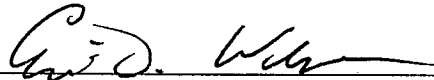
PUBLIC DOCUMENT

**NOTICE OF DEPOSITION OF ALBERTO PEREZ**

PLEASE TAKE NOTICE that pursuant to Rules 3.33 and 3.34 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings (16 C.F.R. §§ 3.33 and 3.34), Respondent Polypore International, Inc. ("Polypore"), will take the deposition of Alberto Perez before a person authorized by law to administer oaths at the offices of Arnall Golden Gregory LLP, 171 17<sup>th</sup> Street NW, Suite 2100, Atlanta, GA 30363 on January 16, 2009 at 9:00 a.m. The testimony will be recorded by stenographic and/or video means.

Dated: December 29, 2008

Respectfully Submitted,



\_\_\_\_\_  
William L. Rikard, Jr.

Eric D. Welsh

PARKER POE ADAMS & BERNSTEIN LLP

Three Wachovia Center

401 South Tryon Street, Suite 3000

Charlotte, NC 28202

Telephone: (704) 372-9000

Facsimile: (704) 335-9689

williamrikard@parkerpoe.com

ericwelsh@parkerpoe.com

*Attorneys for Respondent*

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327  
PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Notice of Deposition of Alberto Perez upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing Notice of Deposition of Alberto Perez upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



\_\_\_\_\_  
Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050



# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO Mr. Pradeep Menon Exide Technologies 13000 Deerfield Parkway Building 200 Alpharetta, GA 30004</p>	<p>2. FROM  UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
---	---

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING Arnall Golden Gregory LLP 171 17th Street, NW Suite 2100 Atlanta, GA 30363-1031 Phone: 404-873-8684</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION 1/15/09 at 2:00 PM</p>
--	---

6. SUBJECT OF PROCEEDING  
  
In the Matter of Polypore International, Inc., Docket No. 9327

<p>7. ADMINISTRATIVE LAW JUDGE  The Honorable D. Michael Chappell  Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA  Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
--	--

<p>DATE ISSUED  December 10, 2008</p>	<p>SECRETARY'S SIGNATURE  <i>Richard C. Donohue, Acting Secretary</i></p>
---	---

### GENERAL INSTRUCTIONS

#### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

#### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

#### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**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:*

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-----

*on the person named herein on:*

-----  
(Month, day, and year)

-----  
(Name of person making service)

-----  
(Official title)



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )

Docket No. 9327

Polypore International, Inc., )  
a corporation. )

PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Mr. Pradeep Menon  
Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Alpharetta, GA 30004

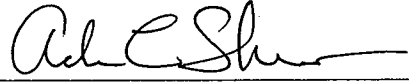
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Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

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Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



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Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327  
PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

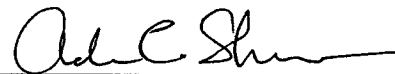
I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Notice of Deposition of Pradeep Menion upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing Notice of Deposition of Pradeep Menion upon:

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\_\_\_\_\_  
Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050



# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO Mr. Douglas Gillespie Exide Technologies 13000 Deerfield Parkway Building 200 Alpharetta, GA 30004</p>	<p>2. FROM  UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
---	---

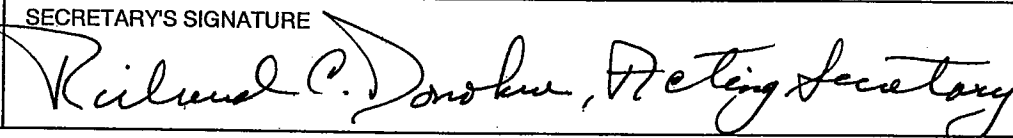
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<p>3. PLACE OF HEARING Arnall Golden Gregory LLP 171 17th Street NW Suite 2100 Atlanta, GA 30363-1031</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION 1/15/09 at 9:00 AM</p>
---	---

6. SUBJECT OF PROCEEDING

In the Matter of Polypore International, Inc., Docket No. 9327

<p>7. ADMINISTRATIVE LAW JUDGE  The Honorable D. Michael Chappell  Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA  Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
--	--

<p>DATE ISSUED  December 10, 2008</p>	<p>SECRETARY'S SIGNATURE </p>
---	---

## GENERAL INSTRUCTIONS

### APPEARANCE

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This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**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:*

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-----  
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*on the person named herein on:*

-----  
(Month, day, and year)

-----  
(Name of person making service)

-----  
(Official title)

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )

Docket No. 9327

Polypore International, Inc., )  
a corporation. )

PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Mr. Douglas Gillespie  
Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Alpharetta, GA 30004

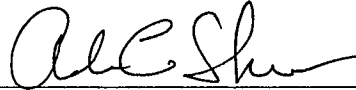
I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Subpoena Ad Testificandum upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Subpoena Ad Testificandum* upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



---

Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
 )

Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327

PUBLIC DOCUMENT

**NOTICE OF DEPOSITION OF DOUGLAS GILLESPIE**

PLEASE TAKE NOTICE that pursuant to Rules 3.33 and 3.34 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings (16 C.F.R. §§ 3.33 and 3.34), Respondent Polypore International, Inc. ("Polypore"), will take the deposition of Douglas Gillespie before a person authorized by law to administer oaths at the offices of Arnall Golden Gregory LLP, 171 17<sup>th</sup> Street NW, Suite 2100, Atlanta, GA 30363 on January 15, 2009 at 9:00 a.m. The testimony will be recorded by stenographic and/or video means.

Dated: December 29, 2008

Respectfully Submitted,



\_\_\_\_\_  
William L. Rikard, Jr.

Eric D. Welsh

PARKER POE ADAMS & BERNSTEIN LLP

Three Wachovia Center

401 South Tryon Street, Suite 3000

Charlotte, NC 28202

Telephone: (704) 372-9000

Facsimile: (704) 335-9689

williamrikard@parkerpoe.com

ericwelsh@parkerpoe.com

*Attorneys for Respondent*

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327  
PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Notice of Deposition of Douglas Gillespie upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing Notice of Deposition of Douglas Gillespie upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



\_\_\_\_\_  
Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050



# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO Mr. Gordon A. Ulsh President and Chief Executive Officer Exide Technologies 13000 Deerfield Parkway Building 200 Alpharetta, GA 30004</p>	<p>2. FROM  UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
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This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING Arnall Golden Gregory LLP 171 17th Street, NW Suite 2100 Atlanta, GA 30363-1031 Phone: 404-873-8684</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION  1/16/09 at 2:00 PM</p>
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6. SUBJECT OF PROCEEDING

In the Matter of Polypore International, Inc., Docket No. 9327

<p>7. ADMINISTRATIVE LAW JUDGE  The Honorable D. Michael Chappell  Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA  Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
--	--

<p>DATE ISSUED  December 10, 2008</p>	<p>SECRETARY'S SIGNATURE  <i>Richard C. Donohue, Acting Secretary</i></p>
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## GENERAL INSTRUCTIONS

### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**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:*

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-----  
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*on the person named herein on:*

-----  
(Month, day, and year)

-----  
(Name of person making service)

-----  
(Official title)

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )

Docket No. 9327

Polypore International, Inc., )  
a corporation. )

PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Mr. Gordon A. Ulsh  
President and Chief Executive Officer  
Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Alpharetta, GA 30004

I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Subpoena Ad Testificandum upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Subpoena Ad Testificandum* upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



---

Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706

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

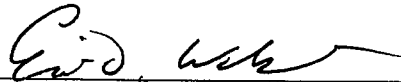
<b>In the Matter of</b>	)	
	)	
<b>Polypore International, Inc.,</b>	)	<b>Docket No. 9327</b>
<b>a corporation.</b>	)	<b>PUBLIC DOCUMENT</b>
	)	

**NOTICE OF DEPOSITION OF GORDON ULSH**

PLEASE TAKE NOTICE that pursuant to Rules 3.33 and 3.34 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings (16 C.F.R. §§ 3.33 and 3.34), Respondent Polypore International, Inc. ("Polypore"), will take the deposition of Gordon Ulsh before a person authorized by law to administer oaths at the offices of Arnall Golden Gregory LLP, 171 17<sup>th</sup> Street NW, Suite 2100, Atlanta, GA 30363 on January 16, 2009 at 2:00 p.m. The testimony will be recorded by stenographic and/or video means.

Dated: December 29, 2008

Respectfully Submitted,



---

William L. Rikard, Jr.  
Eric D. Welsh  
PARKER POE ADAMS & BERNSTEIN LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 372-9000  
Facsimile: (704) 335-9689  
williamrikard@parkerpoe.com  
ericwelsh@parkerpoe.com

*Attorneys for Respondent*

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the Matter of )  
Polypore International, Inc., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9327  
PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Notice of Deposition of Gordon Ulsh upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
oalj@ftc.gov

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing Notice of Deposition of Gordon Ulsh upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



\_\_\_\_\_  
Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050





# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO Exide Technologies 13000 Deerfield Parkway Building 200 Alpharetta, GA 30004	2. FROM  UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION
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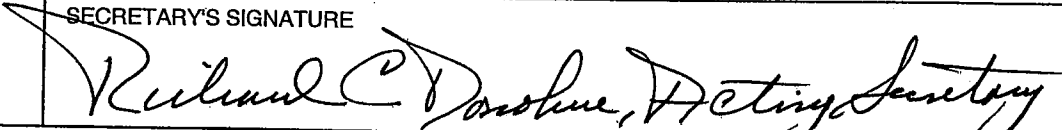
This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING Arnall Golden Gregory LLP 171 17th Street NW Suite 2100 Atlanta, GA 30363-1031 Phone: 404-873-8684	4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.  5. DATE AND TIME OF HEARING OR DEPOSITION  1/14/09 at 9:00 AM
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6. SUBJECT OF PROCEEDING
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In the Matter of Polypore International, Inc., Docket No. 9327  
Please designate and provide witnesses to testify on the subjects identified in the attached schedule.

7. ADMINISTRATIVE LAW JUDGE  The Honorable D. Michael Chappell  Federal Trade Commission Washington, D.C. 20580	8. COUNSEL REQUESTING SUBPOENA  Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935
--	---

DATE ISSUED  December 10, 2008	SECRETARY'S SIGNATURE  
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### GENERAL INSTRUCTIONS

#### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

#### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

#### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**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)

## SCHEDULE

1. Purchases of lead acid battery separators by Exide Technologies (“Exide”) from any supplier during the period of January 1, 2003 to the present.
2. Any actual or potential contract between Exide and Polypore International, Inc., including Daramic, LLC (“Polypore”), Microporous Products L.P. (“Microporous”), Entek International LLC (“Entek”) or any other manufacturer of lead acid battery separators from January 1, 2003 to the present, including the related contractual negotiations.
3. The contractual relationship between Exide and Polypore, including but not limited to communications related to cost surcharges or changes in pricing.
4. Any contractual relationship between Exide and Microporous, including but not limited to communications related to cost surcharges or changes in pricing.
5. Any communication or negotiation between Exide and Microporous related to any memorandum of understanding regarding the manufacture, purchase or sale of battery separators.
6. Exide’s sale of the Corydon facility and any expression of interest of any third party in such sale.
7. Any contractual relationship between Exide and Entek or any other manufacturer of lead acid battery separators (excluding Polypore and Microporous), including but not limited to communications related to cost surcharges or changes in pricing.
8. Exide’s knowledge of or consideration of possible suppliers of lead acid battery separators throughout the world.
9. Any consideration by Exide of either sponsoring expansion efforts of a lead acid battery separator manufacturer or itself producing or manufacturing lead acid battery separators.
10. Testing or qualification by Exide or anyone on behalf of Exide of lead acid battery separators.
11. Exide’s consideration of alternative technology or substitutes to lead acid battery separators manufactured by Polypore, including AGM separators.
12. The actual or potential acquisition of Microporous by Polypore (the “acquisition”).
13. The actual, potential or perceived effect on Exide business of an acquisition of Microporous by Polypore.
14. Communications between Exide and the Federal Trade Commission regarding the acquisition or Polypore.

15. Any actual or potential barrier to entry for suppliers or manufacturers of lead acid battery separators, including without limitation cost of entry or achieving minimal viable scale in (a) North America and (b) the World.
16. Any actual or potential ownership interest of Exide in any joint venture or other entity that manufactures lead acid battery separators.
17. Exide's response and production of documents in response to Polypore's subpoena duces tecum in this matter.

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

<u>In the Matter of</u>	)	Docket No. 9327
	)	
<u>Polypore International, Inc.,</u>	)	PUBLIC DOCUMENT
<u>a corporation.</u>	)	

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Alpharetta, GA 30004

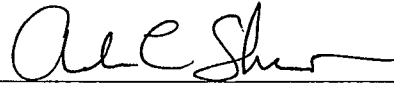
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Washington, DC 20580  
rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sdahm@ftc.gov



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Adam C. Shearer  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
Telephone: (704) 335-9050  
Facsimile: (704) 334-4706

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

\_\_\_\_\_  
In the Matter of )

Polypore International, Inc., )  
a corporation. )

) Docket No. 9327

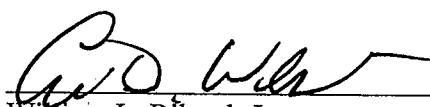
) PUBLIC DOCUMENT  
)

**NOTICE OF DEPOSITION OF EXIDE TECHNOLOGIES**

PLEASE TAKE NOTICE that pursuant to Rules 3.33 and 3.34 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings (16 C.F.R. §§ 3.33 and 3.34), Respondent Polypore International, Inc. ("Polypore"), will take the deposition of Exide Technologies on subjects identified on the attached schedule before a person authorized by law to administer oaths at the offices of Arnall Golden Gregory LLP, 171 17<sup>th</sup> Street NW, Suite 2100, Atlanta, GA 30363 on January 14, 2009 at 9:00 a.m. The testimony will be recorded by stenographic and/or video means.

Dated: December 29, 2008

Respectfully Submitted,



\_\_\_\_\_  
William L. Rikard, Jr.

Eric D. Welsh

PARKER POE ADAMS & BERNSTEIN LLP

Three Wachovia Center

401 South Tryon Street, Suite 3000

Charlotte, NC 28202

Telephone: (704) 372-9000

Facsimile: (704) 335-9689

williamrikard@parkerpoe.com

ericwelsh@parkerpoe.com

*Attorneys for Respondent*





## SCHEDULE

1. Purchases of lead acid battery separators by Exide Technologies (“Exide”) from any supplier during the period of January 1, 2003 to the present.
2. Any actual or potential contract between Exide and Polypore International, Inc., including Daramic, LLC (“Polypore”), Microporous Products L.P. (“Microporous”), Entek International LLC (“Entek”) or any other manufacturer of lead acid battery separators from January 1, 2003 to the present, including the related contractual negotiations.
3. The contractual relationship between Exide and Polypore, including but not limited to communications related to cost surcharges or changes in pricing.
4. Any contractual relationship between Exide and Microporous, including but not limited to communications related to cost surcharges or changes in pricing.
5. Any communication or negotiation between Exide and Microporous related to any memorandum of understanding regarding the manufacture, purchase or sale of battery separators.
6. Exide’s sale of the Corydon facility and any expression of interest of any third party in such sale.
7. Any contractual relationship between Exide and Entek or any other manufacturer of lead acid battery separators (excluding Polypore and Microporous), including but not limited to communications related to cost surcharges or changes in pricing.
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9. Any consideration by Exide of either sponsoring expansion efforts of a lead acid battery separator manufacturer or itself producing or manufacturing lead acid battery separators.
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14. Communications between Exide and the Federal Trade Commission regarding the acquisition or Polypore.

15. Any actual or potential barrier to entry for suppliers or manufacturers of lead acid battery separators, including without limitation cost of entry or achieving minimal viable scale in (a) North America and (b) the World.
16. Any actual or potential ownership interest of Exide in any joint venture or other entity that manufactures lead acid battery separators.
17. Exide's response and production of documents in response to Polypore's subpoena duces tecum in this matter.