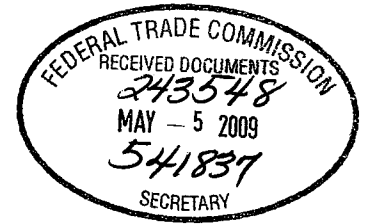


ORIGINAL



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )

Docket No. 9327

Polypore International, Inc. )  
a corporation )

PUBLIC<sup>1</sup>

**RESPONDENT'S MOTION FOR *IN CAMERA* TREATMENT  
OF CERTAIN TRIAL EXHIBITS**

In response to Administrative Law Judge Chappell's ("Judge Chappell") April 27, 2009 Order on Respondent's Motion for *In Camera* Treatment ("April 27<sup>th</sup> Order"), Respondent removed 482 exhibits from its Final Proposed Exhibit List which resulted in 332 exhibits being removed from *in camera* consideration. Similarly, Complaint Counsel's revisions to its Final Proposed Exhibit List allowed Respondent to remove an additional 142 exhibits from *in camera* consideration.<sup>2</sup> Additionally, Respondent has conducted a complete and thorough review of every exhibit identified in Respondent's original motion for *in camera* treatment in order to reduce the total number of exhibits for which Respondent seeks *in camera* protection. In total, Respondent has removed over 915 exhibits from *in camera* consideration, approximately 60% of the exhibits for which Respondent originally sought *in camera* protection.

<sup>1</sup> This Motion refers to and contains information subject to Respondent's Second Motion for *In Camera* Treatment of Certain Trial Exhibits pursuant to Rule 3.45(b) of the FTC's Rules of Practice. Such information has been redacted and labeled "[Redacted - Subject to Pending Motion for *In Camera* Treatment]" in the public version of this Motion.

<sup>2</sup> In addition to removing specific exhibits as implied by Judge Chappell's April 27<sup>th</sup> Order, Complaint Counsel's May 1, 2009 Final Proposed Exhibit List added several exhibits which had not previously been identified to Respondent's Counsel. The actual exhibits were not provided to Respondent's Counsel until May 4, 2009. Respondent's Counsel objects to the inclusion of these improperly added exhibits and will file a motion seeking their exclusion if Complaint Counsel does not immediately withdraw such exhibits. To the extent any such exhibits are ultimately admitted into evidence, Respondent's Counsel reserves the right to seek *in camera* protection for any such exhibit. See Letter of Adam C. Shearer dated May 4, 2009, attached hereto as Exhibit C.

Respondent Polypore International, Inc. (“Polypore”) seeks *in camera* treatment for the remaining exhibits included in its original motion. These documents are highly sensitive and proprietary in nature. Public disclosure of such information would divulge Polypore’s most sensitive and confidential information to competitors and/or customers, and would cause irreparable harm and serious injury to Polypore. Accordingly, Polypore respectfully requests an order requiring these materials to be used at the hearing only *in camera* and maintained under seal.

The specific pages and documents which have been identified by Polypore, after multiple reviews of Complaint Counsel’s and Polypore’s revised Final Proposed Exhibit Lists, fall within the Commission’s strict standards for *in camera* treatment as set forth in the April 27<sup>th</sup> Order and the opinions of this Commission.<sup>3</sup> Each exhibit identified by Polypore contains sensitive information that is “sufficiently secret and sufficiently material to [Polypore’s] business that disclosure would result in serious competitive injury” and, even when balanced against the “importance of the information in explaining the rationale of Commission decisions” warrants *in camera* treatment. *General Foods Corp.*, 95 FTC 352 (1980). The exhibits at issue in this Second Motion are listed in the index attached hereto as Exhibit A. For ease of reference, Polypore has grouped the exhibits identified in Exhibit A into the following categories:

1. Category 1 – Business Plans & Strategies
2. Category 2 – Contract Negotiations & Customer Contracts
3. Category 3 – Intellectual Property & Proprietary Information
4. Category 4 – Market Analysis Documents
5. Category 5 – Pricing Strategy Documents

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<sup>3</sup> See *In re Dura Lube Corp.*, 1999 FTC LEXIS 255 (Dec. 23 1999); *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 157 (Nov. 22, 2000) and 2000 FTC LEXIS 138 (Sept. 19, 2000); and *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006)

6. Category 6 – Customer-Specific Documents
7. Category 7 – Costing Data
8. Category 8 – Sales & Financial Information
9. Category 9 – Multiple Category Documents

The grounds for this Second Motion are set forth herein, and this Second Motion is fully supported by the sworn Second Declaration of Michael Shor (“Shor Decl.”) attached hereto as Exhibit B and which individually analyzes each item listed on Exhibit A. The documents themselves were previously provided as a DVD exhibit to Respondent’s original motion.

### **Introduction**

In response Judge Chappell’s April 27<sup>th</sup> Order, Respondent conduct a careful re-examination of each exhibit identified in Respondent’s original motion to determine whether the confidential material met the strict standards warranting *in camera* treatment. As a result of this additional review, Respondent has carefully limited the number and nature of documents for which it requests *in camera* protection. Of the approximately 1,600 exhibits for which Respondent originally sought *in camera* treatment, over 915 exhibits have been removed. As Respondent will demonstrate herein and in the supporting Second Declaration of Michael Shor, the public disclosure of the remaining exhibits, identified in Exhibit A hereto, will likely result in a clearly defined, serious injury to Respondent, thus justifying *in camera* treatment under the standard articulated by the Commission in *In re Dura Lube Corp.*, 1999 FTC LEXIS 255 (Dec. 23 1999); *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 157 (Nov. 22, 2000) and 2000 FTC LEXIS 138 (Sept. 19, 2000); and *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006).

The exhibits identified in Exhibit A contain confidential information that is paramount to Polypore’s business, competitiveness, and profitability. Indeed, revealing such information

would, among other things: (1) allow Polypore's competitors to gain a commercial advantage through knowledge of Polypore's pricing strategies, production capacities, technical know-how, and manufacturing processes; (2) give Polypore's customers a tactical advantage in future negotiations with Polypore; and (3) enable suppliers to peg the prices they charge Polypore. At the very least, disclosure of the information Polypore seeks to protect would deprive Polypore of its current bargaining position with customers and suppliers; at worst, competitors would be allowed unfettered access to Respondent's confidential and sensitive documents which will inevitably create a less competitive marketplace and harm competition. Continued confidentiality of these documents is key to maintaining Polypore's ability to develop, market, and sell its products in this competitive market dominated by powerful buyers.

#### **Argument**

Pursuant to Commission Rule 3.45(b), the Administrative Law Judge may order material, or portions thereof, offered into evidence . . . to be placed *in camera* on a finding that their public disclosure will likely result "in a clearly defined, serious injury to the . . . corporation requesting *in camera* treatment." 16 C.F.R. § 3.45(b)(emphasis added). Establishing that a "serious injury" would ensue with disclosure requires a demonstration that serious and irreparable harm will result from the Court's publication of the confidential documents. Meeting such a standard requires Respondent to make a clear showing that the information concerned is "sufficiently secret and sufficiently material to [Respondent's] business that disclosure would result in serious competitive injury." See *Bristol-Myers Co.*, 90 FTC 455 (1977), *General Foods Corp.*, 95 FTC 352 (1980).

In *Bristol-Myers*, 90 FTC 455 (1977), the Commission outlined six factors to be weighed when determining materiality and secrecy: (1) the extent to which the information is known outside of the applicant's business; (2) the extent to which the information is known by

employees and others involved in the applicant's business; (3) the extent of measures taken by the applicant to guard the secrecy of the information; (4) the value of the information to the applicant and its competitors; (5) the amount of effort or money expended by the applicant in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. Additionally, the Commission has expounded on the definition of "serious injury," stating "[t]he likely loss of business advantages is a good example of a clearly defined, serious injury." *Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 138 (Sept. 19, 2000).

As set forth below and in the Second Declaration of Michael Shor, the documents list in Exhibit A, and grouped by the previously identified nine categories, contain information sufficiently secret, and sufficiently material to Polypore's business, that disclosure constitutes a serious competitive injury under the *Bristol-Myers* factors and prevailing Commission law.

**I. IN CAMERA TREATMENT IS WARRANTED FOR THE FOLLOWING POLYPORE DOCUMENTS**

**A. Category One – Business Plans & Strategies**

[Redacted – Subject to Pending Motion for *In Camera* Treatment]

**B. Category Two – Contract Negotiations & Customer Contracts**

[Redacted – Subject to Pending Motion for *In Camera* Treatment]

**C. Category Three – Intellectual Property & Proprietary Information**

[Redacted – Subject to Pending Motion for *In Camera* Treatment]

**D. Category Four – Market Analysis Documents**

[Redacted – Subject to Pending Motion for *In Camera* Treatment]

**E. Category Five – Pricing Strategy Documents**

[Redacted – Subject to Pending Motion for *In Camera* Treatment]

**F. Category Six – Customer-Specific Documents**

**[Redacted – Subject to Pending Motion for *In Camera* Treatment]**

**G. Category Seven – Costing Data**

**[Redacted – Subject to Pending Motion for *In Camera* Treatment]**

**H. Category Eight – Sales and Financial Information**

**[Redacted – Subject to Pending Motion for *In Camera* Treatment]**

**I. Category Nine – Multiple-Category Documents**

**[Redacted – Subject to Pending Motion for *In Camera* Treatment]**

**II. *IN CAMERA* TREATMENT IS ALSO WARRANTED FOR POSSIBLE TRIAL TESTIMONY BY POLYPORE’S WITNESSES**

Both Respondent and Complaint Counsel have designated several Polypore employees as potential trial witnesses. Polypore’s employees will likely be questioned about the topics covered by this motion. Testimony on all of these topics could result in the disclosure of the same information contained in the documents described above. Thus, Polypore also requests that any trial testimony, either upon direct examination or cross examination by either party on any of these topics, be subject to *in camera* treatment for a period of three (3) to five (5) years from the date of this motion.

**Conclusion**

**[Redacted – Subject to Pending Motion for *In Camera* Treatment].** For the foregoing reasons and those articulated in the Second Declaration of Michael Shor, Polypore respectfully requests that this Court grant *in camera* protection to all the documents identified on Exhibit A and any trial testimony related to the topics covered by the documents in Exhibit A.

Dated: May 5, 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

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John F. Graybeal

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

**PROPOSED ORDER**

Upon consideration of Respondent's Second Motion for *In Camera* Treatment of Certain Trial Exhibits, any opposition thereto, any hearing thereon, and the entire record in this proceeding,

IT IS HEREBY ORDERED, that Respondent's Motion is GRANTED.

IT IS FURTHER ORDERED, that pursuant to Rule 3.45(b) of the Federal Trade Commission Rules of Practice, *16 C.F.R. § 3.45(b)*, the documents identified in the index attached as Exhibit A to the Motion, and any related trial testimony, shall be subject to the requested *in camera* treatment and will be kept confidential and not placed on the public record of this proceeding.

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

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



**CERTIFICATE OF SERVICE**

I hereby certify that on May 5, 2009, I caused to be filed via hand delivery and electronic mail delivery an original and two copies of the foregoing ***Respondent's Second Motion for In Camera Treatment of Certain Trial Exhibits [PUBLIC]***, 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)

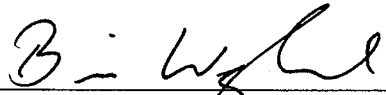
I hereby certify that on May 5, 2009, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing ***Respondent's Second Motion for In Camera Treatment of Certain Trial Exhibits [PUBLIC]*** upon:

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 May 5, 2009, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing ***Respondent's Second Motion for In Camera Treatment of Certain Trial Exhibits [PUBLIC]*** 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)

  
\_\_\_\_\_  
Brian R. Weyhrich  
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

Exhibit

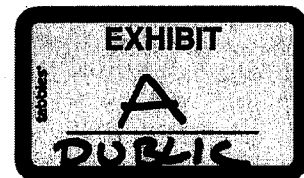
A

Resp. Ex. No.	CC Ex. No.	Exhibit Description	Date	Begin Doc. No.	End Doc. No.	Pages Requiring In Camera Protection	Time Period of In Camera Protection	Category
RX00330								1
RX00402								1
RX00404								1
RX01450								1
RX00546								1
RX00548	PX0741							1
RX00549								1
RX00550								1
RX00551								1
RX00553	PX0704							1
RX00554								1
RX00555								1
RX00562								1
RX00571								1
RX00580								1
RX00586								1
RX00587								1
RX00627								1
RX00628								1
RX00638								1
RX00640								1
RX00658								1
RX00683	PX0659							1
RX00692	PX0642							1
RX00695	PX0652							1
RX00696								1
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RX00706								1
RX00707								1
RX00731	PX0080							1
RX00732								1
RX00752	PX0089							1
RX00754	PX0081							1
RX00755								1
RX00761	PX0640							1

**REDACTED**

**REDACTED**

**REDACTED**



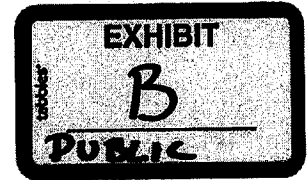
Exhibit

B

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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

Docket No. 9327



PUBLIC DOCUMENT<sup>1</sup>

DECLARATION OF MICHAEL SHOR

I, Michael Shor, being duly sworn and based upon my personal knowledge, declare and state as follows:

1. I am Special Counsel of Respondent Polypore International, Inc. (“Polypore”).
2. I am familiar with the documents of Polypore and the level of confidentiality associated with the subject matter therein.
3. I submit this declaration in support of Polypore’s Second Motion for *In Camera* Treatment of Certain Trial Exhibits, requesting *in camera* treatment of certain documents, identified by Complaint Counsel and/or Polypore as potential trial exhibits at the hearing of this matter.
4. Initially, a small number of agents acting at my direction assisted me in multiple reviews of each of the documents appearing on Exhibit A of Polypore’s original Motion for *In Camera* Treatment of Certain Trial Exhibits. These comprehensive reviews were conducted for the purpose of determining which designated exhibits contained

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<sup>1</sup> This Declaration refers to and contains information subject to Respondent’s Second Motion for *In Camera* Treatment of Certain Trial Exhibits pursuant to Rule 3.45(b) of the FTC’s Rules of Practice. Such information has been redacted and labeled “[Redacted – Subject to Pending Motion for *In Camera* Treatment]” in the public version of this Declaration.

confidential information, the public disclosure of which would cause a clearly defined, serious injury to Polypore. In response to Administrative Law Judge Chappell's April 27<sup>th</sup> Order, I conducted a further careful review of each and every exhibit that was the subject of Respondent's original motion in order to ensure that Polypore sought *in camera* treatment only for exhibits that met the Commission's strict standards for *in camera* treatment. Exhibits satisfying the Commission's strict standards are identified in Exhibit A of Polypore's Second Motion for *In Camera* Treatment of Certain Trial Exhibits and are individually described herein.

5. I am personally informed of the content of the individual documents and groups of documents that were reviewed, and the specific bases upon which Polypore is moving for *in camera* treatment of such documents.
6. Each of the documents identified in Exhibit A of Polypore's Second Motion for *In Camera* Treatment of Certain Trial Exhibits, and individually described herein, contain sensitive and confidential material and/or information that would result in competitive injury to Polypore should it be made public.
7. Each document identified by Polypore as requiring *in camera* treatment has been maintained internally by Polypore in a confidential manner, only being shared with those individuals requiring the knowledge contained within the documents. Additionally, each such document has, upon production in this case, been designated "Confidential Material" pursuant to the Protective Order entered on October 23, 2008.
8. Exhibit A to Polypore's Second Motion for *In Camera* Treatment of Certain Trial Exhibits is an index which lists each document for which Polypore seeks *in camera*

treatment. This index contains the exhibit designation (*i.e.*, "RX" or "PX"), the exhibit number, a description of the exhibit, the date of the exhibit, the individual pages (if applicable) requiring *in camera* treatment, the categorical reason for seeking *in camera* treatment, and the length of time for which *in camera* treatment is sought.

9. These exhibits [**Redacted – Subject to Pending Motion for *In Camera* Treatment**].

The public disclosure of any of this critically sensitive information would be highly detrimental to Polypore [**Redacted – Subject to Pending Motion for *In Camera* Treatment**]. Each document is individually reviewed in turn below, and for convenience's sake, organized by the following categories

- (a) Category 1 – Business Plans & Strategies
- (b) Category 2 – Contract Negotiations & Customer Contracts
- (c) Category 3 – Intellectual Property & Proprietary Information
- (d) Category 4 – Market Analysis Documents
- (e) Category 5 – Pricing Strategy Documents
- (f) Category 6 – Customer-Specific Documents
- (g) Category 7 – Costing Data
- (h) Category 8 – Sales & Financial Information
- (i) Category 9 – Multiple Category Documents

10. Also for convenience sake, the subject documents are also summarized in the index attached as Exhibit A to Respondent's Second Motion.

**CATEGORY ONE – BUSINESS PLANS & STRATEGIES**

11. [**Redacted – Subject to Pending Motion for *In Camera* Treatment**].

**CATEGORY TWO – CONTRACT NEGOTIATIONS & CUSTOMER CONTRACTS**

12. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY THREE – INTELLECTUAL PROPERTY & PROPRIETARY INFORMATION**

13. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY FOUR – MARKET ANALYSIS DOCUMENTS**

14. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY FIVE – PRICING STRATEGY DOCUMENTS**

15. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY SIX – CUSTOMER-SPECIFIC DOCUMENTS**

16. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY SEVEN – COSTING DATA**

17. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY EIGHT – SALES & FINANCIAL INFORMATION**

18. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

**CATEGORY NINE – MULTIPLE-CATEGORY DOCUMENTS**

19. [Redacted – Subject to Pending Motion for *In Camera* Treatment].

20. Prior to this administrative proceeding, the information contained in the exhibits identified by Polypore for *in camera* treatment has been revealed only to appropriate Polypore personnel and any contracting parties to the particular documents. General Polypore employees do not have access to the documents containing *in camera* material.

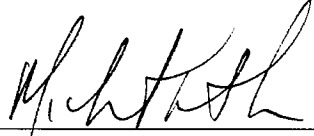


Such information is not in the public domain and cannot be obtained through other means.

21. **[Redacted – Subject to Pending Motion for *In Camera* Treatment].**
22. **[Redacted – Subject to Pending Motion for *In Camera* Treatment].**

I declare, under penalty of perjury, that the above statements are true and correct.

This 4<sup>th</sup> day of May, 2009.  
Charlotte, North Carolina

  
\_\_\_\_\_  
Michael Shor, Esq.

NOTARIZED:

Exhibit

C



Adam C. Shearer
Associate
Telephone: 704.335.9050
Direct Fax: 704.335.9741
adamshearer@parkerpoe.com

Three Wachovia Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202-1942
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

May 4, 2009

VIA ELECTRONIC MAIL

Steven A. Dahm, Esq.
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, DC 20001

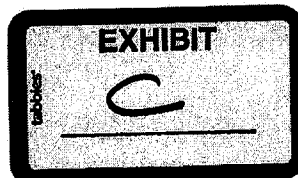
Re: In the Matter of Polypore International, Inc.

Dear Steve:

We have reviewed Complaint Counsel's Corrected Final Proposed Exhibit List which was provided to us on Friday, May 1, 2009, at 5:09 p.m. We were surprised to discover that, contrary to Judge Chappell's Order, Complaint Counsel has added sixty-six (66) exhibits to its list. The Order entered by Judge Chappell stated that Complaint Counsel and Respondent should delete exhibits from their respective lists, and provide a list of the exhibits which had been deleted. The Order made no provision for adding exhibits, and there is no other authority under which Complaint Counsel may add exhibits nearly a month and a half after its deadline and a little more than one week before the beginning of trial. Respondent objects to the addition of the following purported exhibits:

Table with 4 columns: Exhibit ID, Exhibit ID (email attachment), Exhibit ID, Exhibit ID (email attachment). Rows include PX0151, PX0835, PX1317, PX2177, PX2221, PX2227, PX2232, PX0318, PX0923, PX1328, PX2217, PX2222, PX2228, PX2233, PX0457, PX0924, PX2174, PX2219, PX2225, PX2230, PX2235, PX500, PX1251, PX2176, PX2220, PX2226, PX2231, PX2236.

CHARLESTON, SC
COLUMBIA, SC
MYRTLE BEACH, SC
RALEIGH, NC
SPARTANBURG, SC



PX2237	PX2238	PX2239	PX2240
PX2241	PX2242	PX2244	PX2248
PX2249	PX2252	PX2254	PX2255
PX2256	PX2259	PX2260	PX2261
PX2262	PX2263	PX2264	PX2285
PX2286	PX2287	PX2288	PX2289
PX2290	PX2291	PX2292	PX2293
PX2294	PX2295	PX2296	

To be clear, the Respondent does not object to the addition of exhibits pertaining to Amer-Sil and Guy Dauwe's deposition (PX0916, PX2267, PX2268, PX2269 and PX2273), demonstrative evidence (PX1400, PX1401, PX1402 and PX1403), or the Rebuttal Expert Report of John Simpson (PX2251).

None of the purported exhibits to which Respondent does object were listed on Complaint Counsel's Third Revised Final Proposed Exhibit List. In fact, none of these documents were identified as exhibits by Complaint Counsel before or reasonably near the deadline for Complaint Counsel to provide its Final Proposed Exhibit List, which was March 20, 2009. At the time you provided your Third Revised Final Proposed Exhibit List on March 27, 2009, a week after the applicable deadline, we did not object to the additional exhibits because we believed that Complaint Counsel was working diligently to identify exhibits in compliance with the deadline. However, the attempt by Complaint Counsel to add the above-listed exhibits at such a late date is prejudicial to the Respondent and outside the confines of the Orders issued by Judge Chappell. As you well know, Respondent's deadline for filing motions *in limine* and motions to strike passed on April 6, 2009, and the deadline for filing Respondent's motion for *in camera* treatment of trial exhibits passed on April 9, 2009. Moreover, Respondent's objections to Complaint Counsel's exhibit list were due by April 22, 2009. All of these deadlines, which relate directly to Complaint Counsel's exhibit list, have passed.

May 4, 2009  
Page 3

If you do not agree to remove these purported exhibits from your Exhibit List, we will bring this issue to Judge Chappell's attention and seek an Order excluding such documents and awarding our costs.

Very truly yours,



Adam C. Shearer

ACS:bkm

cc: J. Robert Robertson, Esq. (via electronic mail)  
William L. Rikard, Esq.  
Eric D. Welsh, Esq.