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

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In the Matter of)	
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SOUTH CAROLINA STATE BOARD OF DENTISTRY,)	Docket No. 9311
)	
Respondent.)	
	_)	

ORDER GRANTING COMPLAINT COUNSEL'S MOTION FOR THE ISSUANCE OF SUBPOENA AD TESTIFICANDUM TO STATE EMPLOYEE JAMES EVANS

On March 1, 2007, pursuant to Rules 3.22, 3.31, 3.33, and 3.36 of the Commission's Rules of Practice, Complaint Counsel filed a motion requesting the issuance of a subpoena *ad testificandum* to state employee James Evans. Complaint Counsel did not state whether its motion was unopposed. Pursuant to Rule 3.22(c), Respondent has 10 days to file an opposition or shall be deemed to have consented to the granting of the relief asked for in the motion. 16 C.F.R. § 3.22(c). The certificate of service indicates that Respondent was served on March 1, 2007, thus Respondent's opposition, if any, was due by March 12, 2007.

Complaint Counsel represents that Mr. Evans is a current employee of the South Carolina Attorney General's Office and a former Special Investigator for the South Carolina State Board of Dentistry. Complaint Counsel further represents that Mr. Evans was involved in investigating and bringing to the Board's attention violations of its emergency regulation.

Commission Rule 3.36 requires that a motion for the issuance of a subpoena to be served on an official or employee of a governmental agency other than the Commission make a specific showing that (1) the material sought is reasonable in scope; (2) the material falls within the limits of discovery under § 3.31(c)(1); and (3) the information or material sought cannot reasonably be obtained by other means. 16 C.F.R. § 3.36(b). Complaint Counsel appears to have made this showing. Accordingly, Complaint Counsel's motion is GRANTED.

Pursuant to Commission Rule 3.36(c), Complaint Counsel may forward to the Secretary a request for the authorized subpoena, with a copy of this Order attached. 16 C.F.R. § 3.36(c). Pursuant to Rule 3.34, in the event Mr. Evans seeks to limit or quash the subpoena, he shall have

the earlier of ten days after service of the subpoena or the time for compliance therewith to file any such motion. 16 C.F.R. § 3.34(c).

ORDERED:

Stephen J. McGuire

Chief Administrative Law Judge

Date: March 13, 2007