



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

July XX, 202X

Mr./Ms. Esq.
[Law Firm]
[Address]

Re: *In the Matter of* [],
Docket No. [#]

Dear Counsel:

Enclosed are official service copies of the nonpublic and redacted public versions of the Administrative Complaint (“Complaint”) issued in the above-captioned matter. As recited in the Complaint – and pursuant to Rule 3.12 of the Commission’s Rules of Practice, 16 C.F.R. § 3.12 – “[a] respondent shall file an answer within 14 days after being served with the complaint.”¹ This letter serves to notify you of certain policies affecting Part 3 administrative proceedings.

1. Notices of Appearance

Pursuant to Rule 4.1(d), 16 C.F.R. § 4.1(d), “any attorney desiring to appear before the Commission or an Administrative Law Judge on behalf of a person or party shall file with the Secretary of the Commission a written notice of appearance.” All attorneys appearing on behalf of the parties, or on behalf of any third parties, must enter a Notice of Appearance. The Notice of Appearance form should be accompanied by language “stating the basis for eligibility under this section and including the attorney’s jurisdiction of admission/qualification, attorney identification number, if applicable, and a statement by the appearing attorney attesting to his/her good standing within the legal profession.” *Id.* A copy of the Notice of Appearance form is attached to this letter and is available on the Commission website at <http://www.ftc.gov/sites/default/files/attachments/faqs/file-documents-adjudicative-proceedings/ftc-232.pdf>.

2. Filings

We suggest that you relay the following information regarding filings to third parties seeking to enter filings in this case.

Parties in Part 3 administrative proceedings may file pleadings either in (a) paper format;

¹ A complete copy of the Commission’s Rules of Practice is available online at <http://bit.ly/FTCsRulesofPractice>.

(b) electronically through FTC Administrative E-File System (AEFS), the Commission’s electronic filing system;² or (c) electronically using the Commission’s encrypted file transfer protocol. Courtesy copies of all filings in adjudicative proceedings should be emailed to the Secretary at ElectronicFilings@ftc.gov.

A. Filing Documents in Paper Form

Documents may be filed in paper format by hand-delivering or mailing the filing to:

Office of the Secretary
Federal Trade Commission
Constitution Center
400 Seventh Street, S.W., Suite 5610
Washington, D.C. 20024
Attn: Docket No. [#]

B. Filing Documents Electronically Through AEFS

Documents may also be filed electronically through the Administrative E-File System (AEFS) at <https://adminefiling.ftc.gov/ftcefile>. All documents submitted through AEFS must be submitted in .PDF format.³

Please note that electronically filing a document via AEFS does not fulfill your service obligations. Service by electronic delivery shall be conducted pursuant to Commission Rule 4.4(e)(2) by emailing a copy to lead complaint counsel and a courtesy copy to ElectronicFilings@ftc.gov. You are also required to comply with any additional requirements that the designated Administrative Law Judge or the Commission may establish regarding the submission of courtesy copies.

Should you have any questions regarding AEFS, a copy of the External User Manual is available at https://www.ftc.gov/system/files/attachments/faqs/file-documents-adjudicative-proceedings/aef_user_manual_external_filer.pdf.

C. Filing Documents Electronically Using Encrypted FTP Transmission

Parties may also submit an electronic copy of any filings by transmitting such documents in encrypted format via the Accellion FTP encryption system that the Office of the Secretary will make available to a party upon request. Documents may be in any format and may be as much as 12GB in size. Accordingly, we recommend using this filing option for large files, files containing video or audio attachments, or files containing large spreadsheets.

² Commission Rule 4.2(c)(1)(i), 16 C.F.R. § 4.2(c)(1)(i), provides that “[d]ocuments may be filed electronically by using the Office of the Secretary’s electronic filing system and complying with the Secretary’s directions for using that system. . . .,” and Commission Rule 4.2(b), 16 C.F.R. § 4.2(b), provides that “[e]very page of each such document shall be clearly and accurately labeled “Public”, “*In Camera*” or “Confidential.”

³ Redactions must be effected by completely deleting the *in camera* or otherwise confidential material before filing. Simply masking the *in camera* or otherwise confidential material -- through the use, for example, of a white type font -- is insufficient.

To utilize the FTP encryption system, a party must submit a request for access to the system at least one business day prior to the date the party plans to transmit the encrypted filing to the Office of the Secretary. Such request for access should be sent via email to ElectronicFilings@ftc.gov. The subject line of the email should read “Request to File with Encryption,” followed by the case’s docket number. Within the same business day of the request, the requester will receive an email from Office of the Secretary staff with instructions for the secure filing of encrypted documents using the Accellion encryption system.

3. Filings Before the Administrative Law Judge

For all filings before the Administrative Law Judge, courtesy copies should be emailed to the Administrative Law Judge at []@ftc.gov *and* to the Secretary at ElectronicFilings@ftc.gov. Each such courtesy copy should be transmitted at or shortly after the time of filing. The subject line of all submissions to []@ftc.gov or ElectronicFilings@ftc.gov should set forth *only* the Docket Number and the title of the submission.

Please make sure that filings directed to the Administrative Law Judge bear the following caption:

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

This will ensure the filing is properly directed to the Office of Administrative Law Judges for consideration.

4. Filings Before the Commission

In the event a party files a dispositive motion, such as a motion to dismiss, a motion to strike, or a motion for summary decision (and responses and replies thereto),⁴ or an interlocutory motion appealing a decision by the Administrative Law Judge, such pleadings should be filed for consideration by the Commission.

All pleadings for consideration by the Commission (rather than by the Administrative Law Judge) should include the following caption:

⁴ See Rule 3.22(a), 16 C.F.R. § 3.22(a).

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Rebecca Kelly Slaughter, Acting Chairwoman
Noah Joshua Phillips
Rohit Chopra
Christine S. Wilson

The caption should not include any reference to the recusal or non-participation of any particular Commissioner, as those terms only refer to a particular Commissioner's vote on a specific motion.

When filing any pleading for consideration by the Commission, the party should email a courtesy copy of such filing to ElectronicFilings@ftc.gov.

5. Subpoenas

In the event a party wishes to effect the issuance of a subpoena to a third party, pursuant to Rule 3.34(a) and (b), that party should complete the appropriate subpoena form and deliver such form to ⁵. Upon receipt, the Document Processing Section will affix the Commission seal to the subpoenas, so that they can be signed and issued, and notify you when they are ready to be picked up.

As a reminder, before mailing or delivering a given subpoena, please make sure that the field on the subpoena labeled "Counsel and Party Issuing Subpoena" (field 8 or 9) includes the name and contact information (including phone number) of the counsel to whom any responses or questions should be addressed and expressly identifies the party you represent, *i.e.*, Complaint Counsel or Respondent.

* * *

If you have any questions regarding this letter, please contact either me at atabor@ftc.gov or Daniel Freer at dfreer@ftc.gov. Thank you for your attention.

Sincerely,

April J. Tabor
Secretary

⁵ Copies of the four types of subpoenas -- Subpoena Ad Testificandum Deposition, Subpoena Ad Testificandum Adjudicative Hearing, Subpoena Duces Tecum, and Subpoena to Permit Inspection of Premises -- are attached to this letter. If a party requires a witness to travel in order to provide testimony at an adjudicative hearing, counsel should use Form 1157, a copy of which is attached to this letter, to seek reimbursement for all or some of the travel expenses the witness incurs.