



In the Matter of	)		SECHETAR
POM WONDERFUL LLC and ROLL INTERNATIONAL CORP.,	) ) )		
companies, and	) )	Docket No. 9344 PUBLIC	
STEWART A. RESNICK,	)		
LYNDA RAE RESNICK, and	)		
MATTHEW TUPPER, individually and	)		
as officers of the companies.	)		

#### <u>RESPONDENTS' CONSENTED TO MOTION TO EXTEND THE SCHEDULING</u> ORDER DEADLINES FOR SUBMISSION OF EXPERT REPORTS

Pursuant to Rule 3.21(c)(2) of the Commission's Rules of Practice, Respondents, with the consent of Complaint Counsel, request that the Court amend the Scheduling Order to permit submission of Respondents' expert reports, with the exception of the expert report of Ronald Butters, on or before 12:00 p.m. on Monday, March 21, 2011, as opposed to March 18, 2011, which is the date currently provided by the Scheduling Order for these reports. (Respondents will nevertheless endeavor to provide Complaint Counsel with materials relied on by their experts by the original deadline, March 18). Respondents further request that Complaint Counsel be permitted to submit their rebuttal expert reports, with the exception of any rebuttal report responding to Dr. Butters' report which is subject to a separate Order, on March 30, 2011, as opposed to March 28, 2011, which is the date currently provided by the Scheduling Order.

Good cause exists for this extension because Respondents, and in particular the Resnick Respondents, have been unable this week to review, consider, and work with experts to finalize the reports in light of a death in Respondents Stewart and Lynda Resnick's family. Moreover, extending this deadline will not delay the ongoing scheduling of expert depositions, nor will extension of this deadline affect the remaining dates in the Scheduling Order. As indicated, Complaint Counsel has consented to this motion. Accordingly, Respondents request that their motion be granted.

Respectfully Submitted,

/s/ John Graubert John D. Graubert Skye L. Perryman

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Counsel for Respondents

## UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION

In the Matter of	)	
POM WONDERFUL LLC and	)	
ROLL INTERNATIONAL CORP.,	)	
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	)	PU
	)	
STEWART A. RESNICK,	)	
LYNDA RAE RESNICK, and	)	
MATTHEW TUPPER, individually and	)	
as officers of the companies	)	

Docket No. 9344 PUBLIC

# [DRAFT PROPOSED ORDER] GRANTING MOTION TO AMEND THE SCHEDULING ORDER

On March 18, 2011, Respondents moved this Court to extend the deadlines on the

Scheduling Order to permit submission of Respondents' expert reports on or before 12:00 p.m.

on Monday, March 21, 2011 and for Complaint Counsel to submit their rebuttal expert reports on

March 30, 2011. Having reviewed the parties' motion and considered the reasons for this

extension, the motion is GRANTED. Nothing in this order shall modify the date (March 25,

2011) on which Dr. Butters will submit his expert report or the date (April 4, 2011) on which

Complaint Counsel will submit any rebuttal report to Dr. Butters' report.

ORDERED

Honorable D. Michael Chappell Administrative Law Judge

Dated:

#### **STATEMENT OF PARTIES REGARDING MEET AND CONFER**

On Thursday, March 17, 2011, counsel for Respondents (John Graubert) contacted Complaint Counsel (Heather Hippsley) by phone to request a brief extension for submission of expert reports in light of a death in Respondents Stewart and Lynda Resnick's family. Ms. Hippsley agreed to the extension and requested that Complaint Counsel, in turn, be afforded a 2 day extension for submission of their rebuttal reports. Thereafter, Respondents' counsel (John Graubert) confirmed this understanding by e-mail and indicated that Respondents would submit the attached motion.

Respectfully Submitted.

/s/ John Graubert John D. Graubert Skye L. Perryman

COVINGTON & BURLING LLP 1201 Pennsylvania Ave. NW Washington, DC 20004-2401 Telephone: 202.662.5938 Facsimile: 202.778.5938 E-mail: JGraubert@cov.com SPerryman@cov.com

Counsel for Respondents

# UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION

COMMISSIONERS:	Jon Leibowitz, Chairman William E. Kovacic J. Thomas Rosch Edith Ramirez Julie Brill		
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STEWART A. RESNICK, LYNDA RAE RESNICK, an MATTHEW TUPPER, indiv as officers of the companies.	) ) l )		

### **CERTIFICATE OF SERVICE**

I hereby certify that this is a true and correct copy of the Respondents' **CONSENTED TO MOTION TO EXTEND THE SCHEDULING ORDER DEADLINES FOR SUBMISSION OF EXPERT REPORTS**, and that on this 18th day of March, 2011, I caused the foregoing to be served by FTC E-File and hand delivery on the following:

Donald S. Clark The Office of the Secretary Federal Trade Commission 600 Pennsylvania Avenue, NW Rm. H-159 Washington, DC 20580

The Honorable D. Michael Chappell Administrative Law Judge Federal Trade Commission 600 Pennsylvania Avenue, NW Rm. H-110 Washington, DC 20580 I hereby certify that this is a true and correct copy of the Respondents' **CONSENTED TO MOTION TO EXTEND THE SCHEDULING ORDER DEADLINES FOR SUBMISSION OF EXPERT REPORTS**, and that on this 18th day of March, 2011, I caused the foregoing to be served by e-mail on the following:

Mary Engle Associate Director for Advertising Practices Bureau of Consumer Protection Federal Trade Commission 601 New Jersey Avenue, NW Washington, DC 20580

Heather Hippsley Mary L. Johnson Tawana Davis Federal Trade Commission 601 New Jersey Avenue, NW Washington, DC 20580

#### /Skye Perryman

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Counsel for Respondents

Bertram Fields Greenberg Glusker 1900 Avenue of the Stars 21st Floor Los Angeles, CA 90067 Telephone: 310.201.7454

Counsel for Respondents Stewart Resnick and Lynda Rae Resnick

Dated: March 18, 2011