

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

ADMINISTRATIVE LAW JUDGE: Jay L. Himes

IN THE MATTER OF: DOCKET No. D09423

NATALIA LYNCH, APPELLANT

APPELLANT’S CASE STATUS REPORT

Appellant Natalia Lynch (“Ms. Lynch”) respectfully files this case status report pursuant to the Court’s May 20, 2024 Order Memorializing Bench Rulings (the “May 20 Order”).

Pursuant to the May 20 Order, the parties met and conferred on May 22, 2024 during which Ms. Lynch requested certain documents pertaining to the unredacted document the Court ordered be disclosed during the *in camera* session on May 20, 2024 (the “Unredacted Document”). In light of the information reflected in the Unredacted Document, Ms. Lynch also sought that the Authority withdraw Dr. Cole’s testimony from the record or agree to produce her to testify at the forthcoming evidentiary hearing. At the close of the meet and confer, the Authority requested that Ms. Lynch send a written communication setting out again the documents and other commitments that Counsel for Ms. Lynch had requested during that meet and confer. Having already disclosed what Ms. Lynch sought, Counsel for Ms. Lynch informed the Authority that this was unnecessary and raised concerns this would only cause undue delay in light of the Court’s order to provide a status report by June 3, and urged the Authority to respond accordingly based on the parties’ discussion during the meet and confer. Two days after the meet and confer, on Friday May 24, 2024 the Authority sent a letter indicating that it

“anticipate[d] producing substantive responses to some of what” Ms. Lynch sought during the May 22 meet and confer but demanded again that Ms. Lynch set out in writing the additional documents she requested during the May 22 meet and confer. Ms. Lynch sent that list by letter the next business day. The Authority did not respond to Ms. Lynch’s letter until late in the day on Friday, May 31, 2024, in which it was made clear that it planned to produce almost no additional documents in response to Ms. Lynch’s requests and would not be producing Dr. Cole to testify at the evidentiary hearing. On June 1, 2024, we expressed our disappointment by email that the Authority had waited nine days after our meet and confer to inform Ms. Lynch that it in fact planned to produce almost nothing at all. We requested a further meet and confer today to discuss the Authority’s response and the status report we owe to the Court. After initially agreeing to a meet and confer today, the Authority cancelled, saying that it would only correspond further in writing.

In light of the Authority’s response and in light of new information revealed to us by the documents produced in answer to the subpoena *duces tecum* issued by the Court on May 1, 2024, including the Unredacted Document, Ms. Lynch intends to file motions to seek production of documents that the Authority continues to withhold (including, for example, the testing information referred to in the Unredacted Document¹), to seek appropriate relief for misrepresentations made by the Authority’s lawyers in the arbitration and on appeal, and in respect of Dr. Cole’s testimony. Subject to the Authority producing the small number of

¹ It is a matter of public record that the Unredacted Document contains testing information. See Authority’s May 16, 2024 Statement of Basis for Redaction at 2 (noting that the redactions covered, among other things, “testing practices”) and this Court’s May 17, 2024 Order Setting In Camera Hearing (referencing “results of the testing referred to” in the Unredacted Document).

documents it has indicated it does not object to producing by June 6, 2024, we anticipate being able to file those motions by June 19, 2024.

Dated: June 3, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2024, pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), I caused the foregoing to be filed and served as follows:

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