UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION, *et al.*, Plaintiffs, v. **SYSCO CORPORATION**, and **USF HOLDING CORP.**, and **US FOODS, INC.**, Defendants.	Civil Action No. 15-cv-00256 (APM)

PLAINTIFF FEDERAL TRADE COMMISSION'S UNOPPOSED MOTION FOR PROTECTIVE ORDER GOVERNING CONFIDENTIAL MATERIAL, INCLUDING MEMORANDUM IN SUPPORT

Plaintiff, the Federal Trade Commission (the "Commission"), by its designated attorneys, has filed this action seeking a temporary restraining order and a preliminary injunction enjoining the merger of Defendants Sysco Corporation ("Sysco") and USF Holding Corp. ("US Foods") pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b) and Section 16 of the Clayton Act, 15 U.S.C. § 26. By this motion, the Commission seeks an order, pursuant to Rule 26(c), Fed. R. Civ. P., to limit the disclosure of the discovery taken during the Plaintiffs' investigations and to be taken in this litigation because the discovery contains confidential commercial information both of Defendants and of third parties.

In the course of their investigations, Plaintiffs obtained discovery from Defendants and third parties that is relevant to the Complaint and the Memorandum in Support of Plaintiff Federal Trade Commission's Motion for Temporary Restraining Order and Preliminary Injunction, but which contains competitively sensitive information. This competitively sensitive information includes trade secrets and other confidential research, development, and commercial or financial information, as such terms are used in Rule 26(c)(1)(G), Fed. R. Civ. P., and Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f). The proposed protective order will allow Plaintiffs to share this discovery with outside counsel for Defendants but will protect this information against unwarranted disclosure either to Defendants or to the public.

Rule 26(c) of the Federal Rules of Civil Procedure grants the Court the discretion to issue such protective orders. That rule provides, in pertinent part:

> A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending . . . The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following . . .
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> . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way . . .

Fed. R. Civ. P. 26(c)(1)(G).

For the Court's information, the Commission already has initiated a parallel administrative proceeding under 15 U.S.C. § 45(b), challenging this merger, with the plenary trial scheduled to commence on July 21, 2015. The protective order the Commission proposes here is substantively identical to the protective order that is typically entered in the administrative litigation of merger cases pursuant to 16 C.F.R. §3.31 Appendix A.

In accordance with Local Rule 7(m), counsel for the Commission discussed this motion with counsel for the Defendants. The Defendants do not oppose this motion and reserve the right to ask the court to modify the order to permit certain of their employees access to Confidential Material (as defined in the proposed order).

A proposed order is attached.

Dated: February 20, 2015

Respectfully submitted,

By: /s/ Stephen Weissman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of February, 2015, I served the foregoing on the following counsel via electronic mail:

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