

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of

BABY MATTERS, LLC

Respondent.

CPSC Docket No: 13-1

HON. WALTER J. BRUDZINSKI
Administrative Law Judge

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

On January 2, 2013, Respondent BABY MATTERS, LLC filed a Motion to Compel Correction and Retraction and for Sanctions. The thrust of Respondent's motion was to sufficiently correct an alleged false or misleading statement the Commission made in a press release at the end of December. As a sanction for the misleading statement, Respondent requested the undersigned Administrative Law Judge (ALJ) dismiss the Complaint in this administrative proceeding. Complaint Counsel filed a response arguing, among other things, that the ALJ did not have jurisdiction. On January 22, 2013, the undersigned issued an order denying Respondent's motion.

On January 25 Respondent submitted a Motion for Reconsideration arguing the ALJ has "the inherent authority to govern the proceedings before it, including matters involving how the parties conduct themselves with regard to this litigation." *See Motion for Reconsideration of Denial of Motion to Compel Correction and Retraction and for Sanctions* at ¶7. Respondent further argues 15 U.S.C. § 2055(b)(4) contains an exemption to the public disclosure rules in §§ 2055(b)(1) – (3) after commencement of an adjudicatory proceeding. This exemption "implies that, under certain circumstances, where a judicial body already has jurisdiction to hear certain

matters, those bodies (including administrative or judicial proceedings) can redress the wrongful disclosures under Section 6(b).” *See Memorandum of Points and Authority in Support of Motion for Reconsideration of Denial of Motion to Compel Correction and Retraction and for Sanctions* at 2. Complaint Counsel filed a response consistent with its earlier position. At the pre-hearing conference on January 28, 2013, the undersigned ALJ denied Respondent’s Motion for Reconsideration but reserved the rationale for this written Order.

Title 16 C.F.R. § 1025.1 specifically limits the jurisdiction of the ALJ to adjudicative proceedings relating to 15 U.S.C. §§ 2064(c), (d), (f); 15 U.S.C. § 2066(b); 15 U.S.C. §1274; and, 15 U.S.C. §§1192, 1197(b). Respondent’s arguments do not overcome the absence of delegated authority from the Commission to the ALJ for deciding matters under 15 U.S.C. § 2055. The Commission has delegated authority exclusively to the Secretary for deciding issues concerning “retractions of inaccurate or misleading information.” *See* 16 C.F.R. §§ 1101.1(a) and 1101.52. The undersigned’s authority to adjudicate this administrative proceeding pursuant to 15 U.S.C. §§ 2064, 1274 and 16 C.F.R. § 1025 does not grant broad authority to also decide matters under 15 U.S.C. § 2055. Respondent’s Motion for Reconsideration is therefore **DENIED.**

SO ORDERED.

Done and dated January 31, 2013
New York, NY



Walter J. Brudzinski
Administrative Law Judge