

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes

Docket No. R2006-1

PRESIDING OFFICER'S RULING ON
GREETING CARD ASSOCIATION REQUEST FOR
PROTECTIVE ORDER

(Issued October 30, 2006)

On October 27, 2006, a Request for Expedited Relief and Motion of the Greeting Card Association on Behalf of Dr. James Clifton for Protective Order Concerning GCA Production in Response to ANM/GCA-1 (Motion) was filed with the Commission. This ruling preserves the status quo by granting a temporary protective order, while not ruling on the merits of the controversy.

Greeting Card Association reports that its witness, Dr. James Clifton, has an ongoing dispute with a former client, the National Association of Presort Mailers. It further states that materials were obtained through discovery concerning his testimony in previous discovery responses on behalf of Greeting Card Association that is relevant to that dispute, and that protections "limiting the use of the produced material to this proceeding (R2006-1) are warranted." Motion at 1.

In support of the Motion, Dr. Clifton submits a declaration in which he claims that in response to a discovery request from the Alliance of Nonprofit Mailers, an Elasticity Study contains "valuable analyses and estimates of cross elasticities for worksharing mail that did not appear in my testimony. A major member of NAPM has requested such analyses and estimates but has not offered to pay me, my firm, or GCA for such." Motion, Attachment A Declaration of James A. Clifton, at 2.

A ruling on the merits of the request for protective conditions will not be issued until there has been opportunity for responses to the Motion. At this stage, however, it is important to maintain the status quo. The situation is made more difficult because counsel for Alliance of Nonprofit Mailers also represents other clients who may have an interest in the dispute.

The Commission understands that disagreements and disputes arise in the course of prosecuting litigation. Nonetheless, the Commission is very concerned that its processes not be used solely, or primarily, for the purpose of gaining advantage in a dispute not relating to an issue before the Commission for decision.

Dr. Clifton is scheduled to testify on November 6, 2006.

Answers to the Motion shall be due November 1, 2006. A ruling on the Motion will be issued before Dr. Clifton's scheduled appearance. In the interim, counsel for Alliance of Nonprofit Mailers shall not convey the contents of the material subject to protective conditions to anyone except as provided in the temporary protective order attached hereto. If this information was communicated prior to issuance of this ruling, counsel for Alliance of Nonprofit Mailers shall describe the circumstances of such transmission in a notice filed on or before November 1, 2006.

RULING

1. The Motion of the Greeting Card Association on Behalf of Dr. James Clifton for Protective Order Concerning GCA Production in Response to ANM/GCA-1, filed October 27, 2006, is granted on a temporary basis as provided in the Attachment to this ruling.
2. Answers to the Motion of the Greeting Card Association on Behalf of Dr. James Clifton for Protective Order Concerning GCA Production in Response to ANM/GCA-1 are due on or before November 1, 2006.

3. Counsel for Alliance of Nonprofit Mailers shall submit a notice if the materials covered by the Temporary Protective Order were disclosed prior to the effectiveness of this ruling.

George Omas
Presiding Officer

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2006-1

TEMPORARY PROTECTIVE ORDER

1. Only a person who is a participant in Postal Rate Commission Docket No. R2006-1, or a person employed by such participant, or acting as agent, consultant, contractor, affiliated person, or other representative of such participant for purposes related to the litigation of Docket No. R2006-1 shall be granted access to the materials produced by GCA on October 23, 2006 in response to the Alliance of Non-Profit Mailers discovery request dated October 4, 2006.

2. The use of the materials shall be strictly limited to litigation of R2006-1, and not used for any other purpose during or after the concluding date of that litigation, as defined below in item 4.

3. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.

4. The final date of any participant's access, defined as the concluding date, shall be January 7, 2007, the scheduled date for reply briefs in R2006-1.

5. A participant shall return all protected materials to Peter Hopkins, Esq. at Spiegel and McDiarmid no later than 5 business days after January 7, 2007, and certify to Peter Hopkins, Esq. by Certified First Class Mail that the protected material has been returned, or destroyed, and attest in writing with signature that all the protective conditions above have been met in full.

CERTIFICATION

The undersigned represents that:

Access to materials provided in Docket No. R2006-1 by Greeting Card Association identified in Presiding Officer's Ruling No. R2006-1/95 (hereinafter, "these materials" or "the information") has been authorized by the Commission.

The cover or label of the copy obtained is marked with my name.

I agree to use the information only for purposes of analyzing matters at issue in Docket No. R2006-1.

I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain in strict confidence these materials in accordance with all of the protective conditions set out above.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

CERTIFICATION UPON RETURN OF
PROTECTED MATERIALS

Pursuant to the Certification which I previously filed with the Commission regarding information provided in Docket No. R2006-1 by Greeting Card Association identified in Presiding Officer's Ruling No. R2006-1/95 (hereinafter, "these materials" or "the information"), received on behalf of myself and/or the party which I represent (as indicated below), I now affirm as follows:

1. I have remained eligible to receive access to materials under paragraph 1 of the protective conditions throughout the period those materials have been in my possession. Further, I have complied with all conditions, and have maintained these materials in strict confidence in accordance with all of the protective conditions set out above.
2. I have used the information only for purposes of analyzing matters at issue in Docket No. R2006-1.
3. I have either surrendered these materials as provided in Presiding Officer's Ruling No. 95 to the Postal Rate Commission or destroyed all copies of the information that I obtained or that have been made from that information.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____