DEPARTMENT OF COMMERCE
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BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF: **PURDUE PHARMA, L.P.**, a Delaware limited partnership; **PURDUE PHARMA, INC.,** a New York corporation; **THE PURDUE FREDERICK COMPANY,** a Delaware corporation; **RICHARD SACKLER, M.D.,** individually and as an owner, officer director, member, principal, manager and/or key employee of the above named entities; and **KATHE SACKLER, M.D.,** individually and as an owner, officer, director, member, principal, manager and/or key employee of the above named entities, Respondents.	**ORDER ON RENEWED MOTION TO CONVERT INFORMAL HEARING** Case No. **CP-2019-005** DCP Case No. 107102

On March 21, 2019, the Division of Consumer Protection (the "Division") filed a Renewed Motion to Convert Informal Hearing in the referenced matter (the "Motion"). The Respondents filed an Opposition memorandum on April 1, 2019 (the "Opposition") and the Division filed a Reply memorandum on April 9, 2019 (the "Reply").

For convenience, all five respondents will sometimes be referred to collectively herein as the "Respondents." Purdue Pharma, L.P., Purdue Pharma, Inc. and Purdue Frederick Company will sometimes be referred to collectively herein as the "entity Respondents." Richard Sackler and Kathe Sackler will sometimes be referred to collectively herein as the "individual Respondents" or as the "Sacklers."

FACTUAL SETTING

1. As partially reflected in the pleadings and attachments to pleadings filed in this matter, some or all of the Respondents are engaged in multiple legal actions related to the issues raised in the Notice of Agency Action (the "NOAA") of the Division. Respondents assert that "the Division's claims are similar to other actions filed in courts across the country" (Opposition p.2).
2. Included among these other actions is a civil action filed in calendar year 2017 in the Federal District Court of Ohio, Northern District, as Case No. 1:17-CV-2804. Other federal court actions have been consolidated in multi-district-litigation (the "MDL") in the Federal District Court of Ohio and designated by MDL No. 2804.
3. This tribunal takes judicial notice of the pleadings in the MDL,[1] including the Protective Order which is attached to the Division's March 8, 2019 Motion for Leave to File Redacted Notice of Agency Action filed in the present proceeding. As acknowledged during the oral argument on the Motion, each of the Respondents is named as a defendant in one or more of the MDL cases, although the Sacklers are not named in any of the "bell weather" cases that are proceeding in the MDL. Discovery has been stayed in the non-bell weather cases.
4. The State of Utah filed on May 31, 2018 a civil action against the entity Respondents in the Seventh Judicial District Court, Carbon County, Utah Case No. 180700055 (the "Utah State Action"). The Utah State Action was dismissed without prejudice on January 30, 2019 (Exhibit #1 of the Opposition) and this administrative proceeding was initiated on the same day, January 30, 2019.

[1] As footnoted by the Respondents in their Opposition memorandum, the presiding officer here "may take judicial notice of public records" *BMBT, LLC v. Miller*, 2014 UT App 64, ¶ 6, 322 P.3d 1172.

5. The Respondents state that the administrative citation (the "Citation") in this matter makes "virtually identical allegations" against the entity Respondents as were set forth in the Utah State Action (Opposition p.3). These identical allegations prominently include allegations of violations of the Utah Consumer Sales Practices Act (the "UCSPA"). The Respondents state that the Citation repeats "verbatim almost all the allegations asserted in the [Utah State Action], including violations of the UCSPA" (Opposition p.5).
6. The Division asserts that this administrative proceeding is a streamlined proceeding, in that it does not include the fraud, nuisance, negligence and unjust enrichment claims of the Utah State Action (Reply p.7).
7. The Respondents assert that a hearing in this matter will include "expert testimony on myriad topics" (Opposition p.2). This expert testimony will include "expert analysis" of the computation of the dollar amount of penalties that may be assessed (Opposition p.2). In their Opposition memorandum, the Respondents argue that the inability to vet the expert witnesses by means of deposition is a critical factor that augurs in favor of their claims of a lack of due process and of prejudice. At the oral argument on the Motion, all parties acknowledged the essential need for expert witness testimony in this case.
8. When the Citation was filed, the Division filed on the same day a motion to convert the proceeding to a formal adjudicative proceeding. The Respondents failed to oppose the motion and the presiding officer entered an order converting the case. When the parties alerted the presiding officer that they had a side agreement for an extension of time to file an opposition to the motion to convert (which agreement was unknown and uncommunicated to the presiding officer), the presiding officer promptly set the conversion order aside to permit the parties to honor their side agreement.

9. Following the filing of the NOAA in this case, the Division renewed its motion to convert the case to a formal proceeding.

ANALYSIS

The authority to convert a proceeding from an informal to a formal proceeding is found, not in Division rule, but in statute adopted by the Utah Legislature. U.C.A. §63G-4-202(3), provides:

> Any time before a final order is issued in any adjudicative proceeding, the presiding officer may convert a formal adjudicative proceeding to an informal adjudicative proceeding, or an informal adjudicative proceeding to a formal adjudicative proceeding if:
>
> (a) conversion of the proceeding is in the public interest; and
>
> (b) conversion of the proceeding does not unfairly prejudice the rights of any party.

The statute permits the conversion to be either from informal to formal or the inverse. The only factors bearing on the conversion are the two set forth in subparagraphs (a) and (b).

The Opposition of the Respondents and the motions to dismiss of the Respondents, which have subsequently been filed, raise important legal issues, some of which have not been specifically addressed previously in reported cases of the Utah Supreme Court or the Utah Court of Appeals.[2] Each issue raised by the parties relative to the motion to convert will be addressed in turn. The motions to dismiss will be addressed when those motions have been fully briefed.

I. Factors that may impact the "public interest" and that may "unfairly prejudice the rights of a party."

The parties have asserted various consequences that will flow from the prosecution of this matter as either an informal or formal proceeding, claiming an effect on the public interest and

[2] As an example, after oral argument on the Motion, but during a discussion of matters to be addressed at the April 23, 2019 prehearing conference regarding the filed motions to dismiss, Ms. Maura Monaghan, counsel for Kathe Sackler, stated (and almost certainly correctly so), that there is no reported Utah case on the applicability of U.C.A. §13-11-3(6) to establish a director or officer of a respondent entity as a "supplier" under the statutory provision. This may well be a case of first impression beyond the many decisions of the division, decisions on agency review, and possibly one or more district court decisions resulting from trials *de novo*.

the potential prejudice occasioned to the parties. Some inconvenience, or even prejudice, may result from pursuing either an informal or formal proceeding. However, this tribunal must weigh and balance these factors to achieve the public interest and to achieve the least prejudice. At this juncture, this tribunal is not asked to determine if agency action is not warranted or constitutionally permissible. The focus here is to determine which administrative agency path is to be pursued, formal or informal.

A. The admissibility of hearsay evidence in administrative proceedings is neutral on the issues of public interest and a party being unfairly prejudiced.

Respondents express concerns about the admissibility of hearsay evidence in the administrative proceeding. Respondents also observe that there is "apparently no requirement that testimony be based on personal knowledge" (Opposition p. 7).

It is correct that hearsay evidence is admitted in all administrative proceedings (whether informal or formal) on the basis of U.C.A. Subsection 63G-4-206(c). This subsection provides that "the presiding officer may not exclude evidence solely because it is hearsay."

This statutory provision is moderated, however, by (1) U.C.A. Subsection 63G-4-208(3), which provides that a finding of fact that is contested may not be based solely on hearsay evidence unless that evidence is admissible under the Utah Rules of Evidence, and (2) the ruling of the Utah Supreme Court to the same effect in the case of *The Yacht Club v. Utah Liquor Control Commission*, 681 P.2d 1224, 1225; 1984 Utah LEXIS 810, which provides that "[h]earsay evidence is admissible in proceedings before administrative agencies. However, findings of fact cannot be based exclusively on hearsay evidence. They must be supported by a residuum of legal evidence competent in a court of law."

Whatever difficulty or prejudice may accrue from the admissibility of hearsay evidence is found in all administrative proceedings, notwithstanding their formality, as hearsay evidence is

admitted in both informal and formal administrative proceedings. For this reason, the issue of the admissibility of hearsay evidence does not impact one way or the other the decision on the Motion.

The Respondents provide no case law that establishes that due process is not satisfied or that undue prejudice is occasioned by reason of the admissibility of hearsay evidence in administrative proceedings.

B. The 180-240 day time restrictions of U.A.C. R151-4-108 and 109(2) are neutral on the issues of public interest and a party being unfairly prejudiced.

In the opening paragraphs of their argument about being substantially prejudiced by the time restrictions of the Division's rules, the Respondents state that nothing "about a formal administrative proceeding provides "procedural safeguards" that are similar to those in a lawsuit followed by an actual trial" (Opposition p.7). The Respondents assert at page 4 of their Opposition "[i]n sum, Respondents will be severely prejudiced if this administrative proceeding, whether formal or informal, is allowed to continue at all."

This argument seems to presage the arguments of the Respondents in their motions to dismiss. However, the 180-240 day time restrictions of U.A.C. R151-4-108 and 109(2), specifically mentioned in this portion of their Opposition, apply equally to informal and formal proceedings. Therefore, these timing restrictions are neutral on the issues of public interest and a party being unfairly prejudiced for purposes of the Motion here.

C. The unavailability of a jury trial is neutral on the issues of public interest and a party being unfairly prejudiced.

At page 8 of their Opposition memorandum, the Respondents assert that substantial prejudice exists because they are "denied the right to trial by jury." In this regard, the Respondents refer to the Utah Supreme Court case of *Int'l Harvester Credit Corp v. Pioneer*

Tractor & Implement, 626 P.2d 418, 421; 1981 Utah LEXIS 737. It is correct that the Supreme Court in the *Pioneer Tractor* case extols the virtues of jury trials in actions at law in a Utah district court. However, the case is a civil action and makes no reference to administrative adjudicative proceedings.

Further, concerns about the inability to have a trial by jury apply equally in informal and formal proceedings. If the case is prosecuted as a formal proceeding there is an appeal right to a Utah appellate court, after agency review to exhaust administrative remedies. No jury trial is possible. However, even if a *de novo* hearing to a state court judge is pursued after an informal proceeding, such *de novo* trial must be prosecuted without a jury trial in the district court (U.C.A. §63G-4-402(3)(a)). Therefore, the unavailability of a jury trial in an informal proceedings is neutral on the issues of public interest and a party being unfairly prejudiced.

D. The admissibility in this proceeding of evidence that would not be admissible under the Utah Rules of Evidence is neutral on the issues of public interest and a party being unfairly prejudiced.

Respondents observe at page 7 of their Opposition memorandum that some statutory provisions applicable in administrative proceedings permit evidence that would not be admissible under the Utah Rules of Evidence. Respondents cite specific evidentiary concerns about U.C.A. §63G-4-206(1)(b)(i) and (iii).

U.C.A. §63G-4-206(1)(b)(i) permits a presiding officer in a formal adjudicative proceeding to "exclude evidence that is irrelevant, immaterial or unduly repetitious." Such rule is not dissimilar to Rules 402 and 403 Utah Rules of Evidence, which provide that "[i]rrelevant evidence is not admissible" and that the "court may exclude relevant evidence if its probative value is substantially outweighed by a danger of . . . wasting time, or needlessly presenting cumulative evidence."

U.C.A. §63G-4-206(1)(b)(iii) permits the introduction of a copy of a document, and is not dissimilar to Rule 1003 Utah Rules of Evidence.

With regard to these and other evidentiary matters mentioned in the briefs of the parties, Utah case law confirms that "administrative proceedings need not possess the formality of judicial proceedings." *Nelson v. Dep't of Employment Security*, 801 P.2d 158, 1990 Utah App. LEXIS 169.

Further, decades of Federal administrative proceedings and court decisions related to those proceedings reiterate the statement made by the U.S. Supreme Court that "it has long been settled that the technical rules for the exclusion of evidence applicable in jury trials do not apply to proceedings before federal administrative agencies in the absence of a statutory requirement that such rules are to be observed." *Opp. Cotton Mills v. Adm'r of Wage & Hour Div. of Dep't of Labor*, 312 U.S. 126, 155; 1941 U.S. LEXIS 1223.

Our Tenth Circuit Court, cited by the Division, echoes this principle by saying "technical rules for the exclusion of evidence applicable in jury trials do not apply to" administrative proceedings. *Levers v. Berkshire*, 151 F.2d 935, 939; 1945 U.S. App. LEXIS 4543 (10th Cir.).

As in other matters discussed in the subparts of this ruling above, admissibility or exclusion of evidence in a formal adjudicative proceeding is neutral on the issues of public interest and a party being unfairly prejudiced.

E. Respondents are not denied a meaningful review in court because a formal proceeding is appealed (after agency review) to the appellate courts of the state of Utah. The Respondents are not prejudiced by reason of the parameters of such appeal rights. The review by an appellate court of this state on the record of the administrative hearing is constitutionally sound and in the public interest.

Respondents assert that, based on U.C.A. §63G-4-403(4), they are denied "meaningful review in court" (Opposition pp.8-9). Section 63G-4-403 outlines the judicial review available in

formal adjudicative proceedings. The appeal consists of a review by the Supreme Court or the Court of Appeals of the agency record. Respondents claim prejudice because of the requirement that a party seeking judicial review must show "substantial prejudice" by one of an enumerated list of factors.

Upon examination of this prerequisite applied to the present matter, and the factors enumerated, no prejudice exists. The Respondents assert that the Division is attempting to assess a fine of "tens or hundreds of millions of dollars" in this proceeding (Opposition p.8). On such basis, the threshold showing of substantial prejudice will be easily met by the Respondents here.

Once this threshold is met, the enumerated factors provide ample protection to the Respondents. The subparagraphs of Section 63G-4-403(4) include, but are not limited to:

- The agency action, statute or rule is unconstitutional on its face or as applied,
- The agency has acted beyond its jurisdiction,
- There has been an erroneous interpretation or application of the law, or
- The factual determinations in the matter are not supported by substantial evidence.

Respondents cite no case law from Utah or from any jurisdiction that supports their stated view that they are denied meaningful review in court by reason of their appeal rights to an appellate court on the agency record. There is no meaningful prejudice that would preclude the prosecution of this matter as a formal adjudicative proceeding merely because of the prescribed appeal method.

F. The evident and admitted need for fact discovery in this matter weighs heavily in favor of a formal proceeding, and is clearly in the public interest and minimizes prejudice to the parties.

Respondents have asserted repeatedly in their Opposition memorandum and argument that substantial fact discovery is necessary in what they characterize as a case of considerable magnitude and complexity. The Sacklers express a separate concern about having to play catch-

up in discovery as they have not been embroiled personally in the multitude of cases that have been filed against the entity Respondents.[3] Likewise, the Division is faced with a substantial burden to martial sufficient information to establish its case-in-chief.

These discovery needs weigh heavily in favor of a formal adjudicative proceeding, as all discovery in an informal proceeding is prohibited by statute and by rule (U.C.A. §63G-4-203(1)(e) and U.A.C. R151-4-501(2)).

As between informal and formal proceedings, greater due process rights exist in formal proceedings as compared to informal proceedings by reason of the discovery rights available in formal proceedings. These discovery rights include document production, fact witness interviews and depositions, as necessary, expert witness designation and written expert reports, and rebuttal expert witness designation and written expert reports. The larger due process issue may be addressed in the motions to dismiss that have been filed, but for purposes of this motion to convert, the discovery opportunities of a formal proceeding lean decisively in favor of conversion to a formal proceeding. In fact, the Division might be prejudiced in this and other cases if the filing of a complex administrative action cuts off its ability to pursue discovery because it must be adjudicated informally.

In the case of *Petro-Hunt, LLC. v. Dep't of Workforce Services*, 197 P.3d 107, 112; 2008 Utah App. LEXIS 380, the Utah Court of Appeals stated that "there is no constitutional right to formal discovery" in administrative proceedings. Notwithstanding this precedent, it is evident that it would be in the public interest and it would be far less prejudicial to all parties if discovery were permitted. Such discovery would only be possible if the case were converted to a formal adjudicative proceeding.

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[3] The Sacklers acknowledged that they were named in at least one of the "non-bell weather cases" in the MDL, but also noted that discovery has been stayed in the non-bell weather cases. The extent of the sharing of discovery among the Respondents to date was not disclosed or discussed in the Opposition or in the oral argument.

G. The evident and admitted need for expert witness testimony in this matter weighs heavily in favor of a formal proceeding, and is clearly in the public interest and minimizes prejudice to the parties.

As noted in paragraph 7 of the recitation of facts above, "expert testimony on myriad topics" may be required in this case, including the subject of the computation of any proposed fine. The Division does not disagree with the need for expert testimony in the case. The need for expert witness testimony strongly favors the conversion of this proceeding to a formal proceeding.

The Respondents' assertion that "there are no established procedures for vetting expert opinions" (Opposition p.7) is categorically incorrect as to formal proceedings. It is only in an informal proceeding, desired by the Respondents, that no discovery of experts is available.

U.A.C. R151-4-504(1)(a) provides for disclosure of expert witnesses in formal proceedings, their opinions, and the basis and reasons for them. This rule states:

> "(1)(a) A party shall:
>
> (i) disclose in writing the name, address and telephone number of any person who might be called as an expert witness at the hearing; and
>
> (ii) provide a written report signed by the expert that contains a complete statement of all opinions the expert will offer at the hearing and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert shall pay the costs for the report.

The clear direction in the rule that "an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report" is a significant incentive for the written report to be robust and informative.

Recent amendments to R151-4-504, reflected in the language of the rule quoted above and effective in October 2018, essentially copy the language regarding written reports of experts contained in Rule 26(4)(B) of the URCP. Therefore, case law interpreting Rule 26(4)(B) URCP should be controlling in any dispute regarding the interpretation of R151-4-504.

R151-4-601(2)(c) precludes a deposition of any expert in an administrative proceeding. By comparison, Rule 26(4)(B) URCP permits either a deposition or a written report, but not both. Written reports of experts, therefore, are a recognized means of discovery of the identity and opinions of expert witnesses in civil actions in the courts of the state of Utah and such reports should not be marginalized.

In administrative proceedings, the written report of the expert under R151-4-504 is the sole means to discover the opinions of the expert prior to a hearing. It still is a meaningful means of vetting experts. Even this means of exploring the opinions of experts is unavailable if the case remains as an informal proceeding, since no discovery of the expert's opinions is possible in an informal hearing (R151-4-501(2)).

Nothing in the rules applicable to this administrative hearing would preclude the testimony of experts in an informal hearing. When asked in the oral argument on the Motion if the Respondents agreed with this proposition, counsel for the Respondents stated that he thought that experts could testify in informal proceedings. This tribunal concurs in this conclusion.

Counsel then appropriately read U.A.C. R151-4-114 (2) which provides that by "rule or order a division may apply a provision applicable to a formal adjudicative proceeding to an informal adjudicative proceeding . . ." With or without the quoted rule, it appears that expert witnesses may testify in informal proceedings.

To make a fair presentation, counsel for Respondents read the balance of the referenced rule, which provides; ". . . except that a provision *relating to discovery*, including depositions, may not be applied to an informal adjudicative proceeding" (emphasis added). This rule is clear that a presiding officer or the division cannot apply to an informal proceeding the written expert report requirement contained in R151-4-504.

As a consequence, a dreadful outcome would be realized in this administrative proceeding if it were conducted as an informal proceeding. Because the identity and opinions of expert witnesses would not be disclosed before the hearing, the administrative hearing would begin without anyone knowing if there were going to be two or ten expert witnesses. Further, there would be no knowledge in advance of the subject or content of such expert testimony. This proceeding could devolve into an expert free-for-all, materially prejudicing all parties. Such a hearing would clearly not be in the public interest.

II. The Respondents have no absolute right, constitutional or otherwise, to a trial *de novo*.

At pages 4 and 8 of their Opposition memorandum, the Respondents state that the prosecution of this matter as a formal proceeding will "deprive Respondents of a trial *de novo*."

The end solution for many of the concerns of the Respondents appears to be the opportunity to have a trail *de novo* in a Utah district court.[4] Their access to a trial *de novo* is possible only through the prosecution of this case as an informal proceeding.

In fairness to the Respondents, the assertion of neutral effect in Subparts A, B and C of Section I above is correct only if the Respondents have no absolute right to a trial *de novo*.[5] For example, and stated in a different way, the admissibility of hearsay evidence is neutral as to an informal or formal proceeding, but for the possibility of a trial *de novo* if the case is prosecuted as an informal proceeding. In the *de novo* trial, the parties will only be able to elicit evidence according to the Utah Rules of Evidence, including the ability to exclude hearsay testimony that does not comport with recognized exceptions to the rule.

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[4] It is to be noted, however, that even a *de novo* trial in a state district court will be constrained to some extent by the record that is established in the administrative hearing. Utah Supreme Court authority establishes that only those issues that were brought to the fact finders' attention at the administrative level may be litigated in the *de novo* review in the district court. See this and other guidance in *Friends of Great Salt Lake v. Utah Dep't of Natural Resources*, 393 P.3d 291, 303; 2017 Utah LEXIS 51, *Taylor-West Weber Water Improvement Dist. v. Olds*, 224 P.3d 709, 712; 2009 Utah LEXIS 220, and *Badger v. Brooklyn Canal Co.*, 966 P.2d 844, 848; 1998 Utah LEXIS 42.

[5] As discussed in Subpart C of Section I above, even with a trial *de novo* following an informal proceeding, the Respondents will have no right to secure a trial by jury (see U.C.A. 63G-4-402(3)(a)).

The only Utah case authority relating to this issue is *Brinkerhoff v. Schwendiman*, 790 P.2d 587, 590; 1990 Utah App. LEXIS 69 (cited at Opposition p. 8). This case provides no authority for the proposition that a respondent is entitled a trial *de novo*. The case was on appeal to the Utah Court of Appeals following a *de novo* trial subsequent to an informal adjudicative proceeding. In the case, a defective notice of the original administrative hearing was provided that failed to identify the proceeding as either an informal or formal proceeding. In addressing the standard of prejudice[6] to a party of not being properly notified of the formality of the proceeding, the Court said the prejudice was "lessened" by the fact that (subsequent to the informal administrative hearing) the respondent availed himself of his *de novo* appeal rights. Notwithstanding this action, the judgment of the ALJ in the hearing was affirmed. Nothing in the *Brinkerhoff* case establishes an absolute right to a *de novo* hearing in a state district court.

Respondents acknowledged in oral argument that there was no state or federal case authority that set forth the standards by which only a path that led to a trial *de novo* was authorized or constitutionally sanctioned. This tribunal is unwilling to recognize such a right or create a standard to do so, and the Respondents have provided no proposed structure or test to establish the guidelines of such a ruling.

CONCLUSION

As developed in detail above, conversion of this proceeding into a formal adjudicative proceeding is in the public interest and would not unfairly prejudice the rights of any party. Most of the factors which have been considered in this analysis are neutral, as between a formal or informal proceeding. The public interest is substantially advanced if discovery is available to all parties. The participation of necessary expert witnesses in this matter would be extremely prejudicial to all parties, if the prescribed discovery rights as to expert witnesses and their

[6] Addressed in Subpart E of Section I above regarding meaningful review rights.

opinions were unavailable. Such would likely be the case if this matter continued as an informal proceeding.

This proceeding is in its infancy. It is in the public interest to convert this case to a formal adjudicative proceeding at this juncture.

Both parties in their memoranda reference the case of *Johnson-Bowles Co. v. Div of Sec. of Dept' of Commerce*, 829 P.2d 101, 117 n.7; 1991 Utah App. LEXIS 181 (Motion p.3 and Opposition p. 9). *Johnson-Bowles* is the only known Utah case that addresses in any way the trade-off between a formal and informal case under the applicable statute. Unfortunately, the party objecting to the conversion of the *Johnson-Bowles* case failed to marshal the evidence in the record regarding its claim of prejudice by reason of the conversion of the case. *Id.* at 116. As a consequence, the Court did not substantively address the issue and the case does not provide any meaningful guidance to be applied here, other than as expressed in its footnote no. 7. This footnote provides that "[g]iven the additional procedural safeguards that attend a formal proceeding [repealed statutory reference deleted], it would be an unusual case indeed where conversion to a formal proceeding would prejudice a party sought to be sanctioned by an administrative agency."

If this is the "unusual case" alluded to by the *Johnson-Bowles* court, Respondents have failed to show how that conclusion is to be determined and the *Johnson-Bowles* court failed to provide guidelines to aid either the Respondents or this tribunal in making that determination.

All parties here, and the public to be affected by the outcome of this proceeding, will be benefited by the additional procedural safeguards of a formal proceeding, as discussed above.

ORDER

IT IS HEREBY ORDERED that the Motion to convert this informal proceeding to a formal adjudicative proceeding is granted.

DATED April 19th, 2019.

UTAH DEPARTMENT OF COMMERCE

Bruce L. Dibb, Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that I have the 19th day of April, 2019, served this ORDER ON RENEWED MOTION TO CONVERT INFORMAL HEARING on the parties of record in this proceeding by email to:

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