

Interlocutory Orders, Etc.

IN THE MATTER OF

**CABELL HUNTINGTON HOSPITAL, INC.,
PALLOTTINE HEALTH SERVICES, INC., AND
ST. MARY'S MEDICAL CENTER, INC.**

Docket No. 9366. Order, March 24, 2016

Order granting Complaint Counsel and Respondents Joint Expedited Motion to withdraw this matter from adjudication for thirty days.

**ORDER WITHDRAWING MATTER FROM ADJUDICATION FOR THIRTY
DAYS**

On November 5, 2015, the Commission issued an administrative complaint alleging that an agreement among Respondents Cabell Huntington Hospital, Inc.; Pallottine Health Services, Inc.; and St. Mary's Medical Center, Inc. ("Respondents") – pursuant to which Cabell Huntington Hospital would acquire all the assets of St. Mary's Medical Center – violates Section 5 of the FTC Act, 15 U.S.C. § 45, and that if the acquisition were consummated, it would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act. In accordance with Commission Rule 3.11(b)(4), the administrative complaint provides that the evidentiary hearing shall begin on April 5, 2016.

On March 16, 2016, Complaint Counsel and Respondents filed a Joint Expedited Motion ("Joint Motion") to withdraw this matter from adjudication for thirty days, or in the alternative, to delay the commencement of the administrative evidentiary hearing until at least April 26, 2016. The Parties represent that legislation recently passed by the West Virginia legislature and now signed by the Governor of West Virginia "raises significant new issues about whether the Transaction may become immune from federal antitrust law" and "potentially creates a defense for Respondents that did not exist at the time the Commission voted to initiate the Part 3 action." Joint Motion at 5.

In light of those developments, Complaint Counsel and Respondents believe that there is good cause for the Commission

Interlocutory Orders, Etc,

to remove this matter from adjudication for thirty days. They argue that withdrawing the matter from adjudication will enable the Commission to review the legislation – and to hear from both Complaint Counsel and Respondents as to the relevance of the legislation to this proceeding – prior to “the expenditure of significant Commission, party, and third-party resources attendant to pre-trial preparations and the start of a full trial on the merits.” Joint Motion at 5.

The Commission is committed to moving forward as expeditiously as possible with adjudicative proceedings.¹ We have determined, however, that withdrawing this matter from adjudication for a short period of time – in conjunction with the Respondents’ agreement not to consummate the proposed acquisition during that period (*see* Joint Motion at 2) – will give us an opportunity to evaluate the impact, if any, of the state legislation without any adverse effects on competition or consumer interests. We therefore find there is good cause to withdraw this matter from adjudication for thirty days. Accordingly,

IT IS HEREBY ORDERED that this matter in its entirety be, and it hereby is, withdrawn from adjudication, and that all proceedings before the Administrative Law Judge are hereby stayed, until 11:59 p.m. EDT on April 25, 2016.

By the Commission.

¹ *See In re Advocate Health Care Network*, Docket No. 9369, Order Denying Motion To Stay the Evidentiary Hearing (March 18, 2016); Rule 3.1, 16 C.F.R. § 3.1 (“[T]he Commission’s policy is to conduct [adjudicative] proceedings expeditiously.”); Rule 3.41(b), 16 C.F.R. § 3.41(b) (“Hearings shall proceed with all reasonable expedition . . .”).

Interlocutory Orders, Etc.

IN THE MATTER OF

**MCWANE, INC.,
AND
STAR PIPE PRODUCTS, LTD.**

Docket No. 9351. Order, April 1, 2016

Order enhancing the Star Pipe Order's reporting and notification provisions.

ORDER TO SHOW CAUSE AND ORDER MODIFYING ORDER

On May 8, 2012, the Federal Trade Commission ("Commission") issued a Decision and Order ("Star Pipe Order") in Docket No. 9351, resolving claims as to Respondent Star Pipe Products, Ltd. ("Star Pipe") contained in the Complaint that the Commission had issued against Star Pipe and McWane, Inc. ("McWane"), on January 4, 2012. The Complaint alleged that McWane and Star Pipe, along with their competitor Sigma Corporation ("Sigma"), conspired to raise and stabilize the prices at which Ductile Iron Pipe Fittings ("DIPF") are sold in the United States.¹ The Complaint alleged that McWane, Sigma, and Star Pipe (collectively, the "Sellers") exchanged sales data in order to facilitate this price coordination, in violation of Section 5 of the Federal Trade Commission Act, as amended 15 U.S.C. §45. Star Pipe denied these allegations but agreed to settle the matter through entry of the Order shortly after the Complaint was issued, but before any testimony was taken.

Since entry of the Star Pipe Order, the Commission has investigated whether Star Pipe engaged in conduct that violated that order. Star Pipe, while not admitting any violation, has agreed to certain modifications and enhancements of the Star Pipe Order, to resolve the matter. It has waived any further procedures and has

¹ McWane declined to settle this matter, and the Commission pursued the litigation as to it. See In the Matter of McWane, Inc., and Star Pipe Products, Ltd., Docket 9351, *aff'd*, McWane, Inc. v. FTC, 783 F.3d 814 (11th Cir. 2015), *cert. denied* (U.S. Mar. 21, 2016) (No. 15-706). Sigma had agreed to entry of an order prior to issuance of the Commission's Complaint against Star and McWane. See In the Matter of Sigma Corporation, Docket C-4347.