

Interlocutory Orders, Etc.

IN THE MATTER OF

**TRONOX LIMITED,
NATIONAL INDUSTRIALIZATION COMPANY (TASNEE),
NATIONAL TITANIUM DIOXIDE COMPANY LIMITED (CRISTAL),
AND
CRISTAL USA INC.**

Docket No. 9377. Order, March 22, 2019

Order withdrawing Matter from adjudication to consider a proposed consent agreement.

**ORDER WITHDRAWING MATTER FROM ADJUDICATION FOR THE PURPOSE OF CONSIDERING A
PROPOSED CONSENT AGREEMENT**

Complaint Counsel and Respondents having filed a joint motion to withdraw this matter from adjudication to enable the Commission to consider a proposed Consent Agreement; and

Complaint Counsel and Counsel for the Respondents having submitted a proposed Consent Agreement containing a proposed Decision and Order, executed by the Respondents and by Complaint Counsel and approved by the Director of the Bureau of Competition which, if accepted by the Commission, would resolve this matter in its entirety;

IT IS ORDERED, pursuant to Rule 3.25(d) of the Commission Rules of Practice, 16 C.F.R. § 3.25(d), that this matter in its entirety be, and it is hereby is, withdrawn from adjudication, and that all proceedings before the Commission are hereby stayed while the Commission evaluates the proposed Consent Agreement, pursuant to Rule 3.25(f), 16 C.F.R. § 3.25(f); and

IT IS FURTHER ORDERED, pursuant to Rule 3.25(b) of the Commission Rules of Practice, 16 C.F.R. § 3.25(b), that the Consent Agreement shall not be placed on the public record unless and until it is accepted by the Commission.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

LOUISIANA REAL ESTATE APPRAISERS BOARD

Docket No. 9374. Order, May 6, 2019

Opinion and Order denying Complaint Counsel's Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense.

OPINION AND ORDER OF THE COMMISSION

By Chairman Joseph J. Simons, for the Commission:

The Commission's administrative complaint in this matter alleges that Respondent, the Louisiana Real Estate Appraisers Board ("LREAB" or "the Board"), unreasonably restrains price competition for real estate appraisal services provided to appraisal management companies ("AMCs") in Louisiana. Compl. 11.¹ AMCs act as agents for lenders in arranging for real estate appraisals and thus effectively function as the purchasers of appraisal services. Broadly, the Complaint alleges that the Board violated Section 5 of the Federal Trade Commission Act by issuing a regulation that prevents AMCs and appraisers from arriving at appraisal fees through *bona fide* negotiation and the operation of the free market, and (2) effectively requiring that appraiser fees match or exceed the median fees identified in Board-commissioned survey reports through subsequent enforcement of its regulation. Compl. ¶¶ 3-4. In its Answer, Respondent asserts as a fourth affirmative defense that it "acted in good faith to comply with a federal regulatory mandates [sic]." Complaint Counsel have moved to summarily dismiss this affirmative defense, arguing that it is inapplicable here as a matter of law. Although exceptions and immunities to the application of the antitrust laws should be narrowly construed, we recognize that courts have long acknowledged that antitrust analysis should take into account the regulatory context. We deny the motion, finding that additional factual development is needed to determine whether the defense applies.

¹ We use the following abbreviations for purposes of this opinion:

Compl.:	Complaint
CCM:	Complaint Counsel's Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense
ROpp:	Memorandum of Respondent Louisiana Real Estate Appraisers Board in Opposition to Complaint Counsel's Motion for Partial Summary Decision on Respondent's Fourth Affirmative Defense
CCSupp:	Complaint Counsel's Supplemental Brief in Support of Its Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense
RSuppOpp:	Respondent Louisiana Real Estate Appraisers Board's Supplemental Brief in Opposition Regarding Good Faith Regulatory Compliance
CCSuppRep:	Complaint Counsel's Reply in Support of Supplemental Brief in Support of Its Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense
RUF:	Respondent's Rule 3.24(a)(2) Response to Complaint Counsel's Statement of Undisputed Facts and Statement of Material Facts as to Which There Is a Genuine Issue for Trial