

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



ORIGINAL

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In the Matter of)
)
RAG-Stiftung,)
)
Evonik Industries AG,)
)
Evonik Corporation,)
)
Evonik International Holding B.V.,)
)
One Equity Partners Secondary Fund L.P.,)
)
One Equity Partners V, L.P.,)
)
Lexington Capital Partners VII (AIVI), L.P.,)
)
PeroxyChem Holding Company LLC,)
)
PeroxyChem Holdings, L.P.,)
)
PeroxyChem Holdings LLC,)
)
PeroxyChem LLC,)
)
PeroxyChem Cooperatief U.A.,)
)
Respondents.)
_____)

Docket No. 9384

**ORDER GRANTING UNOPPOSED MOTION
TO UNSEAL EXPERT MATERIALS**

Respondents RAG-Stiftung; Evonik Industries AG; Evonik Corporation; Evonik International Holdings B.V.; One Equity Partners Secondary Fund L.P.; One Equity Partners V, L.P.; Lexington Capital Partners VII (AIVI), L.P.; PeroxyChem Holding Company LLC; PeroxyChem Holdings, L.P.; PeroxyChem Holdings LLC; and PeroxyChem Cooperatief U.A. (together, "Respondents") filed an Unopposed Motion to Unseal Expert Materials ("Motion"). The Motion requests an order unsealing the expert reports and deposition testimony of Dr. Nicholas Hill ("Dr. Hill") submitted in *In re*

Tronox/Cristal USA, F.T.C. Dkt. No. 9377, to the extent necessary to allow Complaint Counsel to produce those materials to Respondents with redactions removing information that the parties and non-parties in *Tronox* designated as confidential. Respondents state that Complaint Counsel does not oppose the Motion.

Respondents have engaged Dr. Hill in this matter to analyze Evonik's proposed acquisition of PeroxyChem and to offer his expert opinion on the transaction's likely effects. Respondents state that Dr. Hill was an economic expert witness for Complaint Counsel in *Tronox*, and prepared expert reports and gave deposition testimony in that matter. Those reports and deposition testimony were granted *in camera* treatment for purposes of the *Tronox* administrative trial by an order entered on May 30, 2018. *In re Tronox*, 2018 FTC LEXIS 98 (May 30, 2018). Respondents represent that several of the FTC attorneys who entered appearances in *Tronox* – and who had access to Dr. Hill's expert reports and deposition testimony from that case – have also filed notices of appearance in this matter.

Respondents state that, to minimize the potential that Complaint Counsel's familiarity with Dr. Hill's work in *Tronox* would give them an unfair advantage in this case, Respondents served Complaint Counsel with a document request seeking production of "expert reports and testimony submitted in the *Tronox* Matter, including all expert deposition testimony." Respondents represent that Complaint Counsel objected to that request and declined to produce expert reports and deposition testimony in part because the "requested documents are non-public and contain nonpublic information that is protected from discovery by [. . .] Orders issued by Judge Chappell gran[t]ing *in camera* treatment to documents and information" in *Tronox*. Respondents state that during a meet and confer session, Complaint Counsel agreed that it would not oppose a motion requesting that Dr. Hill's expert reports and deposition testimony be unsealed, provided that Complaint Counsel could redact information that parties and non-parties in *Tronox* designated as confidential.

Upon consideration of Respondents' Unopposed Motion to Unseal Expert Materials, and for good cause shown, it is HEREBY ORDERED that the Motion is GRANTED. Dr. Hill's expert reports and deposition testimony from *In re Tronox/Cristal USA*, Dkt. No. 9377, are HEREBY UNSEALED only to the extent necessary to allow Complaint Counsel to produce them to Respondents with redactions that remove information that the parties and non-parties in *Tronox* designated as confidential.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: September 13, 2019

Notice of Electronic Service

I hereby certify that on September 13, 2019, I filed an electronic copy of the foregoing Order Granting Unopposed Motion to Unseal Expert Mate, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Donald Clark
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I hereby certify that on September 13, 2019, I served via E-Service an electronic copy of the foregoing Order Granting Unopposed Motion to Unseal Expert Mate, upon:

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