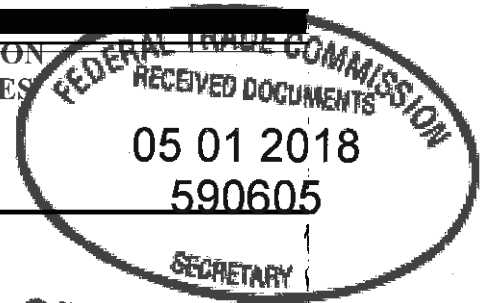


BEFORE THE FEDERAL TRADE COMMISSION  
JUDGES



[REDACTED]

OFFICE OF ADMINISTRATIVE LAW

In the Matter of

Tronox Limited,  
a corporation,

National Industrialization Company  
(TASNEE),  
a corporation,

National Titanium Dioxide Company  
Limited (Cristal),  
a corporation, and

Cristal USA Inc.  
a corporation.

Docket No. 9377  
PUBLIC

**NON-PARTY MASCO CORPORATION'S MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45 of the Federal Trade Commission's Rules of Practice, 16 C.F.R. §

3.45(b) non party Masco Corporation ("Masco") (the "Complainant") (see Exhibit B).

All of the materials for which Masco is seeking *in camera* treatment are confidential business documents, such that if they were to become part of the public record, Masco would be significantly harmed in its ability to compete in the architectural coatings industry. For the reasons set forth in this motion, Masco requests that this Court afford its Confidential Documents *in camera* treatment indefinitely. In support of this motion, Masco relies on the Declaration of Mario

Prohritz, attached as Exhibit C, which is filed with this motion. [REDACTED]

[REDACTED]

Documents for Which Protection is Sought

[REDACTED]

Case No.	Document Title	Page Range
13-10000	Masco's Confidential Business Documents	1-100

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

which Masco is seeking *in camera* treatment.

Masco seeks *in camera* treatment for all or part of the following Confidential Documents,



If, considering both economic and materiality, the Court

[REDACTED]

the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be acquired or duplicated by others. *In re Bristol-Myers Co.* 1977 WI

[REDACTED]



III. Permanent *In Camera* Treatment is Justified Because the Confidential Documents Will Remain Sensitive Over Time

*In camera* treatment may be extended indefinitely where the competitive sensitivity of the information is unlikely to diminish over time. *See, e.g., In re Coca Cola Co.*, Docket No. 9207, 1990 WL 10081418, at \*3 (F.T.C. Oct. 17, 1990). Due to the highly sensitive, strategic, and technical nature of the information contained in the Confidential Documents, the documents should be granted indefinite *in camera* treatment. Commission Rule 3.45(b)(3) recognizes that

indefinite *in camera* treatment is warranted in situations where the information is highly sensitive, strategic, and technical in nature.

[REDACTED]

Given the often strategic, technical, and/or institutional nature of Masco's Confidential Documents, disclosure of these documents could result in the disclosure of confidential information that is not in the public domain.

[REDACTED]

Moreover, the risk of injury to Masco stemming from the disclosure of the Confidential Documents outweighs the public interest in disclosure.

[REDACTED]

### CONCLUSION

For the reasons set forth above and in the accompanying Declaration of Mr. Pschaidt, Masco respectfully requests that this Court grant indefinite *in camera* treatment for the Confidential Documents.

Dated: May 1, 2018

Respectfully Submitted,

/s/ John M. Taladay

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E: [vishal.mehta@bakerbotts.com](mailto:vishal.mehta@bakerbotts.com)

*Counsel for Non-Party Masco Corporation*



# **EXHIBIT A**

**Letter from FTC dated April 19, 2018**



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition  
Mergers II Division

April 19, 2018

VIA EMAIL TRANSMISSION

Masco Corporation  
c/o Vishal Mehta  
Baker Botts L.L.P.  
1299 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2400  
[vishal.mehta@bakerbotts.com](mailto:vishal.mehta@bakerbotts.com)

RE: *In the Matter of Tronox Limited et al.*, Docket No. 9377

[REDACTED]

By this letter we are providing formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Complaint Counsel intends to offer the documents and testimony referenced in the enclosed Attachment A into evidence in the administrative trial in the above-captioned matter. For your convenience, a copy of the documents and testimony will be sent to you in a separate email with an FTP link.

The administrative trial is scheduled to begin on May 18, 2018. All exhibits admitted into evidence become part of the public record unless Administrative Law Judge D. Michael Chappell grants *in camera* status (i.e., non-public/confidential).

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R §§ 3.45 and 4.10(g). Judge Chappell may order that materials, whether admitted or rejected as evidence, be placed *in camera* only after finding that their public disclosure will likely result in a competitive disadvantage to the party.

[REDACTED]

affidavit) for *in camera* treatment that was filed and granted in an FTC administrative

<https://www.ftc.gov/faq/ftc-info/file-documents-adjudicative-proceedings>

<https://www.ftc.gov/enforcement/cases-proceedings/171-0085/tronoxcrystal-usa>

Attachment

# Attachment A



# **EXHIBIT B**

**Letter from Respondents dated April 19, 2018**

**KIRKLAND & ELLIS LLP**  
AND AFFILIATED PARTNERSHIPS

655 Fifteenth Street, N.W.  
Washington, D.C. 20005

Michael DeRita  
To Call Writer Directly:  
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michael.derita@kirkland.com

(202) 879-5000  
www.kirkland.com

Facsimile:  
(202) 879-5200

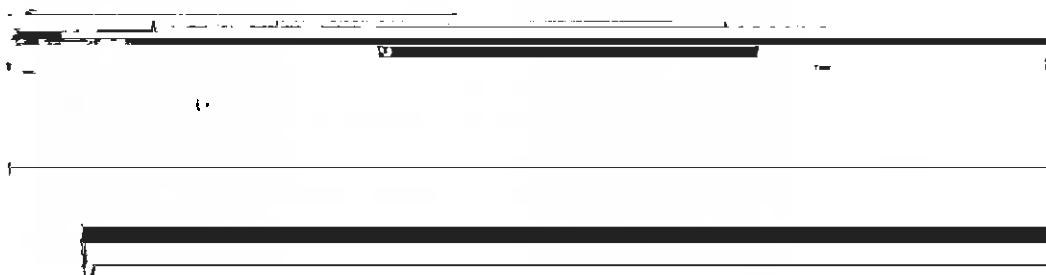
April 19, 2018

**BY EMAIL AND FERRY**

Vishal Mehta, Esq.  
Baker Botts LLP  
The Warner



Bates Begin	Bates End
MAS-SDT-000001	MAS-SDT-000001
MAS-SDT-000002	MAS-SDT-000003
MAS-SDT-000004	MAS-SDT-000004
MAS-SDT-000005	MAS-SDT-000005
MAS-SDT-000006	MAS-SDT-000054
MAS-SDT-000055	MAS-SDT-0000115



KIRKLAND & FITZ LLP

Vishal Mehta, Esq.  
April 19, 2018  
Page 2

Bates Begin	Bates End
MAR FDT 0000017	MAR FDT 0000010

- Masco's response to the Federal Trade Commission's Civil Investigative Demand

*Michael S. Miller*



**EXHIBIT C**  
**Declaration of Mario Pschaidt**

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

In the Matter of

Tronox Limited,  
a corporation,

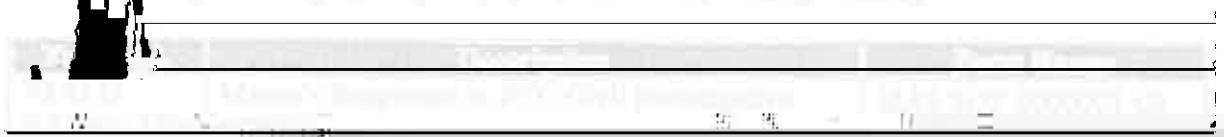
National Industrialization Company  
(PLAINTIFF)

DECLARATION OF MARIO PSCHAIDT IN SUPPORT OF NON-PARTY MASCO  
CORPORATION'S MOTION FOR *IN CAMERA* TREATMENT

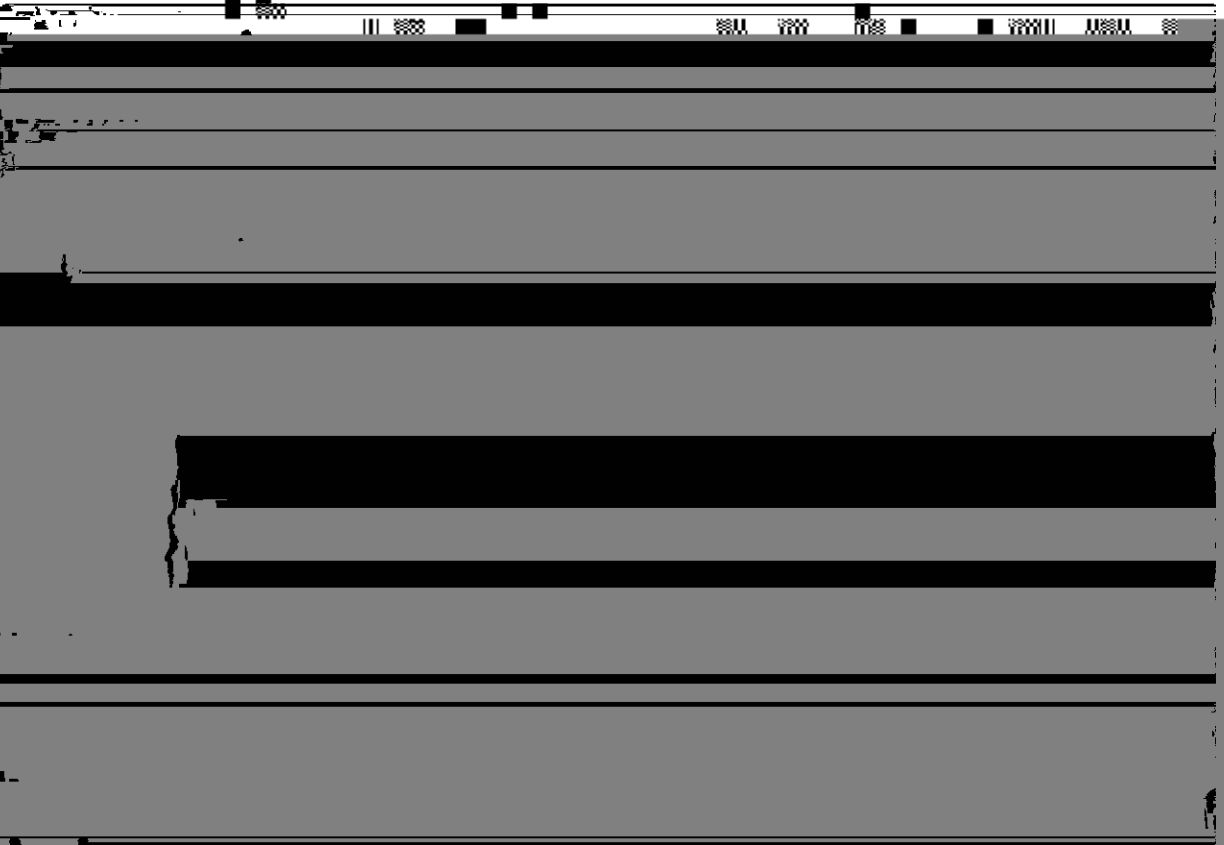
prepared and maintained, their competitive significance to the company, and their potential value to third parties such as Masco's suppliers and competitors. I personally prepared, or supervised the preparation of, many of the Confidential Documents. I also oversaw the

[REDACTED]

6. Disclosure of the following Confidential Materials would seriously injure Masco by diminishing its ability to compete in the architectural coatings industry:



RX0072-75	Masco's Response to Public Investigative Demand (CID)	MAS-SDT-0000001-05
RX0076	Behr TiO2 Strategic Plan (2016)	MAS-SDT-0000006-54





organization. The plans contain detailed analysis of TiO2 feedstock availability, TiO2

[REDACTED]

to Masco's ability to compete.

10. RX0080 (PX4142) is a presentation prepared in March 2018 (less than two months ago) in

collaboration with Rehr's R&D division detailing Rehr's evaluation and qualification of a

[REDACTED]

grades would impact the company's ability to maintain its TiO<sub>2</sub> production levels.

[REDACTED]

undermining its competitive position.

11. RX0072-75 (PX4137), RX0079 (PX4141), and RX0092 consist of Masco's responses to a CID issued by the FTC in June 2017: a chart reflecting the specific TiO<sub>2</sub> grade Bahr uses in each

12. RX0081-91 (PX4146, PX4149, PX4153) consist of Behr's operative TiO2 supply contracts and consignment agreements, as well as term sheets reflecting current TiO2 pricing and rebates. This information is commercially sensitive, highly confidential, non-public, and closely held within the Purchasing group at MCG. The pricing reflected in these contracts is current and/or prospective. Disclosure of this information would put Masco at a serious competitive disadvantage with respect to its suppliers and other coatings manufacturers.

[REDACTED]

disadvantage.

I declare under penalty of perjury that the foregoing is, to the best of my knowledge, true and correct.

Executed on May 1, 2018



Mario Pschaidt  
Masco Coatings Group  
Vice President, Procurement



**EXHIBIT D**  
**Confidential Documents**  
**(REDACTED IN ITS ENTIRETY)**

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

the Matter of

Tronox Limited  
a corporation,

National Industrialization Company  
(TASNEE)  
a corporation,

Docket No. 9377  
PUBLIC

National Titanium Dioxide Company  
Limited (Cristal)  
a corporation,

And

Cristal USA Inc.  
a corporation.

---

**PROPOSED ORDER ON NON-PARTY MASCO CORPORATION'S  
MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45(b) of the Rules of Practice of the Federal Trade Commission

CONFIDENTIAL - See Section 6 of the Order on Motion for *In Camera* Treatment, Docket No. 9377, dated 11/13/17.

[REDACTED]

ORDERED:

---

D. Michael Chappell  
Administrative Law Judge

Date: May \_\_, 2018

CERTIFICATE OF SERVICE

I, Vishal Mehta, declare under penalty of perjury under the laws of the District of Columbia that the following is true and correct. On May 1, 2018, I caused to be served the following documents

[REDACTED]

NON-PARTY MASCO CORPORATION'S MOTION FOR IN CAMERA

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[Michael.derita@kirland.com](mailto:Michael.derita@kirland.com)

/s/ Vishal Mehta  
Attorney

Notice of Electronic Service

I hereby certify that on May 01, 2018, I filed an electronic copy of the foregoing 2018.05.01 Masco Corporation's Motion for In Camera Treatment , with:

D. Michael Chappell  
Chief Administrative Law Judge  
600 Pennsylvania Ave., NW  
Suite 110  
Washington, DC 20580

[REDACTED]

[REDACTED]

Donald Clark  
600 Pennsylvania Ave., NW  
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Washington, DC, 20580

Filed: May 01, 2018. Filed in: District of Columbia. Case No. 2018-05-01

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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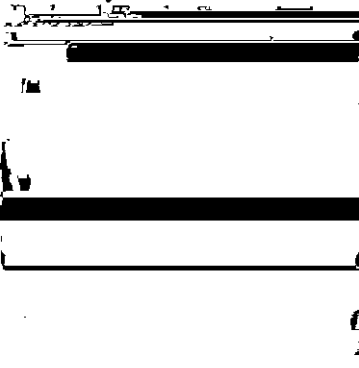
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[REDACTED]



ATTYORNEY AT LAW