

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

CROSBY VALVE, LLC, AS SUCCESSOR TO CROSBY VALVE, INC.	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-14-2790
	§	
FMC CORPORATION	§	
	§	
Defendant.	§	

**ORDER GRANTING FMC CORPORATION’S MOTION TO DISMISS AND  
ENTERING FINAL JUDGMENT**

FMC Corporation filed a motion to dismiss this suit, in which Crosby Valve, LLC seeks indemnification from FMC. (Docket Entry No. 13). The court has considered the pleadings, the motion and the response, the parties’ submissions, the applicable law, and the arguments counsel made at the hearing on January 12, 2015. At that hearing, the court granted the motion. For the reasons stated on the record at that hearing, Crosby’s objections to FMC’s proposed form of judgment, (Docket Entry No. 33), are overruled, and this order of final judgment is entered.

The parties’ Agreement requires Crosby Valve, LLC (“Crosby”) to be an Affiliate of Guarantor, Tyco International Ltd. (“Tyco”), when Crosby seeks indemnification from Tyco. The term “Affiliate” is defined in the Agreement as an entity owned or controlled by the Guarantor. The term “Affiliate” is unambiguous. As of September 28, 2012, Crosby was no longer owned or controlled by Tyco. Crosby was not an “Affiliate” of Tyco as of September 28, 2012.


For that reason, and for the other reasons stated on the record at the January 12, 2015 hearing, as a matter of law, Crosby is not entitled to indemnification from FMC for any losses or

expenses paid or incurred arising out of claims involving Crosby's asbestos liability, if Crosby sought indemnification from FMC for those claims on or after September 28, 2012. Crosby is not entitled to a declaratory judgment that it is entitled to indemnification for any claims asserted against Crosby that it submitted, or submits, to FMC for indemnification on or after September 28, 2012.

FMC's motion to dismiss, (Docket Entry No. 13), is GRANTED. Crosby's complaint for breach of contract and declaratory judgment, (Docket Entry No. 1), is DISMISSED with prejudice.

This is a final judgment.

SIGNED on April 23, 2015, at Houston, Texas.

  
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Lee H. Rosenthal  
United States District Judge