

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

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In the Matter of :  
 :  
 J.V. Company, Inc. :  
 :  
 Respondent :  
 :  
 Proceeding under the Federal :  
 Insecticide, Fungicide, and :  
 Rodenticide Act, as amended :  
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**CONSENT AGREEMENT  
AND FINAL ORDER**

Docket No. FIFRA-02-2011-5203

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2012 MAR 15 P 2:03  
REGIONAL HEARING  
CLERK

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136 l(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2, issued a Complaint and Notice of Opportunity for Hearing to Respondent, J.V. Company, Inc., located at 59 Carmel Avenue, Staten Island, New York 10314.

The Complainant charged Respondent with one violation of 7 U.S.C. § 136e(c)(1) and 40 C.F.R. § 167.85, the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act governing the submission of annual Pesticide Reports for Pesticide-Producing Establishments ("Pesticide Reports"). Said violations are unlawful under the Federal Insecticide, Fungicide, and Rodenticide Act §12(a)(2)(L), 7 U.S.C. § 136j (a)(2)(L).

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Parties to this Consent Agreement agree that the title to this proceeding should properly read “In the Matter of J.V Company, Inc.”.
2. This Consent Agreement is being entered by Respondent on behalf of J.V. Company, Inc., and the Respondent is authorized for purposes of this Consent Agreement to bind J.V. Company, Inc.
3. Respondent’s establishment is registered under Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136e. Its assigned U.S. Environmental Protection Agency Establishment Number is 075732-NY-001.
4. Pursuant to Section 7(c) of The Federal Insecticide, Fungicide, and Rodenticide Act and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall submit annually to the U.S. Environmental Protection Agency the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides that the producer is currently producing, has produced during the past year, and has sold or distributed during the past year.
5. Title 40 C.F.R. § 167.85 provides that a producer operating an establishment must submit an annual pesticide production report on or before March 1<sup>st</sup> of each year, even if the producer has produced no pesticides for that reporting year.
6. Respondent failed to submit an annual pesticide production reports for the calendar years 2008 and 2010.
7. Therefore, Respondent violated Section 7(c)(1) and Section 12(a)(2)(L) of the Federal Insecticide, Fungicide, and Rodenticide Act, and 40 C.F.R. § 167.85.

## **CONSENT AGREEMENT**

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Respondent admits the jurisdictional allegations of the Complaint.

2. Respondent agrees to waive any jurisdictional objections regarding proper service of the Complaint and/or any other questions concerning acquisition of personal jurisdiction of J.V. Company, Inc.

3. Respondent shall comply at all times with the requirements of Section 7 of The Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136e and the applicable regulations.

4. Respondent admits the specific factual allegations set forth in the Findings of Fact and Conclusions of Law in this Consent Agreement.

5. Complainant agrees to waive all penalties assessed in the Complaint due to Respondent's request for termination of its New York establishment registration and submission of a zero pesticide production report for calendar years 2008 and 2010. Such waiver is consistent with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act Enforcement Response Policy. Respondent's registration for its New York establishment has been terminated.

6. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of the Federal Insecticide, Fungicide, and Rodenticide Act and other environmental laws.

7. Nothing in this Consent Agreement and Final Order shall preclude Complainant from further enforcement action, including the assessment of civil penalties, arising from the violation of any environmental laws.

8. This Consent Agreement is being entered into by the parties in full settlement of all civil liabilities. Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

9. Respondent explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

11. This Consent Agreement shall be binding on both parties to this action, their officers, directors, employees, successors, and assigns.

12. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement and bind that party to it.

13. Each party shall bear its own costs and attorney's fees in the action resolved by this Consent Agreement.

14. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by a United States Environmental Protection Agency employee other than the Regional Hearing Clerk.

In the Matter of J.V. Company, Inc.  
Docket No. FIFRA-02-2011-5203

RESPONDENT: J.V. Company, Inc.

BY: Jeffrey Victor  
Authorizing Signature

NAME: JEFFREY VICTOR

(PLEASE PRINT)

TITLE: President

DATE: 12/20/11

COMPLAINANT:

[Signature]  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
United States Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007

DATE: FEBRUARY 27, 2012

In the Matter of J.V. Company, Inc.  
Docket No. FIFRA-02-2011-5203

**FINAL ORDER**

The Regional Judicial Officer of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

*Helen Ferrara*

Helen Ferrara  
Regional Judicial Officer  
United States Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007

DATE: March 6, 2012

In the Matter of J.V. Company, Inc.  
Docket No. FIFRA-02-2011-5203

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing Notice of Opportunity and Consent Agreement for the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

by Interoffice Mail:

Office of Regional Hearing Clerk  
United States Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

USPS First Class Mail

J.V. Company, Inc.  
59 Carmel Avenue  
Staten Island, New York 10314

Dated: March 14, 2012



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Edison, New Jersey