



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY / REGION 2
2008 APR - 1 PM 3:37
REGIONAL HEARING
CLERK

APR - 1 2008

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND BY REGULAR MAIL**

David Emrani
President
Pride Products Corporation
4333 Veterans Memorial Highway
Ronkonkoma, New York 11779

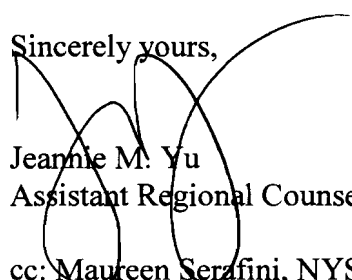
Re: In the Matter of Pride Products Corporation,
Dcket No. FIFRA-02-2007-5214

Dear Mr. Emrani:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Administrator of the U.S. Environmental Protection Agency.

Please note that the first payment is due within forty-five (45) days of signature of the Final Order by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given in that Order.

Sincerely yours,


Jeannie M. Yu
Assistant Regional Counsel

cc: Maureen Serafini, NYSDEC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 APR -1 PM 3:37
REGIONAL HEARING
CLERK

-----X
In the Matter of :
: :
Pride Products Corporation, :
: :
: CONSENT AGREEMENT AND
: FINAL ORDER
: :
Respondent. :
: :
Docket No. FIFRA-02-2007-5214
: :
Proceeding Under the Federal :
Insecticide, Fungicide and :
Rodenticide Act, as amended. :
-----X

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 1361(a), of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. ("FIFRA" or "the Act"). On September 27, 2007, Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, issued a Complaint and Notice of Opportunity for Hearing, Docket No. FIFRA-02-2007-5214 to Respondent, Pride Products Corporation. The Complaint alleged two counts: Count 1- distribution and/or sale of an unregistered pesticide to another person and Count 2 - distribution or sale of a misbranded pesticide. The Complaint seeks a total civil penalty of \$13,000.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Pride Products Corporation (hereinafter alternatively referred to as "Pride Products" or "Respondent").

2. Respondent is a "person" as that term is defined by FIFRA Section 2(s), 7 U.S.C. §136(s) and as such, is subject to FIFRA and the regulations promulgated thereunder.
3. Respondent is a "distributor or seller" within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. §136(gg).
4. Respondent is a "wholesaler," "dealer," or "other distributor" within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. §136l(a)(1).
5. Respondent maintains an "establishment," as defined in Section 2(dd) of FIFRA, 7 U.S.C. §136(dd), located at 4333 Veterans Memorial Highway, Ronkonkoma, New York 11779.
6. On or about February 13, 2007, an inspector, duly appointed by the EPA Administrator, conducted an inspection (the "Inspection"), pursuant to Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, at Dollar Savvy, a retail store located at 14 South College Road, Wilmington, North Carolina.
7. At the time of the Inspection, Dollar Savvy offered for sale the product "Pride Anti-Bacterial Wipes."
8. Dollar Savvy purchased the pesticidal product "Pride Anti-Bacterial Wipes" from Pride Products.
9. Pride Products was the wholesaler/distributor of the pesticidal product "Pride Anti-Bacterial Wipes."
10. The label on the "Pride Anti-Bacterial Wipes" product contained the following claims/statements:
 - a. "Anti-Bacterial,"

- b. "Multi-Purpose Surface Disinfectant Cleaner," and
 - c. "Kill most of germs and mold."
11. Said label on the Product does not contain the following statements:
- a. a list of active ingredients;
 - b. directions for use;
 - c. a warning or caution statement;
 - d. an EPA product registration number; or
 - e. an EPA establishment registration number.
12. The "Pride Anti-Bacterial Wipes" product sold by the Respondent is not registered under Section 3(a) of FIFRA, 7 U.S.C. §136a(a).
13. By virtue of the claims listed in Paragraph 10, above, such product is a "pesticide" as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. §136(u).
14. The product label did not contain any of the statements set forth in paragraph 11; therefore such product is a misbranded pesticide as that term is defined in Section 2 (q) of FIFRA, 7 U.S.C. §136(q).
15. Pursuant to FIFRA Section 3(a), 7 U.S.C. § 136(a), all pesticides produced/distributed and/or sold in the United States must be registered under the Act.
16. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §136j(a)(1)(A) provides that ". . .it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 136a [Section 3 of FIFRA]. . ."
17. Respondent's distribution and/or sale of the unregistered pesticide "Pride Anti-Bacterial Wipes" is a violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which a penalty may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 1361(a)(1).

18. Respondent's distribution and/or sale of the misbranded pesticidal product constitutes a violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. Section 136j(a)(1)(E), for which a penalty may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. Section 136l(a)(1).

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed as follows:

1. Respondent shall comply with the applicable requirements of FIFRA and its implementing regulations, with respect to all pesticides it distributes or sells.
2. For the purpose of this proceeding and in the interest of an expeditious resolution of this matter, Respondent pursuant to 40 C.F.R. § 22.18(b)(2): a) admits the jurisdictional allegations of the Complaint; b) neither admits nor denies the factual allegations made in the Complaint, and further neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Consent Agreement; and c) consents to the issuance of the Final Order accompanying this Consent Agreement.
3. Pride shall pay a civil penalty to EPA in the total amount of **Seven Thousand Eight Hundred Dollars (\$7,800)**. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America," and shall be mailed to :

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center

P.O. Box 979077
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon: *IN THE MATTER OF PRIDE PRODUCTS CORPORATION*, and shall bear thereon the Docket Number FIFRA-02-2007-5214. Payment of the penalty must be *received* at the above address on or before forty-five (45) calendar days after the date of signature by the Regional Administrator of the Final Order herein (the "due date").

If Pride chooses to make the payment by EFT, then Pride shall provide the following information to its remitter bank:

- 1) Amount of Payment.
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."
- 6) Name of Respondent: Pride Products Corporation.
- 7) Case Number: FIFRA-02-2007-5214.

Such EFT must be received on or before 45 calendar days after the signature by the Regional Administrator of the Final Order herein. Whether the payment is made by check or by EFT, Pride shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Jeannie M. Yu, Esq.
Assistant Regional Counsel
Environmental Protection Agency, Region 2
290 Broadway, Room 1635
New York, New York 10007-1866

and

Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, Room 1631
New York, New York 10007-1866

- a. Failure to pay the requisite amount in full according to the above provisions may result in the referral of this matter to the United States Department of Justice or Department of the Treasury for collection or other appropriate action.
 - b. Furthermore, if payment is not made on or before the due date, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period, or any portion thereof, following the due date in which payment of the amount remains in arrears.
 - c. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the due date.
 - d. The effective date of this Consent Agreement and Final Order shall be the date it is filed with the Regional Hearing Clerk.
4. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
 5. This Consent Agreement and Final Order is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein and

upon the accuracy of Respondent's certifications in this proceeding) the civil and administrative claims alleged in the Complaint. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

6. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
7. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
9. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussion 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 discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

11. Each party hereto agrees to bear its own costs and fees in this matter.
12. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Pride Products Corporation, Docket No. FIFRA-02-2007-5214

RESPONDENT:

Pride Products Corporation

BY: 

(Authorized Signature)

NAME: DAVID EMRANI

(PLEASE PRINT)

TITLE: PRESIDENT

DATE: 3/12/08

COMPLAINANT:


Dore LaPosta

Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

PATRICK DURAN FOR DA

DATE: MARCH 20, 2008

In the Matter of Pride Products Corporation, Docket No. FIFRA-02-2007-5214**FINAL ORDER**

The Regional Administrator of the U.S. 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, U.S. EPA, Region 2, New York, New York.

Kathleen Callahan
for **Alan J. Steinberg**
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

DATE: 3/27/08

In the Matter of Pride Products Corporation, Docket No. FIFRA-02-2007-5214

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy
by Hand:

Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

David Emrani
President
Pride Products Corporation
4333 Veterans Memorial Highway
Ronkonkoma, New York 11779

Dated: APR - 1 2008
New York, New York

Madeline N. Baer