



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 03 2009

4APT-PTSB

Certified Mail – Return Receipt Requested

Mr. Kenneth Haber
President
Warehouse 99 of Miami, Inc.
16725 NW 20th Avenue
Miami Gardens, Florida 33056

SUBJ: Docket No. FIFRA-04-2009-3001
Warehouse 99 of Miami, Inc. (d/b/a Dollar Star Logistics)

Dear Mr. Haber:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section IV of the CAFO, the total assessed penalty of \$1,800 is due within 30 days from the effective date. Please ensure that the face of the cashier's or certified check includes the company name and the docket number of this case.

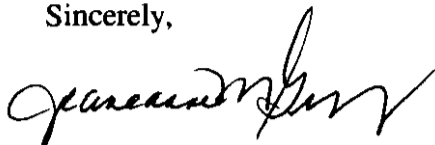
Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Mark Bloeth at (404) 562-9013.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeaneanne M. Gettle". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

2009 MAR -3 AM 7:08
HEARING CLEER
ENVIRONMENTAL

In the Matter of:)
)
Warehouse 99 of Miami, Inc.,)
(d/b/a Dollar Star Logistics))
)
Respondent.)
_____)

Docket No. FIFRA-04-2009-3001

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §§ 136 *et seq.* (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Warehouse 99 of Miami, Inc. (d/b/a Dollar Star Logistics), 16715 NW 20th Avenue, Miami Gardens, Florida 33056.
2. On October 23, 2008, EPA filed a Civil Complaint and Notice of Opportunity for Hearing (Docket No. FIFRA-04-2009-3001) against Respondent for alleged violations of FIFRA Section 12, 7 U.S.C. § 136j.
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or

testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will conclude this matter.

II. Preliminary Statements

4. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.

5. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Jennifer Lewis
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9518

6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

7. On or about August 2, 2006, the North Carolina Department of Agriculture and Consumer Services (NCDA) conducted a marketplace inspection at Dollar Star in Lumberton, North Carolina.

8. During the aforementioned inspection, the product "BestWin MOTH BALLS" was being offered for sale.

9. On or about February 22, 2006, Respondent imported "BestWin MOTH BALLS" from Zhejiang Bestwin Group Limited, Ningbo, China, for distribution and sale in the United States.

10. On or about July 3, 2006, Respondent supplied "BestWin MOTH BALLS" to the Dollar Star in Lumberton, North Carolina.
11. "BestWin MOTH BALLS" is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), in that it is a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest.
12. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1).
13. Section 17(c) of FIFRA, 7 U.S.C. § 136(o) and the regulations at 19 C.F.R. §§ 12.110 - 12.117 require an importer desiring to import pesticides into the United States to submit to the EPA Administrator a Notice of Arrival of Pesticides and Devices (EPA Form 3540-1) (NOA), prior to the arrival of the shipment into the United States. The Administrator shall complete the NOA, indicating the disposition to be made of the shipment of pesticides upon its arrival in the United States, and shall return the completed NOA form to the importer or his agent.
14. Section 12(a)(2)(N) of FIFRA states, "it shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act."
15. The regulations at 40 C.F.R. § 169.1(e), promulgated under FIFRA Section 8, define "producer" as "the person, as defined by the Act, who produces or imports any pesticide or device or active ingredient used in producing a pesticide."

16. Respondent is a "producer" as defined by 40 C.F.R. § 169.1(e).
17. Producers shall maintain records, for two years, showing receipt of pesticides, devices, and active ingredients used in producing pesticides, pursuant to the regulations at 40 C.F.R. § 169.2(c). Record keeping requirements at § 169.2(d), provide that producers shall maintain shipping records for two years.
18. Section 12(a)(2)(B)(i) of FIFRA states, "it shall be unlawful for any person to refuse to prepare, maintain, or submit any records required by or under section 5, 6, 7, 8, 11 or 19."
19. As packaged when offered for sale at Dollar Star in Lumberton, North Carolina, "BestWin MOTH BALLS" was a pesticide that was not registered with the EPA.
20. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it shall be unlawful for any person in any state to distribute or sell to any person a pesticide that is not registered.
21. As packaged when offered for sale at Dollar Star in Lumberton, North Carolina, "BestWin Moth Balls" was misbranded in that it failed to bear information required by EPA including, but not limited to, an EPA Establishment Number and an EPA Registration Number. A product is misbranded per Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(a)(1)(D) if its label does not bear the registration number assigned under Section 7 to each establishment in which it was produced. A product is misbranded per Section 2(q)(1)(C) of FIFRA, 7 U.S.C. § 136(a)(1)(C), if its label does not bear a registration number.
22. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide which is adulterated or misbranded.

III. Consent Agreement

23. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
24. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
25. Respondent consents to the assessment of a penalty and agrees to pay the civil penalty as set forth in this CAFO.
26. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
27. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
28. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

IV. Final Order

29. Respondent is assessed a civil penalty of ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800) which is to be paid within thirty (30) days of the effective date of this CAFO.

30. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

**The check shall reference on its face the name and the Docket Number of the CAFO
"Warehouse 99 of Miami, Inc., FIFRA-04-2009-3001."**

31. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303;

Mark D. Bloeth (APT-PS)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303.

32. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

33. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.
34. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
35. This CAFO shall be binding upon the Respondent, its successors and assigns.
36. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

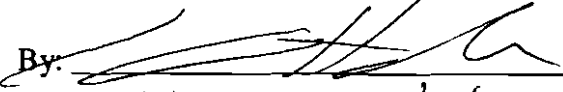
V. Effective Date

37. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

In the Matter of:

Warehouse 99 of Miami, Inc. (d/b/a Dollar Star Logistics)
Docket No. FIFRA-04-2009-3001

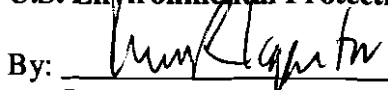
AGREED AND CONSENTED TO:

By:  Date: 2/10/09

Name: Kenneth Haber (Typed or Printed)

Title: PRESIDENT (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 2/24/09

Carol L. Kemker, Acting Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303

APPROVED AND SO ORDERED this 2nd day of March 2009.



Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: **Warehouse 99 of Miami, Inc. (d/b/a Dollar Star Logistics), FIFRA Docket No. 04-2009-3001**, on the parties listed below in the manner indicated.

Mr. Kenneth Haber
Requested)
President
Warehouse 99 of Miami, Inc.
16725 NW 20th Avenue
Miami Gardens, Florida 33056

(via Certified Mail - Return Receipt

Mark Bloeth
Chemical Products
& Asbestos Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

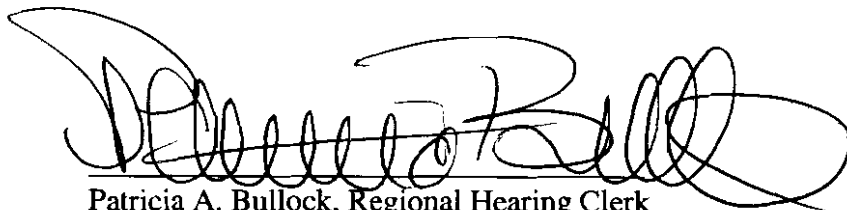
(via EPA's internal mail)

Jennifer Lewis
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(via EPA's internal mail)

Date:

3-3-09



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 2/26/09
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Warehouse 99 of Miami Inc db/a Dollar Star Logistics
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 1800
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: F1FR4 04 2009 3001

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Officer: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|----------------------------------------------------|-----------------------------------------------------------|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|----------------------------------------------------|-----------------------------------------------------------|