



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

MAR 08 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Drew Fite  
Vice President  
Custom Synthesis, LLC  
1704 Denver Road  
Anderson, South Carolina 29625

Re: Custom Synthesis, LLC  
Consent Agreement and Final Order  
Docket No. TSCA-04-2011-2519(b)

Dear Mr. Fite:

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 CFR Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$102,711.60 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the Respondent and the Docket Number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at the U.S. Environmental Protection Agency, Cincinnati Accounting Operations, at the address identified in the CAFO.

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 any environmental enforcement actions taken by EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Verne George of the EPA Region 4 staff at (404) 562-8988.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeanne M. Gettle', written in a cursive style.

Jeanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

2011 04 - 3 09:00  
EPA/Region 4  
Docket No. TSCA-04-2011-2519(b)

In the Matter of: )  
Custom Synthesis, LLC )  
Respondent )  
\_\_\_\_\_ )

Docket No.: TSCA-04-2011-2519(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), 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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, U. S. Environmental Protection Agency, Region 4 (EPA). Respondent is Custom Synthesis, LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 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 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
4. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to:
  - (1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12 or 13 of TSCA, 15 U.S.C. § 2603, § 2604, § 2607, § 2611 or § 2612); (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty in an amount not to exceed \$25,000 for each such violation, in accordance with Section 16(a) of TSCA. The Debt Collection Improvement Act of 1996 requires EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through March 15, 2004, is \$27,500; for each violation occurring after March 15, 2004, through January 12, 2009, the maximum penalty for each violation is \$32,500; and for each violation occurring after January 12, 2009, the maximum penalty

for each violation is \$37,500. Each day a violation continues may constitute a separate violation.

6. All Confidential Business Information (CBI) in this CAFO has been redacted. To determine the identity of the chemical substances referenced in this CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondent should refer to the CBI letter, dated October 20, 2009, sent to the Respondent identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why EPA should not proceed with an enforcement action.
7. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Verne George  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8988.

### **III. Specific Allegations**

8. Respondent owns and operates a chemical manufacturing plant located at 1704 Denver Road, Anderson, South Carolina.
9. Respondent is a manufacturer as the term is defined in 40 C.F.R. § 704.3.
10. During the reporting period (August 25, 2006 through March 23, 2007) as described in 40 C.F.R. § 710.53, Respondent submitted a 2006 Inventory Update Report (IUR) to the EPA in Washington D.C. for 29 chemical substances.
11. On April 21, 2008, Complainant contacted Respondent to schedule an inspection to determine compliance with TSCA Sections 4, 5, 8, 12 or 13 of TSCA , 15 U.S.C. § 2603, § 2604, § 2607, § 2611 or § 2612.

12. On April 28, 2008, Respondent submitted an amended 2006 IUR to the EPA in Washington D.C.
13. On May 13, 2008, an authorized agent of the EPA Region 4 conducted an inspection at Respondent's place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
14. Respondent's production records revealed that reportable quantities of the following chemical substances were produced in 2005: [CBI deleted] hereinafter referred to as Chemical E; and [CBI deleted] hereinafter referred to as Chemical F.
15. Pursuant to 40 C.F.R. § 710. 45, Chemicals E and F are substances for which information must be reported.
16. Respondent failed to include Chemicals E and F on the initial 2006 IUR.
17. Respondent violated 40 C.F.R. § 710.52(c)(3) by failing to provide specific chemical information for Chemicals E and F on the 2006 IUR.
18. Among others, the following chemical substances were included in the 2006 IUR: [CBI deleted] hereinafter referred to as Chemical I; [CBI deleted] hereinafter referred to as Chemical J; [CBI deleted] hereinafter referred to as Chemical K; [CBI deleted] hereinafter referred to as Chemical L; [CBI deleted] hereinafter referred to as Chemical M; [CBI deleted] hereinafter referred to as Chemical N; [CBI deleted] hereinafter referred to as Chemical O; [CBI deleted] hereinafter referred to as Chemical P; [CBI deleted] hereinafter referred to as Chemical Q; [CBI deleted] hereinafter referred to as Chemical R; and [CBI deleted] hereinafter referred to as Chemical S.
19. The 2006 IUR production volume reported for Chemicals I through S was not within ten percent of the actual amount that Respondent manufactured in 2005.
20. Respondent's 2006 IUR under-reported production volumes for Chemicals I through S.

21. Respondent violated 40 C.F.R. § 710.52(c)(3)(iv) by reporting production volumes that were not within ten percent of the actual amounts that were manufactured.

#### **IV. Consent Agreement**

22. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the remaining allegations.
23. 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.
24. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
25. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO.
26. 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.
27. 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 TSCA.

**V. Final Order**

28. Respondent is assessed a civil penalty of **ONE HUNDRED TWO THOUSAND, SEVEN HUNDRED ELEVEN DOLLARS and Sixty Cents (\$102,711.60)** which shall be paid within thirty (30) days of the effective date.
29. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

**The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.**

The penalty payment shall be sent by one of the following methods to the address identified for the method chosen.

Address for payment submittal using the United States Postal Service:

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

Address for payment submittal using other mail service (e.g., Federal Express, United Parcel Service (UPS), DHL, etc.):

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101  
Contact Person: Natalie Pearson (314) 418-4087

30. 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 30303-8960;



Verne George  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

31. 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.
32. 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 principal amount not paid within 90 days of the due date.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent, its successors and assigns.
35. Each undersigned representative of the parties 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.

**VI. Effective Date**

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

**AGREED AND CONSENTED TO:**

**Respondent:** Custom Synthesis, LLC  
**Docket No.:** TSCA-04-2011-2519(b)

By: *Drew H. Fite* Date: *2/1/2011*  
Name: *Drew H. Fite*  
Title: *Vice President of Operations*

**Complainant:** U.S. Environmental Protection Agency

By: *Carol G. Kamber for* Date: *2/22/11*  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

**APPROVED AND SO ORDERED** this *3<sup>rd</sup>* day of *March*, 2011.

By: *Susan B. Schub* Date: *3/3/11*  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

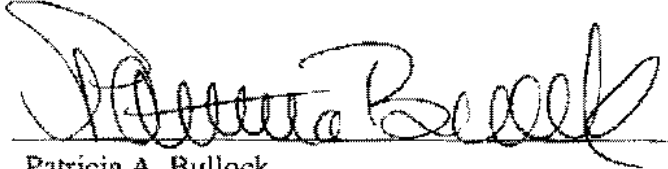
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Custom Synthesis, LLC, Docket Number: TSCA-04-2011-2519(b), to the addressees listed below.

Drew Fite (via Certified Mail, Return Receipt Requested)  
Vice President  
Custom Synthesis, LLC  
1704 Denver Road  
Anderson, South Carolina 29625

Steven A. Herman, Esq. (via Certified Mail, Return Receipt Requested)  
Beverage and Diamond, PC  
1350 I Street, N.W.  
Suite 700  
Washington, D.C. 20005-3311  
*Attorney for Respondent*

Verne George (via EPA's internal mail)  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Keri Powell, Esq. (via EPA's internal mail)  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

By:  Date: 3-8-11  
Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
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 3/1/11  
(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

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Custom Synthetics LLC  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 102,711.68  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TRC B of 2011 2519 (6)

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<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7811, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>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<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Council (EAD) |
|--|---|