



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

SEP 25 2009

U.S. ENVIRONMENTAL
PROTECTION AGENCY REGION 2
2009 SEP 25 PM 3:00
REGIONAL HEARING
CLERK

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Richard Beigun, Owner
Quadrupeds Products, Inc.
56 Cherry Avenue
West Sayville, New York 11796

Re: In the Matter of Quadrupeds Products, Inc.,
Docket Number FIFRA-02-2009-5204

Dear Mr. Beigun:

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

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

Sincerely yours,

Jeannie M. Yu
Assistant Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 SEP 25 PM 3:00
REGIONAL HEARING
CLERK

-----X
In the Matter of :
 :
Quadrupeds Products, Inc., : CONSENT AGREEMENT
 : AND FINAL ORDER
 :
Respondent. : Docket No. FIFRA-02-2009-5204
 :
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 Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. ("FIFRA" or "the Act"). On June 30, 2009, 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-02-2009-5204, to Respondent, Quadrupeds Products, Inc. located at 56 Cherry Avenue, West Sayville, New York 11796. The Complaint alleged the distribution and/or sale of one unregistered pesticide. The Complaint seeks a total civil penalty of \$6,500. Respondent did not file an Answer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Quadrupeds Products, Inc., (hereinafter alternatively referred to as "Quadrupeds", or "Respondent").
2. Respondent is a for-profit corporation operating in the State of New York.
3. Respondent is engaged in the business of manufacturing pet grooming products.
4. Respondent has been, and continues to be, a "person" as defined by FIFRA Section 2(s), 7 U.S.C. Section 136(s), and as such, is subject to FIFRA and the regulations promulgated thereunder.
5. Respondent owns and operates a facility located at 56 Cherry Avenue in West Sayville (Suffolk County), New York, hereinafter "Respondent's facility".
6. Respondent's facility constitutes an "establishment", as defined in Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).

7. Respondent is a "distributor or seller" within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).
8. 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).
9. On or about December 17, 2008, an inspector, duly appointed by the EPA Administrator, inspected Debbie's Pet Parlor located in Elizabeth City, NC. The inspection was conducted pursuant to and in accordance with the provisions of Section 9(a)(1) of FIFRA, 7 U.S.C. § 136g(a)(1).
10. As a direct result of the inspection described in the previous paragraph, EPA obtained evidence of the distribution and/or sale of Natural Yucca Flea & Tick Concentrated Tearless Shampoo.
11. The label on the Respondent's product in paragraph 10, above, does not bear an EPA product registration number or an EPA pesticide producing establishment registration number. The product was not registered with EPA.
12. The claims on the label of the product described in paragraph 10, above, indicate that such product is intended for the purpose of preventing, destroying, repelling or mitigating pests and is therefore a pesticide.
13. Respondent's distribution and sale of the unregistered pesticide, as described in paragraph 10, above, is a violation of FIFRA Section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A).
14. A Complaint was issued on June 30, 2009 for the total amount of \$6,500, charging Respondent with one distribution and/or sale of Natural Yucca Flea & Tick Concentrated Tearless Shampoo

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:

Respondent shall, immediately upon the effective date of this Consent Agreement and Final Order, comply with the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136 *et seq.*, and its implementing regulations, with respect to all pesticides it produces and distributes. Respondent represents that it is now in compliance with all requirements of FIFRA and its implementing regulations.

1. Quadrupeds shall pay a civil penalty to EPA in the total amount of **FIVE THOUSAND DOLLARS (\$5,000)** as set forth below. 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 listing the following: *IN THE MATTER OF QUADRUPEDS PRODUCTS, INC.*, and shall bear thereon the Docket Number FIFRA-02-2009-5204.

If Quadrupeds chooses to make the payment by EFT, then it 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: Quadrupeds Products, Inc.
- 7) Case Number: FIFRA-02-2009-5204.

Whether the payment is made by check or by EFT, Respondent 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. The penalty amount of \$5,000 is to be paid in two installments as follows:

- i. The first installment amount of **Two Thousand Five Hundred Dollars (\$2,500)** must be received at the above address on or before forty-five (45) calendar days after the date of signature of the Final Order at the end of this document.
 - ii. The second installment amount of **Two Thousand Five Hundred Dollars (\$2,500)** must be received at the above address on or before one hundred and eighty days after the due date for the first installment.
 - b. 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
 - c. Furthermore, if a payment is not made on or before the date specified in this document, 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 date said payment was required to have been made 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 date the payment was to have been made, in which payment of the amount remains in arrears.
 - d. 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 date for which the payment was required hereto to have been made.
 - e. The effective date of this Consent Agreement and Final Order shall be the date it is filed with the Regional Hearing Clerk.
2. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the Findings of Fact and Conclusions of Law in this Consent Agreement.
 3. This CA/FO 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 representations 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 violation of law.
 4. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms.
 5. Respondent consents to the issuance of the accompanying Final Order.

6. Respondent agrees that all terms of settlement are set forth herein.
7. Respondent waives its right to request a hearing on the Complaint, this Agreement, or the Final Order included herein, including any right to contest any allegations contained within those documents.
8. 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, Deputy Regional Administrator or the Regional Judicial Officer 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.
9. 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.
10. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.
11. 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.
12. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.
13. Each signatory of this Consent Agreement certifies that he or she is duly and fully authorized to enter into the terms of this Consent Agreement and to legally bind the party on behalf of which he or she signs this Consent Agreement.

RESPONDENT

BY: Richard Biegun
QUADRUPEDS PRODUCTS, INC.

NAME RICHARD BIEGUN
(Please Print)

TITLE: PRES

DATE: 9/10/09

COMPLAINANT:

Dore LaPosta
DORE LAPOSTA,
Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency
- Region 2

DATE: 9/21/09

In the Matter of Quadrupeds Products, Inc., Docket No. FIFRA-02-2009-5204

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties 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.

Helena Ferrara 9/23/09

HELEN FERRARA

Regional Judicial Officer

U.S. Environmental Protection Agency - Region 2

290 Broadway, 16th Floor

New York, New York 10007

In the Matter of Quadrupeds Products, Inc., Docket No. FIFRA-02-2009-5204

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:

The 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:

Richard Beigun
Owner
Quadrupeds Products, Inc.
56 Cherry Avenue
West Sayville, New York 11796

Dated: SEP 25, 2009
New York, New York

Mildred N. Bay