

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF )  
 )  
Eldon C. Stutsman, Inc. ) Docket No. FIFRA-07-2006-0210  
 )  
 ) CONSENT AGREEMENT AND  
Respondent ) FINAL ORDER  
 )

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about June 5, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136j, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Eldon C. Stutsman, Inc. (hereinafter referred to as "Respondent").

The Complaint charged Respondent with violating § 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136j(a)(2)(F).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of these negotiations and represents settlement of this Complaint.

## CONSENT AGREEMENT

It is hereby agreed, and accepted by Respondent that:

1. This Consent Agreement and Final order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and it's terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violation of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent agreement and Final order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C. § 136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter

into the terms of this Consent Agreement and Final Order.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty as specified in paragraph 2 of this Final Order.

#### FINAL ORDER


Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified checks, a civil penalty, for the violations cited herein, in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850.00), on or before thirty (30) days of the effective date of this CAFO, payable to the "Treasurer, United States of America" and such check shall be mailed to: **U.S. EPA-Region 7, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payment shall be identified as **In the Matter of Eldon C. Stutsman, Inc.** Copies of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

2. The civil penalty shall be paid on or before the due date stated in paragraph 1 of this Order (the date by which the payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By:   
Rupert G. Thomas  
Attorney  
Office of Regional Counsel

Date: 2/14/07

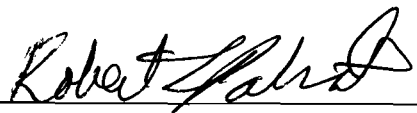
RESPONDENT:  
ELDON C. STUTSMAN, INC.

By: 

Title: for E C Stutsman Inc

Date: Feb 3/07

IT IS SO ORDERED. This Order shall become effective immediately.

  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

Dated: February 14, 2007

IN THE MATTER OF Eldon C. Stutsman, Inc., Respondent  
Docket No. TSCA-07-2006-0210

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Rupert G. Thomas  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Andrew J. Hosmanek, Esq.  
Meardon, Sueppel & Downer, P.L.C.  
122 South Linn Street  
Iowa City, Iowa 52240-1802

Copy by Facsimile and  
First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20460

and

The Honorable Barbara A. Gunning  
Administrative Law Judge  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20460

Dated: 2/14/07



Kathy Robinson  
Hearing Clerk, Region 7