



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 09 2012

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7644 8673

Kari Berman, Esq.
Briggs and Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

Consent Agreement and Final Order, Docket No. FIFRA-05-2012-0003

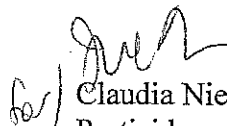
Dear Mrs. Kari Berman:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on January 9, 2012, with the Regional Hearing Clerk.

The civil penalty in the amount of \$88,920.00 is to be paid in the manner described in paragraphs 86 and 87. Please be certain that the number **BD 2751245P002** and the docket number are written on both the transmittal letter and on the check. Payment is due by February 9, 2012 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,


for/ Claudia Niess
Pesticides and Toxics Compliance Section

Enclosures

RECEIVED

JAN - 9 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)
)
SuperClean Brands, Inc.)
Saint Paul, Minnesota)
Respondent.)
_____)
)

Docket No. FIFRA-05-2012-0003
Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order
Commencing and Concluding a Proceeding

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is SuperClean Brands, Inc. (SuperClean), a corporation doing business in the state of Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that to the best of its knowledge, it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

Statutory and Regulatory Background

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide whose registration under Section 3 of FIFRA, 7 U.S.C. § 136a, has been cancelled or suspended.

11. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), states that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under Section 3.

12. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide which is misbranded.

13. The term “distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. 7 U.S.C. § 136(gg).

14. A “pesticide” is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

15. A "pest" is 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 which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

16. The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers. 7 U.S.C. § 136(p)(1).

17. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide, or to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.

7 U.S.C. § 136(w); 40 C.F.R. § 167.3.

18. The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient in producing a pesticide, including a person who packages, repackages, labels, or relabels a pesticide. 7 U.S.C. § 136(w); 40 C.F.R. § 167.3.

19. The term "establishment" means any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.

7 U.S.C. § 136(dd).

20. Section 3(c)(1) of FIFRA, 7 U.S.C. § 136a(c)(1), states each applicant for registration of a pesticide shall file with the Administrator a statement which includes the name and address of the applicant and of any other person whose name will appear on the labeling; the name of the pesticide; a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use; the complete formula of the pesticide; a request that the pesticide be classified for general or restricted use; and if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based.

21. A pesticide is “misbranded” if its label does not bear the registration number assigned under Section 7 to each establishment in which it was produced.

7 U.S.C. § 136(q)(1)(D).

22. A pesticide is “misbranded” if there is not affixed to its container a label bearing the name and address of the producer, registrant, or person for whom produced; the name, brand or trademark under which the pesticide is sold; and, when required by regulation of the Administrator to effectuate the purposes of FIFRA, the registration number assigned to the pesticide under FIFRA. 7 U.S.C. § 136(q)(2)(C)(i), (ii), and (iv).

23. 40 C.F.R. § 156.10(b)(2)(ii) states that no name, brand, or trademark under which the product is sold may appear on a pesticide label which has not been approved by the Administrator of EPA through registration or supplemental registration as an additional name.

24. 40 C.F.R. § 156.10(c) requires all pesticide products to bear a label showing clearly and prominently the name and address of producer, registrant, or person for whom produced. An unqualified name and address given on the label shall be considered as the name and address of the producer. If the registrant’s name appears on the label and the registrant is not the producer, or if the name of the person for whom the pesticide was produced appears on the label, it must be qualified by appropriate wording such as “Packed for ***,” “Distributed by ***,” or “Sold by ****” to show that the name is not that of the producer.

25. 40 C.F.R. § 156.10(e) states that the registration number assigned to the pesticide product at the time of registration shall appear on the label, preceded by the phrase “EPA Registration No.,” or the phrase “EPA Reg. No.”

26. 40 C.F.R. § 152.132 states that a registrant may distribute or sell his registered product under another person’s name and address instead of (or in addition to) his own. Such

distribution and sale is termed “supplemental distribution” and the product is referred to as a “distributor product.” Supplemental distribution is permitted upon notification to the Agency if all the following conditions are met:

- (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor’s company number, the additional brand name(s) to be used, and the registration number of the registered product.
- (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer (or under contract) who produces, packages, and labels the registered product.
- (c) The distributor product is not repackaged (remains in the producer’s unopened container).
- (d) The label of the distributor product is the same as that of the registered product except that:
 - (1) The product name of the distributor product may be different;
 - (2) The name and address of the distributor may appear instead of the registrant;
 - (3) The registration number of the registered product must be followed by a dash, followed by the distributor’s company number;
 - (4) The establishment number must be that of the final establishment at which the product was produced; and

(5) Specific claims may be deleted, provided that no other changes are necessary.

(e) Voluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number. The registrant is responsible for ensuring that distributors under this cancelled registration are notified and comply with the terms of the cancellation.

27. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$6,500 for each offense that occurred between March 15, 2004 and January 12, 2009 pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

28. Respondent is a "person" as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

29. Respondent is a "producer" as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

30. Respondent owned or operated a place of business located at 51 Maryland Avenue East, Saint Paul, Minnesota, during the calendar years 2007 and 2008.

31. On January 6, 2004, EPA, Office of Pesticide Programs, Antimicrobials Division issued a "label accepted with comments" for "Azone," EPA Registration Number 7870-1.

Lynde-Chlor

32. At all times relevant to this CAFO, Respondent re-packaged the registered product "Azone," EPA Registration Number 7870-1, for distribution or sale as "Lynde-Chlor," EPA Registration Number 7870-1-70606.

33. "Lynde-Chlor," EPA Registration Number 7870-1-70606, is a "distributor product" under 40 C.F.R. § 152.132.

34. Respondent distributed or sold 384 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde Company, located at 1300 Sylvan Street, Saint Paul, Minnesota 55117 (Lynde), on August 23, 2007, under Invoice Number 91119.

35. Respondent distributed or sold 384 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde on September 6, 2007, under Invoice Number 91741.

36. Respondent distributed or sold 384 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde on September 19, 2007, under Invoice Number 92405.

37. Respondent distributed or sold 384 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde on October 9, 2007, under Invoice Number 93576.

38. Respondent distributed or sold 576 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde on October 12, 2007, under Invoice Number 93749.

39. Respondent distributed or sold 324 cases of "Lynde-Chlor," EPA Registration Number 7870-1-70606, to Lynde on January 10, 2008, under Invoice Number 97393.

40. The first aid statements on the labels on the shipments of "Lynde-Chlor," EPA Reg. No. 7870-1-70606, described in paragraphs 34 through 39 above, substantially differed from the first aid statements on the January 6, 2004 label accepted as a part of the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a.

41. The shipments of "Lynde-Chlor," EPA Registration Number 7870-1-70606, described in paragraphs 34 through 39 above, were misbranded as defined at Section 2(q)(2)(C)(ii) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(ii), and 40 C.F.R. § 156.10(b)(2)(ii), as the

product labels did not bear the name, brand, or trademark, approved under supplemental registration as an additional name, under which it is sold.

42. The shipments of “Lynde-Chlor,” EPA Registration Number 7870-1-70606, described in paragraphs 34 through 39 above, were misbranded as defined at Section 2(q)(2)(C)(iv) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iv), and 40 C.F.R. § 156.10(e), as the product labels did not bear the Registration Number assigned to it at the time of registration under Section 3 of FIFRA.

43. The shipments of “Lynde-Chlor,” EPA Registration Number 7870-1-70606, described in paragraphs 34 through 39 above, were misbranded as defined at Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), as the product labels did not bear the registration number assigned under Section 7 to the establishment in which it was produced.

LIKWID-15

44. At all times relevant to this CAFO, Respondent re-packaged the registered product “Azone,” EPA Registration Number 7870-1, for distribution or sale as “LIKWID-15,” EPA Registration Number 7870-1-15265.

45. “LIKWID-15,” EPA Registration Number 7870-1-15265, is a “distributor product” under 40 C.F.R. § 152.132.

46. Respondent distributed or sold 288 cases of “LIKWID-15,” EPA Registration Number 7870-1-15265, above, to Wausau Chemical Company, located at 2001 North River Drive, Wausau, Wisconsin 54403 (Wausau), on June 28, 2007, under Invoice Number 89310.

47. Respondent distributed or sold 288 cases of “LIKWID-15,” EPA Registration Number 7870-1-15265, to Wausau on August 10, 2007, under Invoice Number 90610.

48. Respondent distributed or sold 288 cases of "LIKWID-15," EPA Registration Number 7870-1-15265, to Wausau on September 21, 2007, under Invoice Number 92475.

49. Respondent distributed or sold 240 cases of "LIKWID-15," EPA Registration Number 7870-1-15265, to Wausau on November 30, 2007, under Invoice Number 95575.

50. Respondent distributed or sold 240 cases of "LIKWID-15," EPA Registration Number 7870-1-15265, to Wausau on February 8, 2008, under Invoice Number 98355.

51. The directions for use on the labels on the shipments of "LIKWID-15," EPA Reg. No. 7870-1-15625, described in paragraphs 46 through 50 above, substantially differed from the directions for use on the January 6, 2004 label accepted as a part of the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a.

52. The shipments of LIKWID-15," EPA Registration Number 7870-1-15265, described in paragraphs 46 through 50 above, were misbranded as defined at Section 2(q)(2)(C)(i) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(i), and 40 C.F.R. § 156.10(c), as the labels did not bear the producer's name and address.

53. The shipments of "LIKWID-15," EPA Registration Number 7870-1-15265, described in paragraphs 46 though 50 above, were misbranded as defined at Section 2(q)(2)(C)(iv) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iv), and 40 C.F.R. § 156.10(e), as the labels did not bear the Registration Number assigned to it at the time of registration under Section 3 of FIFRA.

54. The shipments of "LIKWID-15," EPA Registration Number 7870-1-15265, described in paragraphs 46 through 50 above, were misbranded as defined at Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), as the labels did not bear the registration number assigned under Section 7 to the establishment in which it was produced.

Fox Chlor

55. The registration of "Fox Chlor," EPA Registration Number 62207-6, under Section 3 of FIFRA was cancelled on July 21, 2005.

56. Respondent distributed or sold 140 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Trio Supply Company, located at 3112 North 2nd Street, Minneapolis, Minnesota 55411, on November 19, 2007, under Invoice Number 95100.

57. Respondent distributed or sold 105 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Trio Supply Company, located at 3112 North 2nd Street, Minneapolis, Minnesota 55411, on January 29, 2008, under Invoice Number 98037.

58. Respondent distributed or sold 70 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Bunzyl/Papercraft, located at 5301 N.E. Industrial Boulevard, Fridley, Minnesota 55241, on January 30, 2008, under Invoice Number 98073.

59. Respondent distributed or sold 105 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Fastenal Company, located at 15851 Guion Road, Indianapolis, Indiana 46254, on February 1, 2008, under Invoice Number 98149.

60. Respondent distributed or sold 70 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Fastenal Company, located at 2001 Theurer Boulevard, Winona, Minnesota 55987, on February 8, 2008, under Invoice Number 98346.

61. Respondent distributed or sold 35 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Fastenal Company, located at 2001 Theurer Boulevard, Winona, Minnesota 55987, on February 8, 2008, under Invoice Number 98347.

62. Respondent distributed or sold 210 cases of "Fox Chlor," cancelled EPA Registration Number 62207-6, to Dalco Enterprises, located at 300 5th Avenue N.W., New Brighton, Minnesota 55112, on February 11, 2008, under Invoice Number 98455.

Fox Chlor Plus

63. The registration of "Fox Chlor Plus," EPA Registration Number 62207-5, under Section 3 of FIFRA was cancelled by EPA on July 21, 2005.

64. Respondent distributed or sold 35 cases of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Trio Supply Company, located at 3112 North 2nd Street, Minneapolis, Minnesota 55411, on November 19, 2007, under Invoice Number 95100.

65. Respondent distributed or sold 700 cases and 8 drums of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Ivesco LLC, located at 125 Kingwood Road, Mankato, Minnesota 56002, on November 28, 2007, under Invoice Number 95410.

66. Respondent distributed or sold 35 cases of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Dalco Enterprises, located at 300 5th Avenue, New Brighton, Minnesota 55112, on November 29, 2007, under Invoice Number 95479.

67. Respondent distributed or sold 350 cases of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Midwest Supply and Distributing, located at 525 Progress Road, Waite Park, Minnesota 56387, on January 15, 2008, under Invoice Number 97567.

68. Respondent distributed or sold 105 cases of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Trio Supply Company, located at 3112 North 2nd Street, Minneapolis, Minnesota 55411, on February 4, 2008, under Invoice Number 98211.

69. Respondent distributed or sold 700 cases and 8 drums of "Fox Chlor Plus," cancelled EPA Registration Number 62207-5, to Ivesco, LLC, located at 125 Kingwood Road, Mankato, Minnesota 56002, on February 12, 2008, under Invoice Number 98464.

Counts 1 to 6

70. Complainant incorporates by reference the allegations contained in paragraphs 1 through 69 of this CAFO.

71. Starting on or about August 23, 2007 through on or about January 10, 2008, Respondent distributed or sold "Lynde-Chlor," EPA Registration Number 7870-1-70606, on six separate occasions in violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and 40 C.F.R. § 152.132(d).

72. Starting on or about August 23, 2007 through on or about January 10, 2008, Respondent distributed or sold "Lynde-Chlor," EPA Registration Number 7870-1-70606, on six separate occasions in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

73. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on six separate occasions subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the six occasions.

Counts 7 to 11

74. Complainant incorporates by reference the allegations contained in Paragraphs 1 through 69 of this CAFO.

75. Starting on or about June 28, 2007 through on or about February 8, 2008, Respondent distributed or sold "LIKWID-15," on five separate occasions in violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and 40 C.F.R. § 152.132(d).

76. Starting on or about June 28, 2007 through on or about February 8, 2008, Respondent distributed or sold "LIKWID-15," on five separate occasions in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

77. Respondent's violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), and Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on five separate occasions subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the five occasions.

Counts 12 to 18

78. Complainant incorporates by reference the allegations contained in Paragraphs 1 through 69 of this CAFO.

79. Starting on or about November 19, 2007 through on or about February 11, 2008, Respondent distributed or sold "Fox Chlor" on seven separate occasions in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

80. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on seven separate occasions subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a) for each of the seven occasions.

Counts 19 to 24

81. Complainant incorporates by reference the allegations contained in Paragraphs 1 through 69 of this CAFO.

82. On or about November 19, 2007 through on or about February 12, 2008, Respondent distributed or sold "Fox Chlor Plus" on six separate occasions in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

83. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on six separate occasions subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the six occasions.

Civil Penalty

84. Section 14(a)(4) of FIFRA, 7 U.S.C. §136l(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

85. Based on an evaluation of the facts alleged in this CAFO and the factors in Section 14(a)(4) of FIFRA, Complainant calculated a civil penalty against Respondent in the amount of \$88,920 to settle this matter. Complainant evaluated the facts and circumstances of this case with specific reference to EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009.

86. Within 30 days of the effective date of this CAFO, Respondent must pay a \$88,920 civil penalty for the FIFRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

87. A transmittal letter stating Respondent's name, complete address, the case title, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Claudia Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kevin Chow (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

88. This civil penalty is not deductible for federal tax purposes.

89. If Respondent does not pay the civil penalty timely, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

90. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

91. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

92. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

93. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

94. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

95. The terms of this CAFO bind Respondent, its successors, and assigns.

96. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

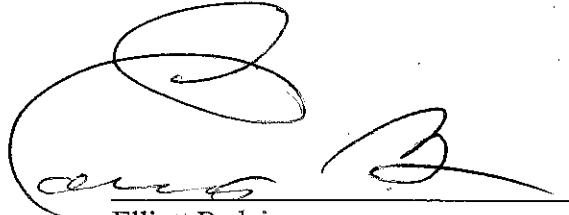
97. Each party agrees to bear its own costs and attorney fees in this action.

98. This CAFO constitutes the entire agreement between the parties.

99. The effective date of this CAFO is the date it is filed with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 5, Chicago, Illinois.


Respondent:
SuperClean Brands, Inc.

12/6/11
Date


Elliott Badzin
President

Complainant:
Region 5
U.S. Environmental Protection Agency

1/4/2012
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

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JAN - 9 2012


REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:
SuperClean Brands, Inc.
Docket No. **FIFRA-05-2012-0003**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

1-6-12
Date.



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in the resolution of the civil administrative action involving SuperClean Brands, Inc., was filed on January 9, 2012 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7644 8673, a copy of the original to the Respondent:

Kari Berman, Esq.
Briggs and Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Kevin Chow, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2012-0003