



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

MAY 19 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert D. Mowrey
Kazmarek, Mowrey, Cloud, Laseter LLP
Promenade, Suite 3600
1230 Peachtree Street
Atlanta, Georgia 30309

Re: Hook Demo SC, LLC/Lyman Warehouse, LLC
Consent Agreement and Final Order
Docket No. TSCA-04-2016-2900(b)

Dear Mr. Mowrey:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CAFO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Lyman Warehouse, LLC, on notice of their potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions or concerns, please contact Kris Lippert, of my staff, at (404) 562-8605.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Truman".

William E. Truman
Acting Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Hook Demo SC, LLC)
300 Alton Road, Suite 303)
Miami Beach, Florida 33139)
)
And)
)
Lyman Warehouse, LLC)
14 Pacific Street)
Lyman, South Carolina 29365)
)
Respondents.)
_____)

Docket No. TSCA-04-2016-29008

HEARING CLERK

2016 MAY 19 AM 7:14

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

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 Resource Conservation and Restoration Division (RCRD), United States Environmental Protection Agency, Region 4 (EPA). Respondents are Lyman Warehouse, LLC and Hook Demo SC, LLC.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of RCRD by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRD has the authority to commence an enforcement Action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. Complainant and Respondents 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

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Kris Lippert
RCRA/OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-8605

III. Specific Allegations

6. Respondent Lyman Warehouse, LLC, is a limited liability corporation operating in the State of South Carolina, and is a “person” as defined in 40 C.F.R. § 761.3. Lyman Warehouse LLC, is the owner and operator of a facility located at 14 Pacific Street, Lyman, South Carolina, 29365 (the facility), and was a user of PCB Items.
7. Hook Demo SC, LLC, is a limited liability corporation that was operating in the State of South Carolina at all times relevant to this CAFO and is a “person” as defined in 40 C.F.R. § 761.3. Hook Demo SC, LLC,

acquired fixtures, personalty and improvements at the facility from Respondent Lyman Warehouse, LLC for a period of three years beginning on June 6, 2011, and it or its contractor engaged in demolition, dismantling and/or removal activities at the facility during this three year period, and was a user of PCB Items.

8. On or about June 20, 2012, a joint inspection was conducted by EPA and the South Carolina Department of Health and Environmental Control (SCDHEC) at the facility to determine compliance with the PCB regulations.
9. During the inspection, EPA and SCDHEC observed the following out of service PCB Items being stored on-site for disposal:
 - a. Eight (8) 55-gallon drums of oil with 73 parts per million (ppm) of PCBs located in the Roof Fab Building;
 - b. Twelve (12) 55-gallon drums and one (1) 15-gallon drum of oil with 63 ppm of PCBs located in the Roof Fab Building;
 - c. Two (2) 55-gallon drums and one (1) 40-gallon drum of oil with 55 ppm of PCBs located in the Roof Fab Building ;
 - d. Two (2) Precision Transformers with the same serial number 25211-01-001, with name plates indicating that each contained 43 gallons of oil; 167 kilovolt amperes (KVA); and dated 1963 located in the Roof Fab Building;
 - e. One (1) Precision Transformer with serial number 25211-01-002 with a name plate indicating it contained 43 gallons of oil; 167 KVA; and dated 1963 located in the Roof Fab Building; and
 - f. One (1) General Electric PCB-Contaminated Transformer with serial number B314988 with a name plate indicated 1400 KVA that was tested to contain 64 ppm of PCBs located outside of the Boiler House.
10. 40 C.F.R. § 761.3 defines PCB Items as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
11. Pursuant to 40 C.F.R. § 761.40(a)(1), PCB Containers stored for disposal are required to be marked in accordance with § 761.45(a). At the time of the inspection, the PCB Items listed in Paragraphs 9(a) –(e) were stored for disposal but were not marked in accordance with the requirements of 40 C.F.R. § 761.40(a)(1). Therefore, Respondents violated 40 C.F.R. § 761.40(a)(1).

12. Pursuant to 40 C.F.R. § 761.65(b), PCBs and PCB Items designated for disposal must be stored in an area with an adequate roof, walls, and non-porous floor with curbing. At the time of the inspection, the PCB Items listed in Paragraph 9 were stored for disposal in areas that did not meet the requirements of 40 C.F.R. § 761.65(b). Therefore, Respondents violated 40 C.F.R. § 761.65(b).
13. Pursuant to 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3), storage areas used to store PCBs and PCB Items for disposal are required to be marked in accordance with 40 C.F.R. § 761.45(a). At the time of the inspection, the PCB Items listed in Paragraph 9 were stored for disposal in areas that did not meet the requirements of 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3). Therefore, Respondents violated 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3).
14. Pursuant to 40 C.F.R. § 761.65(c)(5), PCB Items in storage for disposal shall be checked for leaks at least once every 30 days. Records of inspections, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(a). Respondents failed to inspect the equipment and maintain storage records for the PCB Items listed in Paragraph 9. Therefore, Respondents violated 40 C.F.R. § 761.65(c)(5) and 40 C.F.R. § 761.180(a).
15. Pursuant to 40 C.F.R. § 761.65(c)(8), PCB Items must be marked with the date when they were removed from service for disposal. At the time of inspection, the PCB Items listed in Paragraph 9 were not marked with the date the PCB Items were removed from service. Therefore, Respondents violated 40 C.F.R. § 761.65(c)(8).
16. 40 C.F.R. § 761.205(f) requires all PCB generators to notify EPA of their PCB waste activities by filing EPA Form 7710-53. At the time of the inspection, Respondents had failed to notify EPA of the PCB waste activities by filing EPA Form 7710-53. Therefore, Respondents violated 40 C.F.R. § 761.205(f).

IV. Consent Agreement

17. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations.
18. Each 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.
19. For the purposes of achieving a resolution by settlement, Respondents consent to the assessment of the

penalty proposed by EPA and agree to pay the civil penalty as set forth in this CAFO.

20. Each Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA and the PCB regulations.
21. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is each Respondent's responsibility to comply with said laws and regulations.
22. Complainant and Respondents 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

23. Respondents are jointly and severally liable for a civil penalty in the amount of SEVENTY-SEVEN THOUSAND DOLLARS (\$77,000), which shall be paid within 30 days from the effective date of this CAFO.
24. Respondents shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondents shall send the check to the following address:

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

**The check shall reference on its face the name of the
Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1818

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

**Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency."**

25. At the time of payment, Respondents shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960;

Kris Lippert
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

and

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

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

27. 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.
28. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon each Respondent, its successors and assigns.
30. 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

31. 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:

Docket No.: TSCA-04-2016-2900(b)

Respondent: Hook Demo SC, LLC

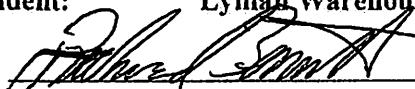
By:  (Signature) Date: 3/9/2016

Name: Robert Christoph & (Typed or Printed)

Title: Manager (Typed or Printed)

Docket No.: TSCA-04-2016-2900(b)

Respondent: Lyman Warehouse, LLC

By:  (Signature) Date: 4-7-2016

Name: Richard Bennett (Typed or Printed)

Title: owner (Typed or Printed)

Docket No.: TSCA-04-2016-2900(b)

Complainant: U.S. Environmental Protection Agency

By: Alan Farmer
G. Alan Farmer, Director
RCR Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

Date: 4/13/2016

APPROVED AND SO ORDERED this 18th day of May, 2016.

By: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), for Lyman Warehouse, LLC, Docket Number: TSCA-04-2016-2900(b), on 5-19-16, and on 5-19-16, served the parties listed below in the manner indicated:

Bonnie Sawyer (Via EPA Internal Mail)
Attorney
Office of Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Bob Caplan (Via EPA Internal Mail)
Senior Attorney
Office of Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Kris Lippert (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Ms. Cristina Lumpkin, Esq. (Via Certified Mail – Return Receipt Requested)
Bilzin Sumberg Baena Price & Axelrod, LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131-3456

Robert D. Mowrey, Esq. (Via Certified Mail – Return Receipt Requested)
Kazmarek, Mowrey, Cloud, Laseter LLP
Promenade, Suite 3600
1230 Peachtree Street
Atlanta, Georgia 30309

Date: 5-19-16



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511