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September 19, 2014

By Overnight Delivery

Ms. Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA/Office of Administrative Law Judges
Room M-1200
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: *In the Matter of Aylin, Inc., et al.*
EPA Docket No. RCRA-03-2013-0039

Dear Ms. Anderson:

I have enclosed for filing the original and one true and correct copy of the Respondents' Discovery Exhibit Volume II. Please note that this volume of exhibits contains financial records for which the Respondents' assert business confidentiality. I have enclosed both un-redacted and redacted copies of the produced documents.

Sincerely,

A handwritten signature in black ink that reads 'Jeffrey L. Leiter'.

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cc: Certificate of Service List

Note: Effective January 1, 2014, I am practicing as a solo practitioner under the Leiter & Cramer PLLC trade name. The use of the Leiter & Cramer PLLC trade name after this date is not intended to imply the continued existence of partnership.

2014 SEP 23 AM 11:20
U.S. EPA/Office of Administrative Law Judges

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

2014 SEP 23 AM 11:20

In the Matter of)	
)	
Aylin, Inc.,)	DOCKET NO.: RCRA 03-2013-0039
Rt. 58 Food Mart, Inc.,)	
Franklin Eagle Mart Corp.,)	
Adnan Kiriscioglu,)	
)	
RESPONDENTS.)	RESPONDENTS' SUPPLEMENTAL
)	DISCOVERY EXCHANGE
Proceeding under Section 9006)	
of the Resource Conservation and)	BUSINESS CONFIDENTIALITY
Recovery Act, as amended,)	ASSERTED
42 U.S.C. Section 6991e)	

RESPONDENTS' SUPPLEMENTAL DISCOVERY EXCHANGE

Respondents Aylin, Inc., Rt. 58 Food Mart, Inc., Franklin Eagle Mart Corp., and, Adnan Kiriscioglu (the "Respondents") submit Respondents' Exhibit Volume II to supplement their initial responses to Complainant's discovery requests in the above-referenced matter.

Pursuant to 40 C.F.R. §§2, Subpart B and 22.5(d) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, Respondents assert "business confidentiality" for each and every document in Respondents' Exhibit Volume II. Each and every document, including but not limited to Federal tax returns, balance sheets, general ledgers/chart of accounts, and income statements, contain sensitive business information which Respondents' treat as "confidential business information" in the every day and normal course of business. Further, in support of their assertion of business confidentiality, the Respondents state:

- (a) Respondents have not waived or withdrawn any business confidentiality claim for the documents contained in Respondents' Exhibit Volume II;
- (b) Respondents take reasonable measures in the ordinary course of business to protect the confidentiality of the information in the documents contained in Respondents' Exhibit Volume II, and that they intend to continue to take such measures;

(c) The information in the documents contained in Respondents' Exhibit Volume II is not, and has not been, reasonably obtainable without the Respondents consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);

(d) The Respondents are not aware of a statute that specifically requires disclosure of the information in this proceeding; and,

(e) Disclosure of the information would cause competitive harm to the Respondents, as it would allow competitors to determine margins, volumes, sales and other financial information in an already highly-competitive industry.

Along with the confidential version of Respondents' Exhibit Volume II submitted under seal, the Respondents are submitting a redacted, public version of the documents.

The Federal tax returns included in Respondents' Exhibit Volume II also contain personally identifiable information ("PII") for the Respondents (*i.e.*, Employer Identification Numbers and Mr. Kiriscioglu's Social Security Number). Because the Respondents' are asserting an ability-to-pay claim in this proceeding, this sensitive PII has not been redacted from the confidential version of Respondents' Exhibit Volume II submitted under seal. The PII is not included in any of the redacted versions of the documents.

To the extent that the Court refuses any confidentiality claim asserted by the Respondents, they request the ability to redact PII from any document that the Court intends to make public.

Because the Complainants' have filed a Motion to Compel Discovery, which is pending before the Court, Respondents provide the following supplemental information:

The Complainant, in its discovery request, asked for documents in requests 71-98. Respondents believe they have provided Complainant with all of the documents covered by Request 71; however, the Respondents' reserve the right to further supplement their discovery responses.

As to requests 72-74, no documents, specifically lease and financing documents, exist which are responsive to Complainant's request. Otherwise, Respondents object to Complainant's request to be overly broad and not reasonably related to the matters before the Court, including Respondents' ability-to-pay claim.

As to requests 75-84, the balance sheets and Federal tax returns reflect that there are monies due to/from affiliates of Aylin, Inc., Franklin Eagle Mart, Inc. and Rt. 58 Food Mart, Inc. for all years presented in the balance sheets (2009-2013). These are cash flow loans made between entities owned by Mr. Kiriscioglu. Because Aylin, Inc., Franklin Eagle Mart, Inc., and Rt. 58 Food Mart, Inc. did not generate enough cash flow at different times during the period covered by Complainant's request (2009-2013), and

in order for them to continue in business, locations owned by Mr. Kiriscioglu that generated income and had a surplus at the time transferred/loaned funds to enable the Respondents to continue operations. Because these transactions were between locations owned by the same person, any amounts owing do not bear interest or have a fixed repayment term. There is no documentation of these transactions other than the carrying value on the books.

There are no documents responsive to requests 85-87. Mr. Kiriscioglu is the sole shareholder and 100 percent owner of Aylin, Inc., Franklin Eagle Mart, Inc. and Rt. 58 Food Mart.

Respondents have previously provided the insurance policies responsive to requests 88-90.

Respondents have not provided Mr. Kiriscioglu's personal tax returns or Individual Ability to Pay Claim form in requests 91-92, because of their pending motion to dismiss Mr. Kiriscioglu, as an individual, from this case.

Respondents' Exhibit Volume II contains financial records fully responsive to requests 93, 96-98.

There are no documents responsive to requests 94 and 95.

Respectfully submitted,



Date: September 19, 2014

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ATTORNEY FOR RESPONDENTS

Certificate of Service

I hereby certify that the foregoing Respondents' Supplement Discovery Exchange, including redacted and un-redacted copies of the Exhibits, September 19, 2014, was sent this day in the following manner to the addresses listed below.



Jeffrey L. Leiter

Original by Overnight Delivery:

Hon. Christine D. Coughlin
U.S. EPA/Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

One Copy by Overnight Delivery:

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