



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
June 19, 2013

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7009 1680 0000 7676 4919

Ashokkumar D. Punjabi  
Chicago Import, Inc.  
3811 West Lawrence Avenue  
Chicago, Illinois 60625

Consent Agreement and Final Order in the Matter of  
Chicago Import Inc. Docket No. FIFRA-05-2013-0012

Dear Mr. Punjabi:

Enclosed you will find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on June 19th, with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,400 is to be paid in the manner described in paragraphs 35 and 36. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by July 19, 2013, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

*Terence Bonace*

Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Chicago Import, Inc.  
Chicago, Illinois,

Respondent.

RECEIVED  
JUN 19 2013  
REGIONAL HEARING CLERK  
USEPA )  
REGION 5 )

Docket No. FIFRA-05-2013-0012

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

Preliminary Statement

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 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, by lawful delegation, the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency (EPA), Region 5.
3. The Respondent is Chicago Import, Inc., a corporation doing business in the State of Illinois.
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). *See* 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 general 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.

### Statutory and Regulatory Background

9. 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 that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

10. 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).

11. 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).

12. 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).

13. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

14. The Administrator of EPA may assess a civil penalty against any wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$6,500 for each

offense that occurred after March 15, 2004 through January 12, 2009, and of up to \$7,500 for each offense that occurred after 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.

### General Allegations

15. Complainant incorporates paragraphs 1 through 14 of this CAFO as if set forth in this paragraph.

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

17. Respondent is a retailer or distributor.

18. Respondent owned or operated a place of business located at 3811 West Lawrence Avenue, Chicago, Illinois (place of business) during calendar years 2008 and 2009.

19. On January 14, 2009, an inspector employed by Illinois Department of Public Health and authorized to conduct inspections under FIFRA conducted an inspection at Super Dollar Plus, 261 East Indian Trail, Aurora, Illinois (Super Dollar Plus).

20. During the January 14, 2009 inspection, the inspector collected a physical sample and photographs of a shipment of *Stop Ant & Roach Killer* which Super Dollar Plus was holding for distribution or sale.

21. During the January 14, 2009 inspection, the inspector also collected a documentary sample of an invoice showing the sale of *Stop Ant & Roach Killer* to Super Dollar Plus by Respondent on June 10, 2008.

22. On April 28, 2009, an inspector employed by Illinois Department of Public Health and authorized to conduct inspections under FIFRA conducted an inspection at Respondent's place of business in Chicago, Illinois.

23. During the April 28, 2009 inspection, the inspector collected a physical sample and

photographs of *Stop Ant & Roach Killer* that Respondent offered for distribution or sale.

24. The labeling on *Stop Ant & Roach Killer* lists directions for how to use the product to kill several different insects.

25. *Stop Ant & Roach Killer* is a "pesticide" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

### Count I

26. Complainant incorporates by reference the allegations contained in paragraphs 1 through 25 of this CAFO.

27. Respondent distributed or sold *Stop Ant & Roach Killer* on or about June 10, 2008 to Super Dollar Plus.

28. *Stop Ant & Roach Killer* was not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a, in calendar year 2008.

29. Respondent's distribution or sale of the unregistered pesticide *Stop Ant & Roach Killer* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

### Count II

30. Complainant incorporates by reference the allegations contained in paragraphs 1 through 25 of this CAFO.

31. Respondent distributed or sold *Stop Ant & Roach Killer* on or about April 28, 2009 at its place of business in Chicago, Illinois.

32. *Stop Ant & Roach Killer* was not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a, in calendar year 2009.

33. Respondent's distribution or sale of the unregistered pesticide *Stop Ant & Roach*

*Killer* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C.

§ 136j(a)(1)(A).

**Civil Penalty**

34. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$4,400. In determining the penalty, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

35. Respondent must pay the \$4,400 civil penalty in two (2) installments with interest as follows: \$2,203.67 within thirty (30) days of the effective date of this CAFO; and \$2,209.17 within one hundred and eighty (180) days of the effective date of this CAFO. Respondent must pay the installments by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

Each check must note the following: In the Matter of Chicago Import, Inc. and the docket number of this CAFO.

36. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

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

Terence Bonace (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Robert M. Peachey (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

38. If Respondent does not pay timely the civil penalty, EPA may refer this 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.

39. 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 overdue amount 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**

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

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

42. Respondent certifies that it is complying with Sections 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and 136j(a)(1)(E).

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

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

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

46. Each person signing this CAFO 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.

47. Each party agrees to bear its own costs and attorneys fees in this action.

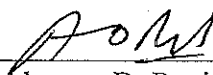
48. This CAFO constitutes the entire agreement between the parties.



In the Matter of: Chicago Import, Inc., Chicago, Illinois.  
Docket No.

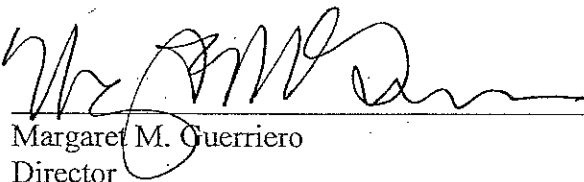
Chicago Import, Inc., Respondent

4/30/13  
Date

  
Ashokkumar D. Punjabi  
President  
Chicago Import, Inc.

U.S. Environmental Protection Agency, Complainant

6/13/2013  
Date

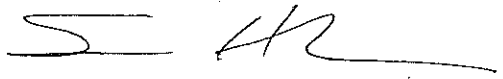
  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

In the Matter of:  
Chicago Import, Inc.  
Docket No. FIFRA-05-2013-0012

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.

6-17-13  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

RECEIVED  
JUN 19 2013  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Chicago Import, Inc., was filed on June 19, 2013, 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 7676 4919 to the Respondent:

Ashokkumar D. Punjabi  
Chicago Import, Inc.  
3811 West Lawrence Avenue  
Chicago, Illinois 60625

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Robert M. Peachey, 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-05-2013-0012**

**RECEIVED**  
JUN 19 2013  
REGIONAL HEARING CLERK  
USEPA  
REGION 5