

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 SEP 30 PM 12:12

FILED  
EPA REGION VIII  
WASHINGTON DC

IN THE MATTER OF: )

Thrive Holdings, LLC )  
389 South 1300 West )  
Pleasant Grove, UT 84062, )

Respondent )  
\_\_\_\_\_ )

DOCKET NO.: FIFRA-08-2014-0009  
Motion to File Adobe PDF Signature

Docket No.

Comes now Complainant, the United States Environmental Protection Agency (EPA), Region 8, requesting that the Regional Judicial Officer (RJO) accept the filing of this Combined Complaint and Consent Agreement (CCCA) with Respondent's Adobe PDF signature of Respondent's original signature. Respondent has agreed to send the original signature to Complainant, and Complainant will submit the original signature page of the CCCA with the RJO's office upon receipt from Respondent.

Respectfully submitted this 30<sup>th</sup> day of September, 2014.

Eduardo Quintana, Attorney  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129


## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true and correct copy of the Motion to File a PDF Adobe Signature was hand-carried to the Regional Hearing Clerk:

Tina Artemis, Region 8 Hearing Clerk  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

David Doxey, Esq.  
389 South 1300 West  
Pleasant Grove, UT 84062  
CERTIFIED MAIL 7009 3410 0000 2596 5289



Eduardo Quintana

Date September 30, 2014

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
DOCKET NO.: FIFRA-08-2014-0009

2014 SEP 30 PM 2: 23

IN THE MATTER OF: )

Thrive Holdings, LLC. )  
389 South 1300 West )  
Pleasant Grove, UT 84062, )

RESPONDENT )

FINAL ORDER

FILED  
EPA REGION VIII  
HEARING CLERK

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

In addition, Complainant's Motion for to File Adobe PDF Signature filed, September 30, 2014, pursuant to 40 C.F.R. § 22.5(a)(1), is **GRANTED**. Respondent's original signature page shall be filed within ten (10) days of this Order.

SO ORDERED THIS 30<sup>th</sup> of September, 2014.



Elyana R. Sutin  
Regional Judicial Officer  
US EPA, Region 8

**IN THE MATTER OF: THRIVE HOLDINGS, LLC**  
**DOCKET NO.: FIFRA-08-2014-0009**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **COMBINED COMPLAINT/CONSENT AGREEMENT** in the matter of **THRIVE HOLDINGS, LLC.; DOCKET NO.: FIFRA-08-2014-0009**, was filed with the Regional Hearing Clerk on September 30, 2014; **THE FINAL ORDER** was filed on September 30, 2014.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U.S. Environmental Protection Agency – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail, domestic return receipt on

to:

Thrive Holdings, LLC  
389 South 1300 West  
Pleasant Grove, UT 84062  
CERTIFIED MAIL 7008 3230 0003 0726 0511

And emailed to:

Kim White  
U.S. Environmental Protection Agency  
Cincinnati Finance Center  
26 West Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

  
\_\_\_\_\_  
Tina Artemis  
Paralegal/Regional Hearing Clerk

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 SEP 30 PM 12:12

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: FIFRA-08-2014-0009

In the Matter of: )  
)  
Thrive Holdings, LLC ) COMBINED COMPLAINT AND  
389 South 1300 West ) CONSENT AGREEMENT  
Pleasant Grove, UT 84062, )  
)  
Respondent. )

Complainant, United States Environmental Protection Agency (EPA), Region 8, and Respondent, Thrive Holdings, LLC, by their undersigned representatives, hereby consent and agree as follows:

**A. JURISDICTION**

1. This Combined Complaint and Consent Agreement (Agreement) is issued to Respondent for selling and/or distributing unregistered pesticides in violation of section 12(a)(1)(A) of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136j(a)(1)(A).
2. The undersigned EPA officials enter into this Agreement under the authority vested in the Administrator of the EPA by section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1). The Administrator of the EPA has delegated this authority under FIFRA to the signatories of this Agreement.
3. This section authorizes the EPA to bring an action under section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), for civil administrative penalties against Respondent who the EPA alleges has violated a requirement or prohibition of FIFRA.
4. This proceeding is subject to the EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This Agreement is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3).
5. Respondent admits the jurisdictional allegations in this Agreement, but neither admits nor denies the factual allegations in this Agreement, including all allegations alleged in sections B and C below.

**B. GENERAL ALLEGATIONS**

1. Respondent, a Utah limited liability corporation, is a “person” as that term is defined by section 2(s) of FIFRA, 7 U.S.C. § 136(s), and is subject to FIFRA and the implementing regulations promulgated thereunder. dōTERRA International, LLC (dōTERRA), is a subsidiary of Respondent.
2. dōTERRA’s place of business is located at 389 South 1300 West, Pleasant Grove, UT 84062. The primary business of Respondent is the manufacture of oils for consumer use.
3. At all times relevant to the alleged violations, Respondent was a “distributor/seller” as defined by section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and a “producer” as defined by section 2(w) of FIFRA, 7 U.S.C. § 136(w).
4. At all times relevant to the alleged violations, Respondent produced, sold, and distributed the products, On Guard Cleaner Concentrate, Terra Shield Repellent, and On Guard Protective Blend.
5. A “pesticide” as defined by FIFRA section 2(u), 7 U.S.C. § 136(u) and 40 C.F.R. section 152.3, means “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
6. On or about May 6, 2013, authorized representatives of the EPA conducted an inspection at Respondent’s establishment and reviewed Respondent’s records.
7. These General Allegations are incorporated into each of the violations listed below.

**C. SPECIFIC VIOLATIONS**

1. From approximately May 1, 2012, through May 6, 2013, Respondent sold and distributed the products, On Guard Cleaner Concentrate, Terra Shield Repellent, and On Guard Protective Blend.
2. During the timeframe denoted in this Agreement, Respondent claimed that On Guard Cleaner Concentrate, Terra Shield Repellent, and On Guard Protective Blend mitigated microorganisms when Respondent sold and/or distributed these three products.
3. Microorganisms are “pests” as that term is defined by 40 C.F.R. section 152.5 and section 2(t) of FIFRA, 7 U.S.C. § 136(t).
4. During the timeframe denoted in this Agreement when On Guard Cleaner Concentrate, Terra Shield Repellent, and On Guard Protective Blend were sold and/or distributed, On Guard Cleaner Concentrate, Terra Shield Repellent, and On

Guard Protective Blend were not registered pesticides as required by section 3 of FIFRA, 7 U.S.C. § 136a.

5. 40 C.F.R section 152.15 prohibits the distribution and sale of any pesticide product that is not registered with the EPA as required by FIFRA section 3, 7 U.S.C. § 136a.
6. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), makes it unlawful for any person to distribute or to sell to any person any unregistered pesticide.
7. Respondent's sales of On Guard Cleaner Concentrate, Terra Shield Repellent, and On Guard Protective Blend from approximately May 1, 2012, through May 6, 2013, constitute seven violations of section 12(a)(1)(A) of FIFRA, 7 U.S.C. §136j(a)(1)(A).

D. PAYMENT OF CIVIL PENALTY

1. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
2. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
3. After consideration of the factors set forth in section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **sixteen thousand dollars (\$16,000)** against the Respondent for the above-described violations. Civil penalties under section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.
4. Respondent consents, for the purpose of settlement and to avoid further litigation, to the issuance of a final order (Final Order) in this matter and agrees to pay the civil penalty of sixteen thousand dollars (\$16,000) within thirty days of the effective date of the Final Order as follows:
  - a. If the due date of any of the payments falls on a weekend or legal federal holiday, the due date is the next business day. The date the payments are made is considered to be the date processed by U.S. Bank, as described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

b. The payment shall be made by remitting a check or making a wire transfer or on-line payment. The checks or other payments shall designate the name and docket number of this case, be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be sent as follows:

**If sent by regular U.S. mail:**

U.S. Environmental Protection Agency / Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

**If sent by any overnight commercial carrier:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

**If sent by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

**Automated Clearinghouse (ACH) for receiving US currency:**

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737



US Treasury Contact Information:  
Randolph Maxwell 202-874-3420  
Remittance Express (REX): 1-866-234-5681

**On-line Debit and Credit Card payment:** There is now an On-Line Payment Option available through the Dept. of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV  
Enter "sfo 1.1" (without the quotation marks) in the "Search Public Forms" field.

Click on the first link to open the form, complete required fields, and then click on "Submit Data" button at bottom of form.

c. At the same time that each payment is made, notice that the payment has been made shall be provided to:

Daniel Webster (8ENF-UFO)  
Technical Enforcement Program  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

and

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

If a payment is made by cashiers or certified check, the notice shall include a copy of the check. If a payment is made in any other manner, the notice shall include documentation demonstrating that the payment was made.

d. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 and will continue to accrue until payment in full is received (i.e., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).

e. A handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount. Further, Respondent shall be subject to the fees,

costs, and nonpayment penalty set forth in Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H).

5. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

**E. TERMS AND CONDITIONS**

1. This Agreement, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon Respondent and Respondent's successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement. This Agreement contains all terms of the settlement agreed to by the parties.
2. Nothing in this Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
3. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Agreement and to bind the party he/she represents to the terms and conditions of this Agreement.
4. Each party shall bear its own costs and attorneys fees in connection with this matter.
5. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this Agreement pursuant to 40 C.F.R. section 22.15. By signing and returning of this Agreement to the EPA, the Respondent waives the opportunity for a hearing pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. § 554.
6. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full resolution of the United States' claim for civil penalties for the violations alleged herein.
7. Nothing in this Agreement shall relieve Respondent of the duty to comply with FIFRA and its implementing regulations.

8. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement,  
Compliance and Environmental Justice,**

**Complainant.**

Date: Sept. 29, 2014

By: Cynthia J. Reynolds  
Cynthia J. Reynolds, Acting Director  
Technical Enforcement Program UIC-FIFRA-OPA

SEP 29 2014  
Date: \_\_\_\_\_

By: James H. Eppers  
James H. Eppers, REU Supervisory Attorney  
Legal Enforcement Program

**Thrive Holdings, LLC,  
Respondent.**

Date: Sept 23, 2014

By: Greg B. Kennedy  
Name, Title: Chief Financial Officer