

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2008 FEB -7 AM 10:52

Docket No. FIFRA-08-2007-0014

RECEIVED
MCA 5102-11-00

In the Matter of:)
)
)
OmniLytics, Inc.)
5450 W. Wiley Post Way,)
Salt Lake City, Utah 84116)
)
Respondent)
)

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency- Region 8, and Respondent, OmniLytics, Inc., by their undersigned representatives, hereby consent and agree as follows:

1. On or about September 28, 2007, Complainant issued a Complaint to Respondent in this matter alleging certain violations of the of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. section 136l(a) *et. seq.*, and its implementing regulations. In the Complaint, Complainant proposed a civil penalty of \$27,300.
2. Respondent admits the jurisdictional allegations, and neither admits nor denies the remaining allegations, of the Complaint. Respondent waives its right to contest any allegations at a hearing or at a civil proceeding in connection with the enforcement of the Final Order incorporating this Consent Agreement.
3. This Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, 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 Consent Agreement contains all terms of the settlement agreed to by the parties.
4. Respondent consents and agrees to pay a civil penalty in the amount of SIX THOUSAND FIVE HUNDRED dollars (\$6,500.00) in the manner described below in this paragraph:
 - a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank. 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 cashier's or certified check, including the name and docket number of this case (**Omnilytics, Inc.; Docket No. FIFRA-08-2007-0014**), for the above-described amount, payable to "Treasurer, United States of America." to:

(via REGULAR MAIL):

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

(via WIRE TRANSFERS):

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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

(via OVERNIGHT MAIL):

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

Contact: Ms. Natalie Pearson (Tel.: 314-418-4087)

(via ACH (also known as REX or remittance express)):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 - checking
Environmental Protection Agency
808 17th Street NW
Washington DC 20074
Contact: Jesse White, 301-887-6548

(via ON LINE 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" in the search field. Open form and complete required fields.

A copy of the check shall be sent simultaneously to:

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

and

Mr. David Golden, FIFRA Inspector
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

c. In the event 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 1st late day, 30 days of interest accrues).

d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the Final Order is issued). Payments are applied in the following order: handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

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

5. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with FIFRA and its implementing regulations.

6. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent 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.
7. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity 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 Consent Agreement.
8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement.
9. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
10. Each party shall bear its own costs and attorney fees in connection with this matter.
11. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Complainant.

Date: 1-25-08

By: Mark Chalfant
Mark Chalfant, Director
Technical Enforcement Program

Date: 1/30/08

By: Michael T. Risner
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: Jan 09, 2008

By: Dana J. Stotsky
Dana J. Stotsky, Senior Enforcement Attorney
Legal Enforcement Program (8LEP)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953
stotsky.dana@epa.gov

OMNILYTICS, INC., Respondent

Date: Jan. 7, 2008

By: [Signature]
TITLE: President of COO

Date: 1-07-08

By: [Signature]
TITLE: COO

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **OMNILYTUICS, INC.; DOCKET NO.: FIFRA-08-2007-0014** was filed with the Regional Hearing Clerk on February 7, 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Dana Stotsky, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on February 7, 2008, to:


Stanley H. Abramson, Esquire
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5339

Honorable William B. Moran
Office of Administrative Law Judges (1900L)
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-2001

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

February 7, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk

