

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Thomas T. Olivier 12/2/10
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2011-0001

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Robinson Plumbing and Supply, Inc.

Total Dollar Amount of Receivable \$ 19,000 Due Date: 1/1/11

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1ST \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

RECEIVED

DEC 02 2010

EPA ORC WS
Office of Regional Hearing Clerk

December 2, 2010

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square - Suite 100 (Mail Code ORA18-1)
Boston, Massachusetts 02109-3912

Re: Robinson Plumbing and Supply, Inc., Docket No. CAA-01-2011-0001

Dear Ms. Santiago:

Please file the enclosed Consent Agreement and Final Order in Docket No. CAA-01-2011-0001. I enclose an extra copy.

I certify that this day I have served a copy by first class mail on:

Kristen W. Sherman, Esq.
Adler Pollack & Sheehan
One Citizens Plaza, 8th Floor
Providence, RI 02903-1345

Sincerely,



Thomas T. Olivier
Senior Enforcement Counsel

Encl.

cc: Kristen W. Sherman, Esq.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION I

RECEIVED

DEC 02 2010

EPA ORC WSS
Office of Regional Hearing Clerk

In the Matter of)
)
)
Robinson Plumbing and Heating) Docket No: CAA-01-2011-0001
Supply Co., Inc.)
Respondent.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency ("EPA") issued an Amended Complaint and Notice of Opportunity for Hearing to Respondent Robinson Plumbing and Heating Supply Co., Inc. ("Respondent") on October 22, 2010. Respondent has moved for an extension of time in which to file an answer.

The EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

A. The Amended Complaint seeks a civil penalty of \$30,000, pursuant to Section 113(d) of the Clean Air Act, (the "Act"), 42 U.S.C. § 7413(d).

B. The Amended Complaint alleges that Respondent violated Section 608 of the Act, and EPA's implementing regulations at 40 C.F.R. §82.154(m), through two sales of R-22 refrigerant to a person who was not a certified technician or otherwise authorized to purchase the R-22 refrigerant.

C. The provisions of this Consent Agreement and Final Order shall apply to and be binding on EPA and on Respondent, its officers, directors, partners, successors and assigns.

D. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Amended Complaint. Respondent waives any defenses it might have as to jurisdiction and venue; and, without admitting or denying the facts and violations alleged in the Amended Complaint, consents to the terms of this Consent Agreement and Final Order.

E. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Amended Complaint, and waives its right to appeal the Final Order.

II. TERMS OF SETTLEMENT

A. Respondent represents that it is operating in compliance with 40 C.F.R. §82.154(m), and that it will train and instruct its employees to comply at all times with 40 C.F.R. §82.154(m). Respondent further represents that within 30 days of the date the attached Final Order is signed by the Regional Judicial Officer, it will amend and reissue its employee handbook to contain instructions on specific measures Respondent's employees must take to comply with 40 C.F.R. §82.154(m).

B. In light of the above, and taking into account such other circumstances as justice may require, EPA has determined that it is fair and proper to assess an administrative penalty for the

violations alleged in the Amended Complaint in the amount of nineteen thousand dollars (\$19,000).

C. Respondent shall pay the administrative penalty of \$19,000 so that payment is received within thirty (30) days of the date of filing of the Consent Agreement and Final Order.

D. Respondent shall make payments by submitting a cashier's or certified check, to the order of the "Treasurer, United States of America," in the required amount, to:

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

Respondent shall note the case name and docket number of this action on the check and in an accompanying cover letter, and shall provide copies of the check and letter to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100 (Mail Code ORA18-1)
Boston, Massachusetts 02109-3912

and to

Thomas T. Olivier, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100 (Mail Code OES04-3)
Boston, Massachusetts 02109-3912

III. GENERAL PROVISIONS

A. Pursuant to Section 113(d)(5) of the Act, if Respondent fails to pay any administrative penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the administrative penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the Consent Agreement and Final Order was signed by the EPA Regional Judicial Officer, at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that an administrative penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys fees and collection costs. Quarterly nonpayment penalties will be assessed for each quarter during which the failure to pay the administrative penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding administrative penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

B. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for administrative penalties pursuant to Section 113 of the Act for the violations alleged in the Amended Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations. EPA reserves all its other criminal and administrative enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

C. The parties shall bear their own costs and fees in this action.

D. The administrative penalty paid pursuant to this Consent Agreement and Final Order is an administrative penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and is not a tax deductible expenditure for purposes of federal law.

E. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

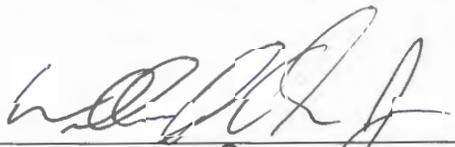
For Respondent Robinson Plumbing and Heating Supply, Co., Inc.

Date

E. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Respondent:

ROBINSON PLUMBING AND HEATING SUPPLY, CO., INC.


By: William Fobin
Its: Operations Manager

11-22-10
Date

For Complainant:

~~_____
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection
Agency, Region I~~

~~_____
Date~~

~~_____
Thomas T. Olivier
Senior Enforcement Counsel
U.S. Environmental Protection
Agency, Region I~~

~~_____
Date~~

For Complainant:

Susan Studlien
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection
Agency, Region I

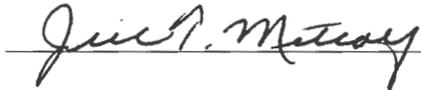
12/01/10
Date

Thomas T. Olivier
Thomas T. Olivier
Senior Enforcement Counsel
U.S. Environmental Protection
Agency, Region I

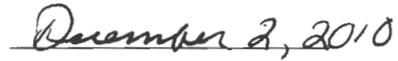
11/23/10
Date

IV. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.



Jill T. Metcalf
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region I



Date