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HEARING CLERK

2009 APR -3 PM 3:25

REGIONAL  
EPA REGION IV

Regional Hearing Clerk  
U.S. EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

In the Matter of: Guaranteed Pool and Spa, Inc., Respondent  
Docket # FIFRA-04-2009-3015

Responses to I. Civil Complaint:

- A.
1. This is assumed to be true.
  2. This is assumed to be true.
  3. This is true.
  4. We believe this to be false. We did not sell any products that were not properly labeled nor did we present products for sale that were not properly labeled.
- B.
5. This is assumed to be true.
  6. We are not positive that the EPA Establishment number is correct. This dates back over three years ago. We will have to pull records as this store was closed not too long after this date.
  7. True, but cannot confirm the EPA Number of the product.
  8. This is not true. Yes, there were pictures taken of products not yet 100% labeled or labels that were not repaired yet. The location of these pictures was in a fenced in area next to the chlorine tank and not a retail

area. These were not being offered for retail sale in the area that the pictures were taken.

9. This is true.

10. This product was not sold as a pesticide. It was sold as a chlorine boost "shock" for swimming pools.

11. Not known if this is true, not familiar with FIFRA, 7 USC 136(s).

12. Not known if this is true, not familiar with FIFRA, 7 USC, 136(w) and 40 C.F.R., 169.1.

13. Not known if this true, not familiar with Section 2(gg) of FIFRA, 7 U.S.C., 136(gg).

C. Count 1

14. This is assumed to be true.

15. This is assumed to be true but yet not familiar with Section 12(a)(1)(E) of FIFRA, 7 U.S.C., 136j(a)(1)(E).

16. This is assumed to be true but yet not familiar with Section 2(q) of FIFRA, 7 U.S.C. 136(2)(q).

17. This is not true, as we did not put out for retail sale products that did not have appropriate labels.

Count 2

18. This is assumed to be true.

19. Not familiar with Section 12(a)(2)(A) OF FIFRA, 7 U.S.C., 136j(a)(2)(A), however, these containers in question are reusable containers that the customer returns to us empty and we refill and re-label, if necessary. Any labels that would be defaced would be from consumers. When the containers are returned to us if the labels were defaced, we would replace them.

20. Not familiar with Section 12(a)(2)(A) of FIFRA, 7 U.S.C., 136j(a)(2)(A), however, as stated in #19, we were responsible to re-label products before selling. We would have no need to deface the labels prior to selling. Again, when containers were returned to us, they would be refilled, rinsed down on the shelf area in question, re-labeled when dry and then moved to the retail store, or directly to the customer's car by our own personnel, no customers were allowed in the fenced area.

D. 21. We do not believe we are in violation and for that reason believe we do not owe any penalty.

E. 22. Same as #21.

23. We believe the EPA determining for penalty based on our volume of business is incorrect.

24. We did gross over 1 million in sales for the year in question, however, we did supply the EPA with our retail sales versus our construction sales. Our retail sales were less than 3% of our total business. We are a swimming pool installation company. Our retail stores were, have since closed them, a place for customers to shop for swimming pools.

Responses to II. Notice of Opportunity for Hearing

25. We would request a formal hearing.

26. We mailed via certified mail a request for extension of these responses as our attorney had a life threatening accident and was not able to finish helping us with this matter. We have not had the financial capability at this time to obtain new legal counsel so we will represent ourselves until further notice.

27. Done

In closing, we apologize for not responding sooner but under the circumstances, we feel we have been as prompt as can be expected.

Respectfully,

A handwritten signature in black ink, appearing to read 'Wesley C. Haigh', written in a cursive style.

Wesley C. Haigh

Cc: Robert Caplan, Senior Attorney