

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2007 MAY 18 PM 3:35

REGIONAL HEARING
CLERK

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In the Matter of :
 :
 :
Shanco International, Inc : CONSENT AGREEMENT AND
 : FINAL ORDER
 :
 Respondent. :
 : Docket No. TSCA-02-2007-9142
 :
 Proceeding under Section 16(a) of :
 the Toxic Substances Control Act. :
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

Pursuant to 40 C.F.R. § 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 (July 1, 2000), where the parties agree to settlement of one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 ("EPA" or "Complainant"), alleges that Shanco International, Inc., ("Shanco" or "Respondent") violated Section 8 of TSCA, 15 U.S.C. §§ 2607, and the regulations promulgated pursuant to the provisions of this section which are set forth at 40 C.F.R. Part 710, relating to the Partial Updating of the TSCA Inventory. The

Complainant further alleges that Shanco has thereby violated Section 15 of TSCA, 15 U.S.C. § 2614.

EPA and Shanco agree that settling this matter by entering into this Consent Agreement and Final Order (hereinafter "CAFO") pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22.

FINDINGS OF FACT

1. Respondent is Shanco International, Inc.
2. Respondent owns, operates, and/or controls the facility located at 1301 State Route 36, Hazlet, New Jersey 07730 (hereinafter "Respondent's facility").
3. On January 26, 2006, duly authorized representatives of EPA conducted an inspection of Respondent's facility to determine Respondent's compliance with TSCA.
4. On October 31, 2006, EPA sent to Respondent a Notice of Opportunity with Respect to Action Under Toxic Substances Control Act ("Notice").
5. On December 19, 2006, Respondent and EPA held an informal settlement conference.
6. On or about December 20, 2006, Respondent submitted to EPA TSCA Inventory Update Reports for 2002.
7. EPA alleges that Respondent failed to timely submit IUR information for five chemical substances that were imported at Respondent's facility, as required by 40 C.F.R. § 710.33(b).

CONCLUSIONS OF LAW

1. Respondent is a "person" as that term is defined in 40 C.F.R. §§ 704.3 and 710.3.
2. Respondent is a importer of chemical substances and is subject to the requirements of Section 8(a) of TSCA and the regulations promulgated pursuant to Section 8 of TSCA set forth at 40 C.F.R. Part 710 Subpart B.
3. Importers of chemical substances are required to report the import of chemical substances using the "Partial Updating of the Inventory Data Base Production and Site Report" (hereinafter "Form U") in accordance with 40 C.F.R. §§ 710.28, 710.32 and 710.33.
4. Failure to submit Form U during a required reporting period as required by 40 C.F.R. §§ 710.28, 710.32 and 710.33 are violations of TSCA Sections 8(a) and 15, 15 U.S.C. §§ 2607(a) and 2614, and the implementing regulations at 40 C.F.R. Part 710 Subpart B.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. For the purposes of this Consent Agreement, Respondent: a) admits that EPA has jurisdiction to commence a civil administrative proceeding for the violations alleged in the "Findings of Fact" and "Conclusions of Law" sections, above; b) neither admits nor denies the

specific factual allegations contained in this Consent Agreement; c) consents to the assessment of the civil penalty as set forth below; and d) consents to the issuance of the Final Order accompanying this Consent Agreement.

2. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Fifty-Six Thousand Dollars (\$56,000)**, payable in two installments of **Twenty-Eight Thousand Dollars (\$28,000)**, each to the "Treasurer of the United States of America." The checks shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document.

Each check shall be mailed to:

EPA Region 2 (Regional Hearing Clerk)
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Respondent shall also send a copy of the instrument of payment to:

Michael Bious (MS-105)
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency, Region 2
2890 Woodbridge Avenue
Edison, New Jersey 08837

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

Payment of the first installment must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafer be referred to as the "due date").

Payment of the second installment must be received at the above address on or before February 8,

2008.

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

3. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

4. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

5. Respondent explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or the Findings

of Fact and Conclusions of Law herein, or the accompanying Final Order.

6. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

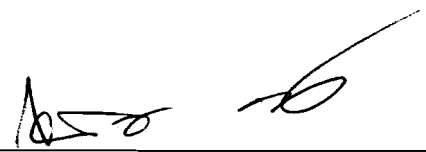
7. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

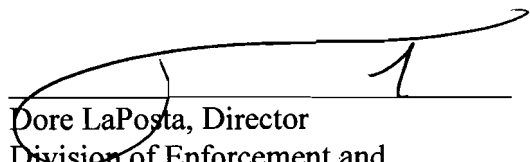
9. Each party shall bear its own costs and attorneys fees in this matter.

Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: 
Shanco International, Inc.
NAME: James X. Wang
(PLEASE PRINT)
TITLE: president
DATE: 4/24/07

COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency - Region 2
290 Broadway
New York, NY 10007
DATE: MAY 4, 2007

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Administrative Action bearing Docket No. TSCA-02-2007-9142, issued in the matter of Shanco International, Inc. is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: May 10, 2007

for Kathleen Callahan
Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection
Agency - Region2
290 Broadway
New York, New York 10007

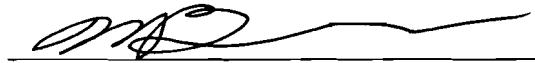
CERTIFICATE OF SERVICE

MAY 16 2007

This is to certify that on _____, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2007-9142, by certified mail, return receipt requested, to:

James X. Wang, President
Shanco International, Inc.
1301 State Route 206
Hazlet, New Jersey 07730

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

A handwritten signature in black ink, appearing to be 'M. Wang', is written over a horizontal line.