

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____)	
In the Matter of:)	
)	
)	
Howard Gross)	Docket No. TSCA-01-2019-0050
466 Central Avenue, Suite 9)	
Dover, New Hampshire 03820)	Proceeding under Section 16(a) of
)	the Toxic Substances Control Act,
Respondent)	15 U.S.C. § 2615(a)
)	
)	
)	
_____)	

**FOURTH ASSENTED TO MOTION FOR EXTENSION OF TIME
TO ANSWER ADMINISTRATIVE COMPLAINT**

NOW COMES Howard Gross, Respondent in the above-captioned matter, by and through his attorneys, and respectfully moves for a 60 day extension of time to answer the Administrative Complaint in this matter on the following grounds:

1. Mr. Gross was served with the Administrative Complaint by certified mail on or about October 2, 2019, requiring an answer by November 1, 2019.
2. Mr. Gross and his then-counsel for this matter met with Tim Conway and Jordan Alves to discuss the Administrative Complaint and related issues on October 31, 2019.
3. On November 12, 2019, January 13, 2020, and February 26, 2020, the Hearing Officer granted Mr. Gross' assented to motions to extend the time to answer until March 30, 2020, to allow the parties to continue to negotiate a resolution of this matter. In her Order dated February 26, 2020, the Hearing Officer stated that absent "extraordinary circumstances," no additional extensions would be granted.

4. After the February 26 Order was issued, the United States Government declared a National State of Emergency associated with the pandemic caused by the COVID-19 virus, and both the states of New Hampshire, where Mr. Gross lives and works, and Massachusetts, have severely curtailed virtually all commercial, government and university activity, and essentially shut down the court system. Mr. Gross is a 65 year old criminal defense lawyer in Dover, New Hampshire. Because of his age, which makes him more susceptible to severe illness from the COVID-19 virus, and nature of his occupation, which has been disproportionately impacted by the court closing, his ability to earn income has been, at least temporarily, almost entirely cut-off.

5. The parties are close to reaching a resolution regarding the amount of civil penalty that would be imposed in this matter. Until now, Mr. Gross has not asserted an ability to pay defense in this matter, but in light of the unprecedented events associated with the COVID-19 pandemic, Mr. Gross is uncertain whether and when he will be able to earn income in the future. If the COVID-19 national emergency resolves in the next couple of months, Mr. Gross should be in a position to complete the settlement of this matter on terms that have been discussed with EPA's counsel. Nonetheless, equity and practicality dictate that Mr. Gross should be allowed a reasonable amount of time to determine the impact of the pandemic on his ability to pay any penalty in this matter.

6. By any measure, the current National Emergency associated with the COVID-19 pandemic qualifies as an "extraordinary circumstances" that justifies extending the deadline for Mr. Gross to file an answer in this matter.

7. I spoke with Tim Conway, EPA's counsel in this matter, and he stated that given the unusual circumstances, EPA would not object to a sixty day extension of time to answer.

WHEREFORE, Howard Gross respectfully requests a 60 day extension of time to answer the Administrative Complaint, until May 30, 2020.

Dated: March 19, 2020

Respectfully Submitted,



George E. Olson (BBO# 567669)
Olson Law Office
141 Tremont Street, Third Floor
Boston, Massachusetts 02111
(617) 248-2246
golson@gedolsonlaw.com

In the Matter of Howard Gross, Respondent

Docket No. TSCA-01-2019-0050

CERTIFICATE OF SERVICE

I hereby certify that, on March 19, 2020, the foregoing Fourth Assented to Motion for Extension of Time to Answer Administrative Complaint was delivered via email to the following addressees:

Wanda Santiago
Regional Hearing Clerk
US EPA Region 1
5 Post Office Square, Suite 100 (Mail Code 04-6)
Boston, Massachusetts 02109-3912
R1_Hearing_Clerk_Filings@epa.gov

Timothy M. Conway
Senor Enforcement Counsel
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100 (Mail Code 04-3)
Boston, Massachusetts 02109-3912
Conway.Tim@epa.gov

HOWARD GROSS,
By his attorney,



George E. Olson (BBO# 567669)
Olson Law Office
141 Tremont Street, Third Floor
Boston, Massachusetts 02111
(617) 248-2246
golson@gedolsonlaw.com