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ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

IN THE MATTERS OF)	
)	
FRM Chem, Inc.)	Docket Nos. FIFRA-07-2008-0035
Advanced Products Technology, Inc.)	FIFRA-07-2008-0036
Synisys, Inc.)	FIFRA-07-2009-0041
Custom Compounders, Inc.)	FIFRA-07-2009-0042
)	
)	
)	
Respondents)	

**COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE
AND MOTION TO AMEND COMPLAINTS AND FOR
OTHER DISCOVERY PURSUANT TO 40 C.F.R. § 22.19(e)**

The Administrator's Delegated Complainant (Complainant), by undersigned Counsel, in lieu of filing a rebuttal prehearing exchange, hereby moves as follows:

First, Complainant moves to amend the Complaint in the Matter of Custom Compounders, Inc., Docket No. FIFRA-07-2009-0042 to add as Respondent Advanced Products Technology, Inc., and to amend the Complaint in the Matter of Synisys, Inc., to add as Respondent FRM Chem, Inc.

Complainant also moves to amend the Complaints in the above-captioned matters to add as Respondents in each matter Keith G. Kastendieck and Karlan C. Kastendieck.

Complainant also moves to amend the Complaint in the Matter of Advanced Products Technology, Inc., Docket No. FIFRA 07-2008-0036 to add five counts alleging that on five

different occasions between January 27, 2009 and July 14, 2009, Respondent sold or distributed the unregistered pesticide product "SODIUM HYPOCHLORITE SOLUTION" to the Franklin County Humane Society in Union, Missouri, in violation of FIFRA 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A). Complainant also seeks leave to amend the proposed penalty to incorporate the additional violations alleged in the Amended Complaint. The proposed penalty for the additional counts 5 through 9 is \$37,500.

Furthermore, Complainant moves, pursuant to 40 C.F.R. § 22.19(e), that the Presiding Officer enter an order granting the parties an additional 60 days for further discovery regarding the issue of Respondents' alleged inability to pay the proposed penalties, raised for the first time in Respondents' Prehearing Exchange, filed February 26, 2010, and directing that:

1. Respondents submit to Complainant the information identified in the attached Additional Information Request, by a date to be determined, and that Respondents specify their reasons for being unable to submit any specific item of information identified in the Additional Information Request.
2. The following non-party individuals and entities submit to Complainant the information identified in the attached Additional Information Request, by a date to be determined, and that Respondents specify their reasons for being unable to submit any specific item of information identified in the Additional Information Request:

Corporate officers and stockholders for Respondents FRM Chem, Inc., Advanced Products Technology, Inc., Synisys, Inc., and/or Custom Compounders, Inc:

- Raymond E. Kastendieck
- Ann P. Kastendieck
- Keith G. Kastendieck
- Karlan C. Kastendieck
- Janice Kastendieck
- Alan Kastendieck

Corporate entities owned, operated, or organized by one or more corporate officers/stockholders of the named Respondents and sharing the principal place of

business at 50 and 60 Hi-line or Highline Drive in Washington and/or Union, Missouri¹.

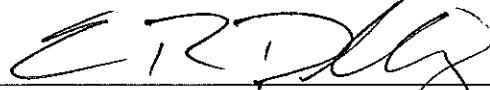
- Industrial Specialties, Inc.
 - V.L. Clark Chemical Company
 - Chemicals, Pharmaceuticals, and Intermediates, Inc.
 - Pool Solutions Midwest, Inc.
 - KLARK Holdings, LLC
3. In the event that Respondents or the other corporate entities directed to submit the information identified in the attached Additional Information Request has been destroyed pursuant to a record retention policy, with regard to the information subject to the assertion, said Respondent(s) or entity/entities shall produce the following:
- a. A copy of the records retention policy relied upon in destroying the information, including any transmission memorandum, or other message provided to personnel affected by the records retention policy.
 - b. An identification of the following:
 - i. the physical location, by specific company, building address, and room, where the information was stored at the time the decision was made to destroy the information, and the custodial officer or employee responsible for the information;
 - ii. the name of all officers or employees participating in the decision to destroy the information and in the destruction of the information, and the specific company which employed any such officer or employee; and,
 - iii. the specific date and time the information was destroyed, and the physical location at which it was destroyed, by specific company, building, address and room.
 - c. A copy of any and all documents generated by any Respondent or individual or entity named in the Order related to the destruction of the information, and the decision to destroy that information.
 - d. With regard to any specific information relevant to any request in the Additional Information Request which Respondents or individuals/entities named in the

¹ Complainant notes that, in addition to the variation in the spelling of the street, there exists some confusion as to whether the facility is located in Washington or Union, Missouri. It appears to be on the dividing line between the two municipalities. In Franklin County, Missouri deed records, 60 Hi-line Drive is identified as being in Union, while 50 Highline Drive is identified as being in Washington.

Order assert they have destroyed under their records retention policy, provide the name(s) of the accounting firm(s) used to prepare the information. With regard to any name(s) or firm(s) identified in response to this paragraph, provide a copy of the records retention policy of that individual(s) or firm(s).

In support of this motion, Complainant has filed a memorandum.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "CR Dudding", written over a horizontal line.

Chris R. Dudding
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101
(913) 551-7524

ADDITIONAL INFORMATION REQUEST

For all individuals/stockholders

1. Complete Federal and state income tax returns for January 2003 through present.
2. Completed Financial Data Request Form, including data for January 2003 through present (included with this request)
3. All notes, correspondence, minutes, financial documents, contracts, records of compensation or employment, or any documents in your possession related in any way to the following entities:
 - FRM Chem, Inc.
 - Advanced Products Technology, Inc.
 - Custom Compounders, Inc.
 - Synisys, Inc.
 - Industrial Specialties, Inc.
 - V.L. Clark Chemical Company, Inc.
 - Chemicals, Pharmaceuticals, and Intermediates, Inc.
 - Pool Solutions Midwest, Inc.
 - KLARK Holdings, LLC

For all companies

1. Complete tax returns including all schedules and attachments for January 1, 1997 through the present. If the corporation did not file tax returns before 1998, the corporation should submit the required info for the first year it filed a return, through the present year.
2. If prepared, complete year-end financial statements, including the auditor's letter, balance sheet, income statement, statement of cash flows and notes, for January 1, 1997 through the present.
3. Copies of the Board of Directors' Meeting Minutes, Resolutions, or any other records of the Board from January 1, 1997 to present.
4. A copy of the corporate bylaws, or a statement that the corporation has no bylaws.
5. A copy of the articles of incorporation and amendments thereto; membership agreements and amendments thereto; partnership agreements and amendments thereto, and trust agreements and amendments thereto, to which the entity is a party.
6. Asset ledgers, including a brief description of the asset, the year it was put in service, the original cost, the accumulated depreciation and an estimate of the current market value, for fiscal year end 1997 to present. If the corporation did not exist in fiscal year 2002, then provide the requested information from the first year the corporation was in existence to present.

7. For all assets sold since January 1, 2000, documentation regarding the specific nature of asset sold, purchaser, any contract or invoice, related accounting, and sale amount.
8. Sales ledgers for 2005, 2006, 2007, 2008 and 2009 including documentation regarding the specific nature of all products sold, sale amount and purchaser.
9. All documentation related to the financing provided by V.L. Clark Chemical Company, Inc. to Synisys, Inc. or to any other corporation for inventory, working capital or any other purpose including, but not limited to, loan agreements, correspondence, evidence of payments, balances and interest or accounting records.
10. All documentation related to the financing provided by shareholders (Loans from shareholders to a corporation) including, but not limited to, loan agreements, correspondence, evidence of payments, balances and interest or accounting records.
11. All documentation related to any loans made by the corporation to any shareholders, officers, or directors of said corporation, or to other individuals.
12. All checking account statements for 2005 to present.
13. A description of the specific business activities and purpose, and any change over time.
14. For those entities for which the tax return does not include a Balance Sheet (Schedule L), a Reconciliation of Income (Loss) per Books with the Income (Loss) on the Return (Schedule M-1), or the Analysis of the Accumulated Adjustments Account (Schedule M-2), please provide that documentation from the company's accounting records for each year that a tax return is available.
15. If rent or lease expense is shown, provide all related documentation including the lease or rental agreement, correspondence, evidence of payments, balances, interest or accounting records.
16. Identify the individual knowledgeable and responsible for the accounting and financial reporting of the entity.
17. Describe all related party transactions not otherwise identified above, between or among the companies or shareholders, including but not limited to sales of goods, provision of services or raw materials, operating equipment or facilities, or financing.

CERTIFICATE OF SERVICE

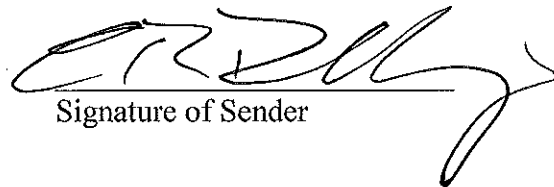
I hereby certify that on this 15 day of March, 2010, I hand-delivered the original and one true copy of this Motion to the Regional Hearing Clerk, and sent one true and correct copy:

via Certified Mail, return receipt requested, to:

Ronald E. Jenkins
Jenkins & Kling, PC
10 S. Brentwood Blvd., Ste. 200
St. Louis, MO 63105

via Federal Express, to:

Judge Barbara Gunning
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1099 14th Street
Suite 350
Washington, D.C. 20005


Signature of Sender

INDIVIDUAL ABILITY TO PAY CLAIM

Financial Data Request Form

This form requests information regarding your financial status. The data will be used to evaluate your ability to pay for environmental clean-up or penalties. If there is not enough space for your answers, please use additional sheets of paper. Note that we may request further documentation of any of your responses. We welcome any other information you wish to provide supporting your case, particularly if you feel your situation is not adequately described through the information requested here.

Certification

Under penalties of perjury, I declare that this statement of assets, liabilities, and other information is true, correct, and complete to the best of my knowledge and belief. I further understand that I will be subject to prosecution by the Environmental Protection Agency to the fullest extent possible under the law should I provide any information that is not true, correct, and complete to the best of my knowledge.

Signature

Date

Name:
Spouse's Name:
Address:
County of Residence:

PART I. BACKGROUND INFORMATION

1. MEMBERS OF HOUSEHOLD (List the head of the household and all persons living with you)			
Name	Age	Relationship to Head of Household	Currently Employed?

2. EMPLOYMENT (List all jobs held by persons in household)			
Name	Employer	Length of Employment	Annual Salary

3. INCOME (List all income earned by persons in household. If members of the household other than the applicant and spouse earn income, please itemize on separate page.)

Source	Gross (Pre-Tax)		Period of Payment (check one)			
	Applicant	Spouse	Weekly	Monthly	Quarterly	Yearly
Wages/Salaries						
Sales Commissions						
Investment Income (interest, dividends, capital gains, etc.)						
Net Business Income						
Rental Income						
Retirement Income (Pension, Social Security, etc.)						
Child Support						
Alimony						
Other Income (please itemize)						

PART II. CURRENT LIVING EXPENSES

Please list personal living expenses which were typical during the last year and indicate if any of these values are likely to change significantly in the current year. Please do not include business expenses. If you are the owner of an operating business, please attach any available financial statements.

Expense	Amount	Period of Payment (check one)				For Agency Use Only
		Weekly	Monthly	Quarterly	Yearly	
A. Living Expenses						
1. Rent						
2. Home maintenance						
3. Auto fuel maint./other transp.						
4. Utilities						
a. Fuel (gas,oil,wood,propane)						
b. Electric						
c. Water/sewer						
d. Telephone						
5. Food						
6. Clothing, personal care						
7. Medical costs						
B. Debt Payments						
1. Mortgage payments						
2. Car payments						
3. Credit card payments						
4. Educational loan payments						
C. Insurance						
1. Household insurance						
2. Life insurance						
3. Automobile insurance						
4. Medical insurance						
D. Taxes						
1. Property taxes						
2. Federal income taxes						
3. State income taxes						
4. FICA						
E. Other Expenses						
1. Childcare						
2. Current School tuition/expenses						
3. Legal or professional services						
4. Other (itemize on separate page)						
Total Current Expenses						

PART III. NET WORTH

Please provide the following information to the best of your ability. Data should be as current as possible. Estimates are acceptable; if you wish note such items with an "E". If you are the sole proprietor of a business, please list business assets and liabilities to the extent that the information sought is not already provided in your tax returns, in addition to personal assets and liabilities. Please mark these entries with a "B" to identify them as business assets and liabilities.

1. BANK ACCOUNTS (Checking, NOW, Savings, Money Market, CDs etc.)		
Name of Bank or Credit Union	Type of Account	Current Balance
For Agency Use Only - Total Current Balance in Bank Accounts		

2. INVESTMENTS (Stock, Bonds, Mutual Funds, Options, Futures, Real Estate Investment Trusts (REIT), etc.)		
Investment	Number of Shares or Units	Current Market Value
For Agency Use Only - Total Current Market Value of Investments		

3. RETIREMENT FUNDS AND ACCOUNTS (IRA, 401(k), Keogh, vested interest in company retirement fund, etc.)	
Description of Account	Estimated Market Value
For Agency Use Only - Total Estimated Market Value of Retirement Funds and Accounts	

4. LIFE INSURANCE POLICIES (Whole Life, Universal Life, etc.)			
Policy Holder	Issuing Company	Policy Value	Cash Value
For Agency Use Only - Total Value of Life Insurance Policies			

5a. VEHICLES USED FOR COMMUTING PURPOSES (Cars, Trucks, Motorcycles, etc. Only list up to two vehicles used for commuting purposes.)					
Model/Year	Estimated Market Value	Loan (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Estimated Market Value of Vehicles					

5b. OTHER VEHICLES (Cars, Trucks, Motorcycles, Recreational Vehicles, Motor Homes, Boats, Airplanes etc.) Attach separate sheets, if necessary.					
Model/Year	Estimated Market Value	Loan (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Estimated Market Value of Vehicles					

6. PERSONAL PROPERTY (Household Goods and Furniture, Jewelry, Art, Antiques, Collections, Precious Metals, etc. Only list items with a value greater than \$500.00)					
Type of Property	Estimated Market Value	Loan (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Estimated Market Value of Personal Property					

7a. REAL ESTATE — PRIMARY RESIDENCE (Home — List only one such residence.)					
Location & Description of Property	Estimated Market Value	Mortgage (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Estimated Market Value of Real Estate					

7b. OTHER REAL ESTATE (Land, Buildings, Land with Buildings)					
Location & Description of Property	Estimated Market Value	Mortgage (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Estimated Market Value of Real Estate					

8. OTHER ASSETS					
Type of Asset	Estimated Market Value	Loan (if any) Owed to:	Balance Due:	Start Date	End Date
For Agency Use Only - Total Other Assets					

9. CREDIT CARDS AND LINES OF CREDIT		
Credit Card/Line of Credit (Type)	Owed To	Balance Due
For Agency Use Only - Total Balance Due on Credit Cards and Lines of Credit		

10. OTHER DEBT (Amounts due to individuals, Fixed obligations, Taxes Owed, Overdue Alimony or Child Support, etc.)				
Type of Debt	Owed To	Balance Due	Start Date	End Date
For Agency Use Only - Total Balance Due on Other Debt				

PART IV. ADDITIONAL INFORMATION

Please respond to the following questions. For any question that you answer "Yes," please provide additional information on separate pages or at the bottom of this page.

QUESTION		YES	NO
1.	Do you have any reason to believe that your financial situation will change during the next year?		
2.	Are you currently selling or purchasing any real estate?		
3.	Is anyone (or any entity) holding real or personal property on your behalf (e.g. a trust)?		
4.	Are you a party in any pending lawsuit?		
5.	Have any of your belongings been repossessed in the last three years?		
6.	Are you a Trustee, Executor, or Administrator?		
7.	Are you a participant or beneficiary of an estate or profit sharing plan?		
8.	Have you declared bankruptcy in the last seven years?		
9.	Do you receive any type of federal aid or public assistance?		