

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY KANSAS, 66101

06 JUL -5 AM 11:17
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF) Docket No. FIFRA-07-2006-0209
)
David Norman) COMPLAINT AND NOTICE OF
404 NW 12th Street) OPPORTUNITY FOR HEARING
Rt. #7, Box #7061)
Ava, Missouri 65608)
)
and)
)
Mike Lansdown)
511 NE 2nd Street)
Ava, Missouri 65608)
)
)
Respondents.)

ANSWER TO COMPLAINT AND REQUEST FOR HEARING OF DAVID
NORMAN

Comes now Respondent David Norman and for his Answer to the Complaint herein, admits, denies and avers as follows:

Section I

Jurisdiction

1. Admits.
2. Admits.

Section II

Parties

3. Admits that Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA, Region VII, is the Director of the Water, Wetlands, and Pesticides Division, EPA, Region VII. Respondent denies all other allegations.

4. Admits that Mike Lansdown was an employee of Respondent at the time of the alleged occurrence. Denies all other allegations.

Section III

Violations

General Allegations

5. Respondent denies said allegations.

6. Respondent denies said allegations.

7. Respondent denies said allegations.

8. Respondent denies said allegations.

9. Respondent denies said allegations.

10. Respondent denies said allegations.

11. Respondent denies said allegations.

12. Respondent denies said allegations.

13. Respondent denies said allegations.

14. Respondent denies said allegations.

15. Respondent denies said allegations.

16. Denies that Respondent Mike Lansdown was acting within the scope of his employment at the time that he sprayed the product(s) alleged in paragraphs 12, 13 and 14 to the residence of Tom Pronti and distributed the product to Tom Pronti for further applications. Respondent admits all other allegations. Further answering, Respondent states that Mike Lansdown did not have authority to use the product; and in fact, the product was taken from Respondent's private residence and not from the business premises. Mike Lansdown was not authorized to take the product from Respondent's private residence for business use. Further, this Respondent believes that

Mike Lansdown did not know the true character of chlordane and did not know the consequences of chlordane usage.

Count I

17. Respondent incorporates his responses in Paragraphs 6 through 16 as though set forth herein in haec verba.

18. Denies that Respondent Mike Lansdown was acting in the scope of his employment when the sprayed the products alleged. Admits all other allegations.

19. Denies.

20. Denies.

21. Denies. Further answering, this Respondent states that any alleged distribution was unintentional and was not used for commercial gain.

22. Denies that the facts justify a civil penalty of \$5,500.00. Further that any penalties assessed should be based on Respondent's gross income. Respondent attached and incorporates herein at Exhibit "A" Respondent's schedule E tax return which shows Respondent's gross income and net income from rental income properties.

Count 2

23. Respondent incorporates his responses in Paragraphs 6 through 16 as though set forth herein in haec verba.

24. Denies that Respondent Mike Lansdown was acting in the scope of his employment when the sprayed the products alleged. Admits all other allegations.

25. Denies.

26. Denies.

27. Denies that the facts justify a civil penalty of \$5,500.00. Further that any penalties assessed should be based on Respondent's gross income. Respondent attached and incorporates herein at Exhibit "A" (6 pages) Respondent's schedule E tax return which shows Respondent's gross income and net income from rental income properties.

Section IV

Total proposed Penalty

28. Denies said penalty is reasonable, for reasons previously set forth herein. Admits all other allegations.

Appropriateness of Proposed Penalty

29. Denies.
30. Respondent neither admits or denies said allegations.
31. Respondent neither admits or denies said allegations.
32. Respondent neither admits or denies said allegations.
33. Respondent neither admits or denies said allegations.
34. Respondent neither admits or denies said allegations.
35. Respondent neither admits or denies said allegations.

NOTICE OF OPPORTUNITY FOR HEARING

Section V

Answer and Request for Hearing

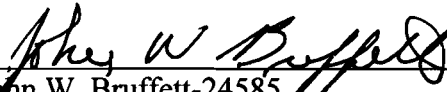
36. Respondent files his answer herein and is requesting a hearing.
37. Respondent neither admits or denies said allegations.
38. Respondent neither admits or denies said allegations.
39. Respondent neither admits or denies said allegations.

Section VI

Settlement Conference

40. Admits.
41. Admits.
42. Admits.

Wherefore, having fully answered, Respondent David Norman prays that this complaint be dismissed and held for naught and for such other and further Orders as is just and proper in the premises.


John W. Bruffett-24585
Attorney at Law
P. O. Box 101
Ava, Missouri 65608
(417) 683-4163
(417) 683-3280: fax

Attorney for Respondent David Norman

CERTIFICATE AND PROOF OF SERVICE

Copies of the enclosed documents were served on all interested counsel or parties on the foregoing date as follows:

By handing same to said parties' respective attorneys of record.

By leaving same with a respective person at the business office of said parties' respective attorneys of record at the addresses set forth below.

By facsimile transmission.

By placing same in the United States Mail with first class postage prepaid in envelopes addressed to said parties or attorneys of record at their last known addresses.

DATED: 6-30-2006

INTERESTED COUNSEL/PARTIES:

Regional Hearing Clerk
United States EPA
901 North 5th Street
Kansas City, KS 66101

and

Rupert G. Thomas
Assistant Regional Counsel
EPA – Region 7
901 North 5th Street
Kansas City, KS 66101


John W. Bruffett-24585