



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Lemert
General Manager
Harvest Brands, Inc.
P.O. Box 46
Pittsburgh, KS 66762

Re: Harvest Brands, Inc.
Docket No. FIFRA-07-2006-0256


Dear Mr. Lemert:

I herein enclose a Consent Agreement and Final Order (CAFO) memorializing the terms and conditions of the settlement agreed to by the parties in the above referenced matter. Please have the authorized signature affixed to the CAFO, and return this document to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101

If there are any questions pertaining to this case, you may write to me at the above address, or telephone me at (913) 551-7282.

Sincerely,


Rupert G. Thomas
Senior Assistant Regional Counsel

Enclosure: CAFO

✓cc: Ms. Kathy Robinson
Regional Hearing Clerk

Ms. Barbara Shepard
WWPD/PEST

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF)
)
Harvest Brands, Inc.) Docket No. FIFRA-07-2006-0256
)
Respondent.) CONSENT AGREEMENT AND FINAL
) ORDER.

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about August 16, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136l, when the United States Environmental Protection Agency (hereinafter referred to as “Complainant” or “EPA”) issued a “Complaint and Notice of Opportunity for Hearing” to Harvest Brands, Inc. (hereinafter referred to as “Respondent”).

The Complaint charged Respondent with three counts of violating FIFRA, § 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of these negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed and accepted by Respondent that:

1. This Consent Agreement and Final order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violation of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C. § 136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

7. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

8. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.

9. Each signatory of this Agreement certifies that he or she is fully authorized to enter into this Consent Agreement and Final Order.

10. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

FINAL ORDER

Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent in settlement of the allegations set forth in this Complaint shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Thirteen Thousand Two Hundred Dollars (\$13,200.00), within thirty (30) days of the execution of the CAFO. The check must be made payable to the "Treasurer, United States of America" and shall be mailed to: **U.S. EPA-Region 7, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payments shall be identified as **In the Matter of Harvest Brands, Inc.** A Copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101.

2. The civil penalty shall be paid on or before thirty (30) days after the effective date of the Final Order (the date by which the payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. 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 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

By: _____
Rupert G. Thomas
Attorney
Office of Regional Counsel

Date: _____

RESPONDENT:
HARVEST BRANDS, INC.

By: _____

Title: _____

Date: _____

IT IS SO ORDERED. This Order shall become effective immediately.

Robert L. Patrick
Regional Judicial Officer
Region VII

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