

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Libra Industries, Inc.
Mentor, Ohio**

Respondent.

Docket No. EPCRA-05-2008-0005

COMPLAINANT'S SUPPLEMENTAL MOTION FOR DEFAULT ORDER

Complainant, Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, by and through her attorney, respectfully moves that a Default Order be entered against Respondent pursuant to Section 22.17 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (Consolidated Rules). 40 C.F.R. § 22.17.

EPA filed its Motion for Default Order on July 7, 2008. This Supplemental Motion for Default Order provides additional support for EPA's prayer for relief. In support of this supplemental motion, EPA states:

1. Section 22.15(a) of the Consolidated Rules, 40 C.F.R. § 22.15(a), requires a Respondent to file its Answer to an Administrative Complaint with the Regional Hearing Clerk within 30 days after the date of service of the Administrative Complaint.
2. Section 22.5(b) of the Consolidated Rules, 40 C.F.R. § 22.5(b), requires that a copy of each document being filed in the proceeding be served on the Presiding Officer and each party.
3. Respondent received the Complaint on January 7, 2008.
4. Under 40 C.F.R. § 22.15(a), Respondent was required to file its Answer with the Regional Hearing Clerk by February 6, 2008.

2. On February 8, 2008, Respondent mailed its Answer to Complainant; however, Respondent failed to file its Answer with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.5(b) and 22.15(a).

3. In June 23, 2008, telephone conversation, EPA notified Respondent that Respondent had not served its Answer on the Regional Hearing Clerk as required by the Consolidated Rules. Respondent acknowledged that it had failed to properly serve its Answer and verbally committed to filing its Answer by June 25, 2008.

4. Complainant and the Regional Hearing Clerk did not receive Respondent's Motion to File Answer Instantly and Answer until July 3, 2008.

5. Respondent did not serve its Motion to File Answer Instantly and Answer on the Presiding Officer, as required by 40 C.F.R. §§ 22.5(b).

6. As of July 11, 2008, Respondent has failed to perfect service of process as required by 40 C.F.R. § 22.5(b) and therefore remains in default under 40 C.F.R. § 22.17.

WHEREFORE, Complainant, EPA, respectfully requests that the Presiding Officer enter a Default Order against Respondent, Libra Industries, Inc., finding the Respondent liable for the violations alleged in the Complaint and assessing the \$21,922 penalty as proposed in the Complaint.

Respectfully submitted this 11th day of July, 2008.



Ann L. Coyle
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604
(312) 886-2248

CERTIFICATE OF SERVICE

I certify that on July 11, 2008, I hand-delivered the original and one copy of
Complainant's Supplemental Motion for Default Order to:

Regional Hearing Clerk (E-13J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

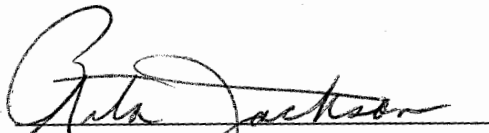
I further certify that on that date, I arranged for a copy of same to be sent via
certified mail, return receipt requested, to the Respondent by placement of it in the
custody of the United States Postal Service, addressed to:

Mr. Max Dehn
Cavitch Familo Durkin & Frutkin
1717 East Ninth Street, 14th Floor
Cleveland, Ohio 44114

I further certify that I hand-delivered a file-stamped copy of same to:

Marcy Toney
Regional Judicial Officer (C-14J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Dated: July 11, 2008


Rita Jackson, Secretary