

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for William Chin  
Name of Case Attorney

9/28/12  
Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number TSCA-01-2011-0125

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

ASNAT Realty, LLC and Evergreen Power, LLC  
220-46 73<sup>rd</sup> Avenue  
Bayside, NY 11364-2624

Total Dollar Amount of Receivable \$ 20,000 Due Date: 7/25/13

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ 5,000 on 10/28/12

2<sup>nd</sup> \$ 5,113 on 1/26/13

3<sup>rd</sup> \$ 5,075 on 4/26/13

4<sup>th</sup> \$ 5,050 on 7/25/13

5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

\_\_\_\_\_ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

September 28, 2012

RECEIVED  
SEP 28 2012  
EPA ORC WS  
Office of Regional Hearing Clerk

**Via Hand Delivery**

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

RE: *In the Matter of: ASNAT Realty, LLC and Evergreen Power, LLC*  
Docket No. TSCA-01-2011-0125

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "William D. Chin".

William D. Chin  
Enforcement Counsel

Enclosures

cc: Alan M. Kosloff, Esq.  
Chief Administrative Law Judge Susan L. Biro, EPA

In the Matter of: ASNAT Realty, LLC and Evergreen Power, LLC

Docket No. TSCA-01-2011-0125

**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,  
By Hand Delivery:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

One copy, By Certified Mail,  
Return Receipt Requested:

Alan M. Kosloff, Esq.  
Law Offices of Alan M. Kosloff  
28 North Main Street  
West Hartford, CT 06107

One copy, By Fax and Pouch Mail:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. EPA  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
Mail Code: 1900L  
Washington, D.C. 20460

Dated: \_\_\_\_\_

9/28/12

William D. Chin

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

SEP 28 2012

EPA ORC *WS*  
Office of Regional Hearing Clerk

In the Matter of: )  
)  
ASNAT Realty, LLC )  
220-46 73rd Avenue )  
Bayside, NY 11364-2624 )  
)  
and )  
)  
Evergreen Power, LLC )  
220-46 73rd Avenue )  
Bayside, NY 11364-2624 )  
)  
Respondents. )  
)  
\_\_\_\_\_ )

Docket No.  
TSCA-01-2011-0125

**CONSENT AGREEMENT AND  
FINAL ORDER**

**CONSENT AGREEMENT**

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. § 22.18 of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”).

**I. INTRODUCTION**

2. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, initiated this proceeding against Respondents, ASNAT Realty LLC (“ASNAT”) and Evergreen Power LLC (“Evergreen”), by issuing an administrative complaint (“Complaint”), pursuant to Section 16 of TSCA, on September 23, 2011.

3. The Complaint alleged that Respondent failed to comply with all waste manifest requirements with regards to a shipment for disposal of approximately 4,300 gallons of waste transformer oil that had been contaminated by polychlorinated biphenyls ("PCBs"). The Complaint also alleged that Respondent failed to notify EPA of this PCB-waste activity. As described in Paragraph 14 of the Complaint, the waste transformer oil was eventually properly disposed of at an authorized PCB disposal facility. The Complaint did not allege any issues involving any onsite disposal or releases of the waste transformer oil.

4. The complete factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint.

## **II. TERMS OF SETTLEMENT**

5. The provisions of this Consent Agreement and Final Order ("CAFO") shall apply to and be binding on Respondents, their officers, directors, successors and assigns.

6. Respondents agree that EPA has jurisdiction over the subject matter alleged in the Complaint, and hereby waives any defenses it might have as to jurisdiction and venue.

7. Respondents acknowledge that they have been informed of their right to request a hearing in this proceeding and hereby waive their right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

8. Respondents hereby waive their right to appeal the Final Order accompanying this Consent Agreement.

9. Without admitting or denying the facts and violations alleged in the Complaint, Respondents consent to the terms and issuance of this CAFO and consent for the purposes of settlement to the payment of the civil penalty (plus interest) as set out in this CAFO.

10. After consideration of the nature of the violations alleged in the Complaint, and other relevant factors, including Respondents' ability to pay, Complainant has determined that it is fair and proper that Respondents pay a civil penalty in the amount of \$20,000 (plus interest) in settlement of this matter.

Penalty Payment

11. Respondents shall pay the civil penalty set forth in this CAFO (plus interest) in accordance with the following schedule:

- (a) \$5,000 to be paid within 30 days of the effective date of this CAFO;
- (b) \$5,113 to be paid within 120 days of the effective date of this CAFO;
- (c) \$5,075 to be paid within 210 days of the effective date of this CAFO; and
- (d) \$5,050 to be paid within 300 days of the effective date of this CAFO.

12. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk.

13. Respondents shall make each penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Respondents shall note the case name ("In the Matter of: ASNAT Realty LLC and Evergreen Power LLC") and the docket number ("TSCA-01-2011-0125") of this action on each payment check and in an accompanying cover letter, and shall provide copies of each check and letter to:

Wanda I. Santiago  
Regional Hearing Clerk

U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

and to:

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912

14. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid within 30 calendar days of the effective date of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

Additional Provisions

15. The civil penalty and any interest, non-payment penalties, and/or other charges, shall represent penalties assessed by EPA and shall not be deductible for federal tax purposes.

16. Compliance with this CAFO, including payment of any penalties, interest, or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive, suspend, or modify the responsibility of Respondents to comply with such laws and regulations.

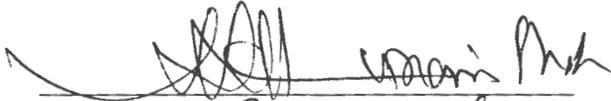
17. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA for the specific violations alleged in this CAFO. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this agreement or, with respect to matters other than the allegations and violations alleged in the Complaint, violations of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any other applicable provision of law. Nor shall this CAFO be construed to, nor is it intended to operate in any way to, resolve any criminal liability or any other civil liability of Respondents. EPA reserves all other civil and criminal enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

18. Except as described in Paragraph 14 herein, each party shall bear its own costs and fees in this proceeding, including attorney's fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504.

19. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

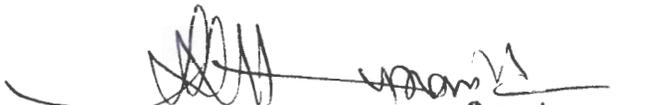
THE UNDERSIGNED PARTIES enter into this CAFO for In the Matter of: ASNAT Realty LLC and Evergreen Power LLC, Docket No. TSCA-01-2011-0125.

For ASNAT Realty LLC:

  
Name: MEHBOOB H. SHAH  
Title: MANAGER  
Company: ASNAT REALTY LLC

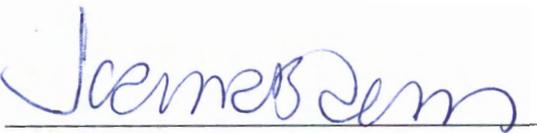
09-20-12  
Date

For Evergreen Power LLC:

  
Name: MEHBOOB H. SHAH  
Title: MANAGER  
Company: EVERGREEN POWER LLC

09-20-12  
Date

For U.S. EPA, Region 1:

  
Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

9/27/12  
Date

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

*Jill T. Metcalf for*

\_\_\_\_\_  
Jill T. Metcalf  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

*9/28/12*

\_\_\_\_\_  
Date