

October 14, 2013

*By FedEx*

US EPA Region 5  
Office of the Regional Hearing Clerk  
Attn: La Dawn Whitehead  
77 West Jackson Boulevard  
Mailcode: E-19J  
Chicago, IL 60604-3590

RE: In the Matter of: Revere Plastics Systems, LLC  
Docket No. EPCRA-05-2013-0025

Dear Ms. Whitehead:

Enclosed please find our Answer to Complaint to be timely filed in the above-referenced matter in the event Revere's October 1, 2013, Unopposed Motion for Extension of Time to Answer Complaint (the "Motion") has not been granted by October 15, 2013, on account of the federal government shutdown. Please return a time-stamped copy to the undersigned in the envelope provided.

By way of background, on October 1, 2013, Revere's Motion was sent to your office via FedEx, for delivery on October 2, 2013. Because of the government shutdown, delivery did not occur until October 7, 2013. As of the date of this letter, I have received no information regarding the status of the Motion, nor have my calls to your office or that of Ms. Ann Coyle been answered. Revere's Motion was received by your office well before Revere's October 15, 2013, deadline to answer the Complaint; however, in an abundance of caution, I am submitting this Answer to the Complaint on behalf of Revere to ensure its interests in this proceeding are protected.

Thank you for your attention to this matter. If you have any questions, please let me know.

Sincerely,



Nathan C. Hunt

Enclosures

cc: Kris Vezner (*w/enclosure*)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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Docket No. EPCRA-05-2013-0025

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In the Matter of: )  
 )  
Revere Plastics Systems, LLC )  
401 Elm Street )  
Clyde, Ohio 43410 )  
 )  
Respondent. )  
\_\_\_\_\_ )

**ANSWER AND REQUEST FOR  
HEARING OF RESPONDENT  
REVERE PLASTICS SYSTEMS, LLC**

**ANSWER TO COMPLAINT**

Revere Plastics Systems, LLC ("Revere"), by its attorneys Thompson Hine LLP, for its Answer and affirmative defenses to the Complaint filed in this matter by Region 5 of the United States Environmental Protection Agency ("EPA" or "Complainant") hereby admits, denies and alleges as follows:

1. Paragraph 1 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
2. Paragraph 2 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
3. Revere admits the allegations set forth in Paragraph 3.
4. Paragraph 4 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
5. Paragraph 5 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

6. Paragraph 6 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
7. Paragraph 7 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
8. Paragraph 8 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
9. Paragraph 9 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
10. Paragraph 10 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.
11. Revere admits the allegations set forth in Paragraph 11.
12. Revere admits the allegations set forth in Paragraph 12.
13. Revere admits the allegations set forth in Paragraph 13.
14. Revere admits the allegations set forth in Paragraph 14.
15. Revere admits the allegations set forth in Paragraph 15.
16. Revere admits the allegations set forth in Paragraph 16.
17. Revere admits that during calendar year 2010 Revere “processed”, as defined by 40 C.F.R. § 372.3, “toxic chemicals”, as defined by 40 C.F.R. § 372.3, and listed at 40 C.F.R. § 372.65, at its facility in Clyde, Ohio. Revere denies all other allegations contained in Paragraph 17.
18. Revere admits the allegations set forth in Paragraph 18.
19. Revere admits the allegations set forth in Paragraph 19.

20. Revere admits that on or about August 23, 2012, Revere submitted chemical release forms to the EPA for calendar years 2007, 2008, and 2009. Revere denies all other allegations contained in Paragraph 20.

21. Paragraph 21 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

22. Paragraph 22 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

23. Revere admits the allegations set forth in Paragraph 23.

24. Paragraph 24 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

25. Revere denies the allegations set forth in Paragraph 25.

26. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for decabromodiphenyl oxide for the 2007 calendar year on or before July 1, 2008. Revere denies all other allegations contained in Paragraph 26.

27. Revere admits it submitted a chemical release form to the EPA for decabromodiphenyl oxide for the 2007 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 26.

28. Revere denies the allegations set forth in Paragraph 28.

29. Paragraph 29 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

30. Paragraph 30 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

31. Revere admits the allegations set forth in Paragraph 31.

32. Paragraph 32 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

33. Revere denies the allegations set forth in Paragraph 33.

34. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for antimony compounds for the 2007 calendar year on or before July 1, 2008. Revere denies all other allegations contained in Paragraph 34.

35. Revere admits it submitted a chemical release form to the EPA for antimony for the 2007 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 35.

36. Revere denies the allegations set forth in Paragraph 36.

37. Paragraph 37 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

38. Paragraph 38 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

39. Revere admits the allegations set forth in Paragraph 39.

40. Paragraph 40 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

41. Revere denies the allegations set forth in Paragraph 41.

42. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for lead for the 2007 calendar year on or before July 1, 2008. Revere denies all other allegations contained in Paragraph 42.

43. Revere admits the allegations set forth in Paragraph 43.

44. Revere denies the allegations set forth in Paragraph 44.

45. Paragraph 45 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

46. Paragraph 46 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

47. Revere admits the allegations set forth in Paragraph 47.

48. Paragraph 48 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

49. Revere denies the allegations set forth in Paragraph 49.

50. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for decabromodiphenyl oxide for the 2008 calendar year on or before July 1, 2009. Revere denies all other allegations contained in Paragraph 50.

51. Revere admits it submitted a chemical release form to the EPA for decabromodiphenyl oxide for the 2008 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 51.

52. Revere denies the allegations set forth in Paragraph 52.

53. Paragraph 53 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

54. Paragraph 54 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

55. Revere admits the allegations set forth in Paragraph 55.

56. Paragraph 56 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

57. Revere denies the allegations set forth in Paragraph 57.

58. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for antimony compounds for the 2008 calendar year on or before July 1, 2009. Revere denies all other allegations contained in Paragraph 58.

59. Revere admits it submitted a chemical release form to the EPA for antimony for the 2008 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 59.

60. Revere denies the allegations set forth in Paragraph 60.

61. Paragraph 61 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

62. Paragraph 62 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

63. Revere admits the allegations set forth in Paragraph 63.

64. Paragraph 64 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

65. Revere denies the allegations set forth in Paragraph 65.

66. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for lead for the 2008 calendar year on or before July 1, 2009. Revere denies all other allegations contained in Paragraph 66.

67. Revere admits the allegations set forth in Paragraph 67.

68. Revere denies the allegations set forth in Paragraph 68.

69. Paragraph 69 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

70. Paragraph 70 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

71. Revere admits the allegations set forth in Paragraph 71.

72. Paragraph 72 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

73. Revere denies the allegations set forth in Paragraph 73.

74. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for decabromodiphenyl oxide for the 2009 calendar year on or before July 1, 2010. Revere denies all other allegations contained in Paragraph 74.

75. Revere admits it submitted a chemical release form to the EPA for decabromodiphenyl oxide for the 2009 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 75.

76. Revere denies the allegations set forth in Paragraph 76.

77. Paragraph 77 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

78. Paragraph 78 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

79. Revere admits the allegations set forth in Paragraph 79.



80. Paragraph 80 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

81. Revere denies the allegations set forth in Paragraph 81.

82. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for antimony compounds for the 2009 calendar year on or before July 1, 2010. Revere denies all other allegations contained in Paragraph 82.

83. Revere admits it submitted a chemical release form to the EPA for antimony for the 2009 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 83.

84. Revere denies the allegations set forth in Paragraph 84.

85. Paragraph 85 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

86. Paragraph 86 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

87. Revere admits the allegations set forth in Paragraph 87.

88. Paragraph 88 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

89. Revere denies the allegations set forth in Paragraph 89.

90. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for lead for the 2009 calendar year on or before July 1, 2010. Revere denies all other allegations contained in Paragraph 90.

91. Revere admits the allegations set forth in Paragraph 91.

92. Revere denies the allegations set forth in Paragraph 92.

93. Paragraph 93 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

94. Paragraph 94 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

95. Revere admits the allegations set forth in Paragraph 95.

96. Paragraph 96 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

97. Revere denies the allegations set forth in Paragraph 97.

98. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for decabromodiphenyl oxide for the 2010 calendar year on or before July 1, 2011. Revere denies all other allegations contained in Paragraph 98.

99. Revere admits it submitted a chemical release form to the EPA for decabromodiphenyl oxide for the 2010 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 99.

100. Revere denies the allegations set forth in Paragraph 100.

101. Paragraph 101 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

102. Paragraph 102 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

103. Revere admits the allegations set forth in Paragraph 103.

104. Paragraph 104 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

105. Revere denies the allegations set forth in Paragraph 105.

106. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for antimony compounds for the 2010 calendar year on or before July 1, 2011. Revere denies all other allegations contained in Paragraph 106.

107. Revere admits it submitted a chemical release form to the EPA for antimony for the 2010 calendar year on or about August 22, 2012. Revere denies all other allegations contained in Paragraph 107.

108. Revere denies the allegations set forth in Paragraph 108.

109. Paragraph 109 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

110. Paragraph 110 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

111. Revere admits the allegations set forth in Paragraph 111.

112. Paragraph 112 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

113. Revere denies the allegations set forth in Paragraph 113.

114. Revere admits it did not submit to the EPA and to the state of Ohio a Form R for lead for the 2010 calendar year on or before July 1, 2011. Revere denies all other allegations contained in Paragraph 114.

115. Revere admits the allegations set forth in Paragraph 115.

116. Revere denies the allegations set forth in Paragraph 116.

117. Paragraph 117 contains no factual allegation to which a response is required; to the extent a response is required, the allegations are denied.

**AFFIRMATIVE DEFENSES**

Revere states the following affirmative defenses and expressly reserves the right to amend this Answer to raise additional defenses that may arise during the course of discovery and information exchange in this matter.

**FIRST AFFIRMATIVE DEFENSE**

Revere at all times acted reasonably and in good faith, based upon all relevant facts and circumstances it knew at the time.

**SECOND AFFIRMATIVE DEFENSE**

EPA has failed to state a claim upon which relief can be granted.

**THIRD AFFIRMATIVE DEFENSE**

EPA's allegations constitute agency action that is arbitrary and capricious and an abuse of discretion under the Administrative Procedure Act, 5 U.S.C. §§ 553 and 706(2).

**FOURTH AFFIRMATIVE DEFENSE**

EPA's claims are barred by waiver.

**FIFTH AFFIRMATIVE DEFENSE**

EPA's claims are barred by estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

EPA's claims are barred by Revere's substantial compliance with governmental laws, rules, and regulations.

**SEVENTH AFFIRMATIVE DEFENSE**

EPA's claims are barred due to the impossibility of Revere's compliance.

#### **EIGHTH AFFIRMATIVE DEFENSE**

EPA's proposed penalty assessment of \$190,783 is barred or limited because EPA has improperly applied its own penalty policies and other relevant authorities in calculating the proposed penalty assessment.

#### **NINTH AFFIRMATIVE DEFENSE**

EPA's proposed penalty assessment of \$190,783 is barred or limited because it is grossly disproportionate to both the violations alleged in the Complaint and the relevant characteristics and conditions of Revere.

#### **TENTH AFFIRMATIVE DEFENSE**

Application of EPCRA in this case violates the Due Process Clause of the U.S. Constitution.

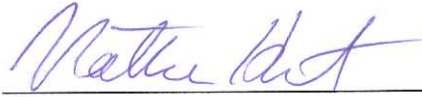
#### **ELEVENTH AFFIRMATIVE DEFENSE**

EPA's claims are barred by the articles exemption at 40 C.F.R. § 372.38(b).

#### **REQUEST FOR HEARING**

In accordance with 40 C.F.R. § 22.15(c), Revere hereby requests a public hearing before an administrative law judge in order to dispute EPA's claims in this Complaint, as described above.

Respectfully submitted,



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Nathan C. Hunt (Ohio Bar #0074184)

THOMPSON HINE LLP

Austin Landing I

10050 Innovation Drive

Suite 400

Miamisburg, OH 45342-4934

Tel: (937) 443-6908

Fax: (937) 443-6635

Trial Attorney for Respondent

Revere Plastics Systems, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Answer has been served this 15th day of October 2013

as follows:

Original and one copy via facsimile and Federal Express overnight delivery upon:

U.S. EPA Region 5  
Office of the Regional Hearing Clerk  
Attention: La Dawn Whitehead  
77 W. Jackson Blvd.  
Mailcode: E-19J  
Chicago, IL 60604-3590

One copy via U.S. first class mail, postage prepaid upon:

Kris Vezner (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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Nathan C. Hunt