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4 Region IX
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5 San Francisco, CA 94105
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7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
REGION IX

9
10 In the matter of:) Docket No. FIFRA-09-2007-0008
11)
12 Four Quarters Wholesale, Inc.,) CONSENT AGREEMENT
AND FINAL ORDER
13 Respondent.)
14 _____)

15 I. CONSENT AGREEMENT

16 Complainant, the Director of the Communities and Ecosystems Division, United States
17 Environmental Protection Agency ("EPA"), Region IX, and Respondent, Four Quarters
18 Wholesale, Inc., agree to settle this civil administrative action brought under the Federal
19 Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. §§ 136 *et seq.*, and
20 consent to the entry of this Consent Agreement and Final Order (the "CAFO").

21 A. AUTHORITY

22 1. Complainant initiated this civil administrative proceeding for the assessment of a civil
23 penalty against Respondent under FIFRA pursuant to Section 14(a) of FIFRA, 7 U.S.C. §
24 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of
25 Civil Penalties, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing
26 ("the Complaint") against Respondent on May 9, 2007.

27 2. The Complaint alleges that Respondent violated Section 12(a)(1)(A) of FIFRA, 7
28 U.S.C. § 136j(a)(1)(A), by distributing unregistered pesticides.

1 Julie Jordan
2 Communities and Ecosystems Division (CED-5)
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7 75 Hawthorne Street
8 San Francisco, CA 94105

7 6. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
8 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to use
9 such payment as a tax deduction.

10 7. If Respondent fails to pay the assessed civil administrative penalty of SIX THOUSAND
11 DOLLARS (\$6,000), as identified in Paragraph 5, by the deadline specified in that Paragraph, then
12 Respondent shall also pay a stipulated penalty to EPA. The amount of the stipulated penalty will
13 be THREE THOUSAND DOLLARS (\$3,000), and will be immediately due and payable on the
14 day following the deadline specified in Paragraph 5, together with the initially assessed civil
15 administrative penalty of SIX THOUSAND DOLLARS (\$6,000), resulting in a total penalty due of
16 NINE THOUSAND DOLLARS (\$9,000). Failure to pay the civil administrative penalty specified
17 in Paragraph 5 by the deadline specified in that Paragraph may also lead to any or all of the
18 following actions:

19 (1) EPA may refer the debt to a credit reporting agency, a collection
20 agency, or to the Department of Justice for filing of a collection action in the appropriate United
21 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
22 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
23 collection proceeding.

24 (2) The U.S. Government may collect the debt by administrative offset
25 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a
26 person to satisfy the debt the person owes the U.S. Government), which includes, but is not
27 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
28 C.F.R. §§ 13(C) and 13(H).

1 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
2 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
3 business with EPA or engaging in programs EPA sponsors or funds.

4 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
5 Government may assess interest, administrative handling charges, and nonpayment penalties
6 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
7 civil administrative penalty specified in Paragraph 5 by the deadline specified in that Paragraph.

8 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §
9 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
10 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
11 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
12 (30) days of the effective date of this CAFO.

13 (b) Administrative Handling Charges. Pursuant to 31 U.S.C. §
14 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on
15 either actual or average cost incurred (including both direct and indirect costs), for every month
16 in which any portion of the assessed penalty is more than thirty (30) days past due.

17 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
18 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
19 may be assessed on all debts more than ninety (90) days delinquent.

20 D. CERTIFICATION OF COMPLIANCE

21 8. In executing this CAFO, Respondent certifies that: (1) it is no longer selling or
22 distributing any unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
23 136j(a)(1)(A); and (2) it has complied with all other FIFRA requirements at all facilities under its
24 control.

25 E. ADDITIONAL CERTIFICATIONS

26 9. In executing this CAFO, Betsy Hua, the President, C.E.O., and/or Owner of
27 Respondent, certifies that: (1) she will formally dissolve the Four Quarters Wholesale, Inc.
28 corporation (identified by the California Secretary of State as Corporation Number C1764435)

1 within ninety (90) days of the effective date of this CAFO; and (2) she will pay a stipulated
2 penalty of \$20,000 (in addition to whatever administrative civil penalty is appropriate for the
3 underlying violations) if any corporation of which she is a President, C.E.O., or Principal violates
4 Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing unregistered
5 pesticides within five (5) years of the effective date of this CAFO.

6 **F. RETENTION OF RIGHTS**

7 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
8 liabilities for federal civil penalties for the violations and facts specifically alleged in the
9 Complaint. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
10 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
11 ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. EPA
12 specifically reserves any and all authorities, rights, and remedies available to it (including, but
13 not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation
14 of this CAFO or any violation not specifically alleged in the Complaint.

15 11. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
16 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
17 and permits.

18 **G. ATTORNEYS' FEES AND COSTS**

19 12. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in
20 this proceeding.

21 **H. EFFECTIVE DATE**

22 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
23 effective on the date that the Final Order contained in this CAFO, having been approved and
24 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

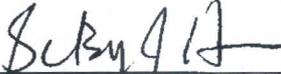
25 **I. BINDING EFFECT**

26 14. The undersigned representative of Complainant and the undersigned representative of
27 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
28 of this CAFO and to bind the party he or she represents to this CAFO.

1 15. The provisions of this CAFO shall apply to and be binding upon Respondent and its
2 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
3 and assigns.
4

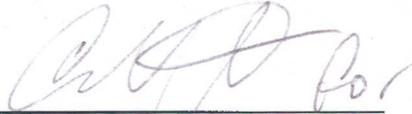
5 FOR RESPONDENT FOUR QUARTERS WHOLESALE, INC.:

6
7 10/27/08
8 DATE

9 
10 BETSY HUA
11 President
12 Four Quarters Wholesale, Inc.
13 c/o Kenneth I. Gross, Esq.
14 Law Offices of Kenneth I. Gross
15 894 Broadway, Suite 504
16 Los Angeles, CA 90014

17 FOR COMPLAINANT EPA:

18
19 10/30/08
20 DATE

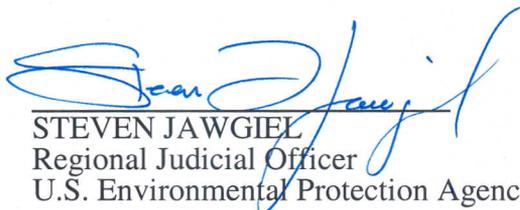
21 
22 KATHERINE A. TAYLOR
23 Associate Director for Agriculture
24 Communities and Ecosystems Division
25 U.S. Environmental Protection Agency, Region IX
26 75 Hawthorne Street
27 San Francisco, California 94105
28

1 II. FINAL ORDER

2 EPA and Four Quarters Wholesale, Inc. having entered into the foregoing Consent
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2007-0008) be
5 entered, and Respondent shall pay a civil administrative penalty in the amount of SIX
6 THOUSAND DOLLARS (\$6,000), and comply with the terms and conditions set forth in the
7 Consent Agreement.

8
9
10 10/31/08
11 DATE

12 
13 STEVEN JAWGIEL
14 Regional Judicial Officer
15 U.S. Environmental Protection Agency, Region IX
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CERTIFICATION / CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket No. FIFRA-9-2007-0008, was hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency - Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy thereof was placed in the United States Mail, certified mail (7008 1140 0002 6858 3456), return receipt requested, addressed to the following address:

Betsy Hua
President
Four Quarters Wholesale, Inc.
c/o Kenneth I. Gross, Esq.
Law Offices of Kenneth I. Gross
894 Broadway, Suite 504
Los Angeles, CA 90014

Date: 11/4/2008

By: *Danielle E Carr*

DANIELLE CARR
Regional Hearing Clerk
United States Environmental
Protection Agency, Region IX
75 Hawthorne Avenue
San Francisco, California 94105-3143