



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 08 2008

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ron Lugo
Complete Supply Inc.
19 Avondale Circle
Newnan, GA 30265

SUBJ: Docket No. FIFRA-04-2008-3005(b)
Complete Supply Inc.

Dear Mr. Lugo:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

Please make note of the provisions in the Final Order, with respect to payment of the assessed penalty of \$19,362.00. The initial payment in the amount of \$6,454.00 is due within 30 days from the effective date of the CAFO. Remaining payments are due as set forth in Section IV of the CAFO.

Also enclosed, please find a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document notifies you of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. Please note the contact phone number on page three of the Notice has been changed to (202) 551-3115.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Ronald Lugo d/b/a)
Complete Supply, Inc.)
)
)
Respondent.)
_____)

Docket No. FIFRA-04-2008-3005(b)

RECEIVED
EPA REGION IV
2008 JAN - 8 PM 2:35
HEARINGS CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Ronald Lugo d/b/a Complete Supply, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Dawn Johnson
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9017.

4. Respondent is Ronald Lugo d/b/a Complete Supply, Inc.
5. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
6. In or around June and July, 2006 an authorized representative of the EPA conducted inspections at Food Depot stores in Georgia.
7. During the aforementioned inspections, the products "CS Sanitize" and "Lemon Cleaner" were identified as being produced, distributed and sold by the Respondent.
8. The "CS Sanitize" and "Lemon Cleaner" products are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
9. Section 2(mm) of FIFRA, 7 U.S.C. § 126(mm) defines the term "antimicrobial pesticide" to include a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.

10. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
11. At the time of the inspections, the “CS Sanitize” and “Lemon Cleaner” products were not registered as pesticides with EPA in accordance with Section 3 of FIFRA, 7 U.S.C. § 136a.
12. The inspector documented distribution of the products from the Respondent. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” to include: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment, or receive and (having so received deliver or offer to deliver.)
13. It is unlawful according to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
14. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
15. At the time of the inspections, Respondent produced the pesticides “CS Sanitize” and “Lemon Cleaner” in an establishment that was not registered with the Administrator of EPA as a pesticide-producing establishment.

16. It is unlawful according to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), to produce a pesticide in any State unless the establishment is registered with the Administrator of EPA as set forth in Section 7 of FIFRA, 7 U.S.C. § 136e.
17. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. At the time of the inspections, samples of the “CS Sanitize” and “Lemon Cleaner” were collected and analyzed. The laboratory analyses indicate that the strength of the active ingredients are less than the strength listed on the labels.
19. According to Section 2(c)(1) of FIFRA, 7 U.S.C. § 136(c)(1), a pesticide is adulterated if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.
20. It is a violation according to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(12)(a)(1)(E), for any person in any State to distribute or sell to any person any pesticide which is adulterated.
21. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
22. At the time of the inspections, the “CS Sanitize” and “Lemon Cleaner” product labels bore registration and establishment numbers that were not EPA approved.

23. According to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), a pesticide is misbranded if its label has a statement, design or graphic representation which is false and misleading.
24. At the time of the inspections, the “CS Sanitize” and “Lemon Cleaner” products were sold and distributed as an imitation of the EPA registered pesticide BTC 2125M 10% Solution.
25. According to FIFRA 2(q)(1)(C), 7 U.S.C. § 136(q)(1)(C), a pesticide is misbranded if its an imitation of or is offered for sale under the name of another pesticide.
26. At the time of the inspections, the “CS Sanitize” and “Lemon Cleaner” product labels did not bear the net contents.
27. According to Section 2(q)(2)(C)(iii) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iii), a pesticide is misbranded if the label fails to bear the net weight or measure of contents.
28. It is a violation according to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for any person to distribute or sell to any person any pesticide which is misbranded.
29. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
30. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
31. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent’s ability to continue in business, and the gravity of the violation.

32. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of NINETEEN THOUSAND, THREE HUNDRED SIXTY-TWO DOLLARS (\$19,362) against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

III. Consent Agreement

33. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
34. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
35. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
36. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
37. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

38. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

IV. Final Order

39. Respondent is assessed a civil penalty of NINETEEN THOUSAND, THREE HUNDRED SIXTY-TWO DOLLARS (\$19,362.00), which shall be paid in three installments, in accordance with the schedule set forth below.
40. **Respondent shall pay the penalty in three installments. The first installment payment of \$6,454 shall be made within 30 days from the date this CAFO is filed with the Regional Hearing Clerk.**

The remaining two installment payments will be paid as set forth below:

DATE	AMOUNT
On or before January 28, 2008	\$6,454.00
On or before February 28, 2008	\$6,454.00

41. Respondent shall pay the penalty by forwarding either cashier's or certified checks, payable to the "Treasurer, United States of America," on or before the due dates, via U.S. mail, to the following address:

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

Each check shall reference the name and the Docket Number of the CAFO ("Ronald Lugo d/b/a Complete Supply, Inc., FIFRA-04-2008-3005(b)").

42. At the time of payment, Respondent shall send a separate copy of each check and a written statement that the payment is being made in accordance with this CAFO to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Dawn Johnson
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

43. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
44. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts.

In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.

45. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
46. This CAFO shall be binding upon the Respondent, its successors and assigns.
47. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

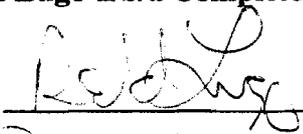
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Effective Date

48. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Ronald Lugo d/b/a Complete Supply, Inc.

By:  (Signature) Date: 11-16-07
Name: RONALD LUGO (Typed or Printed)
Title: OWNER (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 1/3/08
Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 8th day of January 2008.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Ronald Lugo d/b/a Complete Supply Inc., FIFRA Docket No. 04-2008-3005(b), on the parties listed below in the manner indicated.

For Complainant:

Dawn Johnson
Pesticides Management Section
U.S. EPA - Region 4, 4APT-PTSB
61 Forsyth Street
Atlanta, GA 30303-8960

(Via EPA's internal mail)

Michiko Kono
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960.

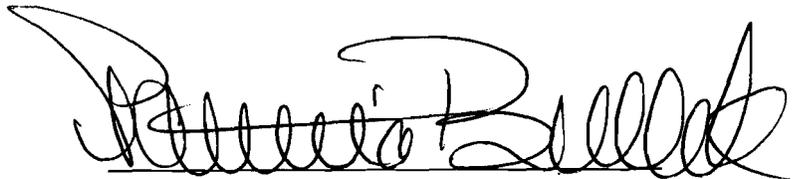
(Via EPA's internal mail)

For Respondent:

Ronald Lugo
Complete Supply Inc.
19 Avondale Circle
Newnan, GA 30265

(Via Certified Mail - Return Receipt
Requested)

Date: 1-8-08



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 11/7/08
(Name) (Date)

in the OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Complete Supply Inc.
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 19,367
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2008 - 3005 (b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date: _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|