

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:

American Consumer Products Corporation,
Respondent.

Docket No. FIFIA-04-2009-3023

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FIFIA-04-2009-3023

ANSWERS TO COMPLAINT

NOW COMES American Consumer Products of Georgia, a Georgia Corporation through Robin Zahran and responds to the Environmental Protection Agency complaint as follows:

1. The Respondent has no knowledge of the allegations alleged in paragraph 1 and neither admits nor denies the allegations in paragraph 1 and demands strict proof of Complainant's allegations.
2. The Respondent has no knowledge of the allegations alleged in paragraph 2 and neither admits nor denies the allegations in paragraph 2 and demands strict proof of Complainant's allegations.
3. Admit the allegations in paragraph 3.
4. The Respondent has no knowledge of the allegations alleged in paragraph 4 and neither admits nor denies the allegations in paragraph 4 and demands strict proof of Complainant's allegations.

B.

Answers to EPA Statement of Alleged Facts

5. Admit to allegations in paragraph 5.

6. The Respondent has no knowledge of the allegations alleged in paragraph 6 and neither admits nor denies the allegations in paragraph 6 and demands strict proof of Complainant's allegations.
7. The Respondent has no knowledge of the allegations alleged in paragraph 7 and neither admits nor denies the allegations in paragraph 7 and demands strict proof of Complainant's allegations.
8. The Respondent has no knowledge of the allegations alleged in paragraph 8 and neither admits nor denies the allegations in paragraph 8 and demands strict proof of Complainant's allegations.
9. The Respondent has no knowledge of the allegations alleged in paragraph 9 and neither admits nor denies the allegations in paragraph 9 and demands strict proof of Complainant's allegations.
10. The Respondent has no knowledge of the allegations alleged in paragraph 10 and neither admits nor denies the allegations in paragraph 10 and demands strict proof of Complainant's allegations.
11. The Respondent has no knowledge of the allegations alleged in paragraph 11 and neither admits nor denies the allegations in paragraph 11 and demands strict proof of Complainant's allegations.
12. The Respondent has no knowledge of the allegations alleged in paragraph 12 and neither admits nor denies the allegations in paragraph 12 and demands strict proof of Complainant's allegations.

13. The Respondent has no knowledge of the allegations alleged in paragraph 13 and neither admits nor denies the allegations in paragraph 13 and demands strict proof of Complainant's allegations.

EPA Alleged Violation in it's Complaint

14. The Respondent reincorporates its answer in Paragraph 1 through 13 as its answer to complaint paragraph 14.

15. The Respondent states that the statue speaks for itself and therefore neither admit or deny the complaint interpretations of the statue.

16. The Respondent states that the statue speaks for itself and therefore neither admit or deny the complaint interpretations of the statue.

17. Admit that the 24/7 all purpose cleaner produced by ACPC was not registered as anti-bacterial product with the EPA and further states that it did not produce anti-bacterial product and affirmatively states that U.S.A. Lab incorporated was registered to produce the anti –bacterial 24/7 and further states ACPC did not produce any anti-bacterial product whatsoever nor distributed it but accidentally one of the employees used a left over label from U.S.A. Lab by error.

18. The Respondent admits that it is unlawful to distribute or offer for sale pesticide products that is not registered but affirmatively denies that the Respondent sold, offered for sale, or distributed any pesticide products that is not registered by the EPA.

19. The Respondent denies that either ACPC sold anti-bacterial formulas containing pesticides without registration in violation of any of the EPA rules or regulations.

D.

Proposed Penalty

20. The Respondent has no knowledge of the allegations, statements, recitations and citations alleged in paragraph 19 and therefore demands strict proof of every allegation and in the alternate denies the allegations that it is mandatory to assess penalty in the amount of \$6,500 against ACP of Georgia for non-sales of pesticides, as none was sold or distributed or manufactured by ACP.

E.

Appropriateness of Proposed Penalty

21. The Respondent lacks knowledge relating to the July 2, 1990 Enforcement Response Policy (ERP) for the Federal Insecticide and other allegations being alleged in paragraph 21. The Respondent affirmatively states it is not subject to this penalty as it did not sell any pesticide products whatsoever as none was ever sold by the Respondents, nor manufactured.
22. The Respondent denies the allegation in paragraph 22 and affirmatively states that ACP is not actively engaging in manufacturing or distributing any products and denies that its sales are more than one million dollars and affirmatively states that it has no sales whatsoever.

AFFIRMATIVE DEFENSES

1. The Respondent did not sell or distribute any formulas which contained any pesticide whatsoever.
2. The only issue was the use of a label that was used erroneously by an employee and only used one time, of which no pesticide product was used nor distributed.

3. The Respondent took immediate remedial measures and destroyed all of the left-over labels from the USA Laboratory that stated "Formula 24/7 Anti-Bacterial".
4. No damage occurred, nor was there harm to humans or the environment nor was there any deception.
5. The Complainant failed to issue a written warning to cease for a violation of FIFRA prior to filing suit and the proposed assessment of civil penalty.
6. The alleged violation did not cause significant harm or any harm to the health of human or the environment.
7. The violation, if found, is a minor violation of mislabeling a product by a bankruptcy company but no pesticide products were used.
8. No pesticide or device was used in violation of the EPA Act.
9. No actual or potential risk or harm to humans or environment occurred.
10. The Complainant failed to follow the guidelines set by EPA FIFRA 14(a)(4) in arriving at its proposed penalty amount in that no prior notice was given to Respondent and notice of warning following a citation for prior violation and no assessment of the harm was produced.
11. The maximum applicable penalty for first time found violators is \$500.
12. The Compliant failed to follow FIFRA guidelines in accessing the actual harm occurred to health of humans or the environment.
13. ACP/GA is currently without assets.
14. The alleged violation was neither known nor willful and did not result from negligence, nor is their any prior violations by ACP.

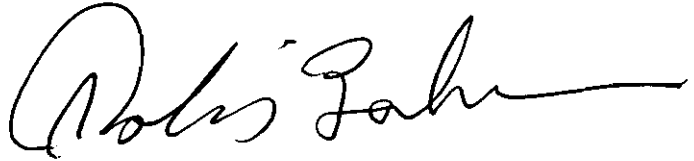
10. Any penalty under the circumstances would be inequitable as no harm resulted,
nor was a pesticide product sold.

The Respondents in the alternative request a hearing on the Complaint by the Court.

WHEREFORE, the Respondents pray that the Honorable Court deny Complainants
request for relief and dismiss the Complaint with prejudice.

Respondents Representatives,

may 7-2010

A handwritten signature in black ink, appearing to read "Robin Zahran", with a long horizontal flourish extending to the right.

American Consumer Products by
Robin Zahran

CERTIFICATE OF SERVICE

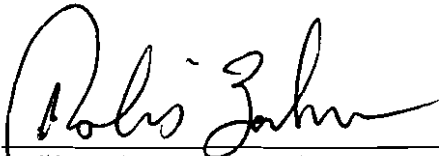
I, Robin Zahran, certify that the foregoing Answers to the Complaint and Affirmative Answers, dated, May 7, 2010, were sent this day to the following service list below by U.S. First Class Postage.

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