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6 BEFORE THE
7 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

8
9 In the Matter of:)

DOCKET NO. TSCA-10-2009-0011

10 PAPÉ TRUCK LEASING, INC.)

11 Respondent)

12 I. STATUTORY AUTHORITY

13 1.1. This Consent Agreement and Final Order ("CAFO") is issued under the
14 authority vested in the Administrator of the United States Environmental Protection Agency
15 ("EPA") by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

16 1.2. The Administrator has delegated the authority to issue the Final Order contained
17 in Part VI of this CAFO to the Regional Administrator of EPA Region 10, who in turn has
18 re delegated this authority to the Regional Judicial Officer.

19 1.3. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and in accordance with the
20 "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,"
21 40 C.F.R. Part 22, EPA hereby issues, and Papé Truck Leasing, Inc. hereby agrees to issuance
22 of the Final Order contained in Part VI of this CAFO.
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1 3.3. Respondent Papé is the successor of Industrial Finance Company ("IFCO").

2 3.4. Respondent (as IFCO) owned a facility located at 3350 National Way SW in
3 Albany, Oregon. Parties who first engage in PCB waste handling activities after February 5,
4 1990, are required to notify the EPA of storage of PCB waste in a Storage for Disposal Facility
5 and receive an EPA PCB activity identification number under 40 C.F.R. §§ 761.202(b)(2) and
6 761.205(a).

7 3.5. Respondent (as IFCO) owned and stored PCB waste in the form of capacitors
8 and transformers at its facility located at 3350 National Way SW in Albany, Oregon. EPA
9 received no notice of PCB waste at this facility as required by 40 C.F.R. § 761.205(a) and did
10 not issue a PCB activity identification number under 40 C.F.R. § 761.202(b).

11 3.6. Respondent is a "person" as defined by TSCA PCBs regulations. 40 C.F.R. §
12 761.3.

13 **IV. VIOLATIONS**

14 4.1. Respondent's failure to notify EPA prior to its PCB waste handling activities
15 constitutes a violation of 40 C.F.R. § 761.205(a).

16 4.2. Respondent's storage of PCB waste at the facility at 3350 National Way S.W.
17 located in Albany, Oregon without obtaining an EPA PCB identification number constitutes a
18 violation of 40 C.F.R. § 761.202(b).

19 4.3. Under TSCA Section 16, 15 U.S.C. § 2615(a)(1), and 40 C.F.R. Part 19, EPA
20 may assess a civil penalty not to exceed \$32,500 per violation against "any person who
21 violates" certain requirements of TSCA, including those respecting the storage and disposal of
22 PCBs.

1
2 **V. CONSENT AGREEMENT**

3 5.1. For purposes of this proceeding, Respondent stipulates that EPA has jurisdiction
4 over the subject matter alleged herein.

5 5.2. For purposes of this proceeding, Respondent expressly waives any right to
6 contest the allegations and to appeal the Final Order set forth in Part VI, below.

7 5.3. For purposes of this proceeding, Respondent neither admits nor denies the
8 specific factual allegations contained in Parts III and IV of this CAFO.

9 5.4. As required under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B),
10 EPA has taken into account the nature, circumstances, extent, and gravity of the alleged
11 violation; the Respondent's ability to pay, history of prior such violations, and degree of
12 culpability; the effect on Respondent's ability to continue to do business; and such other
13 matters as justice may require. After considering all of these factors, EPA has determined and
14 Respondent Papé agrees that an appropriate penalty to settle this action is in the amount of
15 twenty thousand dollars (\$20,000).

16 5.5. Respondent consents to issuance of the Final Order set forth in Part VI, below,
17 and agrees to pay the total civil penalty set forth in Paragraph 5.4, above, within 30 days of the
18 effective date of this Final Order.

19 5.6. Payment under this CAFO shall be made by cashier's check or certified check,
20 payable to the order of "Treasurer, United States of America" and delivered to the following
21 address:

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

1 Respondent shall note on the check the title and docket number of this action.

2
3 5.7. Along with payment, a transmittal letter shall be provided which sets forth the
4 information contained in the caption of this case, including the case title and docket number,
5 together with a description of the obligation being satisfied by the payment. At the time of
6 payment, a copy of the check and transmittal letter shall also be provided to Daniel Duncan,
7 EPA Region 10 Office of Compliance and Enforcement, and to Carol Kennedy, Regional
8 Hearing Clerk. The mailing address for Mr. Duncan is 1200 Sixth Ave., Suite 900, OCE-084,
9 Seattle, WA 98101. The address for Ms. Kennedy is 1200 Sixth Ave., Suite 900, ORC-158,
10 Seattle, WA 98101.

11 5.8. Should Respondent fail to pay the penalty assessed by this CAFO in full by its
12 due date, the entire unpaid balance of penalty and accrued interest shall become immediately
13 due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action
14 to collect the assessed penalty under TSCA. In any such collection action, the validity, amount,
15 and appropriateness of the penalty shall not be subject to review.

16 5.9. Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should
17 Respondent fail to pay any portion of the penalty assessed by this CAFO in full by its due date,
18 Respondent shall be responsible for payment of interest on any unpaid portion of the assessed
19 penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §
20 3717(a)(1) from the effective date of the Final Order contained herein; provided, however, that
21 no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of
22 the effective date of the Final Order contained herein. The penalty described in Paragraph 5.4,
23 above, including any additional costs incurred under this Paragraph 5.9, represents an
24 administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal
25 taxes.

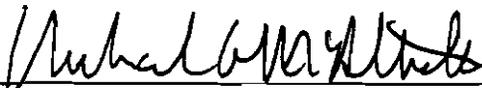
1 **VI. FINAL ORDER**

2 6.1. The terms of the foregoing Parts I-V are hereby ratified and incorporated by
3 reference into this Final Order. Respondent is hereby ordered to comply with the foregoing
4 terms of the settlement.

5 6.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties
6 pursuant to TSCA for the violation alleged in Parts III and IV, above. In accordance with 40
7 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to
8 pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations
9 of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to
10 comply with all applicable provisions of TSCA and regulations issued thereunder.

11 6.3. This Final Order shall become effective upon filing.

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13 SO ORDERED this 30th day of January, 2009.

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16 _____
17 RICHARD G. McALLISTER
18 Regional Judicial Officer
19 U.S. Environmental Protection Agency
20 Region 10
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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: PAPÉ, Inc., DOCKET NO.: TSCA-10-2009-0011** was filed with the Regional Hearing Clerk on January 30, 2009.

On January 30, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Cliff Villa, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on January 30, 2009, to:

Mr. Robert Riecke
Papé Truck Leasing, Inc.
355 Goodpasture Island Road
P.O. Box 10052
Eugene, Oregon 97440

DATED this 30th day of January 2009.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10