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HEARINGS CLERK
EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. FIFRA-10-2010-0230
)	
)	
AXSS USA, LLC)	CONSENT AGREEMENT AND
)	FINAL ORDER
Respondent)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Axss USA, LLC. ("Respondent") hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.

1 considered prior history under FIFRA once finalized and consents to payment of the penalty as
2 stated below.

3 4.2. Respondent consents to the assessment of a civil penalty in the amount of FIVE -
4 THOUSAND SEVEN-HUNDRED SIXTY DOLLARS and no cents (\$5,760.00). Respondent
5 consents to issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil
6 penalty set forth in this paragraph within thirty (30) days of the effective date of this Final Order.

7 4.3. Payment under this CAFO shall be made by cashier's check or certified check,
8 payable to the order of "Treasurer, United States of America" and delivered to the following
9 address:

10 US Bank - USEPA - Region 10
11 Fines and Penalties
12 Cincinnati Finance Center
13 PO Box 979077
14 St. Louis, MO 63197-9000

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

16 4.4. Respondent shall serve photocopies of the checks described in Paragraph 4.3,
17 above, on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and
18 Enforcement at the following addresses:

19 Regional Hearing Clerk
20 U.S. Environmental Protection Agency Region 10
21 Office of Regional Counsel, ORC-158
22 1200 Sixth Avenue, Suite 900
23 Seattle, WA 98101

24 Attn: Derrick Terada
25 U.S. Environmental Protection Agency Region 10
Pesticides and Toxics Unit, OCE-084
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.5. Should Respondent fail to pay the penalty assessed herein in full by its due date,
the entire unpaid balance of penalty and accrued interest shall become immediately due and

1 owing. Should such a failure to pay occur, Respondent may be subject to a civil action under
2 Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with
3 interest, handling charges, and nonpayment penalties, as set forth below.

4 4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by
5 its due date, Respondent shall also be responsible for payment of the following amounts:

6 a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate
7 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)
8 from the effective date of the accompanying Final Order, provided, however, that
9 no interest shall be payable on any portion of the assessed penalty that is paid
10 within 30 days of the effective date of the Final Order.

11 b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge
12 of \$15 shall be paid if any portion of the assessed penalty is more than 30 days
13 past due.

14 c. Nonpayment Penalty: Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty
15 of 6% per annum shall be paid on any portion of the assessed penalty that is more
16 than 90 days past due, which nonpayment penalty shall be calculated as of the
17 date the underlying penalty first becomes past due.

18 4.7. The penalty described in Paragraph 4.2, above, including any additional costs
19 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA
20 and shall not be deductible for purposes of federal taxes.

21 4.8. The undersigned representative of Respondent certifies that he is fully authorized
22 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

23 4.9. Respondent shall bear its own costs and attorneys fees in connection with this
24 matter.

1 4.10. The provisions of this CAFO shall bind Respondent and its agents, servants,
2 employees, successors, and assigns.

3 4.11. The above provisions are STIPULATED AND AGREED upon by Respondent
4 and EPA.

5 DATED:

AXSS USA, LLC.:

6 09.07.2010

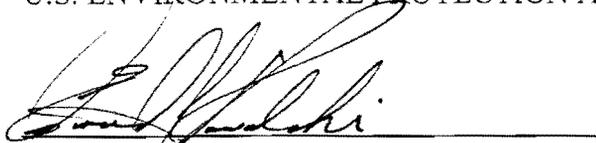


7
8 KEVIN HOWARD
9 President
For Respondent

10 DATED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

11 9/15/2010



12 EDWARD J. KOWALSKI
13 Director, Office of Compliance and Enforcement
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V. FINAL ORDER

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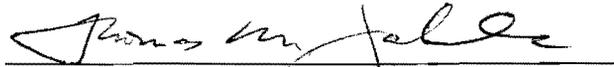
V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

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

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 16th day of September, 2010.



Thomas M. Jahnke
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

1 CERTIFICATE OF SERVICE

2 The undersigned certifies that the original of the attached **CONSENT AGREEMENT**
3 **AND FINAL ORDER** in the Matter of: **Axss USA, LLC. Docket No. FIFRA 10-2010-0230,**
4 was filed with the Regional Hearing Clerk on Sept. 16, 2010.

5 On Sept. 16, 2010 the undersigned certifies that a true and correct copy of the document
6 was hand delivered to:

7 Mercer St. Peter, Assistant Regional Counsel
8 U.S. Environmental Protection Agency, Region 10
9 1200 Sixth Avenue, Suite 900, Mail Stop ORC-158
10 Seattle, Washington 98101

11 Further, the undersigned certifies that a true and correct copy of the aforementioned
12 document was placed in the United States mail certified/return receipt on Sept. 16, 2010, to:

13 Kevin Howard, President
14 Axss USA, LLC
15 6600 West 20th Street, Suite 26
16 Greeley, Colorado 80633

17 Dated: _____

18 9/16/2010

19 for Carol Kennedy
20 Regional Hearing Clerk