

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

TAPI Puerto Rico, Inc.
Highway 3, km 76.3
C Street, Humacao Industrial Park
Humacao, PR 00791

Respondent

Docket No. CAA-02-2011-1204

CONSENT AGREEMENT
AND FINAL ORDER

Under Section 113(d) of the
Clean Air Act, 42 U.S.C. § 7413(d)

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 AUG 29 A 10:47
REGIONAL HEARING
CLERK

I. PRELIMINARY STATEMENT

Complainant, the United States Environmental Protection Agency ("EPA"), Region 2, and Respondent TAPI Puerto Rico, Inc. by their undersigned representatives, hereby consent and agree as follows:

- 1) EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint, Docket No. CAA-02-2011-1204 ("the Complaint"), against Respondent on September 30, 2011.
- 2) Respondent is the owner and/or operator of a pharmaceutical manufacturing plant located at Highway 3, km 76.3, C Street, Humacao Industrial Park, Humacao, Puerto Rico, ("the Facility").
- 3) The Complaint charged Respondent with one count for violations of Section 112(r)(7) of the Act, and the regulations promulgated at 40 C.F.R. Part 68, for alleged failure to fully comply with the requirements for a risk management plan ("RMP") at the Facility.
- 4) Respondent hereby certifies that it is in compliance with the claims made in the Complaint. EPA verified and found the Facility to be in compliance with applicable RMP requirements.
- 5) Respondent admits the jurisdictional allegations set forth in the Complaint.
- 6) Pursuant to Section 113(d) of the Act, and taking into consideration the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is eighty seven thousand dollars (\$87,000).

- 7) Respondent consents to the issuance of this Consent Agreement and Final Order (“CA/FO”) and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.
- 8) Respondent agrees to pay eighty seven thousand dollars (\$87,000) to settle as a civil penalty for the violations alleged in the Complaint and set forth in Paragraph 3, above, by cashier's or certified check payable to the “Treasurer, United States of America.”
- 9) Pursuant to Section 113(d) of the Act, Respondent shall pay the amount of eighty seven thousand dollars (\$87,000), in three payments of twenty nine thousand dollars (\$29,000) each. The first payment is due within thirty (30) days of the date of signature of the attached Final Order, the second payment is due within two hundred and seventy five (275) days of the date of signature of the attached Final Order, and the third payment is due within five hundred and fifty (550) days of the date of signature of the attached Final Order.

Such payments shall be made by cashier's or certified checks or by Electronic Fund Transfer (“EFT”).

If a payment is made by check, then the check shall be made payable to the “Treasurer, United States of America,” and shall be sent to:

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

The check shall be identified with a notation listing the following: In the Matter of TAPI Puerto Rico, Inc., and shall bear thereon the Docket Number CAA-02-2011-1204.

If a payment is made by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read: “D 68010727 Environmental Protection Agency”
- f. Name of Respondent: TAPI Puerto Rico, Inc.
- g. Case Number: CAA-02-2011-1204

- a) Within five (5) days of making each payment, Respondent shall send a copy of each check or a record of each wire transfer, identifying whether the payment is the first, second or third payment, to each of the following individuals:

Carolina Jordán-García
Assistant Regional Counsel
U.S. Environmental Protection Agency
City View Plaza II - Suite 7000
48 Rd. 165, Km. 1.2
Guaynabo, PR 00968-8069

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007

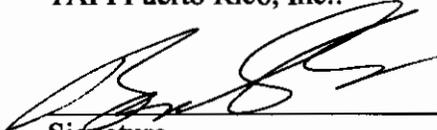
- b) Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in this Paragraph, plus allowable interest and such other penalties as provided for in this Consent Agreement.
- c) Further, if any of the payments is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- d) Respondent also agrees to pay a quarterly non-payment penalty for each calendar quarter during which such nonpayment persists, pursuant to Section 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5). This quarterly non-payment penalty will be imposed for each calendar quarter during which such non-payment persists. The quarterly nonpayment penalty is 10% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter.
- 10) The penalties and interest specified in Paragraph 9, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Commonwealth or federal taxes.

II. GENERAL PROVISIONS

- 11) Respondent neither admits nor denies the factual allegations contained in the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.
- 12) Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Administrator or Deputy Regional Administrator of EPA Region 2, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Administrator or Deputy Regional Administrator, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
- 13) This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
- 14) Each party to this action shall bear its own costs and attorney fees.
- 15) The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.
- 16) The Director of the Caribbean Environmental Protection Division of EPA, Region 2, has been delegated the authority to sign the Consent Agreement in this action, and the Regional Administrator of EPA Region 2 has been delegated the authority to sign the Final Order in this action.
- 17) Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of TAPI Puerto Rico, Inc.
Docket No. CAA-02-2011-1204

For Respondent
TAPI Puerto Rico, Inc.:



Signature

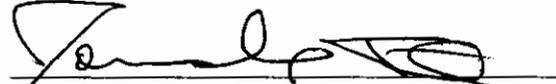
Date: 05/30/12

Braulio Santiago
Name (Printed or Typed)

General Manager
Title (Printed or Typed)

Consent Agreement In the Matter of TAPI Puerto Rico, Inc.
Docket No. CAA-02-2011-1204

For Complainant
U.S. Environmental Protection Agency:



Date: 7-3-12

José C. Font, Acting Director
Caribbean Environmental Protection
Division, Region 2

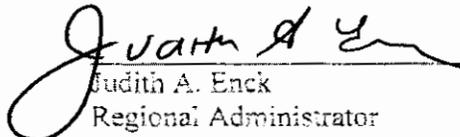
In the Matter of TAPI Puerto Rico, Inc., Docket No. CAA-02-2011-1204

FINAL ORDER

The Consent Agreement in the Matter of TAPI Puerto Rico, Inc., Docket No. CAA-02-2011-1204, signed on behalf of Respondent TAPI Puerto Rico, Inc., and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA, as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

Date

7/3/12



Judith A. Enck
Regional Administrator
U.S. EPA, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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CONSENT AGREEMENT
AND FINAL ORDER

Respondent

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Consent Agreement and Final Order**, dated July , 2012, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by facsimile, **Overnight Mail** to:

Karen Maples
Regional Hearing Clerk
Region II
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866
Fax (212) 637-3202.

Copy by facsimile, **Certified Mail/Return Receipt** to:

Attorney for Respondent:
Gretchen Méndez-Vilella, Esq.
Goldman Antonetti & Córdova, P.S.C.
American International Plaza, 14th Floor
250 Muñoz Rivera Avenue
San Juan, P.R. 00918
Telephone 787-759-8000
Fax 787-474-2407

Copy by facsimile, **Overnight Mail** to:

Chief Administrative Law Judge
Honorable Susan L. Biro
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, D.C. 20005
Fax (202) 565-0044.

August 27, 2012
Date

Alicia Say
Name