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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:

Docket No. FIFRA-09-2007-0008

Four Quarters Wholesale, Inc.,

CONSENT AGREEMENT AND FINAL ORDER

Respondent.

I. CONSENT AGREEMENT

Complainant, the Director of the Communities and Ecosystems Division, United States Environmental Protection Agency (“EPA”), Region IX, and Respondent, Four Quarters Wholesale, Inc., agree to settle this civil administrative action brought under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. §§ 136 *et seq.*, and consent to the entry of this Consent Agreement and Final Order (the “CAFO”).

A. AUTHORITY

1. Complainant initiated this civil administrative proceeding for the assessment of a civil penalty against Respondent under FIFRA pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (“the Complaint”) against Respondent on May 9, 2007.

2. The Complaint alleges that Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by distributing unregistered pesticides.

1 3. Complainant and Respondent have agreed to resolve this civil administrative
2 proceeding arising under FIFRA by executing this CAFO.

3 B. RESPONDENT'S ADMISSIONS

4 4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
5 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
6 Respondent; (ii) admits the specific factual allegations contained in the Complaint; (iii) consents
7 to any and all conditions specified in this CAFO and to the assessment of the civil administrative
8 penalty under Section I.C of this CAFO; (iv) waives any right to contest the allegations contained
9 in the Complaint; and (v) waives the right to appeal the proposed Final Order contained in this
10 CAFO.

11 C. CIVIL ADMINISTRATIVE PENALTY

12 5. In settlement of the violations specifically alleged in the Complaint, Respondent shall
13 pay a civil administrative penalty of SIX THOUSAND DOLLARS (\$6,000). Respondent shall
14 pay this civil penalty within thirty (30) days of the effective date of this CAFO, shall make this
15 payment by cashier's or certified check payable to the "Treasurer, United States of America," and
16 shall send the check to the following address:

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

21 Respondent shall accompany its payment with a transmittal letter identifying the case name, the
22 case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty,
23 Respondent shall send a copy of the check and transmittal letter to the following addresses:

24 Regional Hearing Clerk
25 Office of Regional Counsel (ORC-1)
26 U.S. Environmental Protection Agency, Region IX
27 75 Hawthorne Street
28 San Francisco, CA 94105

1 Julie Jordan
2 Communities and Ecosystems Division (CED-5)
3 U.S. Environmental Protection Agency, Region IX
4 75 Hawthorne Street
5 San Francisco, CA 94105

6 Edgar P. Coral
7 Office of Regional Counsel (ORC-2)
8 U.S. Environmental Protection Agency, Region IX
9 75 Hawthorne Street
10 San Francisco, CA 94105

11 6. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
12 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to use
13 such payment as a tax deduction.

14 7. If Respondent fails to pay the assessed civil administrative penalty of SIX THOUSAND
15 DOLLARS (\$6,000), as identified in Paragraph 5, by the deadline specified in that Paragraph, then
16 Respondent shall also pay a stipulated penalty to EPA. The amount of the stipulated penalty will
17 be THREE THOUSAND DOLLARS (\$3,000), and will be immediately due and payable on the
18 day following the deadline specified in Paragraph 5, together with the initially assessed civil
19 administrative penalty of SIX THOUSAND DOLLARS (\$6,000), resulting in a total penalty due of
20 NINE THOUSAND DOLLARS (\$9,000). Failure to pay the civil administrative penalty specified
21 in Paragraph 5 by the deadline specified in that Paragraph may also lead to any or all of the
22 following actions:

23 (1) EPA may refer the debt to a credit reporting agency, a collection
24 agency, or to the Department of Justice for filing of a collection action in the appropriate United
25 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
26 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
27 collection proceeding.

28 (2) The U.S. Government may collect the debt by administrative offset
(i.e., the withholding of money payable by the United States to, or held by the United States for, a
person to satisfy the debt the person owes the U.S. Government), which includes, but is not
limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
C.F.R. §§ 13(C) and 13(H).

1 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
2 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
3 business with EPA or engaging in programs EPA sponsors or funds.

4 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
5 Government may assess interest, administrative handling charges, and nonpayment penalties
6 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
7 civil administrative penalty specified in Paragraph 5 by the deadline specified in that Paragraph.

8 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §
9 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
10 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
11 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
12 (30) days of the effective date of this CAFO.

13 (b) Administrative Handling Charges. Pursuant to 31 U.S.C. §
14 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on
15 either actual or average cost incurred (including both direct and indirect costs), for every month
16 in which any portion of the assessed penalty is more than thirty (30) days past due.

17 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
18 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
19 may be assessed on all debts more than ninety (90) days delinquent.

20 D. CERTIFICATION OF COMPLIANCE

21 8. In executing this CAFO, Respondent certifies that: (1) it is no longer selling or
22 distributing any unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
23 136j(a)(1)(A); and (2) it has complied with all other FIFRA requirements at all facilities under its
24 control.

25 E. ADDITIONAL CERTIFICATIONS

26 9. In executing this CAFO, Betsy Hua, the President, C.E.O., and/or Owner of
27 Respondent, certifies that: (1) she will formally dissolve the Four Quarters Wholesale, Inc.
28 corporation (identified by the California Secretary of State as Corporation Number C1764435)

1 within ninety (90) days of the effective date of this CAFO; and (2) she will pay a stipulated
2 penalty of \$20,000 (in addition to whatever administrative civil penalty is appropriate for the
3 underlying violations) if any corporation of which she is a President, C.E.O., or Principal violates
4 Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing unregistered
5 pesticides within five (5) years of the effective date of this CAFO.

6 F. RETENTION OF RIGHTS

7 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
8 liabilities for federal civil penalties for the violations and facts specifically alleged in the
9 Complaint. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
10 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
11 ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. EPA
12 specifically reserves any and all authorities, rights, and remedies available to it (including, but
13 not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation
14 of this CAFO or any violation not specifically alleged in the Complaint.

15 11. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
16 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
17 and permits.

18 G. ATTORNEYS' FEES AND COSTS

19 12. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in
20 this proceeding.

21 H. EFFECTIVE DATE

22 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
23 effective on the date that the Final Order contained in this CAFO, having been approved and
24 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

25 I. BINDING EFFECT

26 14. The undersigned representative of Complainant and the undersigned representative of
27 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
28 of this CAFO and to bind the party he or she represents to this CAFO.

1 15. The provisions of this CAFO shall apply to and be binding upon Respondent and its
2 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
3 and assigns.
4

5 FOR RESPONDENT FOUR QUARTERS WHOLESALE, INC.:

6
7 10/27/08
8 DATE

9 Betsy Hua
10 Betsy Hua
11 President
12 Four Quarters Wholesale, Inc.
13 c/o Kenneth I. Gross, Esq.
14 Law Offices of Kenneth I. Gross
15 894 Broadway, Suite 504
16 Los Angeles, CA 90014
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FOR COMPLAINANT EPA:

14 10/30/08
15 DATE

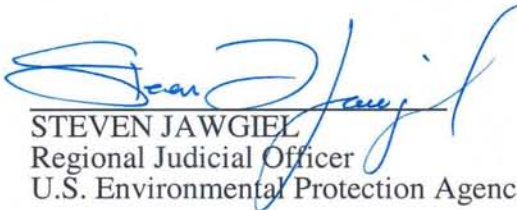
16 Katherine A. Taylor
17 KATHERINE A. TAYLOR
18 Associate Director for Agriculture
19 Communities and Ecosystems Division
20 U.S. Environmental Protection Agency, Region IX
21 75 Hawthorne Street
22 San Francisco, California 94105
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1 II. FINAL ORDER

2 EPA and Four Quarters Wholesale, Inc. having entered into the foregoing Consent
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2007-0008) be
5 entered, and Respondent shall pay a civil administrative penalty in the amount of SIX
6 THOUSAND DOLLARS (\$6,000), and comply with the terms and conditions set forth in the
7 Consent Agreement.

8
9
10 10/31/08
11 DATE

12 
13 STEVEN JAWGIEL
14 Regional Judicial Officer
15 U.S. Environmental Protection Agency, Region IX
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CERTIFICATION / CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket No. FIFRA-9-2007-0008, was hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency - Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy thereof was placed in the United States Mail, certified mail (7008 1140 0002 6858 3456), return receipt requested, addressed to the following address:

Betsy Hua
President
Four Quarters Wholesale, Inc.
c/o Kenneth I. Gross, Esq.
Law Offices of Kenneth I. Gross
894 Broadway, Suite 504
Los Angeles, CA 90014

Date: 11/7/2008

By: 

DANIELLE CARR
Regional Hearing Clerk
United States Environmental
Protection Agency, Region IX
75 Hawthorne Avenue
San Francisco, California 94105-3143