



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

JUN 1 2015

**CERTIFIED MAIL RETURN RECEIPT REQUESTED #7010 2780 0001 3624 9495**

Mr. Mark Ludwig  
Ludwig, Inc.  
P.O. Box 450  
Waldo, AR 71770

**RE: In the Matter of Ludwig, Inc., Waldo, Arkansas 71770**  
**EPA Docket #: EPCRA-06-2015-0502**

Dear Mr. Ludwig:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CAFO) for the above referenced facility that has been filed with the EPA Region 6 Regional Hearing Clerk. As set forth in the CAFO, and agreed upon by both parties Ludwig has thirty (30) days from the filing date to submit its initial payment of \$7,000.00 to EPA. The remaining payment of \$7,000 shall be made on or before January 29, 2016. Your payments should be made payable to the Treasurer, United States of America, EPA – Region 6. To ensure proper credit is applied to your case, please specify the docket number, listed above, on your method of payment. In addition, please forward a photocopy of your payment and transmittal letter to the EPA personnel listed in the CAFO. Once our Cincinnati Finance Office acknowledges receipt of your final payment, we shall consider this case closed.

If you have any questions regarding this matter, please contact Brian Tomasovic at (214) 665-9725, in the Office of Regional Counsel, or Morton E. Wakeland, Jr., of my staff, at (214) 665-8116. Your cooperation in the settlement of this case is most appreciated.

Sincerely yours,

  
Wren Stenger  
Director  
Multimedia Planning and  
Permitting Division

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2015 JUN -1 AM 10:41  
REGIONAL HEARING CLERK  
EPA REGION VI

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IN THE MATTER OF:	(	DOCKET NO. EPCRA-06-2015-0502
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Ludwig, Inc.	(	
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	(	CONSENT AGREEMENT
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Waldo, Arkansas	(	
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RESPONDENT	(	
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A. PRELIMINARY STATEMENT

1. This is a consent agreement with the terms and conditions of settlement in an administrative penalty assessment proceeding brought under Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42-U.S.C. § 11045(c), and 40 C.F.R. §

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22.13. This consent agreement is made in accordance with Sections 22.18 and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

Consent Agreement

*Ludwig, Inc.*

Docket Number EPCRA-06-2015-0502

3. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.4(b) and 22.18(b).

## B. CIVIL PENALTY AND PENALTY CONDITIONS OF SETTLEMENT

### General

4. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- a. admits the jurisdictional allegations of the Complaint;
- b. neither admits nor denies the specific factual allegations contained in the Complaint;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the conditions specified in this CAFO;
- e. waives any right to contest the alleged violations set forth in the Complaint; and
- f. waives its rights to appeal the Final Order included in this CAFO.

5. For the purpose of this proceeding, Respondent:

- a. agrees that the Complaint states a claim upon which relief may be granted against Respondent;
- b. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in the Complaint;

- c. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Western District of Arkansas;
- d. waives any right it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.
- e. Agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

6. Upon consideration of the entire record, EPA has assessed a civil penalty in the amount of fourteen thousand dollars and no cents (\$14,000.00) ("EPA Penalty"), divided into two equal payments.

7. Respondent agrees to:

- a. pay seven thousand dollars (\$7000.00) of the EPA Penalty within 30 calendar days of the Effective Date of this CAFO

Consent Agreement

*Ludwig, Inc.*

Docket Number EPCRA-06-2015-0502

b. pay the remaining seven thousand dollars (\$7000.00) of the EPA Penalty on or before January 29, 2016.

c. make each payment of the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving US currency; or (5) On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Consent Agreement  
*Ludwig, Inc.*  
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Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact – Jesse White (301) 887-6548

For On Line Payment:

<https://www.pay.gov/paygov/>  
Enter sfo 1.1 in search field  
Open form and complete required fields.

PLEASE NOTE: The docket number EPCRA-06-2015-0502 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Ludwig, Inc.'s name and address, the case name, and docket number EPCRA-06-2015-0502. Ludwig, Inc.'s adherence to this request will ensure proper credit is given when penalties are received for the Region. Ludwig, Inc. shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following addresses:

Morton Wakeland (6PD-T)  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

And

Region 6 Hearing Clerk (6RC-D)

U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

8. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 40 C.F.R. §§ 13.13, 13.14, and 13.33;

b. collect the above-referenced 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 Government); which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

9. The Respondent hereby certifies that as of the date of the execution of this CAFO, the facility is now, to the best of its knowledge, in compliance with all applicable requirements of EPCRA.

10. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until the EPA has provided written approval.

11. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information.

12. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

13. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

14. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

### C. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER



15. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Complaint.

16. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

17. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

18. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

19. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

20. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

#### D. EFFECTIVE DATE

21. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing the EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO

Consent Agreement

*Ludwig, Inc.*

Docket Number EPCRA-06-2015-0502

shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

Consent Agreement

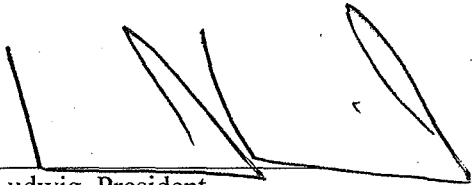
Ludwig, Inc.

Docket Number EPCRA-06-2015-0502

The foregoing Consent Agreement In the Matter of Ludwig, Inc., Docket No. EPCRA-06-2015-0502 is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 5/8/15



Mark Ludwig, President  
Ludwig, Inc.  
P.O. Box 450  
Waldo, AR 71770

FOR COMPLAINANT:

Date: 5/21/15



Wren Stenger  
Director  
Multimedia Planning and  
Permitting Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

Consent Agreement  
Ludwig, Inc.  
Docket Number EPCRA-06-2015-0502

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ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

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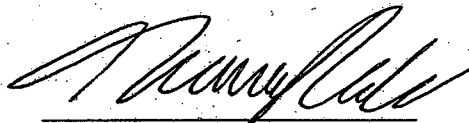
IN THE MATTER OF:	(	DOCKET NO. EPCRA-06-2015-0502
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Ludwig, Inc.	(	
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	(	FINAL ORDER
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RESPONDENT	(	
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**FINAL ORDER**

Pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("CAA" or the "Act"), 42 U.S.C. §11045(c), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. / Ludwig, Inc. is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 5/27/15



Regional Judicial Officer  
U.S. EPA, Region 6

Consent Agreement  
Ludwig, Inc.  
Docket Number EPCRA-06-2015-0502

CERTIFICATE OF SERVICE

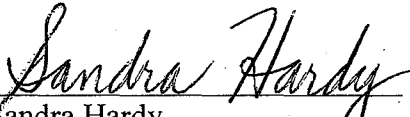
I hereby certify that on June 1, 2015, the original and one copy of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7010 2780 0001 3624 9495

Mark Ludwig  
Ludwig, Inc.  
P.O. Box 450  
Waldo, AR 71770

EMAILED COPY

G. Alan Perkins, Counsel for Respondent  
PPGMR Law

  
Sandra Hardy  
Office of Regional Counsel Paralegal  
U.S. EPA, Region 6  
Dallas, Texas