UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:	:	**Docket No.: TSCA-03-2023-0034**
	:	
Robert Lauter d/b/a Prime Cut Paint,	:	**COMPLAINANT'S REBUTTAL**
	:	**PREHEARING EXCHANGE**
Respondent	:	

COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE

Pursuant to 40 C.F.R. § 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice") and in response to Chief Administrative Law Judge Susan L. Biro's January 19, 2023 Prehearing Order ("Prehearing Order"), Complainant, the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency ("EPA") Region III, hereby sets forth its Rebuttal Prehearing Exchange.

Complainant has only one additional exhibit to submit at this time as Respondent opted not to file a Prehearing Exchange (See CX 73). Per Paragraph 3 of the Prehearing Order, Respondent was required to submit the following as part of its Prehearing Exchange by April 7, 2023:

A. a copy of any documents in support of denials made in his Answer;
B. a copy of any documents in support of any asserted affirmative defenses and an explanation of the arguments in support of any such affirmative defenses;
C. all factual information Respondent considers relevant to the assessment of a penalty and any supporting documentation; and
D. if Respondent takes the position that the proposed penalty should be reduced or eliminated on any grounds, such as an inability to pay, then provide a detailed narrative statement explaining the precise factual and legal bases for his position and a copy of any and all documents upon which he intends to rely in support of such position.

To date, Respondent has not complied with the Prehearing Order or requested an extension of the deadline to comply. Respondent communicated with the Tribunal via email on April 18, 2023 and stated that "[A]s outlined in item 1. of the answer, I have challenged subject matter jurisdiction so it would be inappropriate for me to engage in any formal proceedings" (CX 73). Complainant addressed the jurisdictional matters directly in the Initial Prehearing Exchange. Given Respondent's April 18th email as well as past correspondence indicating likewise, it is Complainant's understanding that Respondent does not intend to participate in any proceedings before this Administrative Court.

Respectfully submitted,

_____   _____

Date   Patrick J. Foley
                                         Assistant Regional Counsel
                                         U.S. EPA, Region III
                                         Four Penn Center
                                         1600 JFK Blvd
                                         Philadelphia, PA 19103

<div align="center">

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMNISTRATOR

</div>

In the Matter of:	:	
	:	**Docket No. TSCA-03-2023-0034**
	:	
Robert Lauter d/b/a Prime Cut Paint,	:	
	:	
Respondent.	:	
	:	

<div align="center">

CERTIFICATE OF SERVICE

</div>

I certify that, on the date below, the foregoing **COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE** was served upon the persons listed in the manner indicated.

Original and one copy via THE OALJ E-Filing System

Mary Angeles, Headquarters Hearing Clerk

One copy via THE OALJ E-Filing System

Susan L. Biro, Chief Administrative Law Judge

Copies served via email and certified mail to:

Mr. Robert Lauter d/b/a Prime Cut Paint
1414 Baychester Ave.
Norfolk, VA 23503
primecutpaint@gmail.com

_____   _____

Date   Patrick J. Foley
                                                                Assistant Regional Counsel
                                                                U.S. EPA, Region III
                                                                Four Penn Center
                                                                1600 JFK Blvd
                                                                Philadelphia, PA 19103