

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region 2**

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In the Matter of :  
: Tower Exterminating, Corp. aka Tower :  
& Son Exterminating Corp. and :  
Wilson J. Torres Rivera :  
: Respondents, :  
: Proceeding Under the Federal Insecticide, :  
Fungicide, and Rodenticide Act, as :  
amended, and the Clean Air Act, as amended :  
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Honorable Helen Ferrara  
Presiding Officer

Docket No. FIFRA-02-2016-5306

2016 DEC 15 03:31  
FIFRA-02-2016-5306

**MOTION FOR DEFAULT JUDGMENT ON LIABILITY**

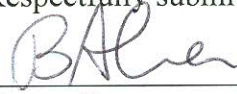
Complainant, pursuant to 40 C.F.R. §§ 22.16(a) and 22.17(b), hereby moves the Presiding Officer for an order finding the Respondents in default and liable for the violations alleged in the Complaint. Specifically, Complainant requests that this Court find that Respondents are in default for failing to file an Answer to the Complaint and that: (1) Wilson J. Torres Rivera (hereinafter "Torres") is liable for the violations of the requirements of the Federal Insecticide, Fungicide & Rodenticide Act ("FIFRA") alleged in Counts 1 through 90 (FIFRA violations) of the Complaint; and (2) Tower & Son Exterminating Corp. (hereinafter "Tower"), is liable for the FIFRA violations alleged in Counts 1 through 90 (FIFRA violations) and for the violations of the requirements of the Clean Air Act ("CAA") set out in Counts 91 and 92 (CAA violations) of the Complaint. Complainant's motion is fully supported by the attached

Complaint, Memorandum in Support, the Declaration of Bruce Aber, and the accompanying exhibits.

In brief, both Torres and Tower (hereinafter collectively called “Respondents”) conduct a commercial pesticide control business from an establishment located at Road 829 Km 6.2, Santa Olaya Ward, sector Cruz Vergara, Bayamon, Puerto Rico 00960 and with a mailing address at P.O. Box 1045, Bayamon, PR 00960. On March 1, 2016, Complainant caused to be served, by certified mail and return-receipt requested, upon each of the Respondents at the business’ mailing address (as well as upon their counsel, Peter Diaz, who represented them during the pre-filing negotiation period with EPA) a copy of the Complaint, alleging violations of the Federal Insecticide, Fungicide, and Rodenticide Act and of the Clean Air Act. Enclosed with the Complaints were copies of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination of Suspension of Permits (“Consolidated Rules”), found at 40 C.F.R. Part 22. Additionally, on April 28, 2016 and May 6, 2016, Complainant had sent to attorney Diaz, by certified mail and return-receipt requested and email, a letter memorializing the non-response of his clients and enclosing copies of the Complaint and the Consolidated Rules. Furthermore, on May 18, 2016, Complainant against sent, by certified mail and return-receipt requested, to each Respondent a copy of the Complaint and the Consolidated Rules, along with a letter alerting each that the deadline to file an Answer had passed and of EPA’s intention to seek a default order. An Answer to the Complaint was due on or about April 6, 2016. To date, neither Respondent has filed an Answer to the Complaint nor has their presumptive counsel done so upon either Respondent’s behalf.

Any response by these Respondents to Complainant's present motion must be filed within fifteen (15) days after service of such motion, in accordance with 40 CFR § 22.16(b) (Response to Motions). A failure to respond by any party within the designated period constitutes a waiver of any objection to the motion.

Date: December 15, 2016  
New York, NY

Respectfully submitted,  


Bruce Aber  
Assistant Regional Counsel  
Waste & Toxic Substances Branch  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the Motion for Default Judgment for Liability, dated December 15, 2016, along with the following supporting papers (Memorandum in Support, Declaration and Order) was sent this day in the following manner to the addresses listed below:

**Original and Copy Hand-Carried to the Regional Hearing Clerk**

Karen Maples  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

**Copy by Certified Mail/Return Receipt Requested and Regular Mail to:**

Wilson J. Torres Rivera  
c/o Tower & Son Exterminating Corp.  
PO Box 1045  
Bayamon, PR 00960

Wilson J. Torres Rivera, President  
Tower & Son Exterminating Corp  
P.O. Box 1045  
Bayamón, Puerto Rico 00960

Dated: December 15, 2016  
New York, New York



Yolanda Majette  
Office of Regional Counsel  
Waste & Toxic Substances Branch Secretary