



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 13 2006

REPLY TO THE ATTENTION OF:

DT-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8910 5881

Ms. Stephanie C. Slatkin
Fortune Brands, Inc.
520 Lake Cook Road
Deerfield, IL 60015-5611

Consent Agreement and Final Order, Docket No. EPCRA-05-2007-0005

Dear Ms. Slatkin:

I have enclosed an original signed copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on December 13, 2006 with the Regional Hearing Clerk.

The civil penalty in the amount of \$19,086 is to be paid in the manner prescribed in paragraph 58 and 59. Please be certain that the number BD 27507448004 and the docket number are written on both the transmittal letter and on the check. The payment is due by January 12, 2007. *bow*

Thank you for your cooperation in resolving this matter.

Sincerely,

Robert Allen
Pesticides and Toxics Branch

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)
Steven Kaiser, ORC/C-14J (w/Encl.)
Eric Volck, Cincinnati Finance/MWD (w/Encl.)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
American Lock Company)
Crete, Illinois)
)
Respondent)
_____)

Docket No. EPCRA-05-2007-0005

2007 DEC 13 AM 10:30
REGION 5
CLERK
[Signature]

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (U.S. EPA), Region 5, and American Lock Company (together, the Parties), have agreed to a settlement of this action before the filing of a complaint. Therefore, this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Section 22.13(b), 22.18(b)(2) and (3), by the issuance of this Consent Agreement and Final Order (CAFO).

I. JURISDICTION

1. This is an administrative action for the assessment of civil penalties brought pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. Section 11001 et seq., also known as the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. Section 11045; and the Consolidated Rules.

II. PARTIES

2. For Counts I, II and III, the complainant, by delegation from the Administrator of U.S. EPA and the Regional Administrator, U.S. EPA, Region 5, is the Chief of the Pesticides and Toxics Branch, Waste, Pesticides and Toxics Division.

3. For Counts IV and V, the complainant, by delegation from the Administrator of U.S. EPA and the Regional Administrator, U.S. EPA, Region 5, is the Branch Chief of the Emergency Response Branch 1, Superfund Division.

4. The Respondent is American Lock Company, a Delaware corporation, referred to herein after as "American Lock."

III. STIPULATIONS

5. American Lock admits to the jurisdictional statements set forth above in Section I. of this CAFO.

6. American Lock neither admits nor denies the specific factual allegations set forth below in Section V. of this CAFO.

7. The Parties consent to the assessment of the civil penalty specified in this CAFO and to all other terms and conditions of this CAFO.

8. American Lock certifies that it is complying fully with EPCRA Sections 312 and 313, 42 U.S.C. Sections 11022 and 11023.

9. American Lock waives any right to an administrative or judicial hearing on any issue of fact or law set forth in this Consent Agreement and waives its right to appeal the Final Order accompanying this Consent Agreement.

10. The Parties agree that it is in the public interest to settle this action without litigation upon the terms in this CAFO.

**IV. ALLEGATIONS COMMON
TO VIOLATIONS OF BOTH EPCRA SECTION 312 AND 313**

11. American Lock is a “person,” as defined at Section 329(7) of EPCRA, 42 U.S.C. Section 11049(7).

12. At all times relevant to this CAFO, American Lock was the owner or operator of the facility located at 3400 West Exchange Road, Crete, Illinois, referred to herein after as the “Facility.”

13. The Facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

14. The Facility owned by American Lock is a “facility,” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. Section 11049(4).

V. VIOLATIONS OF EPCRA SECTION 313

15. Section 313 of EPCRA and 40 C.F.R. Section 372.22 and 372.30 require the owner or operator of a facility that: has 10 or more full-time employees; is covered by the Standard Industrial Classification (SIC) major group code 10 (except 1011, 1081, and 1094), major group code 12 (except 1241), major group codes 20 through 39, industry codes 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C, 42 U.S.C. Section 6921 et seq.), industry codes 5169

or 5171, or industry code 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis) and that meets one of the criteria set forth in 40 C.F.R. Section 372.22(b)(1)-(3); and manufactured, processed, or otherwise used a toxic chemical in an amount in excess of an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. Section 372.25, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of U.S. EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the established threshold during that preceding calendar year.

16. At all times relevant to this CAFO, American Lock had “10 or more full-time employees,” as defined at 40 C.F.R. Section 372.3, at the Facility.

17. At all times relevant to this CAFO, the Facility had an SIC code of 3429, a covered SIC code as defined under Section 313 of EPCRA and 40 C.F.R. Section 372.22.

18. As set forth at Section 313(f) of EPCRA and 40 C.F.R. Section 372.25, except as provided in 40 C.F.R. Sections 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years subsequent to and including 1989. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for a calendar year subsequent to and including 1987.

19. In conformity with the “Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations” (the Self-Disclosure Policy), 65 Fed. Reg. 19618 (April 11, 2000), the violations of Section 313 of EPCRA at American

Lock's Facility which are the subject of this CAFO were voluntarily disclosed to U.S. EPA by American Lock by letter dated July 5, 2005, and by American Lock's affidavit dated February 10, 2006.

Count 1: Calendar Year 2003, Form R, Copper

20. During calendar year 2003, American Lock's Facility processed, as that term is defined at 40 C.F.R. Section 372.3, copper, CAS No. 7440-50-8, a chemical listed at 40 C.F.R. Section 372.65, in the amount of 748,159 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. Section 11023(f) and 40 C.F.R. Section 372.25.

21. American Lock was required to submit to the Administrator of U.S. EPA and to the State of Illinois a Form R or a Form A for copper for calendar year 2003 by July 1, 2004.

22. American Lock did not submit to the Administrator of U.S. EPA and to the State of Illinois a Form R or a Form A for copper for calendar year 2003 by July 1, 2004.

23. American Lock submitted to the Administrator of U.S. EPA and to the State of Illinois the required Form R for copper on July 7, 2005.

Count 2: Calendar Year 2003, Form R, Lead

24. During calendar year 2003, American Lock's Facility processed, as that term is defined at 40 C.F.R. Section 372.3, lead, CAS No. 7439-92-1, a chemical listed at 40 C.F.R. Section 372.65, in the amount of 38,274 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. Section 11023(f) and 40 C.F.R. Section 372.25.

25. American Lock was required to submit to the Administrator of U.S. EPA and to the

State of Illinois a Form R or a Form A for lead for calendar year 2003 by July 1, 2004.

26. American Lock did not submit to the Administrator of U.S. EPA and to the State of Illinois a Form R or a Form A for lead for calendar year 2003 by July 1, 2004.

27. American Lock submitted to the Administrator of U.S. EPA and to the State of Illinois the required Form R for lead on July 7, 2005.

Count 3: Calendar Year 2003, Form R, Manganese

28. During calendar year 2003, American Lock's Facility processed, as that term is defined at 40 C.F.R. Section 372.3, manganese, CAS No. 7439-96-5, a chemical listed at 40 C.F.R. Section 372.65, in the amount of 28,095 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. Section 11023(f) and 40 C.F.R. Section 372.25.

29. American Lock was required to submit to the Administrator of U.S. EPA and to the State of Illinois a Form R or a Form A for manganese for calendar year 2003 by July 1, 2004.

30. American Lock did not submit to the Administrator of U.S. EPA and to the State of Illinois a Form R or a Form A for manganese for calendar year 2003 by July 1, 2004.

31. American Lock submitted to the Administrator of U.S. EPA and to the State of Illinois the required Form R for manganese on July 7, 2005.

VI. VIOLATIONS OF EPCRA SECTION 312

32. Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety

data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), appropriate local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

33. At all times relevant to this CAFO, American Lock was an employer at the Facility.

34. At all times relevant to this CAFO, the Illinois State Emergency Response Commission was the state emergency response commission (SERC) for Illinois, under Section 301(a) of EPCRA, 42 U.S.C. Section 11001(a).

35. At all times relevant to this CAFO, the Will County Local Emergency Planning Committee was the local emergency planning committee (LEPC) for Will County, Illinois, under Section 301(c) of EPCRA, 42 U.S.C. Section 11001(c).

36. At all times relevant to this CAFO, the Village of University Park Fire Department was the fire department with jurisdiction over the Facility.

37. 29 C.F.R. Section 1910.1200(d)(3) provides that the chemical manufacturer, importer, or employer evaluating chemicals shall treat the following sources as establishing that

the chemicals listed in them are hazardous: 29 C.F.R. Section 1910 subpart Z.

38. Melkut AL (cutting oil) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. Section 11021(e), and 29 C.F.R. Section 1910.1200(c).

39. Melkut AL has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

Count 4: Calendar Year 2003, Melkut AL

40. During at least one period of time in calendar year 2003, Melkut AL was present at the Facility in an amount equal to or greater than 10,000 pounds, the minimum threshold level.

41. Under 29 C.F.R. Section 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

42. Because during at least one period of time in calendar year 2003 Melkut AL was present at the Facility in an amount equal to or greater than 10,000 pounds, OSHA required American Lock to prepare, or have available, an MSDS for Melkut AL.

43. American Lock failed to submit to the SERC by March 1, 2004, for calendar year 2003 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

44. American Lock failed to submit to the LEPC by March 1, 2004, for calendar year 2003 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

45. American Lock failed to submit to the Village of University Park Fire Department

by March 1, 2004, for calendar year 2003, a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

46. On August 15, 2005, American Lock submitted to the SERC, LEPC, and Village of University Park Fire Department for calendar year 2003 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL.

Count 5: Calendar Year 2004, Melkut AL

47. During at least one period of time in calendar year 2004, Melkut AL was present at the Facility in an amount equal to or greater than 10,000 pounds, the minimum threshold level.

48. Under 29 C.F.R. Section 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

49. Because during at least one period of time in calendar year 2004 Melkut AL was present at the Facility in an amount equal to or greater than 10,000 pounds, OSHA required the American Lock to prepare, or have available, an MSDS for Melkut AL.

50. American Lock failed to submit to the SERC by March 1, 2005, for calendar year 2004 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

51. American Lock failed to submit to the LEPC by March 1, 2005, for calendar year 2004 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

52. American Lock failed to submit to the Village of University Park Fire Department

by March 1, 2005, for calendar year 2004, a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL in violation of Section 312(a) of EPCRA, 42 U.S.C. Section 11022(a).

53. On August 15, 2005, American Lock submitted to the SERC, LEPC, and Village of University Park Fire Department for calendar year 2004 a completed Emergency and Hazardous Chemical Inventory Form including Melkut AL.

VII. CIVIL PENALTY

54. Under Section 325(c) of EPCRA, 42 U.S.C. Section 11045(c), the U.S. EPA Administrator may assess a civil penalty of up to \$25,000.00 per day of violation of EPCRA Section 312. The Debt Collection Improvements Act of 1996, 31 U.S.C. Section 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997, through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

Civil Penalty: EPCRA Section 313 Violations

55. U.S. EPA calculated an initial gravity-based proposed penalty of \$76,344 for the alleged violations described above in Section V of this CAFO.

56. Based upon American Lock's letter dated July 5, 2005, and American Lock's subsequently submitted Affidavit, U.S. EPA has determined that American Lock has satisfied eight of the nine Self-Disclosure Policy criteria. Therefore, a 75 percent reduction of the gravity-based portion of the civil penalty to be assessed in this matter is appropriate under the Self-Disclosure Policy. The resulting gravity-based penalty is \$19,086. U.S. EPA has determined that there was no economic benefit associated with the alleged violations and,

therefore, imposes no additional penalty.

Civil Penalty: EPCRA Section 312 Violations

57. In consideration of American Lock's self-disclosure, U.S. EPA has determined that an appropriate civil penalty to resolve this matter without resort to litigation is \$00.00.

Civil Penalty Payment Provisions

58. Within 30 days after the effective date of this CAFO, American Lock must pay a \$19,086 civil penalty for the alleged violations of EPCRA Section 313 and a \$00.00 civil penalty for the alleged violations of EPCRA Section 312. American Lock must send either a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

The check must reference American Lock's name, the docket number of the CAFO, and the billing document number.

59. American Lock should include with the payment a transmittal letter stating American Lock's name, complete address, the case docket number and the billing document number. American Lock must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Robert J. Allen (DT-8J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

James Entzminger (SC-6J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Steven P. Kaiser (C-14J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

60. This civil penalty is not deductible for federal tax purposes.

61. If American Lock does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not subject to review in a collection action.

62. Pursuant to 31 C.F.R. Section 901.9, American Lock shall pay the following on any amount overdue under this CAFO: interest will accrue on any amount overdue from the date the payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. Section 3717; Respondent shall pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due; and, Respondent shall pay a six percent per annum penalty on any principal amount 90 days past due. This non-payment penalty is in addition to the \$15 handling charge.

VIII. GENERAL PROVISIONS

63. This CAFO resolves only American Lock's liability for federal civil penalties for the violations alleged in Section V of this CAFO.

64. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

65. This CAFO does not affect American Lock's responsibility to comply with EPCRA and other applicable federal, state and local laws and regulations.

66. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policies for Sections 312 and 313 of EPCRA. Except as provided in paragraph 63, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by U.S. EPA.

67. The terms of this CAFO bind Respondent and its successors and assigns.

68. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents, and to bind that party to its terms.

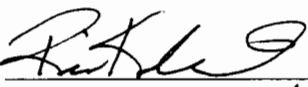
69. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

70. This CAFO constitutes the entire agreement between the parties.

WE AGREE TO THIS CONSENT AGREEMENT AND FINAL ORDER

RESPONDENT:

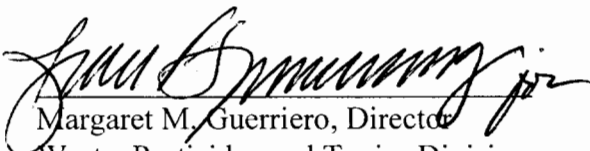
American Lock Company

By:  Date: 10/16/06
Signature and Title VICE PRESIDENT
RICHARD KOLACZEWSKI
Printed Name and Title VICE PRESIDENT

COMPLAINANT FOR VIOLATIONS OF EPCRA SECTION 313

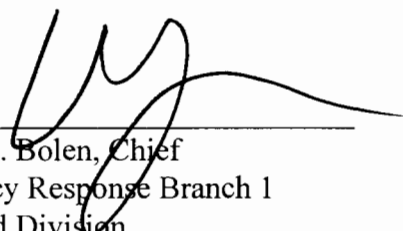
United States Environmental Protection Agency, Region 5

By:  Date: 11-17-06
Mardi Klevs, Chief
Pesticides and Toxics Branch

By:  Date: 11/22/06
Margaret M. Guerriero, Director
Waste, Pesticides and Toxics Division

COMPLAINANT FOR VIOLATIONS OF EPCRA SECTION 312

United States Environmental Protection Agency, Region 5

By:  Date: 11/30/06
William J. Bolen, Chief
Emergency Response Branch 1
Superfund Division

By: Richard C Karl
Richard C. Karl, Director
Superfund Division

Date: 12-4-06

IN THE MATTER OF: AMERICAN LOCK COMPANY
3400 WEST EXCHANGE ROAD, CRETE, ILLINOIS 60417

Docket No. EPCRA-05-2007-0005 *JBW*

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

IN THE MATTER OF:)
)
Master Lock Company)
d/b/a American Lock Company)
)
Crete, Illinois/Oak Creek, Wisconsin)
)
Respondent)
)

Docket No. EPCRA-05-2007-0005 *JBW*

FINAL ORDER

This Consent Agreement and Final Order, agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk.

By: *M. Gade*

Mary A. Gade
Regional Administrator
United States Environmental Protection Agency

Date: 12-5-06

RECEIVED
REGIONAL HEARING CLERK
DEC 13 AM 10:30

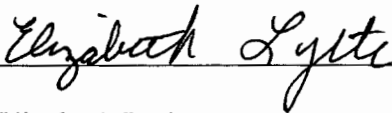
CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving American Lock Company, was filed on December 13, 2006, with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0005 8910 5881, a copy of the original to the Respondents:

Ms. Stephanie C. Slatkin
Fortune Brands, Inc.
520 Lake Cook Road
Deerfield, IL 60015-5611

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Steven Kaiser, ORC/C-14J (w/Encl.)
Eric Volck, Cincinnati Finance/MWD (w/Encl.)



Elizabeth Lytle
Pesticides and Toxics Branch
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Docket No.

EPCRA-05-2007-0005



2006 DEC 13 AM 10:30
RECEIVED
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5