



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

DOCKET NO.: FIFRA-08-2015-0007

IN THE MATTER OF:

Spa Performance and Supply, LLC

RESPONDENT

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)

FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 27th DAY OF May, 2016

Elyana Sutin
Regional Judicial Officer



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DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2016 MAY 25 PM 2: 09

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-L

MEMORANDUM

SUBJECT: Consent Agreement in Spa Performance and Supply LLC, FIFRA-08-2015-0007

FROM: David Cobb, Supervisor
FIFRA Technical Enforcement Program

James H. Eppers, Supervisory Attorney
Legal Enforcement Program

TO: Hon. Elyana R. Sutin, Regional Judicial Officer

With this memorandum, we are transmitting a consent agreement in the above-referenced matter. We request that you issue a final order approving it.

On September 30, 2015, the United States Environmental Protection Agency (EPA) issued a Complaint alleging that the Respondent violated section 12(i)(1)(A) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136j(a)(1)(A), for distributing and selling a cancelled product. The Complaint proposed that the Respondent pay an administrative penalty for its violations, pursuant to section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Under the settlement described in the accompanying consent agreement, the Respondent would pay a cash penalty of \$50. This penalty is based upon a review by Daniela Golden, Financial Analyst, EPA R8, of the Respondent's financial and medical records submitted in support of its inability to pay claim.

For any questions or comments, please contact Brenda Morris, Enforcement Attorney, at 303-312-6891.

cc: Brenda Morris, ENF-L
David Golden, ENF-T

Attachment (consent agreement)



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2016 MAY 25 PM 2: 09

In the Matter of:)
)
Spa Performance and Supply, LLC)
9733 South Mount Jordan Road)
Sandy, Utah 84092)
Respondent.)

FILED
CONSENT AGREEMENT VIII
Docket No. FIFRA-08-2015-0007

Region 8 of the United States Environmental Protection Agency (EPA) and Spa Performance and Supply, LLC (Respondent), by their undersigned representatives, agree as follows:

1. On September 30, 2015, the EPA issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that the Respondent violated section 12(a)(1)(A) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136j(a)(1)(A), for distributing and selling a cancelled product. The Complaint proposed that the Respondent pay an administrative penalty for its violations, pursuant to section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

2. The Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. The Respondent waives its right to contest the allegations in the Complaint and to appeal any final order (Final Order) that an EPA Regional Judicial Officer may issue to approve this consent agreement (Agreement).

4. This Agreement, upon incorporation into a Final Order, is binding upon the EPA, the Respondent, and the Respondent's successors and assigns. Any change in ownership or corporate status of the Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondent's responsibilities under this Agreement.

5. The Respondent agrees to pay a civil penalty in the amount of **fifty dollars** in the manner described below:

- a. Payment shall be in a single payment of fifty dollars (\$50), due no later than 30 calendar days from the date of the Final Order. If the due date for the payment

falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Time to be considered as received that day.

- b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case, be in the amount stated in part “a,” above, and be payable to “Treasurer, United States of America.” The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

If remitted through the Automated Clearing House (ACH) for receiving US currency:

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, Maryland 20737

Contacts: John Schmid (202-874-7026) and REX (Remittance Express)
800-234-5681

If remitted on-line with a debit card, credit card, or bank account transfer:

No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen to access the EPA's Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting "submit data," entering the relevant debit card, credit card, or bank account information.

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

David Golden, Enforcement Officer
U.S. EPA Region 8
FIFRA Enforcement Program (8ENF-UFO)
1595 Wynkoop Street
Denver, Colorado 80202-1129

and

Missy Haniewicz, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

- d. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 and will continue to accrue until payment in full is received (e.g., on the 1st late day, 30 days of interest will have accrued).
- e. A handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges,

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: 5-19-2016

By: _____

James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

Date: 5-18-16

By: _____

David Cobb, Acting Supervisor
Toxics Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

SPA PERFORMANCE AND SUPPLY, LLC,
Respondent.

Date: _____

By: _____

Craig R. Chlerson
For Spa Performance

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **SPA PERFORMANCE AND SUPPLY, LLC; DOCKET NO.: FIFRA-08-2015-0007** was filed with the Regional Hearing Clerk on May 25, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Brenda Morris, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on May 27, 2016, to:


Respondent

Shon Thomas
Spa Performance and Supply, LLC
9733 South Mount Jordan Road
Sandy, Utah 84092

And emailed to:

Jessica Farmer
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

May 27, 2016


John Pickens II
Paralegal/Regional Hearing Clerk



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