



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
September 23, 2013

REPLY TO THE ATTENTION OF:  
LC-8J

**CERTIFIED MAIL: No.7009 1680 0000 7668 1742**  
**RETURN RECEIPT REQUESTED**

Mr. Larry Kaiser  
Amazing Concepts LLC  
4476 Anderson Drive  
Beaverton, Michigan 48612

Consent Agreement and Final Order In the Matter of  
Amazing Concepts LLC. Docket No. FIFRA-05-2013-0021

Mr. Kaiser:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on September 23, 2013 with the Regional Hearing Clerk.

The civil penalty in the amount of \$6,100 is to be paid in the manner described in paragraph 43 and 44. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by October 23, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terence Bonace".

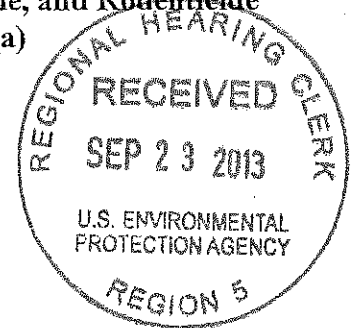
Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
)  
Amazing Concepts LLC )  
Beaverton, Michigan, )  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-05-2013-0021  
Proceeding to Assess a Civil Penalty  
under Section 14(a) of the Federal  
Insecticide, Fungicide, and Rodenticide  
Act, 7 U.S.C. § 136l(a)



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) 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. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.

3. Respondent is Amazing Concepts LLC, a limited liability company doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO,

and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

**Statutory and Regulatory Background**

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

11. Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), states that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a.

12. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide which is adulterated or misbranded.

13. Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E), states that a pesticide is “misbranded” if any word, statement, or other information required under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness and

in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

14. 40 C.F.R. § 156.10(a)(2)(ii) requires that all label text be set in a 6 –point or larger type.

15. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), states that a pesticide is “misbranded” if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false and misleading in any particular.

16. The term “distribute or sell” means “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.” 7 U.S.C. § 136(gg).

17. A “pesticide” is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

18. A “pest” is any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

19. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

20. The Administrator of EPA may assess a civil penalty against any retailer or other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

### Factual Allegations and Alleged Violations

21. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
22. Respondent owned or operated a place of business located at 4476 Anderson Drive, Beaverton, Michigan during the calendar year 2009.
23. On August 26, 2009, an inspector employed by Michigan Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at General Chemical Corporation, 12336 Emerson Drive, Brighton, Michigan.
24. During the August 26, 2009 inspection, the inspector collected labels, production and distribution records for *Sniper*, EPA Reg. No. 71700-2-82482.
25. Amazing Concepts, LLC registered Amazing Nok-Out Odor Eliminator, EPA Reg. No. 71700-2 on or about July 19, 2004
26. *Sniper* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u). A registrant may distribute or sell his registered product under another person's name and address instead of (or in addition to) his own. Such distribution or sale is termed “supplemental distribution” and any product so distributed or sold is referred to as a “distributor product.” 40 C.F.R. §152.132. In supplemental distribution, the distributor is considered an agent of the registrant for all intents and purposes under FIFRA. 40 C.F.R. §152.132.
27. A condition of supplemental distribution is that the label of the distributor product is the same as that of the registered product, except for differences including: 1) the product name of the distributor product may be different (but may not be misleading); 2) the name and address of the distributor may appear instead of that of the registrant; 3) the registration number of the registered product must be followed by a dash, followed by the distributor's company number;

and 4) specific claims may be deleted, provided that no other changes are necessary. 40 C.F.R. §152.132(d).

28. A May 2005 Notice of Supplemental Distribution under 40 C.F.R. §152.132 allowed Global Environmental Restoration, LLC to distribute *Amazing Nok Out Odor Eliminator* under the brand name *Sniper*, EPA Reg. No. 71700-2-82482.

29. General Chemical Corporation is a contract manufacturer of *Amazing Nok Out Odor Eliminator* and *Sniper* for Respondent.

30. On December 28, 2012, Terence Bonace, an inspector employed by the EPA and authorized to conduct inspections under FIFRA found on Respondent's web site, [www.nokout.us](http://www.nokout.us), the offer for sale of *Odor Eliminator* Spray Bottle, *Odor Eliminator* 1 gallon and *Odor Eliminator* 32 oz (*Odor Eliminator*)

31. Respondent's web site stated that *Odor Eliminator* "contains the same powerful formula as our Broad Spectrum Disinfectant."

32. Respondent distributed or sold *Odor Eliminator* on or about December 28, 2012.

33. *Odor Eliminator* was not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a, during calendar year 2012.

34. Respondent's distribution or sale of the unregistered pesticide *Odor Eliminator* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

35. Respondent distributed or sold *Sniper* in 4 oz. containers on or about June 30, 2009.

36. The label font on the 4 oz. container of *Sniper* was less than 6 pt. in size.

37. The label of *Sniper* bore the false and misleading claim, "Amazing accuracy."

38. Respondent's distribution or sale of the misbranded pesticide *Sniper* constitutes an

unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

39. Respondent formulated *Sniper* by diluting “*Nok Out Concentrate*.”

40. The Confidential Statement of Formula for *Amazing Nok Out Odor Eliminator* requires formulation by using water, a mixture of quaternary ammonium compounds and other ingredients.

41. Respondent distributed or sold *Sniper* with a composition that differs from the composition described in its Confidential Statement of Formula

42. Respondent’s distribution or sale of *Sniper* with a composition that differs from the composition described in its Confidential Statement of Formula constitutes an unlawful act pursuant to Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).

#### Civil Penalty

42. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$6,100. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in business, and the gravity of the violation. Complainant also considered EPA’s FIFRA Enforcement Response Policy, dated December 2009. Complainant has determined that there was no economic benefit associated with the alleged violation.

43. Within 30 days after the effective date of this CAFO, Respondent must pay a \$6,100 civil penalty for the FIFRA violations by sending a cashier’s or certified check, payable to “Treasurer, United States of America,” to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note Respondent's name and the docket number of this CAFO.

44. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Terence Bonace (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard.  
Chicago, Illinois 60604

John Tielsch (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604]

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

46. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

47. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15



handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

### General Provisions

48. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

50. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

51. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

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

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

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

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

In the Matter of:  
Amazing Concepts LLC  
Docket No.

**Amazing Concepts LLC, Respondent**

8/19/13  
Date

Larry Kaiser  
Larry Kaiser  
President

In the Matter of:  
Amazing Concepts LLC  
Docket No.

**United States Environmental Protection Agency, Complainant**

9/11/13  
Date

Michael D. Hanis For M.G.  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

In the Matter of:

Amazing Concepts LLC

Docket No.

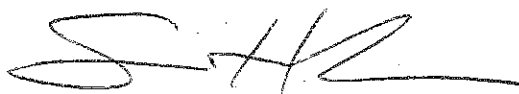
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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-16-2013

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5



**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 Amazing Concepts LLC, was filed on September 23, 2013, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7668 1742, a copy of the original to the Respondent:

Mr. Larry Kaiser  
Amazing Concepts LLC  
4476 Anderson Drive  
Beaverton, Michigan 48612

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
John Tielsch, Regional Judicial Officer, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD



Frederick Brown  
Pesticides and Toxics Compliance Section  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. FIFRA-05-2013-0021

