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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105

U.S. EPA - REGION IX
HEARINGS CLERK

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In the Matter of:)	Docket No. TSCA-09-2013-0014
Schryer/Thompson Construction,)	CONSENT AGREEMENT
Inc.,)	AND FINAL ORDER
Respondent.)	

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I. CONSENT AGREEMENT

Complainant, the Director of the Communities and Ecosystems Division, United States Environmental Protection Agency, Region IX ("EPA"), and Respondent, Schryer/Thompson Construction, Inc. ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO").

A. AUTHORITY

1. EPA initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), by issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent on September 26, 2013, in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22.

2. The Complaint alleges that Respondent violated Section 409 of TSCA by failing to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and implementing regulations

1 promulgated at 40 C.F.R. Part 745, Subpart E.

2 3. EPA and Respondent have agreed to resolve this civil
3 administrative proceeding by executing this CAFO pursuant to 40
4 C.F.R. § 22.18(b).

5 B. RESPONDENT'S ADMISSIONS

6 4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the
7 purpose of this proceeding, Respondent (i) admits that EPA has
8 jurisdiction over the subject matter of this CAFO and over
9 Respondent; (ii) neither admits nor denies the specific factual
10 allegations contained in the Complaint; (iii) consents to any and
11 all conditions specified in this CAFO and to the assessment of
12 the civil administrative penalty under Section C of this CAFO;
13 (iv) waives any right to contest the allegations contained in the
14 Complaint; and (v) waives the right to appeal the proposed final
15 order contained in this CAFO.

16 C. CIVIL ADMINISTRATIVE PENALTY

17 5. Respondent agrees to the assessment of a penalty in the
18 amount of TWO THOUSAND, FIVE HUNDRED DOLLARS (\$2,500) as final
19 settlement of the civil claims against Respondent arising under
20 TSCA, as alleged in the Complaint.

21 6. Respondent shall pay the assessed penalty no later than
22 thirty (30) days after the effective date of the CAFO.

23 The assessed penalty shall be paid by **certified or cashier's**
24 **check**, payable to "Treasurer, United States of America," or paid
25 by one of the other methods listed below and sent as follows:

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1 Regular Mail:

2 U.S. Environmental Protection Agency
3 Fines and Penalties
4 Cincinnati Finance Center
5 PO Box 979077
6 St. Louis, MO 63197-9000

7 Wire Transfers:

8 Wire transfers must be sent directly to the Federal Reserve Bank
9 in New York City with the following information:

10 Federal Reserve Bank of New York
11 ABA = 021030004
12 Account = 68010727
13 SWIFT address = FRNYUS33
14 33 Liberty Street
15 New York, NY 10045
16 Field Tag 4200 of the Fedwire message should read "D 68010727
17 Environmental Protection Agency"

18 Overnight Mail:

19 U.S. Bank
20 1005 Convention Plaza
21 Mail Station SL-MO-C2GL
22 ATTN Box 979077
23 St. Louis, MO 63101

24 ACH (also known as REX or remittance express):

25 Automated Clearinghouse (ACH) for receiving US currency
26 PNC Bank
27 808 17th Street, NW
28 Washington, DC 20074
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 31006
CTX Format

29 On Line Payment:

30 This payment option can be accessed from the information below:

31 www.pay.gov
32 Enter "sf01.1" in the search field
33 Open form and complete required fields

34 If clarification regarding a particular method of payment

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36 Thompson Construction, Inc.,
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1 remittance is needed, contact the EPA Cincinnati Finance Center
2 at 513-487-2091.

3 Concurrently, a copy of the check or notification that the
4 payment has been made by one of the other methods listed above,
5 including proof of the date payment was made, shall be sent with
6 a transmittal letter indicating Respondent's name, the case
7 title, and the docket number to:

8 a) Regional Hearing Clerk (ORC-1)
9 Office of Regional Counsel
10 U.S. Environmental Protection Agency, Region IX
11 75 Hawthorne Street
12 San Francisco, California 94105

11 b) Manager
12 Toxics Office (CED-4)
13 Communities and Ecosystems Division
14 U.S. Environmental Protection Agency, Region IX
15 75 Hawthorne Street
16 San Francisco, California 94105

15 7. Payment of the above civil administrative penalty shall
16 not be used by Respondent or any other person as a tax deduction
17 from Respondent's federal, state, or local taxes.

18 8. If Respondent fails to pay the assessed civil
19 administrative penalty specified in Paragraph 5 by the deadline
20 specified in Paragraph 6 of this CAFO, Respondent shall pay to
21 EPA the stipulated penalty of \$500 per day in addition to the
22 assessed penalty. Stipulated penalties shall accrue until such
23 time as the assessed penalty and all accrued stipulated penalties
24 are paid and shall become due and payable upon written request by
25 EPA. In addition, failure to pay the civil administrative
26 penalty by the deadline specified in Paragraph 6 may lead to any

1 or all of the following actions:

2 a. The debt being referred to a credit reporting agency, a
3 collection agency, or to the Department of Justice for filing of
4 a collection action in the appropriate United States District
5 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such
6 collection action, the validity, amount, and appropriateness of
7 the assessed penalty and of this CAFO shall not be subject to
8 review.

9 b. The debt being collected by administrative offset (i.e., the
10 withholding of money payable by the United States to, or held by
11 the United States for, a person to satisfy the debt the person
12 owes the Government), which includes, but is not limited to,
13 referral to the Internal Revenue Service for offset against
14 income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

15 c. EPA may (i) suspend or revoke Respondent's licenses or other
16 privileges; or (ii) suspend or disqualify Respondent from doing
17 business with EPA or engaging in programs EPA sponsors or funds.
18 40 C.F.R. § 13.17.

19 d. In accordance with the Debt Collection Act of 1982 and 40
20 C.F.R. Part 13 interest, penalty charges, and administrative
21 costs will be assessed against the outstanding amount that
22 Respondent owes to EPA for Respondent's failure to pay the civil
23 administrative penalty by the deadline specified in Paragraph 6.
24 Interest will be assessed at an annual rate that is equal to the
25 rate of current value of funds to the United States Treasury
26

1 (i.e., the Treasury tax and loan account rate) as prescribed and
2 published by the Secretary of the Treasury in the Federal
3 Register and the Treasury Fiscal Requirements Manual Bulletins.
4 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed
5 monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).
6 Administrative costs for handling and collecting Respondent's
7 overdue debt will be based on either actual or average cost
8 incurred, and will include both direct and indirect costs. 40
9 C.F.R. § 13.11(b). In addition, if this matter is referred to
10 another department or agency (e.g., the Department of Justice,
11 the Internal Revenue Service), that department or agency may
12 assess its own administrative costs, in addition to EPA's
13 administrative costs, for handling and collecting Respondent's
14 overdue debt.

15 D. RESPONDENT'S CERTIFICATION

16 9. In executing this CAFO, Respondent certifies that it is
17 now in compliance with the federal regulations promulgated at 40
18 C.F.R. Part 745, Subpart E.

19 E. RETENTION OF RIGHTS

20 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO
21 only resolves Respondent's liability for federal civil penalties
22 for the violations and facts specifically alleged in the
23 Complaint. Nothing in this CAFO is intended to or shall be
24 construed to resolve (i) any civil liability for violations of
25 any provision of any federal, state, or local law, statute,
26

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1 regulation, rule, ordinance, or permit not specifically alleged
2 in the Complaint; or (ii) any criminal liability. EPA
3 specifically reserves any and all authorities, rights, and
4 remedies available to it (including, but not limited to,
5 injunctive or other equitable relief or criminal sanctions) to
6 address any violation of this CAFO or any violation not
7 specifically alleged in the Complaint.

8 11. This CAFO does not exempt, relieve, modify, or affect
9 in any way Respondent's duty to comply with all applicable
10 federal, state, and local laws, regulations, rules, ordinances,
11 and permits.

12 F. ATTORNEYS' FEES AND COSTS

13 12. Each party shall bear its own attorneys' fees, costs,
14 and disbursements incurred in this proceeding.

15 G. EFFECTIVE DATE

16 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and
17 22.31(b), this CAFO shall be effective on the date that the final
18 order contained in this CAFO, having been approved and issued by
19 either the Regional Judicial Officer or Regional Administrator,
20 is filed.

21 H. BINDING EFFECT

22 14. The undersigned representative of Complainant and the
23 undersigned representative of Respondent each certifies that he
24 or she is fully authorized to enter into the terms and conditions
25 of this CAFO and to bind the party he or she represents to this
26

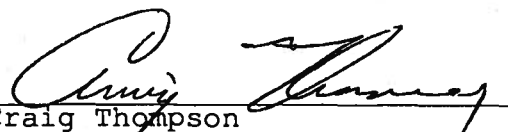
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1 CAFO.


2 15. This Consent Agreement constitutes the entire agreement
3 between the parties resolving this matter arising under TSCA.

4 16. The provisions of this CAFO shall be binding on
5 Respondent and its officers, directors, employees, agents,
6 servants, authorized representatives, successors, and assigns.

7
8 FOR RESPONDENT, SCHRYER/THOMPSON CONSTRUCTION, INC.

9
10 Date: 11-26-13 By: 
11 Craig Thompson
12 President
13 SCHRYER/THOMPSON CONSTRUCTION, INC.

14 FOR COMPLAINANT, EPA REGION IX

15 Date: 1/8/14 By: 
16 Jeff Scott
17 Director
18 Communities and Ecosystems Division
19 U.S. ENVIRONMENTAL PROTECTION
20 AGENCY, REGION IX

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II. FINAL ORDER

EPA and Respondent, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2013-0014) be entered, and that Respondent shall pay a civil administrative penalty in the amount of TWO THOUSAND, FIVE HUNDRED DOLLARS (\$2,500) and comply with the terms and conditions set forth in the Consent Agreement. This CAFO shall become effective upon filing.

09/10/14
DATE


STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"), Docket Number TSCA-09-2013-0014, was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105, and that true and correct copies of the CAFO were placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Mr. Craig Thompson
Schryer Thompson Construction, Inc
2143 Arnold Industrial Way, Suite 10
Concord, CA 94520

Certified Mail Number: 7007 3020 0000 9806 8071

True and correct copies of the CAFO were also placed in the United States Mail, First Class to:

David Hermelin, Esq.
Hermelin Law Firm
706 Main Street, Suite C
Martinez, CA 94553

Dated: 01/10/14

 FOR: RHC

Office of Regional Counsel
United States Environmental Protection Agency
Region IX