



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
July 1, 2013

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7641 4517

Mr. Amrit Patel  
United Imports, Inc.  
3911 W. Lawrence Ave.  
Chicago, Illinois 60624

Consent Agreement and Final Order In the Matter of  
United Imports, Inc. Docket No. **FIFRA-05-2013-0013**

Dear Mr. Patel:

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 July 1, 2013 with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,250 is to be paid in the manner described in paragraphs 29 and 30. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by July 31, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Terence Bonace".

for Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

United Imports, Inc.  
Chicago, Illinois,

Respondent.



Docket No. FIFRA-05-2013-0013

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 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, by lawful delegation, the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency (EPA), Region 5.
3. The Respondent is United Imports, Inc., a corporation doing business in the State of Illinois.
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). *See* 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 general 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.

### **Statutory and Regulatory Background**

9. 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.

10. 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).

11. 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).

12. 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).

13. 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).

14. The Administrator of EPA may assess a civil penalty against any wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$6,500 for each offense

that occurred after March 15, 2004 through 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.

### **General Allegations**

15. Complainant incorporates paragraphs 1 through 14 of this CAFO as if set forth in this paragraph.

16. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

17. Respondent is a retailer or distributor.

18. Respondent owned or operated a place of business located at 3911 West Lawrence Avenue, Chicago, Illinois during calendar year 2010 and 2011.

19. On January 26, 2011, an inspector employed by Illinois Department of Public Health and authorized to conduct inspections under FIFRA conducted an inspection at Dollar Store Plus, 2059 West Cermak Avenue, Chicago, Illinois (Dollar Plus).

20. During the January 26, 2011 inspection, the inspector collected photographs of *Moth Balls No Clinging Odor* which Dollar Plus was offering for distribution or sale.

21. During the January 26, 2011 inspection, the inspector also collected a signed statement from the owner of Dollar Plus that he had purchased *Moth Balls No Clinging Odor* from Respondent in late 2010.

22. The labeling on *Moth Balls No Clinging Odor* states that the product “Kills clothes moths, carpet beetles and their eggs and larvae...” and contains the “active ingredient paradichlorobenzene”.

23. *Moth Balls No Clinging Odor* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

### **Count I**

24. Complainant incorporates by reference the allegations contained in paragraphs 1 through 23 of this CAFO.

25. Respondent distributed or sold *Moth Balls No Clinging Odor* in or around late 2010 to Dollar Plus.

26. *Moth Balls No Clinging Odor* was not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a, on or about December 2010.

27. Respondent's distribution or sale of the unregistered pesticide *Moth Balls No Clinging Odor* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

### **Civil Penalty**

28. 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 \$4,250. In determining the penalty, 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.

29. Respondent must pay the \$4,250 civil penalty in four (4) installments with interest as follows: \$1,066.04 within thirty (30) days of the effective date of this CAFO; \$1,070.47 within one hundred and twenty (120) days of the effective date of this CAFO; \$1,067.81 within two hundred and ten (210) days of the effective date of this CAFO; and \$1,065.16 within three hundred (300) days of the effective date of this CAFO. Respondent must pay the installments 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

Each check must note the following: In the Matter of United Imports, Inc. and the docket number of this CAFO.

30. 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

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

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

32. If Respondent does not pay timely the civil penalty, EPA may refer this 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.

33. 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 overdue amount 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**

34. This CAFO resolves only Respondent's liability for federal civil penalties for the violation alleged in the CAFO.

35. This CAFO does not affect the rights 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.

36. Respondent certifies that it is complying with Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

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

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

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

40. Each person signing this CAFO 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.

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

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

**In the Matter of: United Imports, Inc., Chicago, Illinois.  
Docket No.**

**United Imports, Inc., Respondent**

4-22-13

Date

Sharda A. Patel

Sharda A. Patel  
President  
United Imports, Inc.

**U.S. Environmental Protection Agency, Complainant**

6/20/2013

Date

Margaret M. Guerriero

Margaret M. Guerriero  
Director  
Land and Chemicals Division




**In the Matter of:**  
**United Imports, Inc.**  
**Docket No. FIFRA-05-2013-0013**

**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.

6-25-13  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

  
JUL - 1 2013  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**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 United Imports, Inc, was filed on June 1, 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 7641 4517, a copy of the original to the Respondents:

Mr. Amrit Patel  
United Imports, Inc.  
3911 W. Lawrence Ave.  
Chicago, Illinois 60624

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Robert M. Peachey, 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-05-2013-0013



JUL - 1 2013

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY