



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**SEP 20 2007**

4APT-PTSB

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Kristin Holloway Jones, Esq.  
Alston & Bird, LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

SUBJ: Boehme Filatex Inc. Consent Agreement and Final Order  
Docket No.: TSCA-04-2007-2739(b)

Dear Ms. Jones:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 CFR § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CAFO.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

If you have any questions, please contact Robin Allen of the EPA Region 4 staff at (404) 562-9583.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )

Boehme Filatex, Inc. )

Respondent. )

) Docket Number: TSCA-04-2007-2739 (b)

HEARING CLERK

2007 SEP 20 PM 3:28

RECEIVED  
EPA REGION 4

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2615(a), and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified in 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Boehme Filatex, Inc., (hereinafter, Respondent).

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## II. Preliminary Statement

3. Pursuant to Section 15 of TSCA, 15 U.S.C. 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12 or 13 of TSCA (15 U.S.C. 2603, 2604, 2607, 2611 or 2612); (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. 2610. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19. For a violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed. Each day a violation continues may constitute a separate violation.

4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the confidential business information (CBI) that was deleted (CBI deleted) from this CAFO, Complainant or Respondent should refer to the EPA Confidential Notice of Violation dated January 31, 2007.

### III. Specific Allegations

6. On December 8, 2004, an authorized agent of the EPA Region 4 conducted an inspection at Respondents place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. 2610(a).

7. Respondent's place of business is located at 209 Watlington Industrial Drive, Reidsville, North Carolina 27320.

8. Respondent is a manufacturer and importer as the terms are defined in 40 C.F.R. 720.3(t) and (l).

9. Between January 1, 2002 and December 8, 2004, Respondent exported to Canada, Mexico and/or Dominican Republic certain products containing the following Chemicals:

(CBI deleted), hereinafter referred to as Chemical AA;

(CBI deleted), hereinafter referred to as Chemical BB; and

(CBI deleted), hereinafter referred to as Chemical CC.

10. Chemicals AA, BB and CC are subject to the 12b export notification requirements promulgated at 40 C.F.R. 707.60(a).

11. The exporter must notify the EPA of their first export or intended export for each regulated substance in accordance with 40 C.F.R. 707.65.

12. As of the date of the TSCA Inspection, December 8, 2004, Respondent had not submitted a TSCA 12(b) Export Notice to the EPA for the export of Chemicals AA, BB and CC to Canada, Mexico and/or Dominican Republic.

13. In 2001, Respondent manufactured and/or imported 10,000 pounds of the following chemicals:

[CBI deleted (CAS #)], hereinafter referred to as Chemical A;

[CBI deleted (CAS #)], hereinafter referred to as Chemical B;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical C;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical D;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical F;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical G;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical H;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical I;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical J;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical K;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical L;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical M;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical N;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical O;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical P;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical Q;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical R;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical T;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical U;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical V;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical W;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical X;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical Y;  
[CBI deleted (CAS #)], hereinafter referred to as Chemical Z.

14. The Chemicals listed in paragraph 13 were subject to the 2002 Inventory Update Report (IUR) Rules.

15. As of the date of the TSCA inspection, Respondent failed to submit a 2002 IUR Report for the Chemicals listed in paragraph 13.

16. Respondent violated 40 C.F.R. 710.32(c) by failing to submit the 2002 IUR Report for Chemicals listed in paragraph 13.

#### **IV. Consent Agreement**

17. For the purposes of this CAFO, Respondent admits to the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

18. Respondent waives its right to a hearing on the allegations contained herein.

19. Respondent waives any right to contest the allegations and its right to appeal the proposed final order, accompanying this consent agreement.

20. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA Section.

22. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or pursue criminal enforcement.

23. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

**V. Final Order**

24. Respondent is assessed a civil penalty in the amount of One Hundred and Eighty Thousand Dollars (\$180, 000), which is to be paid within thirty (30) days of the effective date of this CAFO.

25. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to one of the following addresses:

For payment submittal by U.S. Postal Service:

U.S. Environmental Protection Agency  
Box 371099M  
Pittsburgh, PA 15251

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

Mellon Client Service Center  
ATTN: Shift Supervisor, Room 0690  
Lockbox 371099M  
500 Ross Street  
Pittsburgh, PA 15262-0001

**The check shall reference on its face the name and the Docket Number of the CAFO.**

26. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Laila B. Hudda  
PCB and Chemical Products  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960.

27. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

28. Pursuant to 31 U.S.C. §3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.

29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

30. This CAFO shall be binding upon the Respondent, its successors and assigns.

31. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:



Laila B. Hudda  
 PCB and Chemical Products  
 Management Section  
 U.S. EPA Region 4  
 61 Forsyth Street, S.W.  
 Atlanta, Georgia 30303-8960  
 (404) 562-9007

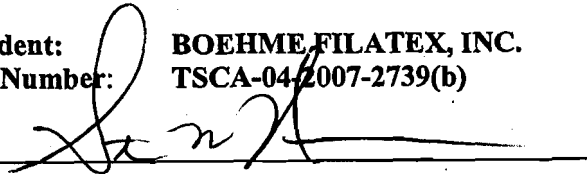
32. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

**VI. Effective Date**

33. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

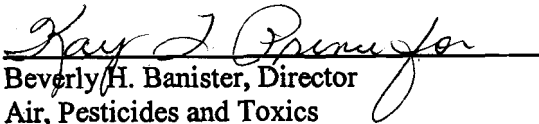
**Respondent:** BOEHME FILATEX, INC.  
**Docket Number:** TSCA-04-2007-2739(b)

By:  Date: 8/30/07

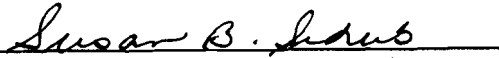
Name: Steven M. Hennen (Typed or Printed)

Title: Vice President of Finance and Admin (Typed or Printed)

**United States Environmental Protection Agency**

By:  Date: 9/14/07  
 Beverly H. Banister, Director  
 Air, Pesticides and Toxics  
 Management Division  
 Region 4

**APPROVED AND SO ORDERED** this 20<sup>th</sup> day of September, 2007

By: 

Susan B. Schub  
 Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of **Boehme Filatex, Inc.**, Docket No. TSCA-04-2007-2739(b) to the addressees listed below:

FOR RESPONDENT:  
Requested)

(Certified Mail, Return Receipt

Kristin Holloway Jones, Esq.  
Alston & Bird, LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

Laila B. Hudda  
PCB and Chemical Products  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960

(via EPA's internal mail)

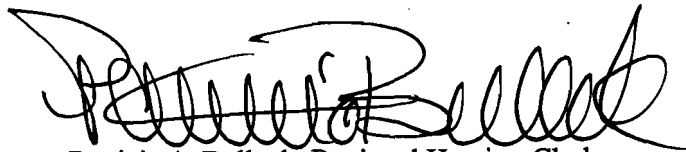
Nancy Tommelleo  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303-8960

(via EPA's internal mail)

Robin Allen  
Associate Regional Counsel  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960

(via EPA's internal mail)

Date: 9-20-07



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 9/19/07  
 (Name) (Date)

in the OEA at (404) 562-9504  
 (Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package <u>required</u> :<br>Sent with bill      |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package <u>not required</u>                      |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Boehme Filatex Inc  
 (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 180,000  
 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: ISCA 04 2007 2739(b)

The Site Specific Superfund Account Number: \_\_\_\_\_  
 The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_  
 If you have any questions, please call: \_\_\_\_\_ of the Financial Management

**DISTRIBUTION:**

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the FO should be mailed to:
- |  |                            |
|--|----------------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EA) |
|  | 3. Designated Program O    |
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |

7004 2510 0006 0103 1004

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Total Postage	\$

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PS Form 3849  
 Sent To: Kristin Holloway Jones, Esq.  
 Alston & Bird, LLP  
 One Atlantic Ct., 1201 W. Peachtree St.  
 Atlanta, Ga 30309-3424

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