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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION VII
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)
)
BAP, LLC. and Wellmark International,) Docket No. FIFRA-07-2006-0252
)
Respondents.) CONSENT AGREEMENT AND FINAL
) ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about August 14, 2006, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 136l, when the United States Environmental Protection Agency (hereinafter referred to as Complainant or EPA) issued a "Complaint and Notice of Opportunity for Hearing" to BAP, LLC and Wellmark International (hereinafter referred to as Respondents).

The Complaint charged Respondents with violating FIFRA, §12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E).

Subsequently, Complainant and Respondents entered into negotiation in an attempt to resolve the Complaint. The Consent Agreement and Final Order (CAFO) set forth herein below is the result of the negotiation and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed and accepted by Respondents that:

1. This Consent Agreement and Final Order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of allegations in the Complaint. Respondents have read the Consent Agreement, find it reasonable and consent to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.
2. Respondents admit the jurisdictional allegations of the Complaint and admit the facts stipulated in this Consent Agreement.
3. Respondents neither admit nor deny the violations of FIFRA as set forth in the Complaint.
4. Respondents certify by signing this Consent Agreement and Final Order that to their knowledge they are presently in compliance with FIFRA, 7 U.S.C. § 136 et.seq., and all regulations promulgated thereunder.
5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondents from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.
7. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.
8. Each party shall bear their own cost and attorney fees in the action resolved by this Consent Agreement and Final Order.
9. Each signatory of this Agreement certifies that he or she is fully authorized to enter into

this Consent Agreement and Final Order.

10. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

FINAL ORDER

Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondents, in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty for the violations cited herein in the amount of Seven Thousand Seven Hundred Dollars (\$7,700.00). The check must be made payable to the "Treasurer, United States of America" and shall be mailed to: **U.S. EPA-Region 7, P.O. Box 371099M, Pittsburgh, Pennsylvania 15251**. The payments shall be identified as **In the Matter of BAP,LLC and Wellmark International**. A copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101, and Kathy Robinson, Regional Hearing Clerk, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101.

2. The civil penalty shall be paid on or before thirty (30) days after the effective date of the Final Order. The date by which the payment must be received shall hereinafter be referred to as the "due date". The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY


By: 

Rupert G. Thomas
Attorney
Office of Regional Counsel

Date: 11/13/06

RESPONDENT:

BAP, L.L.C.

By: 

Title: Managing Member

Date: 10/26/06

RESPONDENT:

WELLMARK INTERNATIONAL

By: 

Title: COO

Date: 10/24/06

IT IS SO ORDERED. This Order shall become effective immediately.



Robert L. Patrick
Regional Judicial Officer

November 15, 2006

IN THE MATTER OF BAP LLC and Wellmark International, Respondents
Docket No. FIFRA-07-2006-0252

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to:

Rupert G. Thomas
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Steven R. Spaulding
Director, Regulatory Affairs
Wellmark International
1501 East Woodfield Road
Suite 200 West
Schaumburg, Illinois 60173

11/15/06
Dated


Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7