



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

February 25, 2011

Mr. Joe Larkin, President  
Strata Enterprises, LLC  
3367 Conflans  
Irving, TX 75061

Re: Strata Enterprises, LLC  
Docket No. CAA-06-2010-3383

Dear Mr. Larkin:

Thank you for signing and returning the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO resolves the violations identified in the Complaint filed September 30, 2010. The CAFO has been signed on behalf of EPA and filed with the Regional Judicial Officer. Enclosed you will find a copy for your records. Please note the effective date is stamped on the front page of the CAFO. Due dates for the penalty payments are based off of this date.

Thank you for your assistance in resolving this matter. Should you have any questions, please contact Ms. Angela Hodges, Assistant Regional Counsel, at (214) 665-2796 or [hodges.angela@epa.gov](mailto:hodges.angela@epa.gov).

Sincerely,

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
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EPA REGION VI

In the Matter of: )  
)  
Strata Enterprises, LLC ) Docket No. CAA-06-2010-3383  
Irving, Texas )  
) CONSENT AGREEMENT  
) AND  
RESPONDENT ) FINAL ORDER  
)

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The Director, Compliance Assurance and Enforcement Division, United States Environmental Protection Agency (“EPA”), Region 6 (“Complainant”), and Strata Enterprises, LLC, Irving, Texas (“Respondent”), in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (“CAFO”).

**I. PRELIMINARY STATEMENT**

1. This proceeding is for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7413(d). The U.S. Department of Justice and EPA have jointly determined that this matter is appropriate for an administrative penalty action.

2. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CAFO; however, Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and waives all defenses, which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

5. Each party to this action shall bear its own costs and attorney fees.

6. Respondent consents to the issuance of the CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO.

7. Nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

8. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

9. This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors, and assigns, including, but not limited to, subsequent purchasers.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

### A. Preliminary Statement

10. Strata Enterprises, LLC (“Respondent”) is a Nevada corporation. Strata also does business as Blend Air Manufacturing and Parts Distribution Company (“Blend Air”). All references to “Strata” and “Respondent” in this CAFO also include Strata doing business as Blend Air.

11. Respondent is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and 40 C.F.R. § 82.3.

12. Respondent owns and operates a facility located at 3367 Conflans, Irving, Texas.

13. Chlorodifluoromethane (“HCFC-22”) is also known as monochlorodifluoromethane. Its chemical formula is  $\text{CHF}_2\text{Cl}$ , and its CAS No. is 75-45-6. It is also referred to as R-22 or by one of its trade names, e.g., Freon® 22.

### B. Violations

14. 40 C.F.R. § 82.15(b) provides that effective January 21, 2003, no person may import Class II controlled substances (other than transshipments, heels, or used class II controlled substances) for which EPA has apportioned baseline production and consumption allowances, in excess of the quantity of unexpended consumption allowances, or conferred unexpended HCFC-141b exemption allowances held by that person under the authority of 40 C.F.R. Part 82, Subpart A at that time in the control

period, unless the substances are for use in a process resulting in their transformation or their destruction, or unless they are produced using an exemption granted in 40 C.F.R. § 82.15(f). Every kilogram of excess import constitutes a separate violation of 40 C.F.R. Part 82, Subpart A.

15. "Import", as defined in 40 C.F.R. § 82.3, means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States, with the following exemptions:

- (1) Off-loading used or excess controlled substances or controlled products from a ship during servicing,
- (2) Bringing controlled substances into the U.S. from Mexico where the controlled substance had been admitted into Mexico in bond and was of U.S. origin, and
- (3) Bringing a controlled product into the U.S. when transported in a consignment of personal or household effects or in a similar non-commercial situation normally exempted from U.S. Customs attention.

16. On or about the dates listed below, Respondent imported chlorodifluoromethane ("HCFC-22") into the United States through Service Port No. 2402, El Paso, Texas:

- a. February 21, 2008 (Entry No. AF4-0366262-6) – 1,040 cylinders containing 14,144 kg of chlorodifluoromethane;
- b. March 25, 2008 (Entry No. AF4-0371077-1) - 350 cylinders containing 4,760 kg of chlorodifluoromethane;
- c. April 4, 2008 (Entry No. AF4-0372401-2) - 480 cylinders containing 6,528 kg of chlorodifluoromethane;

d. April 4, 2008 (Entry No. AF4-0372402-0) - 760 cylinders containing 10,336 kg of chlorodifluoromethane;

e. April 4, 2008 (Entry No. AF4-0372404-6) - 250 cylinders containing 3,400 kg of chlorodifluoromethane;

f. April 9, 2008 (Entry No. AF4-0373010-0) - 500 cylinders containing 6,800 kg of chlorodifluoromethane;

g. April 11, 2008 (Entry No. AF4-0373113-2) - 320 cylinders containing 4,352 kg of chlorodifluoromethane; and

h. April 12, 2008 (Entry No. AF4-0373119-9) - 500 cylinders containing 6,800 kg of chlorodifluoromethane.

17. Chlorodifluoromethane ("HCFC-22") is a Class II substance, as defined by 40 C.F.R. § 82.3, and 40 C.F.R. Part 82, Subpart A, Appendix B.

18. The importations listed in Paragraph 16 were not transshipments, heels, or used Class II controlled substances.

19. Respondent does not hold any baseline consumption allowances for chlorodifluoromethane ("HCFC-22"). 40 C.F.R. § 82.19.

20. Respondent does not hold any unexpended consumption allowances for chlorodifluoromethane ("HCFC-22").

21. The importations listed in Paragraph 16 were not for use in a process resulting in their transformation or their destruction.

22. Therefore, Respondent violated 40 C.F.R. § 82.15(b), by illegally importing chlorodifluoromethane ("HCFC-22") into the United States.



**III. TERMS OF SETTLEMENT**

23. For the reasons set forth above, Respondent has agreed to pay a civil penalty in the amount of Five Thousand Dollars (\$5,000).

24. Respondent shall pay the civil penalty in one of two manners:

(1) Respondent may pay the full amount of the civil penalty, Five Thousand Dollars (\$5,000), within thirty (30) days of the effective date of this CAFO; or

(2) Respondent may pay the assessed civil penalty in three installments, which include interest.

(a) Installment 1 in the amount of One Thousand Six Hundred Sixty-six Dollars (\$1,666) shall be paid within thirty (30) days of the effective date of this CAFO.

(b) Installment 2 in the amount of One Thousand Six Hundred Sixty-nine Dollars and Seventy-four Cents (\$1,669.74) shall be paid within sixty (60) days of the effective date of this CAFO.

(c) Installment 3 in the amount of One Thousand Six Hundred Sixty-eight Dollars and Thirty-seven Cents (\$1,668.37) shall be paid within ninety (90) days of the effective date of this CAFO.

25. All payments must be made by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6".

Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

**PLEASE NOTE: Docket number CAA-06-2010-3383 shall be clearly typed on the check to ensure proper credit.** If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference Respondent's name and address, the case name, and docket number of the CAFO. Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Lorena Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733



Joyce Johnson  
Enforcement Officer  
Multimedia Enforcement Section (6EN-HM)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

26. Respondent agrees that any future import of an ozone depleting substance, including but not limited to chlorodifluoromethane, shall be conducted in full compliance with the Act and 40 C.F.R. Part 82. If any such import by Respondent occurs in violation of the Act and/or 40 C.F.R. Part 82, this CAFO shall be null and void and shall not in any way foreclose EPA's right to pursue the full monetary penalties for the violations alleged in the Complaint and/or to seek any other relief available to EPA.

27. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

28. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on delinquent debts owed to the United States and assess a charge to cover the costs of processing and handling a delinquent debt. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of this CAFO but will only be recovered by EPA for any amount not paid within thirty (30) days after the effective date of this CAFO, including

installment payments. Interest will not be assessed on any interest charges or any administrative costs. Charges to cover the administrative costs of handling a delinquent debt will be assessed monthly for the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).


29. In addition to any assessed administrative costs, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

30. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

**IT IS SO AGREED.**

**FOR THE RESPONDENT:**

Date: 3/23/2011

  
\_\_\_\_\_  
Joe Larkin  
President  
Strata Enterprises, LLC

**FOR THE COMPLAINANT:**

Date: FEB 25 2011



John Blevins  
Director  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6

**IV. FINAL ORDER**

Pursuant to Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated: February 28, 2011



\_\_\_\_\_  
Michael Barra  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28 day of February, 2011, the original and one copy of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the Consent Agreement and Final Order was placed in the United States Mail, certified mail, return receipt requested,

7010 0780 0000 7366 7921 addressed to the following:

Joe Larkin  
President & Registered Agent  
3367 Conflans  
Irving, TX 75061

Lupe Ayala