



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

MAR 20 2012

Via Overnight Delivery

Donald Greenwald, President  
Landers-Segal Color Co., Inc.  
1 Blue Hill Plaza- Floor 11  
Pearl River, New York 10965

Re: In the Matter of Landers-Segal Color Co., Inc.  
Docket No. TSCA-02-2012-9245

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 MAR 21 P 12: 12  
REGIONAL HEARING  
CLERK

Dear Mr. Greenwald:

Enclosed is the Complaint and Notice of Opportunity For Hearing, and supporting documents in the above-referenced proceeding. This Complaint alleges violations of the Toxic Substances Control (TSCA) and regulations promulgated pursuant to TSCA.

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint.

If you wish to contest the allegations or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint to the Environmental Protection Agency's ("EPA") Regional Hearing Clerk at the following address:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer, a default order may be entered against you and the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal conference **does not**

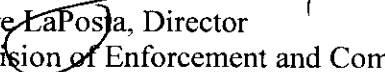
substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

Enclosed are copies of the "Consolidated Rules of Practice," which govern this proceeding. For your general information and use, I also enclose both an "Information Sheet for U.S. EPA Small Business Resources" and a "Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings," which may or may not apply to you.

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal settlement conference, please contact the attorney whose name is listed in the Complaint.

Sincerely yours,



Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk (w/o enclosures)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

-----X  
In the Matter of

Landers-Segal Color Co., Inc.,  
dba Lansco Color,

Respondent.

Proceeding under Section 16(a) of the  
Toxic Substances Control Act.  
-----X

**COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING**

Docket No. TSCA-02-2012-92

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 MAR 21 P 12:13  
REGIONAL HEARING  
CLERK

**COMPLAINT**

Complainant, as and for her Complaint against Respondent, hereby alleges upon information and belief:

1. This is a civil administrative action instituted pursuant to Section 16(a), 15 U.S.C. § 2615(a), of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601 et seq.

2. The Complainant, the Director, Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, has been duly delegated the authority to institute this action.

3. This Complaint serves notice of Complainant's preliminary determination that Respondent has violated regulations established under the authority of Section 8 of TSCA, set forth at 40 C.F.R. Parts 710 Subpart C (Update Reporting for 2006 and Beyond) and that Respondent has thereby violated Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B).

4. Respondent is Landers-Segal Color Co., Inc., dba Lansco Color.

5. Respondent owns, operates and/or controls the facility in and around 1 Blue Hill Plaza, Pearl River, New York 10965 (hereinafter, "Respondent's facility").

6. During calendar year 2005 Respondent's corporate headquarters was located at 305 West Grand Avenue, Montvale, New Jersey 07645.

7. Respondent is a "person" within the meaning of 40 C.F.R. §§ 704.3 and 710.3.

8. Respondent is an "importer" as that term is defined at 40 C.F.R. § 704.3 and 710.3.

9. On or about June 30, 2010, duly authorized representatives of the EPA conducted an inspection of and at Respondent's Pearl River, New York facility pursuant to Section 11 of TSCA, 15 U.S.C. § 2610 (hereinafter "the inspection").

10. The inspection was conducted for the purpose of determining Respondent's compliance with TSCA and the regulations promulgated pursuant to TSCA.

### COUNT 1

#### *2006 Inventory Update*

11. Paragraphs 1 through 10, above, are incorporated and realleged as if fully set forth herein.

12. Regulations promulgated pursuant to Section 8(a) of TSCA, 15 U.S.C. § 2607(a), and set forth at 40 C.F.R. Part 710 require importers of chemical substances (other than those exempted under 40 C.F.R. §710.49) to report to EPA using the "Partial Updating of the Inventory Data Base Production and Site Report" (hereinafter "Form U"). The availability of Form U is described at 40 C.F.R. § 710.59.

13. The regulations at 40 C.F.R. § 710 Subpart C require that persons meeting the criteria described at 40 C.F.R. § 710.48 submit a Form U listing any chemical substance which is in the "Master Inventory File" (as that term is defined in 40 C.F.R. § 710.43) at the beginning of a submission period described at 40 C.F.R. § 710.53, unless the chemical substance has been specifically excluded by 40 C.F.R. § 710.46.

14. Persons subject to 40 C.F.R. § 710.48 must determine whether they must report under this section for each chemical substance they import at a single site. This determination shall include all subject chemicals imported for commercial purposes at any time during the applicable calendar year described at 40 C.F.R. § 710.48.

15. The 2006 Form U was required to be submitted, for chemical substances imported in calendar year 2005, between August 25, 2006 and March 23, 2007, as specified at 40 C.F.R. § 710.53.

16. The information reported on the 2006 Form U was required to be submitted in accordance with 40 C.F.R. § 710.52.

17. Respondent imported for commercial purposes in excess of 100,000 pounds of each of the following nineteen chemical substances at Respondent's Montvale, New Jersey headquarters site during calendar year 2005:

CHEMICAL NAME	CHEMICAL ABSTRACTS REGISTRY NUMBER
1-NAPHTHALENESULFONIC ACID, 2-(2-HYDROXY-1-NAPHTHALENYL)AZO)-CALCIUM SALT (2/1)	1103-39-5
CHROMIUM OXIDE	1308-38-9
ZINC OXIDE	1314-13-2
PIGMENT GREEN 7	1328-53-6
C.I. PIGMENT YELLOW 34	1344-37-2
TITANIUM DIOXIDE	13463-67-7
COPPER, (29H,31H-PHTHALOCYANINATO(2-)-N29,N30,N31,N32)-	147-14-8
2-NAPHTHALENECARBOXAMIDE, 4-((4-(AMINOCARONYL)PHENYL)AZO)-N-(2-ETHOXYPHENYL)-3-HYDROXY-	2786-76-7
2-NAPHTHOL, 1-(2,4-DINITROPHENYL)AZO)-	3468-63-1
2-NAPHTHALENECARBOXYLIC ACID, 3-HYDROXY-4-((4-METHYL-2-SULFOPHENYL)AZO)-, CALCIUM SALT	5281-04-9
BUTANAMIDE, 2,2'-((3,3'-DICHLORO(1,1'-BIPHENYL)-4-4'-OXO-	5468-75-7
BUTANAMIDE, 2,2'-((3,3'-DICHLORO(1,1'-BIPHENYL)-4,4'-DIYL)BIS(2,1-DIAZENEDIYL))BIS(N-(4-CHLORO-2,5-DIMETHOXYPHENYL)-3-OXO-	5567-15-7
2-NAPHTHALENECARBOXAMIDE, 4-((2,5-DICHLOROPHENYL)AZO)-3-HYDROXY-N-PHENYL-	6041-94-7
2-NAPHTHALENECARBOXAMIDE, 3-HYDROXY-4-((2-METHYL-5-NITROPHENYL)AZO)-N-PHENYL	6448-95-9
NAPHTHA, PETROLEUM, HYDROSULFURIZED HEAVY	64742-82-1
BUTANAMIDE, 2-((4-METHOXY-2-NITROPHENYL)AZO)-N-(2-METHOXYPHENYL)-3-OXO-	6528-34-3
ALUMINUM	7429-90-5
LEAD CHROMATE	7758-97-6
PHOSPHORIC ACID, ZINC SALT (2:3)	7779-90-0

18. The chemical substances listed in paragraph 17, above, are "chemical substances" as that term is defined at 40 C.F.R. § 710.3.

19. The chemical substances listed in paragraph 17, above, were listed in the Master Inventory File on August 25, 2006, at the beginning of the relevant submission period described under 40 C.F.R. § 710.53, and are reportable under 40 C.F.R. § 710.45.

20. The chemical substances listed in paragraph 17, above, were not specifically excluded from the reporting requirement pursuant to 40 C.F.R. § 710.46 during the relevant reporting period.

21. Respondent is subject to the reporting requirements as described at 40 C.F.R. § 710.48.

22. Respondent did not submit a Form U that included the chemical substances listed in paragraph 17, above, during the period August 25, 2006 to March 23, 2007.

23. Respondent's failure to submit a Form U including information on the chemical substances listed in paragraph 17, above, by March 23, 2007, as alleged in paragraph 22, above, constitutes multiple violations of 40 C.F.R. § 710.53. The failure to report on each chemical substance listed in paragraph 17, above, by March 23, 2007 constitutes a separate violation. Each violation is a failure or refusal to comply with 40 C.F.R. § 710.53, which is a violation of Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B).

### **PROPOSED CIVIL PENALTY**

The proposed civil penalty has been determined in accordance with Section 16 of TSCA, 15 U.S.C. § 2615, which authorizes the assessment of a civil penalty of up to \$32,500<sup>1</sup> per day for each violation of TSCA and the regulations promulgated pursuant thereto.

Complainant proposes, subject to receipt and evaluation of further relevant information, that Respondent be assessed the statutory maximum penalty authorized by TSCA, for each violation for each day of violation.

### **PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION**

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "Consolidated Rules of Practice Governing the Administrative Assessments of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits", and are codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint and Notice of Opportunity for Hearing" (hereinafter referred to as the "Complaint").

#### *A. Answering the Complaint*

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint within 30 days after service of the Complaint. 40 C.F.R. § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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<sup>1</sup> See Civil Monetary Penalty Inflation Adjustment Rule published on February 13, 2004, in the Federal Register (69 FR 7121) -- 40 CFR Part 19, for increase from \$27,500 to \$32,500 for violations after March 15, 2004 until January 12, 2009 in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 ("DCIA").

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied.

40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding) and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

*B. Opportunity to Request a Hearing*

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). See generally Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c).

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22. See Section 16(a)(2)(A) of TSCA, 15 U.S.C. Section 2615(a)(2)(A), which states in part: "A civil penalty for a violation of section 2614 of this title [15 U.S.C. section 2614] shall be assessed by the Administrator by an order made on the record after opportunity. . . for a hearing in accordance with section 554 of Title 5 [5 U.S.C. section 554]".

If Respondent fails to request a hearing, such failure may operate to preclude Respondent from obtaining judicial review of an adverse EPA final order. See 15 U.S.C.

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§ 2615(a)(3), which states, in part: "Any person who requested in accordance with paragraph (2)(A) [15 U.S.C. § 2615(a)(2)(A)] a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business".

*C. Failure to Answer*

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [*i.e.* in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefor shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court.

*D. Exhaustion of Administrative Remedies*

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so "within 30 days after the initial decision is served". 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "... 5 days shall be added to the time allowed by these [rules] for the filing of a responsive document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.



### INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent or any relevant information previously not known to Complainant, or to dismiss any or all of the charges if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to the EPA attorney listed below:

Carl R. Howard  
Assistant Regional Counsel  
Office of Regional Counsel  
Waste and Toxic Substances Branch  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1366  
(212) 637-3216

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

#### **RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE**

Instead of filing an Answer, Respondent may resolve this proceeding by paying the specific penalty proposed in the Complaint and filing a copy of the check or other instrument of payment with the Regional Hearing Clerk, Region 2 (at the New York address noted above) 40 C.F.R. § 22.18(a). Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this Complaint to the following addressee:

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

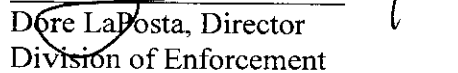
The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. A copy of the check or other instrument of payment should also be provided to the EPA attorney identified previously.

Pursuant to 40 C.F.R. § 22.18(a)(3), upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a final order. Issuance of this final order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 C.F.R. § 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said final order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect

Respondent's obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

Dated: MARCH 20, 2012

COMPLAINANT:

  
Dore LaPosta, Director  
Division of Enforcement  
and Compliance Assistance  
U.S. Environmental Protection Agency  
290 Broadway  
New York, NY 10007

TO: Donald Greenwald, President  
Landers-Segal Color Co., Inc.  
1 Blue Hill Plaza- Floor 11  
Pearl River, New York 10965

**CERTIFICATE OF SERVICE**

This is to certify that I have this day caused to be sent a copy of the foregoing Complaint, bearing Docket No. TSCA-02-2012-9245, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22 (2008), via overnight delivery to:

Donald Greenwald, President  
Landers-Segal Color Co., Inc.  
1 Blue Hill Plaza- Floor 11  
Pearl River, New York 10965

I hand-carried the original and a copy of the foregoing Complaint to the Office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated:     **MAR 21 2012**      
New York, New York

*Mildred N. Baez*