



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

March 29, 2011

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7009 1680 0000 7666 6619

Mr. Gary Carl
Manager, Product Safety
Houghton International, Inc.
930 Madison Avenue
Valley Forge, PA 19482

D.A. Stuart Company

Dear Mr. Carl:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on March 29, 2011, with the Regional Hearing Clerk.

The civil penalty in the amount of \$5,481.00 is to be paid in the manner described in paragraphs 9 and 10. Please be certain that the number **BD 2751147X005** and the docket number are written on both the transmittal letter and on the check. Payment is due by April 28, 2011 (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 "Claudia Niess".

Claudia Niess
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. TSCA-05-2011-0003
)	
D.A. Stuart Company)	Proceeding to Assess a Civil
Warrenville, Illinois)	Penalty Under
)	Section 16(a) of the
)	Toxic Substances Control Act,
Respondent)	15 U.S.C. § 2615(a)
_____)	

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Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. This is an administrative action under Section 16(a) of the Toxic Substances Control Act (TSCA or "the Act"), 15 U.S.C. § 2615(a), and Sections 22.13(b) and 22.18(2)(b) and (c) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* (Consolidated Rules), 40 C.F.R. § 22.18(b)(2) and (c).
2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5 (Complainant).
3. The Respondent is D.A. Stuart Company (Respondent), a corporation doing business in the State of Illinois with a business address of 4580 Weaver Parkway, Warrenville, Illinois 60555.
4. On March 1, 2011, EPA filed the Complaint in this action against Respondent. The Complaint alleges that Respondent violated Section 15(3) of TSCA, 15 U.S.C. §2614 (3), and 40 C.F.R. §§710.52 and 710.53.
5. The parties agree that settling this action without the adjudication of any issue of

fact or law is in each of their interests 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 factual allegations in the Complaint.

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 the Complaint, and its right to appeal this CAFO.

Civil Penalty

9. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$5,481.00. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violation, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability and other factors as justice may require. Complainant also considered EPA's *Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12, and 13*, dated June 1, 1999.

Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,481.00 civil penalty for the TSCA violation by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

10. A transmittal letter stating Respondent's name, the case title, Respondent's complete address, case docket number TSCA-05-2011-0003, and the billing document number must accompany any payment made by check. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Claudia Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

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

12. If Respondent does not pay the civil penalty timely, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

13. 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 amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. 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

14. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

15. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

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

17. Respondent certifies that it is complying with TSCA.

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

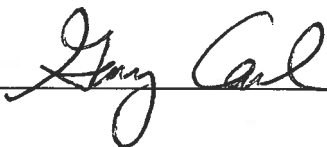
19. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

20. Each party agrees to bear its own costs and attorney's fees in this action.

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

D.A. Stuart Company, Respondent


March 16, 2011
Date



D.A. Stuart Company

United States Environmental Protection Agency, Complainant

3-25-11
Date


Richard C. Karl
Acting Director
Land and Chemicals Division

**In the Matter of:
D.A. Stuart Company
Docket No.**

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

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.

3-25-2011

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY

MAR 15 2011

OFFICE OF REGIONAL
COUNSEL

CERTIFICATE OF SERVICE

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving D.A.Stuart Company, was filed on March 29, 2011, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No.7009 1680 0000 7666 6619 to:

Mr. Gary Carl
Manager, Product Safety
D.A. Stuart Company
930 Madison Avenue
Valley Forge, PA 19482

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Michael Berman, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No.TSCA-05-2011-0003

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