



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-186

MAR 28 2013

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2013 MAR 28 A 2:47  
REGIONAL HEARING  
CLERK

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Eric P. Gotting  
Keller and Heckman LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington D.C. 20001

Re: **In the Matter of Landers-Segal Color Co.**  
**Docket Number TSCA-02-2012-9245**

Dear Mr. Gotting:

Enclosed please find a fully executed Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl R. Howard".

Carl R. Howard  
Assistant Regional Counsel

Enc.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

REGIONAL HEARING  
CLERK

2013 MAR 28 A 2:48

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II

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:  
:  
Landers-Segal Color Co., Inc. :  
d/b/a :  
Lansco Color :  
:  
Respondent. :  
:  
Proceeding under Section 16(a) of :  
Toxic Substances Control Act, :  
15 U.S.C. § 2615(a). :  
-----X

CONSENT AGREEMENT AND  
FINAL ORDER

**Docket No.**  
TSCA-02-2012-9245

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The United States Environmental Protection Agency ("EPA"), under authority of TSCA, has promulgated regulations governing the periodic reporting of chemical substances manufactured or imported for commercial purposes in order to update the inventory established pursuant to Section 8(a) of TSCA, 15 U.S.C. § 2607(a). The Director of the Division of Enforcement and Compliance Assistance of the EPA, Region 2 ("Complainant"), on behalf of the Administrator of the EPA, issued against Respondent a "Complaint And Notice Of Opportunity For Hearing" ("Complaint") on March 20, 2012. The Complaint sets forth a single count alleging violations of reporting requirements as set forth in 40 C.F.R. Part 710, Subpart C, and it further asserts the alleged violations rendered Respondent liable to the United States pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1).

Complainant and Respondent agree, by entering into this Consent Agreement and Final Order ("CA/FO"), that settlement of this matter upon the terms set forth in this CA/FO is an appropriate means of resolving the claims against Respondent without further litigation. This CA/FO is being issued pursuant to, and under authority of, 40 C.F.R. § 22.18(b). No adjudicated findings of fact or conclusions of law have been made by any tribunal of competent jurisdiction. For the purposes of this CA/FO and for purposes of implementing the settlement set forth herein, Respondent neither admit nor deny the EPA Findings of Fact or the EPA Conclusions of Law that have been set forth below.

EPA FINDINGS OF FACT

1. Respondent is Landers-Segal Color Co., Inc.
2. Respondent owns, operates and/or controls the facility in and around 1 Blue Hill Plaza, Pearl River, New York 10965 (hereinafter, "Respondent's facility").
3. During calendar year 2005 Respondent's corporate headquarters was located at 305 W Grand Avenue, Montvale, New Jersey 07645.
4. On or about June 30, 2010, duly authorized representatives of the EPA conducted an inspection of and at Respondent's facility pursuant to Section 11 of TSCA, 15 U.S.C. § 2610 (hereinafter "the inspection").
5. The inspection was conducted for the purpose of determining Respondent's compliance with TSCA and the regulations promulgated pursuant to TSCA.
6. Regulations promulgated pursuant to Section 8(a) of TSCA, 15 U.S.C. § 2607(a), and set forth at 40 C.F.R. § 710 require manufacturers and 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.
7. 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.
8. 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 an individual 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.
9. 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.
10. The information reported on the 2006 Form U was required to be submitted in accordance with 40 C.F.R. § 710.52.

11. 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

12. The chemical substances listed in paragraph 11, above, are "chemical substances" as that term is defined at 40 C.F.R. § 710.3.

13. The chemical substances listed in paragraph 11, above, were listed in the Master Inventory File 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.

14. The chemical substances listed in paragraph 11, above, were not specifically excluded from the reporting requirement pursuant to 40 C.F.R. § 710.46 during the relevant reporting period.

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

16. Respondent did not submit a Form U that included the chemical substances listed in paragraph 11, above, during the period August 25, 2006 to March 23, 2007.

17. Respondent's failure to submit a Form U including information on the chemical substances listed in paragraph 11, above, by March 23, 2007, as noted in paragraph 16, above, constitutes multiple violations of 40 C.F.R. § 710.53. The failure to report on each chemical substance listed in paragraph 11, 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).

#### EPA CONCLUSIONS OF LAW

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

2. Each of the aforementioned (¶ 11 of the "EPA Findings of Fact" section, above) chemical substances was: a) a "chemical substance" within the meaning of Section 3(2) of TSCA, 15 U.S.C. § 2602(2), and of 40 C.F.R. § 710.3, and b) "imported" as that term is defined at 40 C.F.R. §§ 704.3 and 710.3.

3. Respondent's failure to have submitted a Form U to EPA for the aforementioned (¶ 11 of the "EPA Findings of Fact" section, above) nineteen chemical substances during the period from August 25, 2006 to March 23, 2007 constitutes nineteen separate failures or refusals to comply with 40 C.F.R. § 710.53, with each such failure constituting a separate and distinct violation of Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B).

4. For each of the aforementioned (¶ 3 of this section, above) nineteen violations of Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B), Respondent is liable to the United States pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2614(a)(1).

### **AGREEMENT ON CONSENT**

Based upon the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, it is hereby agreed by and between Complainant, and voluntarily accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits: (a) admits the jurisdictional allegations of the Complaint; (b) neither admits nor denies the non-jurisdictional allegations of the Complaint; (c) neither admits nor denies the “EPA Findings of Fact” or “EPA Conclusions of Law” as set forth in this document; (d) consents to the assessment of the civil penalty as set forth below; (e) consents to the issuance of the Final Order accompanying this Consent Agreement; and (f) waives its right to seek or obtain judicial review of, or otherwise contest, said Final Order.

Pursuant to 40 C.F.R. § 22.31(b), the executed CA/FO shall become effective and binding when it is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2 (such date henceforth referred to as the “effective date”).

It is further hereby agreed by and between Complainant and Respondent, and voluntarily accepted by Respondent, that there shall be compliance with the following terms and conditions:

1. Respondent shall pay a civil penalty to EPA in the amount of **ONE HUNDRED EIGHTY THOUSAND (\$180,000.00) DOLLARS**, to be paid in accordance with the terms and schedule set forth in paragraph 2, below. Payment in accordance with the provision set forth below shall be made by cashier’s check, certified check or by electronic fund transfer (EFT). If payment is made by cashier’s check or by certified check, such check shall be made payable to the **“Treasurer, United States of America,”** and shall be identified with a notation thereon listing the following: ***In the Matter of Landers-Segal Color Co., Inc., Docket Number TSCA-02-2012-9245.*** If payment is made by check (cashier’s or certified), such check shall be mailed to the following address:

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

Alternatively, if Respondent chooses to make payment by EFT, Respondent shall then provide the following information to its remitter bank:

- a) Amount of Payment
- b) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
- c) Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
- d) Federal Reserve Bank of New York ABA routing number: **021030004**
- e) Field Tag 4200 of the Fedwire message should read: **D 68010727 Environmental Protection Agency**
- f) Name of Respondent: **Landers-Segal Color Co., Inc.**
- g) Case docket number: **TSCA-02-2012-9245**

2. Payment in the full amount (\$180,000, as set forth above (§ 1 of this section) shall be received (if made by check) or effected (if implemented by EFT) within forty-five (45) days of the Regional Administrator signing the Final Order accompanying this Consent Agreement. Complainant will endeavor to provide Respondent notice of when the Consent Agreement and Final Order has been filed.

If Respondent makes payment by cashier's check or certified check, such check shall be *received* at the above-listed address on or before the date specified. If Respondent makes payments by the EFT method, then the EFT for the payment shall be *received* on or before the date specified.

3. Whether Respondent makes payment by cashier's check, certified check or by the EFT method, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, and such proof shall be furnished to each of:

Carl R. Howard  
Assistant Regional Counsel  
Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

Karen Maples, Regional Hearing Clerk  
Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

4. Failure to timely (as set forth above) make payment within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.

5. Furthermore, if payment is not made on or before the date when such payment is made due under the terms of this document, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the date said payment was to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date payment was to have been made, in which payment of the amount remains in arrears. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) days of the date for which payment was required hereto to have been made.

6. The civil penalty provided for in this section and any charge that accrues as a result of untimely payment of the civil penalty by Respondent constitute a penalty within the meaning of 26 U.S.C. § 162(f).

7. Nothing in this agreement shall be construed as prohibiting, prejudicing or otherwise affecting the right of EPA (or the United States on behalf of EPA) to seek any other relief or remedies (legal or equitable) for any violation(s) by Respondent of this Consent Agreement or the provisions of the Toxic Substances Control Act or any regulation promulgated pursuant thereto.

8. Respondent shall maintain compliance with applicable TSCA Section 8 requirements and 40 C.F.R. Part 710, Subpart C, regulations governing the reporting to EPA of chemical substances manufactured and/or imported for commercial purposes.

9. Complainant shall mail to Respondent (to the representative designated below or to such other representative as Respondent has so informed EPA, Region 2, in writing that it has designated for such purpose) a copy of the fully executed CA/FO, and Respondent consents to service of the CA/FO upon him by an employee of EPA other than the Regional Hearing Clerk:



Eric P. Gotting, Esq.  
Keller and Heckman LLP  
1001 G Street, N. W.  
Suite 500 West  
Washington, D.C. 20001

10. Respondent has read this Consent Agreement, understands its terms, and consents to the issuance of the Final Order accompanying this Consent Agreement, consents to making full payment of the civil penalty in accordance with the terms and schedule set forth above and consents to all other terms and conditions set forth in this Consent Agreement.

11. This Consent Agreement is not intended, and shall not be construed, to waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable federal laws and regulations governing the reporting to EPA of chemical substances manufactured and/or imported for commercial purposes, nor is it intended or to be construed to waive, extinguish or otherwise affect Respondent's obligation to comply with all other applicable state and local laws and regulations regarding such chemical substances.

12. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve and settle the administrative claims alleged in the Complaint bearing docket number TSCA-02-2012-9245 upon full payment of the penalty amount and compliance with all the terms and conditions of this Consent Agreement. Notwithstanding any of the above, nothing herein shall affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation(s) of law resulting from, pertaining to or otherwise in connection with Respondent's manufacture and importation for commercial purposes of chemical substances.

13. Respondent hereby waives its right to seek or to obtain judicial review or a hearing on the allegations made in the Complaint, and on the terms and conditions set forth in the Consent Agreement and its accompanying Final Order and/or on the EPA Findings of Fact or EPA Conclusions of Law, above.

14. This Consent Agreement and any provision herein shall not be construed as an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit or proceeding to enforce any of the terms and conditions of the Consent Agreement and the accompanying Final Order.

15. Respondent shall not contest the validity of any term in this Consent Agreement in any action brought by the United States on behalf of EPA to enforce the Final Order or to enforce a judgment relating to this Consent Agreement and the accompanying Final Order.

16. Nothing in this Consent Agreement is intended or is to be construed as a release from

any other action under any law and/or regulation administered by EPA.


17. The provisions of this Consent Agreement shall be binding upon EPA and upon Respondent, its officers, officials, agents, authorized representatives and its successors or assigns.

18. Respondent voluntarily waives any right or remedy it might have pursuant to 40 C.F.R. § 22.8 to be present during discussions with, or to be served with and reply to any memorandum or other communication addressed to, the Regional Administrator or Deputy Regional Administrator of EPA, Region 2, where the purpose of such discussion, memorandum or other communication is to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.

19. Each party shall bear its own costs and fees in connection with this proceeding.

20. Each undersigned signatory to this Consent Agreement certifies that: a) he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement, and b) he or she is duly and fully authorized to bind the party on behalf of whom (which) he or she is entering this Consent Agreement to comply with and abide by all the terms and conditions of this Consent Agreement.

**RESPONDENT LANDERS-SEGAL COLOR CO., INC:**

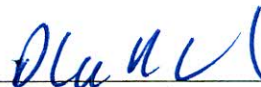
BY: 

NAME: Frank P. Lavieri  
[PLEASE PRINT]

TITLE: EVP + General Manager

DATE: 2-28-13

**COMPLAINANT:**

  
Dore LaPosta, Director  
Division of Enforcement and Compliance  
Assistance  
U.S. Environmental Protection Agency -  
Region 2

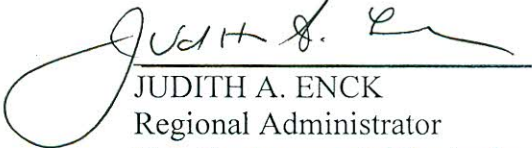
DATE: 3/26/13

***In the Matter of Landers-Segal Color Co., Inc.***  
**Docket Number TSCA-02-2012-9245**

**FINAL ORDER**

The Regional Administrator of EPA, Region 2, concurs in the foregoing Consent Agreement in the case of ***In the Matter of Landers-Segal Color Co., Inc., d/b/a Lansco Color***, bearing Docket Number TSCA-02-2012-9245. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified and incorporated into this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a).

DATED:     MAR 27    , 2013  
New York, New York

  
\_\_\_\_\_  
JUDITH A. ENCK  
Regional Administrator  
U.S. Environmental Protection  
Agency – Region 2

***In the Matter of Landers-Segal Color Co., Inc.***  
**Docket Number TSCA-02-2012-9245**

**Certificate of Service**

This is to certify that I have this day caused (or am causing) to be sent the foregoing fully executed Consent Agreement and Final Order, bearing Docket Number TSCA-02-2012-9245 in the following manner to the respective addressees below:

Original and One Copy  
By Hand:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, New York 10007

Copy by Certified Mail,  
Return Receipt Requested

Eric P. Gotting  
Keller and Heckman, LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington DC 20001

Dated: New York, New York

**MAR 28 2013**

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*Suzanne N. Bay*