

# HINSHAW

& CULBERTSON LLP

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**ATTORNEYS AT LAW**

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December 6, 2010

Regional Hearing Clerk  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Re: EPCRA-05-2011-0002 (AAF McQuay Inc.)

Dear Regional Hearing Clerk

Enclosed for filing please find an original and two copies of the Motion for Extension of Time to Answer of the Respondent, AAF-McQuay Inc., in the above referenced matter.

Please return a file-stamped copy of to me in the enclosed self-addressed, stamped envelope. Please call if you have any questions.

Very truly yours,

HINSHAW & CULBERTSON LLP



Nicola Nelson  
nnelson@hinshawlaw.com

NN:

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

AAF-McQuay Inc.,

Respondent,

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PROTECTION AGENCY

Docket No. EPCRA-05-2011-0002

Proceeding to Assess a Civil  
Penalty Under Section 325(c) of the  
Emergency Planning and  
Community Right-to-Know Act of  
1986, 42 U.S.C. § 11045(c)

**RESPONDENT'S MOTION FOR EXTENSION OF TIME TO ANSWER**

NOW COME DANIEL W. McGRATH, CHARLES F. HELSTEN and NICOLA A. NELSON of HINSHAW & CULBERTSON LLP, pursuant to 40 C.F.R. §§ 22.16(a),(c), and for Respondent's Motion for Extension of Time to Answer, state as follows:

1. On or about October 27, 2010, U.S. EPA Region 5 filed a Complaint against Respondent, AAF-McQuay Inc. ("McQuay") pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11046(c), alleging violations of EPCRA Section 313.

2. At the time McQuay received the Complaint, its Vice President and General Counsel, Paul Heim, was in the midst of addressing numerous other pending matters. (See Affidavit of Paul Heim, attached hereto as Exhibit A).

3. Within approximately two and a half weeks of McQuay's receipt of the Complaint, Mr. Heim forwarded it on to an environmental attorney who had previously assisted McQuay with other environmental matters. (See Exhibit A).

4. About ten days after the Complaint was forwarded to the environmental attorney, he notified Mr. Heim that McQuay would need to obtain local counsel within Region 5. Mr.

Heim then contacted Hinshaw & Culbertson LLP to request representation in this matter. (See Exhibit A).

5. Hinshaw & Culbertson attorneys thereafter promptly entered an appearance for McQuay, contacted counsel for Region 5 to request an informal settlement conference, and have begun diligently exploring the possibility of resolving this matter through settlement with the Agency, in the hope that further proceedings will be thereby made unnecessary.

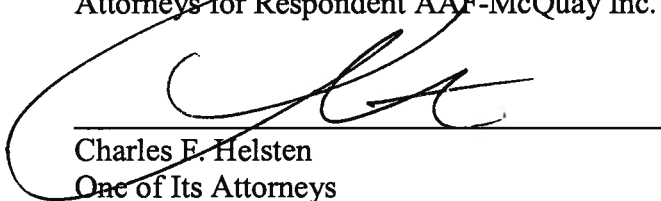
6. Because good cause for granting this motion exists, McQuay moves for a fourteen day extension in which to answer the Complaint to allow time to meet and attempt to negotiate a settlement.

7. Counsel for EPA has reviewed this motion and has no objection to it.

WHEREFORE, McQuay respectfully requests an extension of fourteen days from entry of the Order in which to answer the Complaint.

Dated: 12/6/10

HINSHAW & CULBERTSON LLP  
Attorneys for Respondent AAF-McQuay Inc.



Charles F. Helsten  
One of Its Attorneys

Daniel W. McGrath Hinshaw & Culbertson, LLP 222 No. LaSalle St., Ste. 300 Chicago, Illinois 60601-1081 (312) 704-3000	Charles F. Helsten Nicola A. Nelson Hinshaw & Culbertson LLP 100 Park Avenue, P.O. Box 1389 Rockford, IL 61105-1389 815-490-4900
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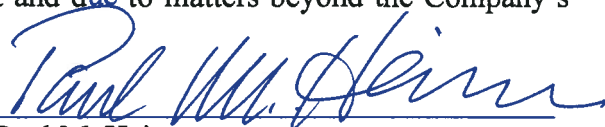


COUNTY OF HENNEPIN )  
 ) SS  
STATE OF MINNESOTA )

**AFFIDAVIT OF PAUL M. HEIM**

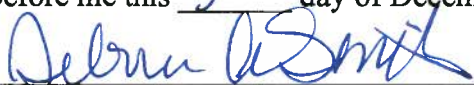
I, Paul M. Heim, being first duly sworn on oath, do depose and state as follows:

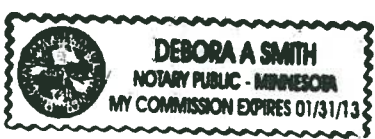
1. I am Vice President and General Counsel for AAF-McQuay Inc. ("McQuay").
2. When McQuay received the Complaint issued by U.S. EPA Region 5, docketed as EPCRA-05-2011-0002, I was in the midst of addressing numerous other pending matters, and was therefore unable to immediately turn my attention to the Complaint.
3. Approximately two and a half weeks after receiving the Complaint, I forwarded it on to an environmental attorney who had previously represented McQuay in other matters, with the belief that he would be able to handle the matter for the Company.
4. About ten days later, I was informed by the above-referenced environmental attorney that the Company would have to obtain local counsel within Region 5 to handle this matter. Upon receiving his notification that the Company would have to find counsel within Region 5, I contacted the law firm of Hinshaw & Culbertson, LLP to retain that firm's services in responding to the Complaint with all due speed.
5. McQuay's delay in answering the Complaint within thirty (30) days of receipt was, accordingly, entirely inadvertent and due to matters beyond the Company's control.

  
Paul M. Heim

Date: Dec 3, 2010

SUBSCRIBED and SWORN to  
before me this 3rd day of December, 2010.

  
Notary Public



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	
	)	<b>Docket No. EPCRA-05-2011-0002</b>
<b>AAF-McQuay Inc.,</b>	)	
	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Respondent.</b>	)	<b>Under Section 325(c) of the</b>
	)	<b>Emergency Planning and Community</b>
	)	<b>Right-to-Know Act of 1986, 42 U.S.C.</b>
	)	<b>§ 11045(c)</b>

**NOTICE OF FILING**

TO: Tamara Carnovsky (C-14J) Office of Regional Counsel U.S. EPA, Region 5 77 West Jackson Boulevard Chicago, Illinois 60604	Maynard Shaw (LC-8J) Pesticides and Toxics Compliance Section U.S. EPA, Region 5 77 West Jackson Boulevard Chicago, Illinois 60604
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**PLEASE TAKE NOTICE THAT** on December 6, 2010, the undersigned caused to be filed with the Regional Hearing Clerk (E-13J) at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 the **Respondent's Motion for Extension of Time to Answer**, a copy of which is attached hereto and served upon you.

HINSHAW & CULBERTSON LLP

By:   
Attorneys for Respondent AAF-McQuay Inc.

Daniel W. McGrath  
HINSHAW & CULBERTSON LLP  
222 North LaSalle Street, Suite 300  
Chicago, Illinois 60601-1081  
(312) 704-3000

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Nicola A. Nelson  
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**PROOF OF SERVICE**

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that she served this **Notice and Respondent's Motion for Extension of Time to Answer** on the parties listed above by depositing the same in the U.S. Mail at Rockford, Illinois by 5:00 p.m. on December 6, 2010 with proper postage prepaid.

