

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. TSCA-08-2007-0017

IN THE MATTER OF:)

TW Services, Inc.)
1606 NE 3rd Street)
Madison, SD 57042)

Respondent.)

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency- Region 8, and Respondent, TW Services, Inc., by their undersigned representatives, hereby consent and agree as follows:

1. On or about September 28, 2007, Complainant issued a Complaint to Respondent in this matter (Docket No. 08-2007-0017) alleging certain violations of the Toxic Substances Control Act ("TSCA") and its implementing regulations. In the Complaint, Complainant proposed the assessment of a civil penalty.

2. Also, on or about September 28, 2007, Complainant issued a second Complaint to Respondent alleging one violation of the TSCA and its implementing regulations (Docket No. 08-2007-0015) and proposed the assessment of a civil penalty. The two matters (Docket Nos. 08-2007-0015 and 08-2007-0017) have *not* been consolidated into one docketed matter.

3. This Consent Agreement constitutes a resolution of *both* Complaints (referenced in the above two paragraphs). To expedite finality in both matters and to promote administrative economy, Complainant pledges to file a Motion to Dismiss the complaint in Docket No. 08-2007-0015 promptly after the Presiding Officer has issued a Final Order affirming the terms of this Consent Agreement.

4. Respondent admits the jurisdictional allegations, and neither admits nor denies the remaining allegations, of the Complaint filed herein. Respondent waives its right to contest any allegations at a hearing or at a civil proceeding in connection with the enforcement of the Final Order incorporating this Consent Agreement.

5. This Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to,

any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

6. Respondent consents and agrees to pay a civil penalty in the amount of TWENTY SEVEN THOUSAND dollars (\$27,000.00) via TWO INSTALLMENTS, in the manner described below in this paragraph:

a. Payment of TEN THOUSAND dollars (\$10,000.00) is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case (TW Services, Inc.; Docket No. TSCA-08-2007-0017), for the above-described amount, payable to "Treasurer, United States of America." to:

(via Regular Mail)

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

(For payments sent in a manner other than by regular mail or for payments other than by check, please see the instructions in Attachment 1 entitled: "Collection Information")

A copy of this check shall be sent simultaneously to:

Ms. Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

and

Ms. Kim Le, TSCA Inspector
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).

d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the Final Order is issued). Payments are applied in the following order: handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

f. Payment of SEVENTEEN THOUSAND dollars (\$17,000.00) is due within 180 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

g. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case (TW Services, Inc.; Docket No. TSCA-08-2007-0017), for the above-described amount, payable to "Treasurer, United States of America." to:

(via Regular Mail)

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

(For payments sent in a manner other than by regular mail or for payments other than by check, please see the instructions in Attachment 1 entitled: "Collection Information")

A copy of this check shall be sent simultaneously to:

Ms. Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

and

Ms. Kim Le, TSCA Inspector
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

h. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).

i. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the Final Order is issued). Payments are applied in the following order: handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

j. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

7. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.

8. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

10. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

12. Each party shall bear its own costs and attorney fees in connection with this matter.

13. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,

Complainant.

Date: 3/11/08

By: Charles A Turcotte
Martin Hestmark, Director
Technical Enforcement Program

Date: 3/11/2008

By: David Janik
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: March 7 2008

By: Dana J. Stotsky
Dana J. Stotsky, Senior Enforcement Attorney
Legal Enforcement Program (81.I:P)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953
stotsky.dana@epa.gov

TW SERVICES, INC.

Respondent

Date: _____

By: _____
TITLE: _____

Date: _____

By: _____
TITLE: _____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,

Complainant.

Date: _____

By: _____
Martin Hestmark, Director
Technical Enforcement Program

Date: _____

By: _____
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

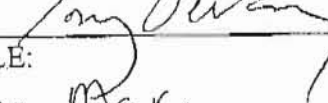
Date: _____

By: _____
Dana J. Stotsky, Senior Enforcement Attorney
Legal Enforcement Program (8LEP)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953
stotsky.dana@epa.gov

TW SERVICES, INC.

Respondent

Date: 3-3-08

By: 
TITLE: Gen. Mgr.

Date: _____

By: _____
TITLE: _____

MUMFORD, PROTSCH & PARDY
106 S. EGAN
PO BOX 510
MADISON, SOUTH DAKOTA 57042
TEL. (605) 256-6543
TELEFAX: (605) 256-6544

FAX TRANSMITTAL COVER SHEET

DATE: March 5, 2008
TO: Dana J. Stotsky
ATTENTION: Dana
FAX NUMBER: 303-312-7202
RE: TW Service Docket No. CTSCA-08-2007-0017
SENT BY: Patrick T. Pardy

WE ARE SENDING A TOTAL OF 8 PAGES, INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES OR ARE EXPERIENCING OTHER PROBLEMS IN TRANSMISSION, PLEASE CALL 605-256-6543 AND ASK FOR MEGAN.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER GRANTING FACSIMILE FILING OF CONSENT AGREEMENT AND FINAL ORDER** in the matter of **TW SERVICES, INC., DOCKET NO.: TSCA-08-2007-0017**, was filed with the Regional Hearing Clerk on March 25, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Dana J. Stotsky, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail on March 25, 2008, to:

Patrick T. Pardy, Esq.
Mumford, Protsch & Pardy, LLP
P. O. Box 510
Madison, SD 57042-0510

Pouch Mailed to:

Honorable Barbara Gunning
Office of Administrative Law Judges (1900L)
U. S. Environmental Protection Agency
1200 Pennsylvania, NW
Washington, DC 20460

March 25, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk