



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 16 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charlie Fagan
SCT Yarns
401 East Ladiga Street
Piedmont, Alabama 36272

Re: Consent Agreement and Final Order - Docket No. TSCA-04-2012-2905(b)

Dear Mr. Fagan:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CAFO) resulting from settlement discussions to resolve alleged violations of the Toxic Substance Control Act (TSCA), 15 U.S.C. § 2601 *et seq.* Please note that instruction on payment of the penalty is in Section VI of this CAFO.

Thank you for your cooperation in reaching resolution of this matter.

If you have any questions, please contact Mr. William Kappler at (404) 562-8498.

Sincerely,

A handwritten signature in black ink that reads "César A. Zapata for".

César A. Zapata
Chief RCRA and OPA Enforcement and Compliance
Branch
RCRA Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV

2012 AUG 16 AM 8:09

HEARING CLERK

In the Matter of:)
)
Mr. Charlie Fagan)
SCT Yarns)
401 East Ladiga Street)
Piedmont, Alabama 36272)
)
Respondent)
_____)

Docket No. TSCA-04-2012-2905(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource, Conservation and Recovery Act Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is SCT Yarns.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13 (b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

5. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for EPA in this proceeding:

William Kappler
North Enforcement Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8498

III. Specific Allegations

6. Respondent is a user of Polychlorinated Biphenyl (PCB) Items operating in the State of Alabama and is a “person” as defined in 40 C.F.R. § 761.3.
7. Pursuant to 40 C.F.R. § 761.3, PCB and PCBs mean any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance.
8. Pursuant to 40 C.F.R. § 761.3, PCB Item means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
9. Pursuant to 40 C.F.R. § 761.3, PCB Article means any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. “PCB Article” includes but is not limited to transformers, capacitors and discharge resistors.
10. Pursuant to 40 C.F.R. § 761.3, PCB Transformer means any transformer that contains ≥ 500 ppm PCBs.
11. On or about March 30, 2011, an inspection was conducted at Respondent’s facility located at 401 East Ladiga Street, in Piedmont, Alabama, to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.
12. At the time of the inspection the alleged name of the company was SCT Yarns.
13. At the time of the inspection, ninety-eight PCB capacitors and PCB discharge resistors (PCB items) were discovered at SCT Yarns in banks mostly of two or four, mounted on brackets attached to the walls, approximately eight feet high. Based on the PCB assumption rule, it was assumed that the PCB items had a PCB concentration of greater than 500 ppm. All PCB items were similar in size, shape and color. However, only the nameplates on the first twenty-five PCB items were read due to the inconvenient accessibility of the nameplates and dim or absent lighting. Based on the expectation that the remaining seventy-three PCB items contained PCBs, the Respondent removed and shipped the PCB items for off-site disposal.

14. Pursuant to 40 CFR § 761.65(c)(8) the PCB items were not dated. Pursuant to 40 C.F.R. § 761.40(a)(3) the PCB items were not marked with the PCB M_L label. Pursuant to 40 C.F.R. § 761.30(1)(l) the PCB items were not within a restricted-access electrical substation or in a contained and restricted-access indoor installation. Pursuant to 40 CFR § 761.65(b) the storage for disposal requirement for the PCB items was not adequate. Therefore, EPA alleges that Respondent violated 40 CFR § 761.65(c)(8), 40 C.F.R. § 761.40(a)(3), 40 C.F.R. § 761.30(1)(l) and 40 CFR § 761.65(b).

IV. Consent Agreement

15. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
16. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
17. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
18. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of Section 6(e) of TSCA.
19. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
20. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Terms of Settlement

21. Pursuant to 15 U.S.C. § 2615(a), TSCA Section 16(a), the nature of the alleged violation, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **ONE THOUSAND Dollars (\$1,000)**.
22. Respondent consents to the issuance of this CAFO and consents for purposes of settlement to the payment of the civil penalty as cited in the foregoing paragraph set forth herein.

VI. Final Order

23. Respondent is assessed a civil penalty of **ONE THOUSAND Dollars (\$1,000)** which shall be paid within 30 days from the effective date of this CAFO.
24. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the

“Treasurer, United States of America,” and shall send the check to the following address by U.S. Postal Service:

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

**The check shall reference on its face the name of
SCT Yarns and Docket Number TSCA-04-2012-2905(b).**

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101.

Contact: Natalie Pearson (314) 418-4087

25. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any

attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

27. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.
30. The undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

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VII. Effective Date

31. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Mr. Charlie Fagan
SCT Yarns
Docket No.: TSCA-04-2012-2905(b)

By: Charlie Fagan (Signature) Date: 6-20-12

Name: CHARLIE FAGAN (Typed or Printed)

Title: OWNER (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Alan Farmer Date: 8/7/12
G. Alan Farmer
Director
RCRA Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 13th day of August, 2012.

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

Docket No. TSCA-04-2012-2905(b)

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of SCT Yarns, Docket No. TSCA-04-2012-2905(b) (filed with the Regional Hearing Clerk) on August 16, 2012) was served on August 16, 2012 in the manner specified to each of the persons set forth below:

Mr. Charlie Fagan
SCT Yarns
401 East Ladiga Street
Piedmont, Alabama 36272

Certified Mail
Return Receipt Requested

Robert Caplan, Senior Attorney
Environmental Accountability Division
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Via EPA's Internal Mail

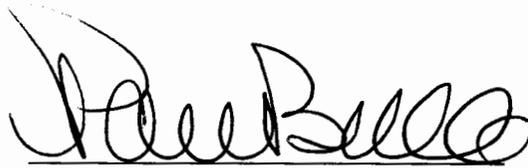
William Kappler
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4, 10th Floor
61 Forsyth Street, SW
Atlanta, Georgia 30303

Via EPA's Internal Mail

Tammye Cross
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4, 10th Floor
61 Forsyth Street, SW
Atlanta, Georgia 30303

Via EPA's Internal Mail

Date 8-16-12



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9511