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7
8 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10
11 In the Matter of:) Docket No. TSCA-09-2021-0068
12)
MCEC, Inc.,) CONSENT AGREEMENT
13) AND FINAL ORDER
Respondent.) pursuant to 40 C.F.R. § 22.18(b)
14)
15 _____)

16 I. CONSENT AGREEMENT

17 Complainant, the Manager of the Toxics Section in the Enforcement and Compliance
18 Assurance Division, Environmental Protection Agency, Region IX, (“EPA”), and Respondent,
19 MCEC, Inc., agree to settle this civil administrative action brought under the Toxic Substances
20 Control Act (“TSCA”), 15 U.S.C. §§ 2601 *et seq.*, and consent to the entry of this Consent
21 Agreement and Final Order (the “CAFO”).

22 A. AUTHORITY

23 1. Complainant initiated this civil administrative proceeding for the assessment of a civil
24 penalty against Respondent under TSCA pursuant to Section 16(a), 15 U.S.C. § 2615(a), and the
25 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40
26 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (“the Complaint”)
27 against Respondent on September 2, 2021.
28

1 2. The Complaint alleges that Respondent violated Section 409 of TSCA, 15 U.S.C. §
2 2689, by failing to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and
3 their implementing federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

4 3. Complainant and Respondent have agreed to resolve this civil administrative
5 proceeding arising under TSCA by executing this CAFO.

6 B. RESPONDENT'S ADMISSIONS

7 4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
8 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
9 Respondent; (ii) neither admits nor denies the specific factual allegations contained in the
10 Complaint; (iii) consents to any and all conditions specified in this CAFO and to the assessment
11 of the civil administrative penalty under Section I.C of this CAFO; (iv) waives any right to contest
12 the allegations contained in the Complaint; and (v) waives the right to appeal the proposed Final
13 Order contained in this CAFO.

14 C. CIVIL ADMINISTRATIVE PENALTY

15 5. In settlement of the violations specifically alleged in the Complaint, Respondent shall
16 pay a civil administrative penalty of SIXTEEN THOUSAND, SIX HUNDRED, AND NINETY-
17 TWO DOLLARS (\$16,692). Respondent shall pay this civil penalty within thirty (30) days of the
18 effective date of this CAFO. The civil penalty shall be paid by remitting a certified or cashier's
19 check, including the name and docket number of this case, for the amount, payable to "Treasurer,
20 United States of America," (or be paid by one of the other methods listed below) and sent as
21 follows:

22 Regular Mail:

23 U.S. Environmental Protection Agency
24 Fines and Penalties
25 Cincinnati Finance Center
26 PO Box 979077
27 St. Louis, MO 63197-9000

28 Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New
York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004

1 Account = 68010727
2 SWIFT address = FRNYUS33
3 33 Liberty Street
4 New York, NY 10045
5 Beneficiary = U.S. Environmental Protection Agency

6 Certified or Overnight Mail:

7 U.S. Bank
8 1005 Convention Plaza
9 Mail Station SL-MO-C2GL
10 ATTN Box 979077
11 St. Louis, MO 63101

12 ACH (also known as Remittance Express or REX):

13 Automated Clearinghouse (ACH) payments to EPA can be made through
14 the U.S. Treasury using the following information:

15 U.S. Treasury REX/Cashlink ACH Receiver
16 ABA = 051036706
17 Account = 31006, Environmental Protection Agency
18 CTX Format Transaction Code 22 – checking

19 Physical location of U.S. Treasury facility:

20 5700 Rivertech Court
21 Riverdale, MD 20737

22 Remittance Express (REX) = (866) 234-5681

23 On Line Payment:

24 This payment option can be accessed from the information below:

25 www.pay.gov
26 Enter "SFO 1.1" in the search field
27 Open form and complete required fields

28 If clarification regarding a particular method of payment remittance is
needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
R9HearingClerk@epa.gov

1 Christopher Rollins
2 Hazardous Waste & Chemicals Section
3 Enforcement and Compliance Assurance Division (ENF-2-2)
4 U.S. Environmental Protection Agency, Region IX
5 75 Hawthorne Street
6 San Francisco, CA 94105
7 rollins.christopher@epa.gov

8 6. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
9 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to
10 use such payment as a tax deduction.

11 7. If Respondent fails to pay the assessed civil administrative penalty of SIXTEEN
12 THOUSAND, SIX HUNDRED, AND NINETY-TWO DOLLARS (\$16,692), as identified in
13 Paragraph 5, by the deadline specified in that Paragraph, then Respondent shall pay a stipulated
14 penalty to EPA of \$500 per day in addition to the assessed penalty. Stipulated penalties shall
15 accrue until such time as the assessed penalty and all accrued stipulated penalties are paid and
16 shall become due and payable upon EPA's written request. Failure to pay the civil administrative
17 penalty specified in Paragraph 5 by the deadline specified in that Paragraph may also lead to any
18 or all of the following actions:

19 (1) EPA may refer the debt to a credit reporting agency, a collection
20 agency, or to the Department of Justice for filing of a collection action in the appropriate United
21 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
22 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
23 collection proceeding.

24 (2) The U.S. Government may collect the debt by administrative offset
25 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a
26 person to satisfy the debt the person owes the U.S. Government), which includes, but is not
27 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
28 C.F.R. §§ 13(C) and 13(H).

(3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
business with EPA or engaging in programs EPA sponsors or funds.

1 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
2 Government may assess interest, administrative handling charges, and nonpayment penalties
3 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
4 civil administrative penalty specified in Paragraph 5 by the deadline specified in that Paragraph.

5 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R.
6 §13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
7 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
8 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
9 (30) days of the effective date of this CAFO.

10 (b) Administrative Handling Charges. Pursuant to 31 U.S.C.
11 Section 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge,
12 based on either actual or average cost incurred (including both direct and indirect costs), for every
13 month in which any portion of the assessed penalty is more than thirty (30) days past due.

14 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
15 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually, may
16 be assessed on all debts more than ninety (90) days delinquent.

17 **D. CERTIFICATION OF COMPLIANCE**

18 8. In executing this CAFO, Respondent certifies that it is now fully in compliance with
19 the federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

20 **E. RETENTION OF RIGHTS**

21 9. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
22 liabilities for federal civil penalties for the violations and facts specifically alleged in the
23 Complaint. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
24 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
25 ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. EPA
26 specifically reserves any and all authorities, rights, and remedies available to it (including, but not
27 limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of
28 this CAFO or any violation not specifically alleged in the Complaint.

1 10. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
2 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
3 and permits.

4 F. ATTORNEYS' FEES AND COSTS

5 11. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this
6 proceeding.

7 G. EFFECTIVE DATE

8 12. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
9 effective on the date that the Final Order contained in this CAFO, having been approved and
10 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

11 H. BINDING EFFECT

12 13. The undersigned representative of Complainant and the undersigned representative of
13 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
14 of this CAFO and to bind the party he or she represents to this CAFO.

15 14. The provisions of this CAFO shall apply to and be binding upon Respondent and its
16 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
17 and assigns.

18
19 FOR RESPONDENT MCEC, INC.:

20
21 12/11/2021
22 DATE

Maurice Maalouf
23 MAURICE MAALOUF
24 President
25 MCEC, Inc.

26 FOR COMPLAINANT EPA:

27 01/13/2022
28 DATE

MATTHEW SALAZAR
29 Digitally signed by MATTHEW SALAZAR
Date: 2022.01.13 08:39:45 -08'00'
30 MATT SALAZAR, P.E.
31 Manager, Toxics Section
32 Enforcement and Compliance Assurance Division
33 U.S. Environmental Protection Agency, Region IX

1 II. FINAL ORDER

2 EPA and MCEC, Inc. having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2021-0068) be
4 entered, and Respondent shall pay a civil administrative penalty in the amount of SIXTEEN
5 THOUSAND, SIX HUNDRED, AND NINETY-TWO DOLLARS (\$16,692), and comply with
6 the terms and conditions set forth in the Consent Agreement.

7 STEVEN
8 JAWGIEL

Digitally signed by STEVEN
JAWGIEL

Date: 2022.01.18 15:33:48 -08'00'

9 _____
10 DATE

11 _____
12 STEVEN JAWGIEL
13 Regional Judicial Officer
14 U.S. Environmental Protection Agency, Region IX
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CERTIFICATE OF SERVICE

This is to certify that a fully executed Consent Agreement and Final Order in the matter of MCEC, Inc. (TSCA-09-2021-0068) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, and that a true and correct copy of the same was sent to the parties as follows:

RESPONDENT
[via E-mail]

Maurice Maalouf
President
MCEC, Inc.
900 West 10th Street
Azusa, CA 91702
mauricemaalouf@sbcglobal.net

and

James L. Miller, Esq.
James L I Miller, P.C.
jlimesq@dslextreme.com

COMPLAINANT:
[via E-mail]

Edgar Coral
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105
coral.edgar@epa.gov

Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region IX

Date