



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 29 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Vincent Atriano, Esquire
Squire Patton Boggs
41 South High Street
Columbus, Ohio 43215

Re: Sister Schubert's Homemade Rolls, Inc.
Consent Agreement and Final Order
Docket No. CERCLA-04-2016-2035(b)

Dear Mr. Antriano:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also, enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document, "SEC" refers to the Securities and Exchange Commission.

Should you or your client have any questions concerning this matter or Sister Schubert's Homemade Rolls, Inc's compliance status in the future, please contact Ellen Rouch, the EPA's Associate Attorney at (404) 562-9575.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Sister Schubert's Homemade) **Docket Number:** EPCRA-04-2016-2035(b)
Rolls, Inc.)
)
Respondent.)
_____)

RECEIVED
MAY 11 2016
EPCRA-04-2016-2035(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Sister Schubert's Homemade Rolls, Inc.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to this delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. 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) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Respondent, Sister Schubert's Homemade Rolls, Inc., is a corporation doing business in the Commonwealth of Kentucky.

5. Respondent is a "person" and is the owner and operator of a "facility" as those terms are defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

6. Respondent's facility is located at 900 Top Quality Drive, Horse Cave, Kentucky, 42749 (the facility).

III. EPA's Allegations of Violations

7. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

8. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

9. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

10. Respondent's facility is classified under SIC code 2051 and NAICS code 31181.

11. Respondent's facility is classified in a covered SIC code as described at 40 C.F.R. § 372.22 and in a covered NAICS code as described at 40 C.F.R. § 372.23.

12. Ammonia is a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65.

13. Respondent's facility otherwise used ammonia in excess of the 10,000 pound threshold quantity for the chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, during calendar year 2011.

14. Respondent violated the reporting requirements of Section 313 of EPCRA at its facility by failing to submit the required Form R for ammonia for calendar year 2011, and is

therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

15. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, the EPA may assess a “maximum statutory” penalty for each violation of Section 313 of EPCRA, 42 U.S.C. § 11004(a). Civil penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), may be assessed by Administrative Order.

IV. Consent Agreement

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

17. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

18. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

19. Respondent agrees to undertake and complete the Supplemental Environmental Project (SEP) in accordance with Section VI of this CAFO.

20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

21. Compliance with this CAFO shall resolve the allegations of violations contained herein. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent’s liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of EPCRA or other applicable laws and regulations.

22. Complainant and Respondent agree to settle this matter by their execution of this CAFO. 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 EPCRA.

V. Final Order

23. Respondent shall pay a civil penalty of **FOUR THOUSAND, EIGHT HUNDRED SEVENTY (\$4,870)**, for the EPCRA violation alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

24. Respondent shall pay the penalty by forwarding a cashier’s or certified check, payable to “Treasurer, United States of America,” to one of the following addresses:

BY MAIL

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

BY OVERNIGHT

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(513) 487-2091

The check shall reference on its face the name and the Docket Number of the CAFO.

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

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

Erika White
U.S. EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

26. For the purposes of state and federal income taxes, 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.

VI. Supplemental Environmental Project

27. Respondent shall complete a SEP in the category of an Emergency Planning and Preparedness project designed to protect the environment and the people that could be harmed by chemical accidents by providing assistance (such as, response equipment or training) to responsible state or local emergency response or planning entities as follows (hereinafter referred to as the SEP):

- a. Respondent must purchase and donate the following to the recipient selected by the Respondent as identified below:

Recipient: Horse Cave Fire Department

<u>Quantity</u>	<u>Description</u>
3	4500 PSIG, 2013 Titan SCBA, Warbling Whistle Alarm, with Pass (45TW1301)- Buddy Braether, Quick Release Pouch, Utility D-Ring, Right, Utility D-Ring Left, Sliding D-Ring, Right, Sliding D-Ring, Left, Item # 995044,
3	Installed Cylinders with Non-Locking Handwheel 45-minute 4500 PSIG (fully wrapped carbon)— Lightweight, Item # 917546,
3	Panther, TwentyTwenty Plus Headnet MED, Black Medium Nose cup, Item # 252026,
3	CommCommand Voice Amplification System (VAS), Item # X252136,
1	NFPA Flow Test on SCBA

- b. Respondent's total expenditure for purchase of the above equipment shall not be less than **\$14,999.96**, which, for the purposes of this document, is rounded to the nearest dollar, or **\$15,000**.
- c. Respondent must complete the purchase and donation of the above equipment within 45 days of the effective date of this CAFO.

28. This CAFO shall not be construed to constitute the EPA's endorsement of any product, equipment, technology or service purchased and donated by Respondent in connection with the SEP.

29. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is **\$15,000**;
- b. That, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law, regulation, permit, order or agreement and is not required to perform or develop the SEP by agreement, grant or as injunctive relief awarded in any other action in any forum;

- c. That the SEP is not a project the Respondent was planning or intending to construct, perform or implement other than in settlement of the claim resolved in this CAFO;
- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action of any kind;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP; and
- h. That Respondent has inquired of Horse Cave Fire Department whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by Horse Cave Fire Department that it is not a party to such a transaction.

30. Respondent agrees that any public statement, oral or written, in print film or other media made by Respondent making any reference to the SEP under this CAFO from the effective date of this CAFO shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violation of Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA)”.

31. Respondent shall complete and submit a SEP Completion Report for the SEP under this CAFO as follows:

- a. The SEP Completion Report shall include the following:
 - i. An affidavit from an authorized company official, certifying that the SEP has been completed or explaining in detail any failure to complete, and
 - ii. Copies of appropriate documentation, including invoices and receipts, showing that Respondent’s total expenditure for the SEP was no less than the minimum total expenditure required above.
- b. The SEP Completion Report shall be submitted to the EPA within sixty (60) days of the effective date of this CAFO to the following:

Erika White
U.S.EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

32. Upon request, Respondent shall send EPA any additional documentation requested by EPA.

33. Respondent agrees that in order to receive credit for the SEP, Respondent must fully and timely complete the SEP in accordance with and as indicated in this CAFO. In the event that Respondent fails to comply with any of the terms or provisions of the CAFO relating to the performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. If Respondent fails to spend the minimum amount of **FIFTEEN THOUSAND DOLLARS (\$15,000)**, Respondent shall pay to the United States, a stipulated penalty of the difference between the minimum amount noted above and the actual SEP expenditure.
- b. If Respondent fails to timely submit the SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of **\$100** for each calendar day that the report is late.
- c. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

34. The determination as to whether Respondent has fully and timely completed the SEP shall be in the sole discretion of the EPA.

35. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from the EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in the written demand from the EPA.

VII. Other Provisions

36. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

37. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

38. This CAFO shall be binding upon the Respondent, its successors and assigns.

39. The following individual is authorized to receive service for EPA in this proceeding:

Robert W. Bookman
U.S. EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9169

40. Each 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 bind that party to it.


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VIII. Effective Date

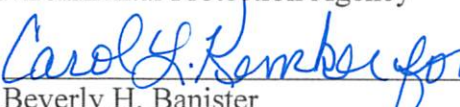
41. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

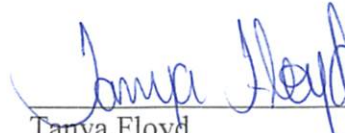
Sister Schubert's Homemade Rolls, Inc.

By:  Date: 5/5/17
Name: Matthew Shurt (Typed or Printed)
Title: Secretary (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 5/23/17
Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 27th day of June, 2017.


Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing
Consent Agreement and Final Order, In the Matter of Sister Schubert's Homemade Rolls, Inc.,
Docket Number: EPCRA-04-2016-2035(b), on the parties listed below in the manner indicated:

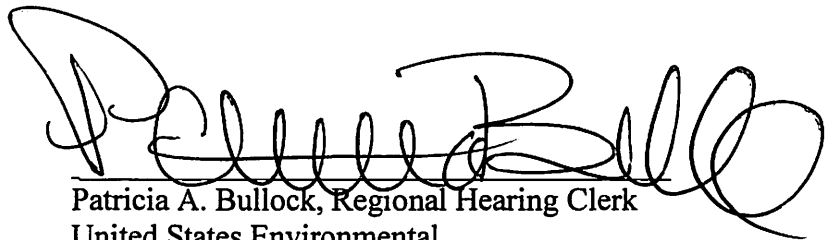
Robert W. Bookman (Via EPA's internal mail)
U.S. EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street
Atlanta, Georgia 30303

Ellen Rouch (Via EPA's internal mail)
Associate Regional Counsel
U.S. EPA, Region 4
Office of Regional Counsel
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan (Via EPA's internal mail)
Senior Attorney
U.S. EPA, Region 4
Office of Regional Counsel
61 Forsyth Street
Atlanta, Georgia 30303

Vincent Atriano (Via Certified Mail—Return Receipt Requested)
Squire Patton Boggs (US) LLP
2000 Huntington Center
41 South High Street
Columbus, Ohio 43215

Date: 6-29-17



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511