

THE LAW FIRM OF HUGH H. MO, P.C.

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September 21, 2012

Via Facsimile (202) 565-0044

And Email to oaljfilng@epa.gov

Honorable M. Lisa Buschmann
Administrative Law Judge
U.S. Environmental Protection Agency

Re: In re Hong Kong Supermarket, Inc.
Docket No. FIFRA-02-2012-5205

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2012 SEP 24 A 11:16
REGIONAL HEARING
CLERK

Dear Honorable Buschmann:

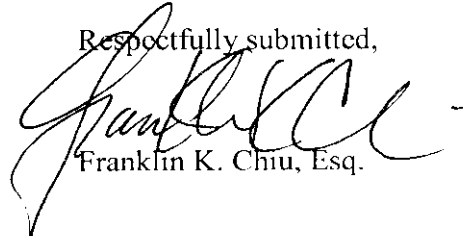
We are the attorneys for Respondent Hong Kong Supermarket, Inc. in the above-referenced matter.

Please find enclosed herewith Respondent's Prehearing Exchange, which was served by overnight mail upon Bruce Aber, Esq., Assistant Regional Counsel, and Karen Maples, Regional Hearing Clerk.

In the interests of justice, we respectfully ask Your Honor to permit Respondent to submit the enclosed Prehearing Exchange. Further, both parties have agreed to ask Your Honor for extensions of time for Respondent's Prehearing Exchange and the Complainant's Rebuttal Prehearing Exchange for thirty (30) days, in light of substantial and active settlement negotiations between the parties in this matter.

We thank Your Honor for this Court's attention and consideration herein. Should Your Honor have any questions, please feel free to contact the undersigned at any time.

Respectfully submitted,



Franklin K. Chiu, Esq.

cc:
Bruce Aber, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Karen Maples
Regional Hearing Clerk
US EPA Region II
290 Broadway, 16th Floor
New York, New York 10007-1866

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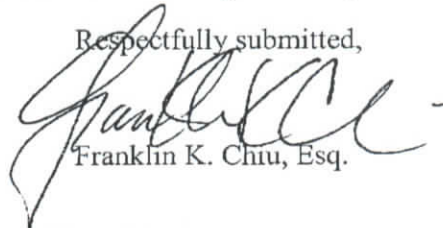
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290 Broadway, 16th Floor
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2012 SEP 24 A 11: 16

REGIONAL HEARING
CLERK

-----	X	
In the Matter of	:	
	:	
Hong Kong Supermarket, Inc.,	:	<u>RESPONDENT'S INITIAL</u>
	:	<u>PREHEARING EXCHANGE</u>
	:	
Respondent,	:	Docket No.
	:	FIFRA-02-2012-5205
	:	
Proceeding Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.	:	
-----	X	

Respondent Hong Kong Supermarket, Inc., by its attorneys, The Law Firm of Hugh H. Mo, P.C., respectfully submits this Initial Prehearing Exchange, pursuant to a Prehearing Order by the Hon. M. Lisa Buschmann, ALJ, dated July 18, 2012, and states that:

The responses set forth herein are made without waiving the following:

1. The right to object on the ground of competency, privilege, relevancy, materiality or any other proper ground, to the use of any material produced herein, for any purpose, in whole or in part, in any proceeding to this action or any other action.
2. The right to object on any and all proper grounds at any time, to other requests or other discovery procedures involving or relating to the subject matter of the interrogatories herein responded to; and,
3. The right at any time to revise, correct, modify, supplement or clarify any of the responses provided herein.

WITNESSES

Respondent respectfully submits that, in addition to cross-examination of Complainant's witnesses, Respondent will call Richard Tang, comptroller for Hong Kong Supermarket, Inc., as a factual witness. Mr. Tang has personal knowledge of the facts: (a) that Hong Kong Supermarket, Inc.'s only place of business was located at 109 East Broadway, New York, New

York, until it burned down on or about May 14, 2009; (b) that, since then, Hong Kong Supermarket, Inc., has not owned, operated or controlled any business; and, (c) that Hong Kong Supermarket, Inc., neither owns, operates or controls any of the locations that Complainant claims they allegedly observed the subject products being offered for sale.

DOCUMENTS

Annexed hereto as **Exhibit "A"** is a copy of the Entity Information for Hong Kong Supermarket, Inc., from the New York State Department of State, Division of Corporations.

Annexed hereto as **Exhibit "B"** are copies of articles that confirm that Hong Kong Supermarket, Inc. only place of business located at 109 East Broadway, New York, New York, burned down on or about May 14, 2009.

VENUE

Respondent consents to Complainant's request to hold the hearing of this matter in New York, New York.

AFFIRMATIVE DEFENSES

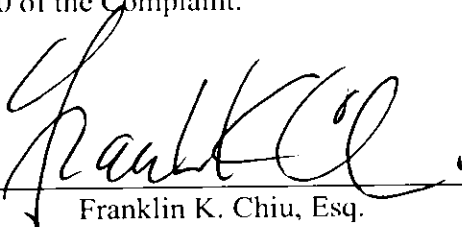
Respondent respectfully submits that this matter should be dismissed on the grounds that it is not a proper party to Complainant's Complaint in that Hong Kong Supermarket, Inc., neither owns, operates or controls any of the locations that Complainant claims they allegedly observed the subject products being offered for sale.

DENIALS OF FACTUAL ALLEGATIONS IN COMPLAINT

Respondent respectfully denied Complainant's allegations in the Complaint, Pars. 10, 11, 12, and 15, on the grounds that it is not a proper party to Complainant's Complaint in that Hong Kong Supermarket, Inc., neither owns, operates or controls any of the locations that Complainant

claims they allegedly observed the subject products being offered for sale. Further, Respondent does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in Pars. 34, 36, 48 and 50 of the Complaint.

Dated: September 21, 2011



Franklin K. Chiu, Esq.

EXHIBIT A

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through September 20, 2012.

Selected Entity Name: HONG KONG SUPERMARKET, INC.

Selected Entity Status Information

Current Entity Name: HONG KONG SUPERMARKET, INC.

DOS ID #: 1747562

Initial DOS Filing Date: AUGUST 06, 1993

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

HONG KONG SUPERMARKET, INC.

ATTN: MYINT J. KYAW

56-72 49TH PLACE

MASPETH, NEW YORK, 11378

Chairman or Chief Executive Officer

ANH TRAN

109 EAST BROADWAY

NEW YORK, NEW YORK, 10002

Principal Executive Office

ANH TRAN

109 EAST BROADWAY

NEW YORK, NEW YORK, 10002

Registered Agent

MYINT J. KYAW

56-72 49TH PLACE

MASPETH, NEW YORK, 11378

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by viewing the certificate.

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
200	No Par Value	

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
AUG 06, 1993	Actual	HONG KONG SUPERMARKET, INC.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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EXHIBIT B

SERIOUS EATS: NEW YORK

Hong Kong Supermarket in Chinatown on Fire Last Night

Posted by Erin Zimmer, May 15, 2009



Photograph from BoweryBoogie on Flickr

Hong Kong Supermarket, the Chinatown landmark at the corner of Pike and East Broadway, burned down last night. Bowery Boogie has photos and video footage from the scene. Apparently the fire started in the adjacent building around 9:45 p.m. and had people in the smoke-filled streets until well after midnight.

Shopping at Hong Kong Supermarket was something of a delightful madness. The shelves were stocked with everything from sesame paste to grape jam-filled marshmallows. Sure, there are plenty of other Asian markets in the city, but this was a special favorite of Serious Eaters.

Related: [Noodling Around Hong Kong Supermarket](#)

Printed from <http://new.york.serouseats.com/2009/05/hong-kong-supermarket-in-chinatown-nyc-fire-burns-last-night.html>

© Serious Eats



City NEW YORK

TOP STORIES

MARKETPLACE

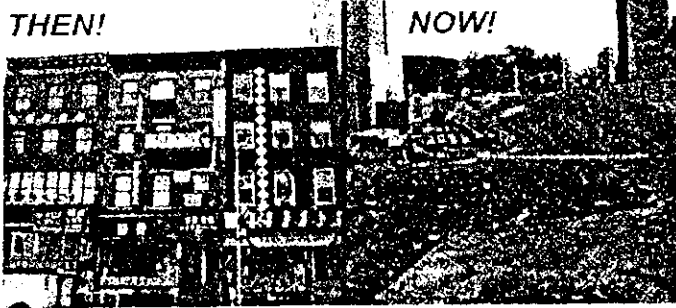
Search Curbed NY

Hong Kong Supermarket

ACTIVE DISCUSSIONS / NEWEST POSTS

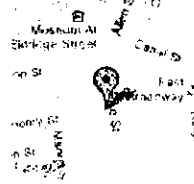
5/21/12 10:41 AM

Devastating Chinatown Fire Creates Exciting Hotel Opportunity!



Last year a fire that started in the Hong Kong Supermarket spread to two neighboring tenements at 107 and 109 East Broadway, causing loads of damage and the eventual demolition of the flame-ravaged buildings. The prominent corner site has remained an empty sandlot, but Bowery Boogie notices some dirt finally getting pushed around and a new permit for a **seven-story hotel/dorm** at the 95 Henry Street address.

The architect has a controversial history. >>



CHINATOWN
LOWER EAST SIDE
2 COMMENTS

ABOUT 3 YEARS AGO

Tweet

Like

FREE SHIPPING & RETURNS

BONOBOS
Men's Clothing



Fit + COLOR

Get 20% OFF*

CURBED MIAMI



1100 Millecento, Basically Sold Out, Is About To Break

EATER NY



The Beagle's Head Bartender Tom Richter

RACKED NY



Ten of the Best Labor Day Weekend Sales at Woodbury

SIGN UP FOR OUR NEWSLETTER

Get daily updates and breaking news alerts from Curbed NY delivered straight to your inbox

Your email here



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of	:	
	:	
Hong Kong Supermarket, Inc.,	:	Docket No.
	:	FIFRA-02-2012-5205
Respondent,	:	
	:	
Proceeding Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.	:	
-----	X	

CERTIFICATE OF SERVICE

Franklin K. Chiu, Esq. declares that:

I. I am an associate of The Law Firm of Hugh H. Mo, P.C., counsel to Respondent Hong Kong Supermarket, Inc., and that, on the execution date which appears below, true copies of Respondent's Initial Prehearing Exchange, and the exhibits annexed thereto, were served by causing same to be delivered and addressed as follows:

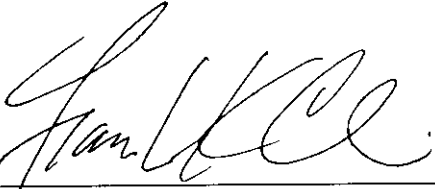
Via Facsimile (202) 565-0044
And Email to oaljfilng@epa.gov
Honorable M. Lisa Buschmann
Administrative Law Judge
U.S. Environmental Protection Agency
(September 21, 2012)

Via Email to oaljfilng@epa.gov
And FedEx
Bruce Aber, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Via FedEx (original and two copies)
Karen Maples
Regional Hearing Clerk
US EPA Region II
290 Broadway, 16th Floor
New York, New York 10007-1866

2. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that all of the foregoing is true and correct.

Dated: September 22, 2012



Franklin K. Chiu, Esq.