

**INNOVA TRADING**

**From:** "INNOVA TRADING" <innovatr@prtc.net>  
**Date:** Monday, October 17, 2016 1:19 PM  
**To:** "Gabriel Emanuelli" <gemanuelli@gmail.com>; "Taylor, Karen" <taylor.karen@epa.gov>  
**Cc:** "Juan J Perez" <jjperezmontejo@gmail.com>  
**Subject:** Re: Request for Settlement & formal response to Complaint filed for INNOVA Trading Corp. / Docket no. # FIFRA-02-2016-5301

**From:** Gabriel Emanuelli  
**Sent:** Monday, October 17, 2016 12:51 PM  
**To:** Taylor, Karen  
**Cc:** Juan J Perez ; Innova Trading Corp.  
**Subject:** Request for Settlement & formal response to Complaint filed for INNOVA Trading Corp. / Docket no. # FIFRA-02-2016-5301

**To:** Karen L. Taylor Esq.  
 Assistant Regional Counsel  
 US Environmental Protection Agency (EPA)

**Re: Innova Trading Corp. / Docket no. # FIFRA-02-2016-5301**

The following is a formal answer, response (within 30 days) to the latest communication, administrative civil complaint notice received on September 27, 2016 from your offices. EPA-Letter received is **enclosed** in the attachment on this communication.

We respectfully request EPA for a reduction on the assessed penalty as currently shown over \$65,000.00 thousand dollars as proposed on Section 14 of FIFRA "Shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the persons ability to continue in business, and the gravity of the violation" (Section 14(a)(4) of FIFRA, 7U.S.C. 136/(a)(4).

This is a small family business (7 employee's) with "Good standing" in all its business transactions and government, tax responsibilities which cannot afford to pay the proposed penalty as it would certainly have a devastating impact on the business ability to continue its normal operations. At all times Mr. Perez and INNOVA Trading Corp. has worked in "Good faith" with these violations immediately after involuntary error was brought to its attention, taking all corrective measures for removal and disposing of such small amounts of materials in this case (moth balls) worth pennies on the dollar and conducting all "Due diligence" requested on behalf of EPA including submitting

10/17/2016

financial statements and tax records.

All information provided including financial statements and tax records supports the fact that as a small family business we cannot afford penalty as presented. Considering all the above, we respectfully ask for EPA's consideration to settle this matter for the amount of \$10k (ten thousand dollars) as although it still would be an impact to our business as proven by our financial statements we believe a fair and equitable amount in seeking closure on good faith to this lengthy case.

Below summary of actions taken from INNOVA on this case;

EPA - FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

- **July 11, 2012**

We received a call from a St Croix customer complaining that a EPA visited him and found a product sold by INNOVA TRADING: Moth Ball, the only product involved in this issue. Customer was asked to retire it from shelves.

- **August 14, 2012**

**A Vieques customer complaints as the customer from St Croix did. We knew about other cases after this, all in US Virgin Island.**

- **August 27, 2012**

**Mr. Muñoz, Departamento Agrologico Supervisor, of PR Agricultural Dept visited our warehouse /office.**

**He took samples of the product and copies of invoice from our files.**

- **August 28, 2012**

**We received from China mixed products including Moth Balls.**

- **August 31, 2012**

**Department of Agriculture inspected the merchandise.**

- **September 7, 2012**



**Agricultural inspectors ordered the "Moth balls" to be kept in Castillo warehouse in San Juan Free Zone.**

- **October 17, 2012**

**We received a certified letter from Agricultural Department stating that 42 violations were made in 2011 and 2012.**

- **December 20, 2012**

**All inventories of Moth Balls, including those just received, were shipped out of US territory, to St Maarten, Nederland Antilles, via Tropical Shipping. It was supervised by inspectors of Agricultural Department. This was done because we were ask to either ship them back to China or out of US territory.**

- **WE HAD NO COMMUNICATION WITH EPA on 2013 (no calls, no emails)**

**June 01, 2014**

**A Certified Mail was received from Karen L.Taylor, Esq., Assistant Regional Counsel EPA, New York. Re: "Notice of opportunity with respect to Action Under Federal Insecticide, Fungicide and Rodenticide Act". As a result from inspections by PR Department of Agriculture there were 42 violations made and we were told "any settlement would include Innova to pay a monetary penalty and would be subject to approval by EPA".**

**"EPA currently anticipates issuing an administrative complaint in this matter, seeking a civil penalty". She requested a conference call.**

- **June 22, 2014**

**My son-in-law Gabriel Emanuelli (who helped me in this issue for communication purpose with EPA during the entire process from this day) and myself requested an informal conference call with Ms Karen Taylor at [Taylor.Karen@epa.gov](mailto:Taylor.Karen@epa.gov) to discuss this issue. We wanted to let them know that we wanted to cooperate and it was no intention of violations in our part.**

- **June 27, 2014**

**She answered that she need to check with Aarti Reddy from EPA program office for**

the availability for a conference call.

- July 24, 2014

CONFERENCE CALL with Ms Taylor. We told her that ITC is a small family owned business that cannot afford to pay a penalty too high. She asked for Income Statements.

- July 29, 2014

We provided as requested by EPA our Income Statements as follows:

2011 net profit: \$25,000.00

2013 net loss (\$62,000.00)

2013 net profit: \$28,000.00

(See our foot notes sent on this E-Mail below:) \*\*\*

- July 30, 2014

Karen Taylor EPA asked for 480.2 file tax Forms. . We answered: We file local taxes , not Federal Taxes

- August 8, 2014

Karen Taylor EPA requested PR tax form for 2011, 2012 and 2013

- August 10, 2014

Forms 480.3 and not 480.2 were sent to her since our business is in San Juan Trade Zone and these are the forms to be use to compliance with PR tax laws.

- October 21, 2014

Karen Taylor EPA said they needed in writing the release of the tax return information to a contractor for analysis. We agreed and provided.

- November 6, 2014

**Karen Taylor EPA requested additional financial information.**

- **November 11, 2014**

**Financial information requested for 2011, 2012 and 2013 were provided.**

- **March 18, 2015**

**Karen Taylor EPA wrote that she would like to discuss the outcome of the financial analysis by Industrial Economics, Inc., Cambridge, MA in a conference call and we did.**

- **April 8, 2015**

**Karen Taylor EPA asked more financial information: 2014 Financial Statement and Tax Return. Both were provided.**

**As you notice its "Net Income" (for 2014) was conservative \$7,900 aprox.**

- **April 10, 2015**

**She asked: How many people are receiving salaries from Innova Trading? We answered: 7 people.**

- **May 1, 2015**

**She requested a conference call.**

- **May 6, 2015**

**CONFERENCE CALL with Ms Taylor. During the conversation we told her that we were exploring to sell the business.**

- **June 29, 2015**

**CONFERENCE CALL with Ms Taylor. She asked about the status of the sale. We informed her that because of the bad economy in PR no broker or price sale has being determined at this date.**

- **July 16, 2015.**

**CONFERENCE CALL with Ms Taylor. We offered her \$10,000.00 to settle this issue.**

- **Additional CONFERENCE CALLS: with Ms Taylor. topics covered;**



**\*\*\*Small family business of 8 employees. They do not sell product nor distribute in large quantities as it was a small samples shipped and properly market, identified on invoices when arrived to Puerto Rico.**

**Immediately as they were notified of violations, they took corrective measures, removal of merchandise from US territory following approved vendors & procedures as directed.**

**In summary, Innova Trading is a small family owned business in "Good standing" since in operation, with all its taxes and regulations. This simple was an oversight that has being addressed and corrected accordingly.**

**We appreciate the time allowed for us to share our point of view of this matter and ask EPA agency consideration in resolving this matter with no economic penalty as it would be a severe impact in our business**

All information provided including financial statements and tax records supports the fact that as a small family business we cannot afford penalty as presented. Considering all the above, we respectfully ask for **EPA's consideration to settle this matter for the amount of \$10k** (ten thousand dollars) as although it still would be an impact to our business as proven by our financial statements we believe a fair and equitable amount in seeking closure on good faith to this lengthy case.

Yours truly;

Juan J. Perez

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*Gabriel R. Emanuelli*

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10/17/2016