

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF:
Kmart Corporation

Respondent

Docket No. RCRA-02-2009-7147

U.S. ENVIRONMENTAL
PROTECTION AGENCY REGION 2
2010 JAN 29 PM 2:34
REGIONAL HEARING
CLERK

**JOINT MOTION FOR EXTENSION OF ALTERNATIVE DISPUTE
RESOLUTION PROCESS**

Comes now Respondent Kmart Corporation and the U.S. Environmental Protection Agency, Region 2, by and through their undersigned counsel, and respectfully request a 60-day extension of the Alternative Dispute Resolution (“ADR”) process. As grounds therefor, Movants state as follows:

1. On November 30, 2009, the Office of Administrative Law Judges sent a letter to the Movants offering to facilitate the settlement of this matter through the ADR process.
2. Both parties timely accepted the offer for ADR, and by letter dated December 9, 2009, Chief Administrative Law Judge Biro set a termination date for the ADR process of February 6, 2010. The same letter stated that an extension of up to 60 days may be granted upon request.
3. The Movants have since engaged in settlement negotiations and continue to work diligently toward resolution of this matter. The Movants believe that they may be able to resolve this matter without the assistance of an ADR neutral but may not have

it finally resolved before the ADR process terminates on February 6. Movants would like to preserve the option of engaging in ADR if settlement cannot be reached on their own by extending the ADR period for sixty days after February 6, 2010.

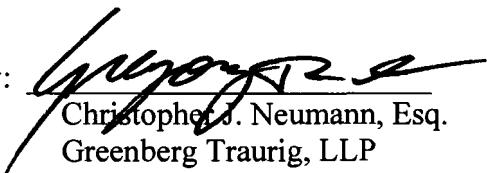
WHEREFORE, for the foregoing reasons, Movants respectfully request that the ADR neutral request a 60-day extension of the ADR process, and the Chief Administrative Law Judge grant the request for a 60-day extension.

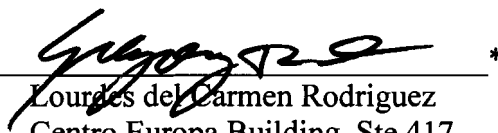
Dated: January 28, 2010

Respectfully Submitted,

GREENBERG TRAURIG, LLP

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 2

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* Approved by Lourdes del Carmen Rodriguez as to form and content and signed by Gregory R. Tan with permission.

ATTORNEYS FOR
KMART CORPORATION

CERTIFICATE OF SERVICE

I certify that the foregoing **JOINT MOTION FOR EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION PROCESS**, dated January 28, 2010, was sent this day in the following manner to the addressees listed below:

Original by Federal Express
Overnight Delivery to:

Regional Hearing Clerk
U.S. EPA - Region 2
290 Broadway, 16th floor - Room 1631
New York, NY 10007-1866

Copy by Regular Mail and facsimile to:

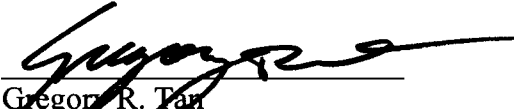
The Honorable Spencer T. Nissen
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave., NW / MC1900L
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The Honorable Susan L. Biro
U.S. Environmental Protection Agency
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Copy by Regular Mail to:

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Dated: January 28, 2010