



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 04 2010

Certified Mail – Return Receipt Requested

Greg Blocker, President  
B & L Ace Hardware  
301 North 15 Street  
Immokalee, Florida 34142

Re: Docket No. FIFRA-04-2010-3032(b); B & L Ace Hardware

Dear Mr. Blocker:

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. As stated in Section V of the CAFO, the assessed penalty of \$2,790 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner, either by telephone at (513) 487-2125, or by written correspondence to her attention at the U.S. Environmental Protection Agency's Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-9085 or Mr. Phillip Beard at (404) 562-9012.

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 you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: Craig Bryant, Environmental Administrator  
Florida Department of Agriculture and Consumer Services  
State File No. 208-003-4117 NA

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

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EPA REGION 4  
2010 MAY -4 PM 2:36

In the Matter of: )  
 )  
B & L Ace Hardware )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2010-3032(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is B & L Ace Hardware.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

Docket No. FIFRA-04-2010-3032(b)  
B & L Ace Hardware

## II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Phillip Beard  
Pesticides Section  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9012.

5. The Respondent is B & L Ace Hardware, a Florida corporation located at 301 N. 15 Street, Immokalee, Florida 34142.
6. Respondent is a “person” as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

## III. Specific Allegations

7. On or about October 1, 2008, an authorized representative of the EPA conducted an inspection at B & L Ace Hardware, 301 N. 15 Street, Immokalee, Florida 34142. During the aforementioned inspection, “B & L Chlorinating Solution,” was identified as being repackaged, sold, and distributed by the Respondent. The label included “EPA Registration Number 33458-20002-64809.” This product Registration Number, 33458-20002, was cancelled on October 24, 2003. The current EPA Registration Number for this product is 33458-23-64809.

8. "B & L Chlorinating Solution," is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u). The definition of pesticide includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
9. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
10. Respondent "distributes or sells" pesticides. The term "to distribute or sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
11. At the time of the inspection, the registration number appearing on the label for "B & L Chlorinating Solution," was false. The label was false in that the Respondent failed to make the labeling change to bear the correct EPA Registration Number 33458-23-64809.
12. Pursuant to FIFRA Section 2(q)(1)(A), 7 U.S.C. § 136(q)(1)(A), a pesticide is misbranded if its label is false or misleading in any particular.
13. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide which is misbranded.
14. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

15. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
16. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
17. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of TWO THOUSAND SEVEN HUNDRED NINETY DOLLARS (\$2,790), against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

#### IV. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
19. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
20. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
22. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United

States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

23. 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 FIFRA.

V. Final Order

24. Respondent is assessed a civil penalty of TWO THOUSAND SEVEN HUNDRED NINETY DOLLARS (\$2,790), which shall be paid within 30 days from the effective date of this CAFO.
25. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

**The check shall reference on its face the name of the**

**Respondent and the Docket Number assigned to this CAFO.**

26. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being 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  
Atlanta, Georgia 30303-8960;

Phillip Beard  
Pesticides Section  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and

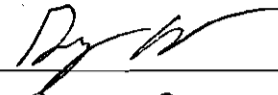
Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

27. For the purposes of state and federal income taxation, 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.
28. 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 date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent, its successors and assigns.


the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

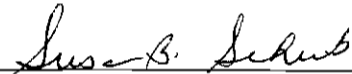
B & L Ace Hardware  
Docket No. FIFRA-04-2010-3032(b)

By:  (Signature) Date: 3/26/10  
Name: Greg Blocker (Typed or Printed)  
Title: President (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 4/26/10  
Kenneth R. Lapierre, Acting Director  
Air, Pesticides and Toxics  
Management Division  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 4<sup>th</sup> day of May 2010.

  
Susan B. Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: B & L Ace Hardware, Docket Number FIFRA 04-2010-3032(b), to the addressees listed, in the manner indicated:

Mr. Greg Blocker  
President  
B & L Ace Hardware  
301 N. 15 St.  
Immokalee, FL 34142

(Via Certified Mail, Return Receipt Requested)

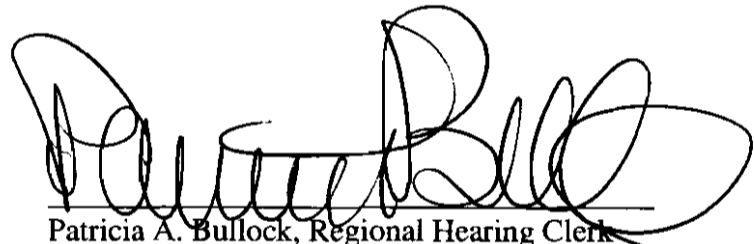
Phillip Beard  
Pesticides Section  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

(Via EPA's internal mail)

Robert Caplan  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

(Via EPA's internal mail)

Date: 5-7-10



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

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 4/30/10  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: B & L Ace Hardware  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 2790 -  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: EIARA 04 2010-3032(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

- A. JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:
- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|
- B. ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|