



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 24 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Saul Salamanca
President
Promesa Distributors
5160 Indiana Avenue, #A
Winston Salem, North Carolina 27106

Re: Promesa Distributors
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2014-3008(b)

Dear Mr. Salamanca:

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.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent 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 you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Melba Table of the EPA Region 4 staff at (404) 562-9086.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony G. Toney', with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: NCDACS

State File No. SN032712271001

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:

Promesa Distributors

Respondent.

Docket No.: FIFRA-04-2014-3008(b)

RECEIVED
EPA REGION IV
2014 SEP 24 AM 8:43
HEARING CLERK

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) (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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4. Respondent is Promesa Distributors.
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, 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 5-14, dated September 7, 2005. Pursuant to that 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, and has the authority to sign consent agreements memorializing settlements between the EPA and Respondents.

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

II. Preliminary Statements

4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

5. Respondent is Promesa Distributors, a North Carolina corporation, located at 5160 Indiana Avenue, #A, Winston Salem, North Carolina 27106.
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 March 17, 2012, an authorized representative of the EPA conducted an inspection at Rincon Hispano located at 319 S. Sterling Street, Morganton, NC 28655.
8. At the time of the inspection, the inspector observed Sapolia Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavender Desinfectante and Nuevo

Sapolio Limpia todo Lavender being offered for sale and/or distribution on retail shelves of the store.

9. The product labels for Sapolio Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavanda Lavender Desinfectante, and Nuevo Sapolio Limpia todo Lavanda Lavender bore the claims “disinfectant, kills bacteria and germs.”
10. Because the products’ labels listed above bore pesticidal claims, the products are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. 136(u), which includes any substance or mixture of substance intended for preventing, destroying, repelling, or mitigating any pest.
11. 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).
12. The inspector also collected a shipping invoice from Rincon Hispano that showed that Respondent, Promesa Distributors, had sold and distributed the four previously mentioned pesticide products to Rincon Hispano.
13. On or about May 15, 2012, an authorized representative of the EPA conducted an inspection at the Respondent’s facility located at 5160 Indiana Avenue #A, Winston Salem, North Carolina 27106.
14. At the time of the inspection, the four above-referenced pesticide products were not observed to be present at the facility. Respondent advised EPA that it had shipped the remainder of the pesticide products in its possession back to the initial distributor.

15. The inspector collected an affidavit from the owner of Promesa Distributors stating that Promesa Distributors sold the listed products above to Rincon Hispano.
16. 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.
17. Pesticides that are sold and distributed in the United States are required to be registered with the EPA, pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.
18. At the time of the inspections, Sapolio Pino Pine Desinfectante, Sapolio Limon Lemon Desinfectante, Sapolio Lavanda Lavender Desinfectante and Nuevo Sapolio Limpo todo Lavanda Lavender were not registered as a pesticide with the EPA.
19. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
20. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling and distributing on at least one occasion each of the four pesticide products identified above and is, therefore, subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
21. 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.
22. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the 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.

23. 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 **FIVE HUNDRED DOLLARS (\$500)** against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

24. 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.
25. 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.
26. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
27. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
28. 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 the 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.
29. 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

30. Respondent is assessed a civil penalty of **FIVE HUNDRED DOLLARS (\$500)**. Two payments will be made to complete payment of the entire civil penalty including interest. The first installment is due within thirty (30) days of the effective date of this CAFO. The subsequent payment shall be paid within sixty (60) days after the effective date of this CAFO. Including the civil penalty and the interest, the total amount that will be paid upon the completion of all payments will be **FIVE HUNDRED DOLLARS and SIXTY FOUR CENTS (\$500.64)**.
31. Respondent shall remit the penalty payments by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the penalty payment by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

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

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1818.

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

32. 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;

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

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

33. If Respondent fails to make the installment payment in accordance with the schedule set forth above, and if such payment is not made within thirty (30) days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become immediately due and payable on the 31st day from such due date. In addition Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
34. Further, if Respondent fails to pay the installment payment in accordance with the schedule set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In such collection action, the validity amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

35. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of FIVE HUNDRED DOLLARS and SIXTY FOUR CENTS (\$500.64) within thirty (30) days of the effective date of this CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
36. Pursuant to 31 U.S.C. § 3717, and 40 C.F.R. § 13.11(a) the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). 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 ninety (90) days of the due date.
37. 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 pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.


38. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
39. This CAFO shall be binding upon the Respondent, its successors and assigns. Each undersigned representative of the parties to this CAFO certifies that he or she fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

VI. Effective Date

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

AGREED AND CONSENTED TO:

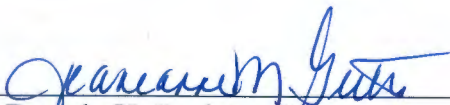
Respondent: Promesa Distributors
Docket No.: FIFRA-04-2014-3008(b)

By:  (Signature) Date: 8/03/2014

Name: Paul Salamone (Typed or Printed)


Title: President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 9/15/14

Beverly H. Banister, Director
 Air, Pesticides and Toxics
 Management Division

APPROVED AND SO ORDERED this 23 day of Sept 2014.


 Susan B. Schub
 Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that 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 Promesa Distributors Docket Number: FIFRA-04-2014-3008(b), to the addressees listed below:

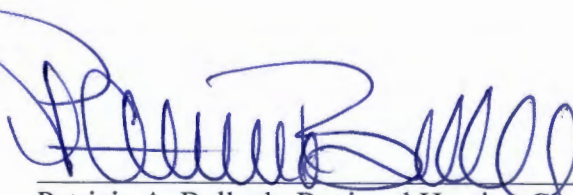
Mr. Saul Salamanca (via Certified Mail, Return Receipt Requested)
President
Promesa Distributors
5160 Indiana Ave., #A
Winston Salem, North Carolina 28655

Melba Table (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Date:

9-24-14



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