

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

IN THE MATTER OF:)	
)	
	)	CIVIL COMPLAINT
	)	and
American Consumer Products	)	NOTICE OF OPPORTUNITY
	)	FOR HEARING
)	
	)	Docket No. FIFRA-04-2009-3023
)	
Respondent.)	

AFFIDAVIT OF MAILING AND PROOF OF SERVICE

Please take notice that there was filed with the United States Environmental Protection Agency, Region 4 Atlanta, Georgia, Respondents response to the Matter of American Consumer Products Docket No. FIFRA-04-2009-3023 by mailing a copy to the Regional Hearing Clerk US EPA, Region 4, Jennifer M. Lewis, Attorney US EPA, Region 4, Melba Table Case Development Officer, US EPA Region 4 on this date October 23, 2009 postage prepaid via U.S. Post Office mail.

Signed this 23rd day of October of 2009.


Robin Zahran

RECEIVED
EPA REGION 4
2009 OCT 27 PM 12:47
HEARING CLERK

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA**

IN THE MATTER OF:)	
)	
	)	CIVIL COMPLAINT
	)	and
American Consumer Products	)	NOTICE OF OPPORTUNITY
	)	FOR HEARING
)	
	)	Docket No. FIFRA-04-2009-3023
)	
Respondent.)	

1- CIVIL COMPLAINT

NOW COMES Robin Zahran appearing in behalf of American Consumer Products of Georgia, a Georgia corporation and separately appears in behalf of American Consumer Products of Illinois, and Illinois corporation and responds to the Environmental Protection Agency ruling complaint and states as follows:

A. Jurisdiction

1. The defendant has no knowledge of the allegations alleged in Paragraph 1 and neither admits nor denies the allegations in Paragraph 1 and demands strict proof of Plaintiffs allegations.
2. The defendant has no knowledge of the allegations alleged in Paragraph 2 and neither admits nor denies the allegations in Paragraph 2 and demands strict proof of Plaintiffs allegations.

3. The respondent denies the allegations alleged in Paragraph 3 in that their corporations are separate and distinguished corporations. The Respondent denies the second paragraph in its entirety.
4. The Respondent lack information as to the allegations alleged in Paragraph 4 and accordingly demands strict proof of the allegations.

B. Complaint and Statement of Facts

5. The Respondent, Robin Zahran, denies the allegations in Paragraph 5.
6. The Respondent has no knowledge of the allegations in Paragraph 6 and therefore denies the allegations alleged in Paragraph 6 and in the alternate demands strict proof of the allegations alleged in Paragraph 6.
7. The Respondent has no personal knowledge of the allegations alleged in Paragraph 7 and therefore demands strict proof of these allegations and or in the alternate denies the allegations until proven.
8. The Respondent has no personal knowledge of the allegations alleged in Paragraph 8 and therefore demands strict proof of these allegations and or in the alternate denies the allegations until proven.
9. The Respondent has no personal knowledge of the allegations alleged in Paragraph 9 and therefore demands strict proof of these allegations and or in the alternate denies the allegations until proven.
10. The Respondent has no personal knowledge of the allegations alleged in Paragraph 10 and therefore demands strict proof of these allegations and or in the alternate denies the allegations until proven.

11. The Respondent denies the allegation in Paragraph 11 and further states that no Anti-Bacterial formula was produced but affirmatively states that it was a mislabeling matter through an employee using a label from U.S.A. Labs, the prior company before ACP Georgia took possession of the assets of U.S.A. Labs.
12. The Respondent denies the allegation in Paragraph 12 and further states that no Anti-Bacterial formula was produced but affirmatively states that it was a mislabeling matter through an employee using a label from U.S.A. Labs, the prior company before ACP Georgia took possession of the assets of U.S.A. Labs. The Respondent denies that they sold "Anti-Bacterial" formula whatsoever.
13. The Respondent has no knowledge of the allegations and regulations alleged in Paragraph 13 and therefore denies.
14. The Respondent has no knowledge of the allegations and regulations alleged in Paragraph 14 and therefore denies.
15. The Respondent denies the allegations in Paragraph 15.

C. Alleged Violations

COUNT 1

16. The Respondent incorporates and realleges his answers in Paragraph 1 through Paragraph 15 by relevance as the answer to Paragraph 16 of Complaint.
17. The Respondent admits that it is unlawful to distribute or offer for sale and pesticide that is not registered but affirmatively denies that the Respondent sold, offered for sale, or distributed any pesticide that is not registered by the E.P.A.
18. The Respondent denies that either ACPC sold Anti-Bacterial formulas containing pesticides without registration in violation of any of the E.P.A. rules or

regulations and affirmatively incorporates Respondents answer in Paragraph 1 through 17 above.

D. Proposed Penalty

19. The Respondent has no knowledge of the allegations, statements, recitations and citations alleged in Paragraph 19 and therefore demands strict proof of every allegation and in the alternate denies the allegations that it is mandatory to assess penalty in the amount of \$6,500 against ACP Illinois or ACP Georgia for non sales of pesticides.

E. Appropriateness of Proposed Penalties

20. The Respondent lacks knowledge relating to the July 2, 1990 Enforcement Response Policy (ERP) for the Federal Insecticide and other allegations being alleged in Paragraph 20. The Respondent affirmatively states they are not subject to this penalty as neither did sell any pesticide products whatsoever as non was ever sold by either of the Respondents.

21. The Respondent denies the allegations in Paragraph 21.

22. The Respondent denies that the EPA is entitled to any monetary penalties whatsoever as no violation occurred.

AFFIRMATIVE DEFENSES

1. The Respondent American Consumer Products of Illinois is a separate Illinois corporation and is not the same as American Consumer Products of Georgia.
2. ACP Illinois did not com in existence until August of 2007 and is not a party and should not be a party.

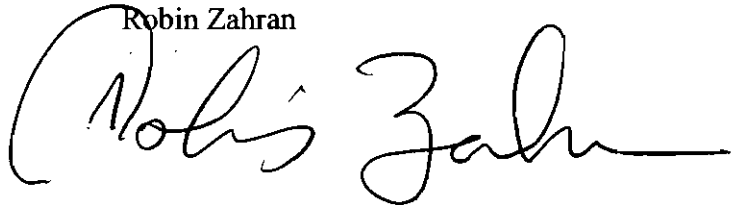
3. The Respondent or either one of them did not sell or distribute any formulas which contained any pesticide whatsoever.
4. The only issue was the use of a label that was used erroneously and only used one time, of which no pesticide was used.
5. The Respondent took immediate remedial measures and destroyed all of the labels from USA Laboratory that stated "Formula 24/7 Anti-Bacterial".
6. No damage occurred, nor was there harm or deception.

The Respondents in the alternative request a hearing on the complaint by the Court.

Wherefore the Respondents pray that the Honorable Court deny Complainants request for relief and dismiss complaint without prejudice.

Respondents Representatives

Robin Zahran



0 25. 22-2009