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PHILADELPHIA, PA



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

<b>In the Matter of:</b>	)	<b>EPA Docket No.: CERC-03-2007-0302</b>
	)	<b>EPA Docket No.: EPCRA-03-2007-0302</b>
<b>Domino's Pizza LLC</b>	)	
<b>30 Frank Lloyd Wright Drive</b>	)	
<b>Post Office Box 997</b>	)	
<b>Ann Arbor, Michigan</b>	)	
<b>48106</b>	)	
	)	
<b>Respondent.</b>	)	<b>Administrative Complaint and Notice of</b>
	)	<b>Opportunity for a Hearing filed under Sections</b>
	)	<b>103 and 109 of the Comprehensive</b>
	)	<b>Environmental Response, Compensation,</b>
<b>Domino's Pizza Maryland</b>	)	<b>and Liability Act, as amended, 42 U.S.C. § 9603</b>
<b>Distribution Center</b>	)	<b>and 9609, and Sections 304, 311, 312 and 325</b>
<b>8271 Anderson Court</b>	)	<b>of the Emergency Planning and Community</b>
<b>Odenton, Maryland</b>	)	<b>Right-to-Know Act of 1986, 42 U.S.C. §§ 11004</b>
<b>21113</b>	)	<b>11021, 11022 and 11045</b>
	)	
<b>Facility.</b>	)	
	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

**Statutory Authority**

This Consent Agreement ("CA") is proposed and entered into under the authority vested in the President of the United States by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, ("CERCLA"), 42 U.S.C. § 9609, the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22, ("Part 22"), in Section 22.18(b)(2). The President has delegated his authority under Section 109 of CERCLA, 42 U.S.C. § 9609, to the Administrator. The Administrator has delegated that authority and the authority delegated to him

under Section 325 of EPCRA, 42 U.S.C. § 11045, to the Regional Administrator of EPA, Region III, who has re-delegated those authorities to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

### **Findings and Stipulations**

The Respondent Domino's Pizza LLC ("Respondent" or "Domino's"), by its attorney or other authorized representative, and EPA stipulate as follows:

1. EPA issued an Administrative Complaint ("Complaint") against Domino's, docketed as Nos. CERC-03-2007-0302 and EPCRA-03-2007-0302, on September 28, 2007.
2. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations of the Complaint.
3. For the purpose of this proceeding, Respondent neither admits nor denies the specific factual and legal allegations contained in the Complaint or in paragraph 4 below, but expressly waives its rights to contest said allegations.
4. EPA incorporates by reference the factual allegations contained in the Complaint.
5. EPA incorporates by reference all legal allegations contained in the Complaint.
6. For the purpose of this proceeding, Respondent expressly waives its rights to a hearing and to appeal this CA and accompanying Final Order (collectively, the "CA/FO") under Section 109 of CERCLA, 42 U.S.C. § 9606, and Section 325 of EPCRA, 42 U.S.C. § 11045.
7. Respondent has agreed to pay a civil penalty. In connection with the allegations in the Complaint, the Complainant has calculated a civil penalty. In determining the amount of that civil penalty, the Complainant has taken into account the following factors: the nature, circumstances, extent and gravity of the violation or violations, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require. The agreed upon penalty is consistent with 40 C.F.R. Part 19 and the *Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (September 30, 1999)*.

**Penalty**

8. In settlement of the above-captioned action, Respondent consents to the assessment of a civil penalty of \$86,000.00. Based on the foregoing Stipulations and Findings, the parties, by their attorneys or authorized officials, hereby agree to the following:

**Payment Terms**

9. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CA/FO, Respondent must pay the civil penalty no later than 30 days after the date on which a copy of this CA/FO is received by Respondent by mail or hand-delivery by submitting a check for the CERCLA penalty, payable to "EPA Hazardous Substances Superfund," in the amount of \$9,442.57 to:

U.S. Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

and by submitting a check for the EPCRA penalty, payable to "Treasurer of the United States of America," in the amount of \$76,557.43 to:

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

10. The Respondent shall note on each penalty payment check "In The Matter Of: Domino's Pizza LLC" and the applicable CERCLA or EPCRA docket number for this case. The Respondent shall submit copies of the checks to the following persons:

Lydia Guy (3RC00)  
Regional Hearing Clerk  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

James F. Van Orden (3RC42)  
Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

11. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States, as well as a charge to cover the costs of processing and handling a delinquent claim, as more fully described

below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

12. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is received by Respondent by mail or hand-delivery. However, EPA will not seek to recover interest on any amount of the 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).

13. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

14. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

15. Failure by the Respondent to pay the penalty assessed by the FO in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the \$86,000.00 penalty shall not be subject to review.

### **General Provisions**

16. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this CA on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this CA and to legally bind Respondent to the terms and conditions of the CA and accompanying FO.

17. The CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 103 of CERCLA, 42 U.S.C. § 9603, Section 304 of EPCRA, 42 U.S.C. § 11004, Section 311 of EPCRA, 42 U.S.C. § 11021, Section 312 of CERCLA, § 11022, or any regulations promulgated under those authorities.

18. This CA/FO resolves only those civil claims which are alleged in the Complaint. Nothing herein shall be construed to limit the authority of the Complainant to undertake action

against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

19. Each party to this action shall bear its own costs and attorney's fees.

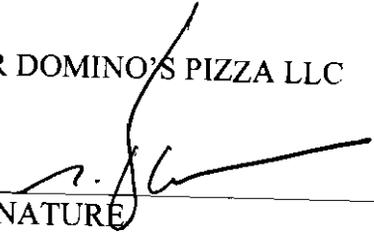
20. By entering into this CA/FO, the Respondent does not admit any liability for the civil claims alleged in the Complaint.

21. The approval of this CA/FO by the Regional Judicial Officer shall not constitute a determination on the merits of any claim alleged in the Complaint or herein, other than the jurisdictional allegations admitted by Respondent pursuant to Paragraph 2, above.

In re Domino's Pizza LLC

U.S. EPA Docket Nos. CERC-03-2007-0304  
EPCRA-03-2007-0304

FOR DOMINO'S PIZZA LLC

  
\_\_\_\_\_  
SIGNATURE

3/26/08  
DATE

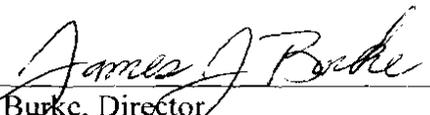
Name: L. David Mounts

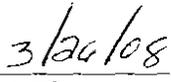
Title: Executive Vice President

In re Domino's Pizza LLC

U.S. EPA Docket Nos. CERC-03-2007-0304  
EPCRA-03-2007-0304

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
James J. Burke, Director  
Hazardous Site Cleanup Division

  
\_\_\_\_\_  
DATE



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

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<b>Respondent.</b>	)	<b>Administrative Complaint and Notice of</b>
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<b>Distribution Center</b>	)	<b>and 9609, and Sections 304, 311, 312 and 325</b>
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<b>Odenton, Maryland</b>	)	<b>Right-to-Know Act of 1986, 42 U.S.C. §§ 11004</b>
<b>21113</b>	)	<b>11021, 11022 and 11045</b>
	)	
<b>Facility.</b>	)	

Pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, ("CERCLA"), and Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and the delegated authority of the undersigned, and in accordance with 40 C.F.R. Part 22, and based on the allegations contained in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

**Effective Date**

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/27/08

  
Renée Sarajian  
Regional Judicial Officer  
EPA, Region III



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<b>Odenton, Maryland</b>	)		
<b>21113</b>	)		
	)		
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Robert G. Smith, Esq.  
Venable, LLP  
Two Hopkins Plaza, Suite 1800  
Baltimore, MD 21201-2978

3/27/08  
DATE

  
James F. Van Orden (3RC42)  
Assistant Regional Counsel  
Counsel for Complainant  
(215) 814-2693