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U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II

2013 FEB 13 P 4: 33

REGIONAL HEARING  
CLERK

\* Please reply to New Jersey Office

**Via UPS Overnight**

February 12, 2013

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007

**Re: In re Daifuku Trading Corp.**  
**Docket No.: FIFRA-02-2013-5102**  
**Matter No.: 2982H**

Dear Sir or Madam:

My office represents the Respondent, Daifuku Trading Corp., in the above-referenced action. Enclosed please find an original and one copy of an Answer in the above-referenced action.

Thank you for your attention to this matter.

Very truly yours,

Peter Melamed

Cc: Bruce Aber, Esq., Assistant Regional Counsel  
client

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2013 FEB 13 P 4: 33  
REGIONAL HEARING  
CLERK

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In the Matter of :  
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Daifuku Trading Corp., : ANSWER  
 :  
 :  
 Respondent. : Docket No.: FIFRA-02-2013-5102  
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 :  
 Proceeding Under the Federal Insecticide, :  
 Fungicide, and Rodenticide Act, as amended. :  
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Respondent, Daifuku Trading Corp. ("Respondent"), by and through its attorneys, Kim & Bae, P.C., hereby submits its Answer as follows:

1. Denied. Respondent is without knowledge or information sufficient to form a belief as to whether the Complaint was filed pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or the "Act"), as amended, and/or 40 C.F.R. Part 22, and therefore denies same. The remainder of the paragraph is denied as a conclusion of law to which no response is required.
2. Denied. Respondent is without knowledge or information sufficient to form a belief as to whether the Complainant has been duly delegated the authority to institute the action therefore denies same. The remainder of the paragraph is denied.
3. Admitted.
4. Admitted in part, denied in part. It is admitted that Respondent operates in the states of New York and New Jersey. It is denied that Respondent is incorporated in the State of New York. The remainder of the paragraph is denied.
5. Denied. Denied as a conclusion of law to which no response is required.
6. Denied. Denied as a conclusion of law to which no response is required.
7. Denied. Denied as a conclusion of law to which no response is required.
8. Admitted in part, denied in part. It is admitted that Respondent owned and/or operated a facility located at 31-85 Whitestone Expressway, Flushing, New York. Respondent is without knowledge or information sufficient to form a belief as to whether Respondent owned and/or operated the facility at times relevant to the proceeding and therefore denies same. Respondent transferred its operations from this facility to New Jersey in June 2009.
9. Admitted.

10. Denied. Denied as a conclusion of law to which no response is required.
11. Admitted in part, denied in part. It is admitted that, from its facilities, Respondent sells or distributes a variety of household goods. Respondent denies that it sells or distributes groceries and pest control products from its facilities. The remainder of the paragraph is denied.
12. Denied. Denied as a conclusion of law to which no response is required.
13. Denied. Denied as a conclusion of law to which no response is required.
14. Admitted.
15. Denied. Denied as a conclusion of law to which no response is required.
16. Denied. Denied as a conclusion of law to which no response is required.
17. Denied. Denied as a conclusion of law to which no response is required.
18. Denied. Denied as a conclusion of law to which no response is required.
19. Denied. Denied as a conclusion of law to which no response is required.
20. Denied. Denied as a conclusion of law to which no response is required.
21. Admitted in part, denied in part. It is admitted that on or about February 6, 2012, inspectors conducted an inspection at the Flushing Facility. Respondent is without knowledge or information sufficient to form a belief as to whether the inspectors were duly authorized EPA inspectors or as to whether the inspectors conducted the inspection under authority of Sections 8 and 9 of FIFRA, 7 U.S.C. Sections 136f and 136g, and therefore denies same. The remainder of the paragraph is denied.
22. Admitted in part, denied in part. It is admitted that on or about February 29, 2012, inspectors conducted an inspection at the Englewood Facility. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection was conducted on March 27, 2012, as to whether the inspectors were duly authorized EPA inspectors, or as to whether the inspectors conducted the inspection under authority of Sections 8 and 9 of FIFRA, 7 U.S.C. Sections 136f and 136g, and therefore denies same. The remainder of the paragraph is denied.
23. Admitted in part, denied in part. It is admitted that on or about February 29, 2012, inspectors conducted an inspection. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection was conducted on March 27, 2012, as to whether the inspectors were EPA inspectors, as to whether the inspectors observed any of the following products: "Trista Melamine Sponge," "Killpop Mat," "Laundry Soap," "Baby Basic B & B Feeding Bottle Cleanser," and/or "Smart Blue Fresh," and/or as to whether any of these products are pesticide products, and therefore denies same. The remainder of the paragraph is denied.

24. Admitted in part, denied in part. It is admitted that on or about February 29, 2012, inspectors conducted an inspection. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection was conducted on March 27, 2012, as to whether the inspectors were EPA inspectors, or as to whether the inspectors collected samples of the "Trista Melamine Sponge," "Killpop Mat," "Laundry Soap," "Baby Basic B & B Feeding Bottle Cleanser," and/or "Smart Blue Fresh" products, and therefore denies same. The remainder of the paragraph is denied.

25. Admitted.

26. Admitted in part, denied in part. It is admitted that, on July 24, 2012, the EPA issued a Stop Sale, Use or Removal Order ("SSURO") prohibiting Respondent from selling the following products: "home 'Z Rice Worm repellent," "Trista Melamine Sponge," "Killpop Mat," "Laundry Soap," "Baby Basic B & B Feeding Bottle Cleanser," and "Smart Blue Fresh." It is denied that "Trista Melamine Sponge," "Laundry Soap," "Baby Basic B& B Feeding Bottle Cleanser," and "Smart Blue Fresh" are pesticide products. Respondent is without knowledge or information sufficient to form a belief as to whether "home 'Z Rice Worm repellent" or "Killpop Mat" is a pesticide product and therefore denies same. The remainder of the paragraph is denied.

**Count 1 – Sale/Distribution of an Unregistered  
Pesticide "home 'Z Rice Worm repellent"**

27. Respondent realleges its responses to Paragraphs 1 through 26 in the Complaint, inclusive, as if fully and completely set forth herein.

28. Denied. Respondent is without knowledge or information sufficient to form a belief as to whether, on or about June 13, 2011, an inspection was conducted at the Super H Mart in Fairfax, Virginia and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether the persons conducting the inspection were acting on behalf of the Virginia Department of Agriculture and Consumer Services Office of Pesticide Services and therefore denies same. The remainder of the paragraph is denied.

29. Denied. Respondent is without knowledge or information sufficient to form a belief as to whether the June 2011 inspection occurred and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether any containers of "home 'Z Rice Worm repellent" were found and/or whether, if found, such products were found in the houseware section of the store, and therefore denies same. The remainder of the paragraph is denied.

30. Denied. Respondent is without knowledge or information sufficient to form a belief as to whether the June 2011 inspection occurred and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether any invoice was collected and therefore denies same. The remainder of the paragraph is denied.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted in part, denied in part. It is admitted that an inspection was conducted at Home & Home Distribution's retail store at 31-85 Whitestone Expressway, Flushing, NY 11354 on or about February 6, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether the EPA was the entity that conducted the inspection or as to whether the inspection was conducted under authority of Sections 8 and/or 9 of FIFRA, 7 U.S.C. Sections 136f and/or 136g, and therefore denies same. The remainder of the paragraph is denied.

36. Admitted in part, denied in part. It is admitted that, during the inspection of Home & Home Distribution on February 6, 2012, a representative of Home & Home Distribution indicated to inspectors that "Dehumidification" and "New Aekyung" appearing on an invoice was actually indicative of the sales of the product "home 'Z Rice Worm repellent" and the representatives highlighted the line item on the invoice. Respondent is without knowledge or information sufficient to form a belief as to whether the EPA was the entity that conducted the inspection and therefore denies same. The remainder of the paragraph is denied.

37. Admitted in part, denied in part. It is admitted that inspections were conducted at Daifuku's warehouse located at 360 South Van Brunt Street, Englewood, New Jersey 07631 on February 29, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection took place on or about March 27, 2012 and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether the inspectors conducted the inspection under authority of Sections 8 and 9 of FIFRA, 7 U.S.C. Sections 136f and 136g, and therefore denies same. The remainder of the paragraph is denied.

38. Admitted in part, denied in part. Respondent admits that, during the February 29, 2012 inspection at Daifuku's warehouse, Daifuku's representatives provided business cards to the inspectors that indicated that Daifuku does business as "Home & Home Distribution." Respondent is without knowledge or information sufficient to form a belief as to whether the inspectors were from the EPA and therefore denies the same. The remainder of the paragraph is denied.

39. Admitted in part, denied in part. Respondent admits that, during the February 29, 2012 inspection at Daifuku's warehouse, Daifuku's representatives) informed the inspectors that Daifuku does business as "Home & Home Distribution." Respondent is without knowledge or information sufficient to form a belief as to whether an inspection occurred on March 27, 2012 and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether the inspectors were from the EPA and therefore denies the same. The remainder of the paragraph is denied.

40. Admitted in part, denied in part. Respondent admits that, during the February 29, 2012 inspection at Daifuku's facility in Englewood, NJ, Daifuku's representative signed an affidavit stating that "home 'Z Rice Worm repellent" product was a "one time import and distribution." Respondent is without knowledge or information sufficient to form a belief as to

whether the inspectors were from the EPA and therefore denies the same. The remainder of the paragraph is denied.

41. Admitted in part, denied in part. Respondent admits that the label of the “home ‘Z Rice Worm repellent” product has three pictures of rice infested with rice worms. Respondent denies that the pictures show how the product is used to repel rice beetles or otherwise works. The remainder of the paragraph is denied.

42. Admitted in part, denied in part. Respondent admits that the label of the “home ‘Z Rice Worm repellent product” claims that it kills and/or repels “rice bugs” and also prevents molding. Respondent denies that the label indicates that the product prevents molding for up to 4 months. The remainder of the paragraph is denied.

43. Respondent is without knowledge or information sufficient to form a belief as to whether a “rice worm (rice beetle)” is a “pest,” as defined by Section 2(t) of FIFRA, 7 U.S.C. § 136(t) and regulations at 40 CFR § 152.5(a) and therefore denies the same, and further denies same as a conclusion of law to which no response is required. The remainder of the paragraph is denied.

44. Respondent is without knowledge or information sufficient to form a belief as to whether, by virtue of the product name, design and function of the “home ‘Z Rice Worm repellent” product sold or distributed by Daifuku, this product is intended for preventing, destroying, repelling, or mitigating a pest, and therefore is a pesticide, as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u), and must be registered with EPA pursuant to Section 3 of FIFRA, 7 U.S.C. Section 136a, and therefore denies same. Respondent further denies same as conclusions of law to which no response is required. The remainder of the paragraph is denied.

45. Respondent is without knowledge or information sufficient to form a belief as to whether the “home ‘Z Rice Worm repellent” has been registered with EPA as a pesticide and therefore denies same.

46. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

**Count 2 – Sale/Distribution of Misbranded  
Pesticide “home ‘Z Rice Worm repellent”**

47. Respondent realleges its responses to Paragraphs 1 through 46 in the Complaint, inclusive, as if fully and completely set forth herein

48. Admitted in part, denied in part. Respondent admits that the label of the “home ‘Z Rice Worm repellent” product has three pictures of rice infested with rice worms. Respondent denies that the pictures show how the product is used to repel rice beetles or otherwise works. The remainder of the paragraph is denied.

49. Admitted in part, denied in part. Respondent admits that words on the label of the “home ‘Z Rice Worm repellent” product include the product name “home ‘Z Rice Worm

repellant,” “home ‘Z Fresh Home Zone,” and www.aekyungst.co.kr. Respondent denies that these are the only words in English on the label. The remainder of the paragraph is denied.

50. Admitted.

51. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

52. Admitted in part, denied in part. Respondent admits that it sold or distributed the “home ‘z Rice Worm repellant” product on at least one occasion. Respondent is without knowledge or information sufficient to form a belief as to whether it sold or distributed the “home ‘z Rice Worm repellant” as described in Paragraph 30 of the Complaint and therefore denies same. The remainder of the paragraph is denied.

53. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

54. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

### **Count 3 – Sale/Distribution of Unregistered Pesticide Trista Melamine Sponge**

55. Respondent realleges its responses to Paragraphs 1 through 54 in the Complaint, inclusive, as if fully and completely set forth herein.

56. Admitted in part, denied in part. Respondent admits that an inspection was conducted at Home & Home Distribution’s retail store at 31-85 Whitestone Expressway, Flushing, NY 11354 on February 6, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether it was the EPA that conducted the inspection and/or whether the inspection was conducted under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, and therefore denies same.

57. Admitted in part, denied in part. Respondent admits that an inspection was conducted on February 6, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether the EPA was the entity that conducted the inspection, whether the EPA collected an invoice, and/or whether the invoice described in the paragraph was collected. The remainder of the paragraph is denied.

58. Admitted in part, denied in part. Respondent admits that an inspection was conducted at Daifuku’s warehouse/facility at 360 South Van Brunt Street, Englewood, New Jersey 07601 on February 29, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection was conducted at Daifuku’s warehouse/facility at 360 South Van Brunt Street, Englewood, New Jersey 07601 on or about March 27, 2012 and therefore denies same. Respondent is without knowledge or information sufficient to form a

belief as to whether it was the EPA that conducted the inspection and/or whether the inspection was conducted under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, and therefore denies same. The remainder of the paragraph is denied.

59. Admitted in part, denied in part. Respondent admits that an inspection at Daifuku's warehouse in Englewood, NJ took place on February 29, 2012. Respondent is without knowledge or information sufficient to form a belief as to whether any of the remaining allegations in the paragraph are true and therefore denies same. The remainder of the paragraph is denied.

60. Denied as an incomplete statement and therefore denied. The remainder of the paragraph is denied.

61. Denied.

62. Admitted.

63. Admitted.

64. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

65. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

66. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

67. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

#### **Count 4 – Sale/Distribution of Misbranded Pesticide Trista Melamine Sponge**

68. Respondent realleges its responses to Paragraphs 1 through 67 in the Complaint, inclusive, as if fully and completely set forth herein.

69. Admitted in part, denied in part. Respondent admits that words in English on the label of the "Trista Melamine Sponge" product that appear on the front and side panels include, on the front panel, "Anti Bacteria," "99.9% Antibiosis," "No Detergent," "No water pollution," and "Star Susemi," and, on the side panel, "Characteristics: Antibiosis, Sanitary, Cleans Dirt," "Detergent," "Uses: Refrigerator, sinks, computer, electronic appliances, Microwave, bath," "Material: Melamine Foam 100%," and the name and address of the agent and manufacturer. Respondent denies that the phrase "Characteristics: Antibiosis Sanitary, Cleans Dirt with Detergent" is found on the label. The remainder of the paragraph is denied.



70. Admitted in part, denied in part. Respondent admits that the product does not contain the following information in English: product registration number and producer establishment number. The product label contains the words, "Material: Melamine Foam 100%," and therefore respondent denies that the product does not have an ingredients statement. To the extent that any of the words on the label may constitute a hazard and/or precautionary statement and/or directions for use, Respondent denies that the product is without the same. The remainder of the paragraph is denied.

71. Respondent denies as a conclusion of law to which no response is required that the label is misbranded. Respondent is without knowledge or information sufficient to form a belief as to whether the label is not likely to be read or understood by the ordinary individual under customary conditions of purchase and use and therefore denies same. The remainder of the paragraph is denied.

72. Admitted.

73. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

74. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

#### **Count 5 – Sale/Distribution of Unregistered Pesticide Killpop Mat**

75. Respondent realleges its responses to Paragraphs 1 through 74 in the Complaint, inclusive, as if fully and completely set forth herein.

76. Respondent is without knowledge or information sufficient to form a belief as to whether an inspection at the Englewood Facility was conducted on March 27, 2012 and therefore denies same. Respondent is without knowledge or information sufficient to form a belief as to whether it was the EPA that conducted the inspection and/or whether the inspection was conducted under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, and therefore denies same. The remainder of the paragraph is denied.

77. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in the paragraph are true and therefore denies same. The remainder of the paragraph is denied.

78. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in the paragraph are true and therefore denies same. The remainder of the paragraph is denied.

79. Admitted in part, denied in part. Respondent admits that the Killpop Mat product is an incense base and an incense mat. Respondent is without knowledge or information as to whether the product is intended to kill mosquitoes and therefore denies same. The remainder of the paragraph is denied.

80. Admitted.

81. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

82. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

83. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

84. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

85. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

#### **Count 6 – Sale/Distribution of Misbranded Pesticide Killpop Mat**

86. Respondent realleges its responses to Paragraphs 1 through 85 in the Complaint, inclusive, as if fully and completely set forth herein.

87. Admitted in part, denied in part. Respondent admits that the label of the “Killpop Mat” product includes, in English, the words “New,” “Killpop Mat,” “30,” and “Made in Korea.” Respondent denies that these are the only words in English on the label. The remainder of the paragraph is denied.

88. Admitted.

89. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

90. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

91. Admitted in part, denied in part. Respondent admits that it sold or distributed the product “Killpop Mat.” Respondent denies as conclusions of law to which no response is required whether “Killpop Mat” was misbranded and whether the sale of such product constitutes an unlawful act. The remainder of the paragraph is denied.

#### **Count 7 – Sale/Distribution of Unregistered Pesticide Laundry Soap**

92. Respondent realleges its responses to Paragraphs 1 through 91 in the Complaint, inclusive, as if fully and completely set forth herein.

93. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

94. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

95. Admitted.

96. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

97. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

98. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

#### **Count 8 – Sale/Distribution of Misbranded Pesticide Laundry Soap**

99. Respondent realleges its responses to Paragraphs 1 through 98 in the Complaint, inclusive, as if fully and completely set forth herein.

100. Admitted.

101. Admitted.

102. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

103. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

104. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

#### **Count 9 – Sale/Distribution of Unregistered Pesticide Basic Baby B & B Feeding Bottle Cleaner**

105. Respondent realleges its responses to Paragraphs 1 through 104 in the Complaint, inclusive, as if fully and completely set forth herein.

106. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

107. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

108. Admitted.

109. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

110. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

111. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

**Count 10 – Sale/Distribution of Misbranded Pesticide  
Baby Basic B & B Feeding Bottle Cleanser**

112. Respondent realleges its responses to Paragraphs 1 through 111 in the Complaint, inclusive, as if fully and completely set forth herein.

113. Admitted in part, denied in part. It is admitted that the label of the “Baby Basic B & B Feeding Bottle Cleanser” contains, in English, the product name “Baby Basic B & B,” “Feeding Bottle Cleanser Liquid Type,” “600 ml,” “99.9%,” “100%,” “Boryung,” and “Korea Apparel Testing and Research Institute.” Respondent denies that these are the only words in English on the label. The remainder of the paragraph is denied.

114. Admitted.

115. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

116. Admitted.

117. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

118. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

119. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

**Count 11 – Sale/Distribution of Unregistered Pesticide Smart Blue Fresh**

120. Respondent realleges its responses to Paragraphs 1 through 119 in the Complaint, inclusive, as if fully and completely set forth herein

121. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

122. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

123. Admitted.

124. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

125. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

126. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

**Count 12 – Sale/Distribution of Misbranded Pesticide Smart Blue Fresh (aka Smart Spray)**

127. Respondent realleges its responses to Paragraphs 1 through 126 in the Complaint, inclusive, as if fully and completely set forth herein

128. Admitted in part, denied in part. Respondent admits that the label of the “Smart Spray” product includes, in English, the words “Smart,” “Reckitt Benckiser,” “99.9%,” and “370 ml + 80 ml.” Respondent denies that these are the only words on the label in English. The remainder of the paragraph is denied.

129. Admitted.

130. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

131. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

132. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

**Counts 13-18 – Import of Pesticides without Notices of Arrival**

133. Respondent realleges its responses to Paragraphs 1 through 132 in the Complaint, inclusive, as if fully and completely set forth herein.

134. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

135. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

136. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

137. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

138. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

139. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

140. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

141. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same.

142. Admitted in part, denied in part. Respondent admits that it imported the “Laundry Soap,” “Baby Basic B & B Bottle Feeder Cleanser,” “home ‘Z Rice Worm repellent,” and “Killpop Mat” pesticide products on the following dates:

Invoice Number	Date	Item
GSI-211051	3/21/2011	LAUNDRY SOAP

GSI-211208	12/5/2011	Baby Basic Bottle Cleanser
GSI-211194	11/14/2011	Home 'Z Rice Worm repellent
GSI-211085	5/1/2011	Killpop Mat
GSI-211112	6/13/2011	Killpop Mat

Respondent further admits that it imported home 'Z Rice Worm repellent pursuant to Invoice Number GSI-211112 but denies that the date was 5/13/2011. The remainder of the paragraph is denied.

143. Respondent denies that it was consignee of the shipment described in paragraph 141 of the Complaint, as there is no shipment described in paragraph 141 of the Complaint. Respondent denies as a conclusion of law to which no response is required that it was the consignee of the shipment described in Paragraph 141 and that it was the "importer desiring to import pesticides" within the meaning of 19 C.F.R. Section 12.112(a). The remainder of the paragraph is denied.

144. Admitted.

145. Respondent is without knowledge or information sufficient to form a belief as to whether the allegations in this paragraph are true and therefore denies same. Respondent further denies the allegations in this paragraph as conclusions of law to which no response is required.

### **DEFENSES**

Without affecting the appropriate burden of proof or otherwise without waiver, limitation, prejudice or right to amend, Respondent hereby asserts its defenses and affirmative defenses against Complainant. Respondent reserves the right to raise additional defenses and affirmative defenses upon further discovery and investigation.

#### **FIRST DEFENSE**

The product "home 'Z Rice Worm repellent" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

#### **SECOND DEFENSE**

The product "Trista Melamine Sponge" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

#### **THIRD DEFENSE**

The product "Killpop Mat" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

**FOURTH DEFENSE**

The product "Laundry Soap" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

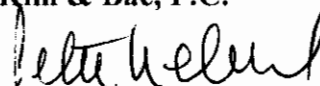
**FIFTH DEFENSE**

The product "Basic Baby B&B Feeding Bottle Cleanser" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

**SIXTH DEFENSE**

The product "Smart Blue Fresh" is not a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. Section 136(u).

**Kim & Bae, P.C.**



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By: Peter Melamed  
2160 N. Central Rd., Suite 303  
Fort Lee, NJ 07024  
201-585-2288  
Attorneys for Respondent, Daifuku Trading Corp.

Dated: February 12, 2013  
Fort Lee, New Jersey

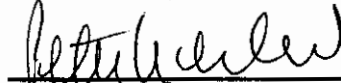
To: Bruce Aber, Esq., Assistant Regional Counsel  
United States Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007



**REQUEST FOR A HEARING**

Respondent specifically requests a hearing upon the issues raised by the Complaint and the Answer.

**Kim & Bae, P.C.**



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2160 N. Central Rd., Suite 303  
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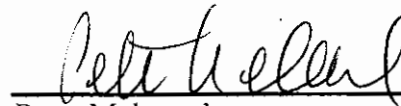
Dated: Feb 12, 2013  
Fort Lee, New Jersey

**DECLARATION OF SERVICE**

I declare that on the day identified below I caused the foregoing Answer, in the matter In re Daifuku Trading Corp., Docket No. FIFRA-02-2013-5102, to be mailed via UPS Overnight mail to the following addresses:

Bruce Aber, Esq., Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007

which address is, upon information and belief, the address of counsel for the Complainant in this action.



Peter Melamed  
Kim & Bae, P.C.  
2160 N. Central Rd., Suite 303  
Fort Lee, NJ 07024  
201-585-2288

Dated: Feb. 12, 2013  
Fort Lee, New Jersey