



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP - 1 2017

REPLY TO THE ATTENTION OF:

LC-17J

VIA EMAIL

Mr. Paul F. Bohn  
Partner  
Fausone Bohn, LLP  
41700 West Six Mile Road, Suite 101  
Northville, Michigan 48168

pbohn@fb-firm.com

Consent Agreement and Final Order In the Matter of RMR Solutions LLC  
Docket Number **FIFRA-05-2017-0051**

Mr. Bohn:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 1, 2017 with the Regional Hearing Clerk.

The civil penalty in the amount of \$100,000 is to be paid in the manner described in paragraphs 41-42. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Estrella Calvo".

Estrella Calvo  
Pesticides Section

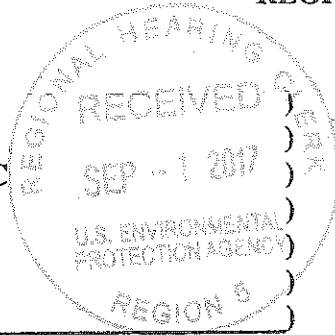
Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

RMR Solutions LLC  
Brighton, Michigan

Respondent.



Docket No. FIFRA-05-2017-0051

Proceeding to Assess a Civil Penalty  
Under Section 14(a) of the Federal  
Insecticide, Fungicide, and Rodenticide  
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Acting Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is RMR Solutions LLC, a limited liability company doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO. Respondent's waiver is limited to this CAFO.

9. To the best of its knowledge based upon Respondent's diligent inquiry, Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

#### **Statutory and Regulatory Background**

10. No person shall produce any pesticide subject to FIFRA or active ingredient used in producing a pesticide subject to FIFRA in any state unless the establishment in which it is produced is registered with the Administrator of EPA. 7 U.S.C. § 136e(a) and 40 C.F.R. § 167.20(a).

11. The term "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

12. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

13. A "pesticide" is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

14. A "pest" is 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 which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

16. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

17. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide, or to package, repackage, label, relabel or otherwise change the container of any pesticide, as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w) and 40 C.F.R. § 167.3.

18. The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide, as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w) and 40 C.F.R. § 167.3.

19. The term "to distribute or sell" means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. 7 U.S.C. § 136(gg).

20. The Administrator of EPA may assess a civil penalty against any producer or wholesaler who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after December 6, 2013 through November 2, 2015, and of up to \$19,067 for each offense that occurred after November 2, 2015 and is assessed on or after January 15, 2017, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

### Factual Allegations and Alleged Violations

21. Respondent has been a “producer” as those terms are defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w) at all times relevant to this CAFO.

22. Respondent’s place of business located at 201 Appian Way, Suite 202, Brighton, Michigan has been an “establishment” as defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), and 40 C.F.R. § 167.3 at all times relevant to this CAFO.

23. On July 1 and 2, 2015 (“July 2015 Inspections”), an EPA-credentialed inspector, employed by the Michigan Department of Agriculture and Rural Development (“MDARD”) and authorized to conduct inspections under Section 9 of FIFRA, 7 U.S.C. §136g, conducted inspections at Respondent’s place of business.

24. During the July 2015 inspections at Respondent’s place of business, the MDARD inspector collected information related to the production and distribution and/or sale of “RMR Botanical” and “RMR-86”.

25. Respondent “produced” “RMR Botanical” and “RMR-86,” at the RMR facility, on or about July 1, 2015, within the meaning of Section 2(w) of FIFRA, 7 U.S.C. § 136(w) and 40 C.F.R. § 167.3.

26. At all times relevant to this Complaint, the establishment was not registered with EPA.

27. During the July 2015 inspections at Respondent’s place of business, the MDARD inspector collected labels for 1-gallon containers of “RMR Botanical” and 5-gallon containers of “RMR-86.” Both labels collected by the MDARD inspector contained pesticidal claims.

28. During the July 2015 inspections at Respondent’s place of business, the MDARD inspector also purchased one 1-gallon container of “RMR Botanical” and one 2.5-gallon

container of "RMR-86." The labels affixed to 1-gallon container of "RMR Botanical" and the 2.5-gallon container of "RMR-86" contained pesticidal claims.

29. "RMR Botanical" and "RMR-86" are "pesticides" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

30. "RMR Botanical" and "RMR-86" were not registered under section 3 of FIFRA, 7 U.S.C. § 136(a).

31. During the July 2015 inspections, the MDARD inspector acquired copies of sales records for quantities of "RMR Botanical" that were distributed or sold by Respondent in 1-gallon containers.

32. During the July 2015 inspections, the MDARD inspector acquired copies of sales records for quantities of "RMR-86" that were distributed or sold by Respondent in 2.5- and 5-gallon containers.

33. The sales records collected by the MDARD inspector showed that Respondent distributed or sold "RMR Botanical" in 1-gallon containers to persons on at least four separate occasions.

34. The sales records collected by the MDARD inspector showed that Respondent distributed or sold "RMR-86" in 2.5-gallon containers to a person on at least one occasion.

35. The sales records collected by the MDARD inspector showed that Respondent distributed or sold "RMR-86" in 5-gallon containers to persons on at least 12 separate occasions.

36. On October 7, 2016, the Chief of the Chemicals Management Branch, Land and Chemicals Division; Region 5, EPA issued to Respondent a Stop Sale, Use or Removal Order (SSURO) requiring Respondent to cease the distribution or sale of all quantities of the unregistered pesticides "RMR Botanical" and "RMR-86" in its ownership, control or custody.

37. On at least April 19, 2017, Respondent violated the SSURO by offering for sale the unregistered pesticides "RMR Botanical" and "RMR-86" on its website.

38. Respondent's production of pesticides at an unregistered establishment constitutes an unlawful act pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

36. Respondent's distribution or sale of the unregistered pesticides "RMR Botanical" and "RMR-86" constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

37. Respondent's offer to sell violative pesticide products at its website after EPA's issuance of the SSURO constitutes an unlawful act pursuant to Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I).

39. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) on 17 separate occasions; Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) on at least one occasion; and Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I); subjects Respondent to a civil penalty under Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

#### Civil Penalty

40. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$100,000. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

41. Within 30 days after the effective date of this CAFO, Respondent must pay a \$100,000 civil penalty for the FIFRA violations by using one of the following mechanisms:

For electronic funds transfer:

Payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

42. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Estrella Calvo (LC-8J)  
Chemicals Management Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Randa Bishlawi (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

43. This civil penalty is not deductible for federal tax purposes.

44. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136f(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.



45. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### General Provisions

46. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: bishlawi.randa@epa.gov (for Complainant), and PBohn@fb-firm.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

47. This CAFO resolves Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

48. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

49. This CAFO does not affect Respondent’s responsibility to comply with FIFRA and other applicable federal, state and local laws.

50. This CAFO is a “final order” for purposes of EPA’s FIFRA Enforcement Response Policy.

51. The terms of this CAFO bind Respondent, its successors and assigns.

52. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

53. Each party agrees to bear its own costs and attorney's fees in this action.

54. This CAFO constitutes the entire agreement between the parties.

**RMR Solutions LLC, Respondent**

8-2-17  
Date

Christopher Atkinson  
Christopher Atkinson  
President  
RMR Solutions LLC

**United States Environmental Protection Agency, Complainant**

8/25/17  
Date

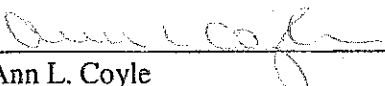
Brigid Lowery  
Brigid Lowery  
Acting Director  
Land and Chemicals Division

**In the Matter of:**  
**RMR Solutions LLC**  
**Docket No. FIFRA-05-2017-0051**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

August 30, 2019  
Date

  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

**CONSENT AGREEMENT AND FINAL ORDER**  
**In the matter of: RMR Solutions LLC**  
**Docket Number: FIFRA-05-2017-0051**

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, docket number FIFRA-05-2017-0051, which was filed on September 1, 2017, in the following manner to the addressees:

Copy by E-mail to  
Attorney for Respondent

Paul Bohn  
<PBohn@fb-firm.com>

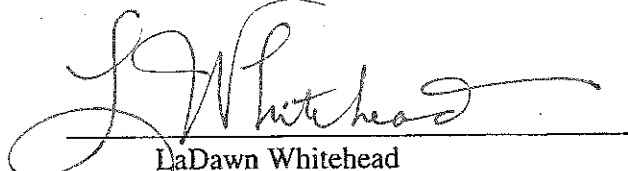
Copy by E-mail to  
Attorney for Complainant:

Randa Bishlawi  
bishlawi.randa@epa.gov

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: September 1, 2017

  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency,  
Region 5