



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FACSIMILE TRANSMISSION,
718-599-1322,

September 18, 2009

Mr. Wolfe Landau
142 Middleton Street, #2
Brooklyn, New York 11206-8406

Re: ***In re Wolfe Landau***
Docket No. TSCA-02-2009-9267

Dear Mr. Landau:

I am writing you pursuant to my conversation yesterday with your administrative assistant/secretary, Raizy Buchinger, who informed me that you intend to respond to the complaint in the above-referenced administrative proceeding. She conveyed that you wish that I fax you a courtesy copy of the complaint (which had been served upon you by a process server earlier this year, in May). I will also be faxing you a courtesy copy of the rules of procedure governing this proceeding, 40 C.F.R. Part 22 (which was also served upon you in May.) Because of the number of pages, I will separately fax the complaint and the procedural rules under separate cover.

During our discussion, Ms. Buchinger raised questions regarding answering the complaint. I refer you to 40 C.F.R. § 22.15 (this provision is set forth in its entirety in the Part 22 package that I will be faxing). For your convenience, I note the following:

As to whom the answer is to be sent and what it should generally contain, I refer you to 40 C.F.R. § 22.15(a), which provides, in relevant part:

General. Where respondent: Contests any material fact upon which the complaint is based; contends that the proposed penalty...is inappropriate; or contends that it is entitled to judgment as a matter of law, it shall file an original and one copy of a written answer to the complaint with the Regional Hearing Clerk and shall serve copies of the answer on all other parties. Any such answer to the complaint must be filed with the Regional Hearing Clerk within 30 days after service of the complaint.

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 SEP 22 AM 9:03
REGIONAL HEARING
CLERK

The address of the Regional Hearing Clerk of EPA, Region 2, is as follows:

Karen Maples, Regional Hearing Clerk
Office of Regional Hearing Clerk
290 Broadway, 16th floor
New York, New York 10007-1866

As to what the answer should contain, I refer you to 40 C.F.R. § 22.15(b), which states:

Contents of the answer. The answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the complaint with regard to which respondent has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state: The circumstances or arguments which are alleged to constitute the grounds of any defense; the facts which respondent disputes; the basis for opposing any proposed relief; and whether a hearing is requested.

As for the possibility of a hearing being held in this matter, please see 40 C.F.R. § 22.15(c), which states:

Request for a hearing. A hearing upon the issues raised by the complaint and answer may be held if requested by respondent in its answer. If the respondent does not request a hearing, the Presiding Officer may hold a hearing if issues appropriate for adjudication are raised in the answer.

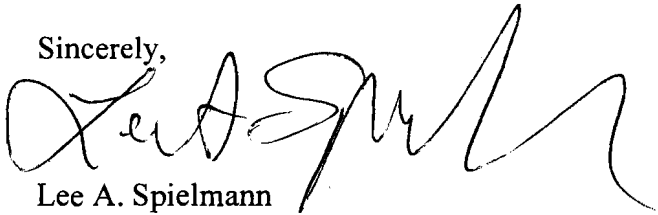
The consequences of an answer failing to admit, deny or explain a material factual allegation are set forth in 40 C.F.R. § 22.15(d):

Failure to admit, deny, or explain. Failure of respondent to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegation.

In light of all the time that has previously passed, if your answer has not been served within 30 days (*i.e.* by October 19th), I will recommend that a motion for a default order (as discussed in my August 7th letter to you, which was sent via fax to the above-listed number) be pursued.

If you have any questions, you may contact me at 212-637-3222, via fax at 212-637-3199 or via e-mail at spielmann.lee@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee A. Spielmann". The signature is fluid and cursive, with a large initial "L" and "S".

Lee A. Spielmann
Assistant Regional Counsel
Office of Regional Counsel

Enclosures (as noted above)

cc: (w/out enclosures)

Karen Maples, Regional Hearing Clerk, EPA, Region 2
Theresa Bourbon, EPA, Edison, NJ