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6	BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
7	)
8	In the Matter of: ) DOCKET NO. FIFRA-10-2010-0233
9	) PACE INTERNATIONAL, LLC ) CONSENT AGREEMENT AND
10	) FINAL ORDER
11	Respondent )
12	
13	I. <u>STATUTORY AUTHORITY</u>
14	1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority
15	vested in the Administrator of the United States Environmental Protection Agency ("EPA") by
16	Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C.
17	§ 136 <i>l</i> (a).
18 19	1.2. The Administrator has delegated the authority to issue the Final Order contained
20	in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has
20	redelegated this authority to the Regional Judicial Officer.
22	1.3. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136 <i>l</i> (a), and in accordance with
22	the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil
23	Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Pace International, LLC. ("Respondent")
25	hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.
	CONSENT AGREEMENT AND FINAL ORDER - 1 U.S. Environmental Protection Agency

DOCKET NO. FIFRA-10-2010-0233

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S. Environmental Protection Agency 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 (206) 553-1037

1	II. <u>PRELIMINARY STATEMENT</u>	
2	2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.35, issuance of this CAFO	
3	commences this proceeding which will conclude when the Final Order contained in Part V of	
4	this CAFO becomes effective.	
5	2.2. Part III of this CAFO contains a concise statement of the statutory and factual	
6	basis for the alleged violations of FIFRA.	
7	III. <u>ALLEGATIONS</u>	
8	3.1. Pace International, LLC owns and operates a business facility located at 1201 3rd	
9	Avenue # 5450, Seattle, Washington 98101.	
10	3.2. On one occasion in 2010, Respondent, imported the misbranded pesticide	
11	"Chlorpropham 98% Technical." Respondent committed one violation of Section 12(a)(1)(E) of	
12	FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling and distributing misbranded pesticides. These	
13	violations subject Respondent to the payment of a civil penalty in accordance with Section	
14	14(a)(2) of FIFRA, 7 U.S.C. § 1361(a)(2).	
15	3.3. Pursuant to FIFRA Section 14(a), 7 U.S.C. § 136 <i>l</i> (a), and 40 C.F.R. Part 19, EPA	
16	may assess a civil penalty of not more than \$7,500 for each offense against any registrant,	
17	commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any	
18	provision of Section 12 of FIFRA.	
19		
20	IV. <u>CONSENT AGREEMENT</u>	
21	4.1. For the purpose of this proceeding, Respondent admits the jurisdictional	
22	allegations contained herein, but neither admits nor denies the specific factual allegations put	
23	forth by EPA. Respondent waives any right to contest these allegations as well as the right to	
24	appeal the accompanying Final Order. Respondent also consents that this settlement will be	
25		
	CONSENT AGREEMENT AND FINAL ORDER - 2 U.S. Environmental Protection Agency   DOCKET NO. FIFRA-10-2010-0233 1200 Sixth Avenue, Suite 900   Seattle Washington 98101	

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considered prior history under FIFRA once finalized and consents to payment of the penalty as 2 stated below.

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3	4.2. Respondent consents to the assessment of a civil penalty in the amount of FOUR -
4	THOUSAND EIGHT-HUNDRED DOLLARS and no cents (\$4,800.00). Respondent consents
5	to issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil penalty
6	set forth in this paragraph within thirty (30) days of the effective date of this Final Order.
7	4.3. Payment under this CAFO shall be made by cashier's check or certified check,
8	payable to the order of "Treasurer, United States of America" and delivered to the following
9	address:
10	US Bank - USEPA - Region 10 Fines and Penalties
11	Cincinnati Finance Center PO Box 979077
12	St. Louis, MO 63197-9000
13	Respondent shall note on the check the title and docket number of this action.
14	4.4. Respondent shall serve photocopies of the checks described in Paragraph 4.3,
15	above, on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and
16	Enforcement at the following addresses:
17	Regional Hearing Clerk U.S. Environmental Protection Agency Region 10
18	Office of Regional Counsel, ORC-158
19	1200 Sixth Avenue, Suite 900 Seattle, WA 98101
20	Attn: Derrick Terada
21	U.S. Environmental Protection Agency Region 10 Pesticides and Toxics Unit, OCE-084
22	1200 Sixth Avenue, Suite 900
23	Seattle, WA 98101
24	4.5. Should Respondent fail to pay the penalty assessed herein in full by its due date,
25	the entire unpaid balance of penalty and accrued interest shall become immediately due and
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1	owing. Should such a failure to pay occur, Respondent may be subject to a civil action under
2	Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with
3	interest, handling charges, and nonpayment penalties, as set forth below.
4	4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by
5	its due date, Respondent shall also be responsible for payment of the following amounts:
6	a. <u>Interest</u> : Any unpaid portion of the assessed penalty shall bear interest at the rate
7	established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)
8	from the effective date of the accompanying Final Order, provided, however, that
9	no interest shall be payable on any portion of the assessed penalty that is paid
10	within 30 days of the effective date of the Final Order.
11	b. <u>Handling Charge</u> : Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge
12	of \$15 shall be paid if any portion of the assessed penalty is more than 30 days
13	past due.
14	c. <u>Nonpayment Penalty</u> : Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty
15	of 6% per annum shall be paid on any portion of the assessed penalty that is more
16	than 90 days past due, which nonpayment penalty shall be calculated as of the
17	date the underlying penalty first becomes past due.
18	4.7. The penalty described in Paragraph 4.2, above, including any additional costs
19	incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA
20	and shall not be deductible for purposes of federal taxes.
21	4.8. The undersigned representative of Respondent certifies that he is fully authorized
22	to enter into the terms and conditions of this CAFO and to bind Respondent to this document.
23	4.9. Respondent shall bear its own costs and attorneys fees in connection with this
24	matter.
25	
	CONSENT AGREEMENT AND FINAL ORDER - 4 DOCKET NO. FIFRA-10-2010-0233 U.S. Environmental Protection Agency 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 (206) 553-1037

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The provisions of this CAFO shall bind Respondent and its agents, servants, 4.10. 1 2 employees, successors, and assigns. The above provisions are STIPULATED AND AGREED upon by Respondent 3 4.11. and EPA. 4 PACE INTERNATIONAL, LLC.: 5 DATED: 6 7 GEORGE LOBISSER Chief Executive Officer 8 For Respondent 9 U.S. ENVIRONMENTAL PROTECTION AGENCY: DATED: 10 11 8/24/10 12 EDWARD J. KOWALSKI Director, Office of Compliance and Enforcement 13 14 15 16 17 18 19 20 21 22 23 24 25 CONSENT AGREEMENT AND FINAL ORDER - 5 **U.S. Environmental Protection Agency** DOCKET NO. FIFRA-10-2010-0233 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 (206) 553-1037

1	V. <u>FINAL ORDER</u>
2	5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by
3	reference into this Final Order. Respondent is hereby ordered to comply with the foregoing
4	terms of the settlement.
5	5.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties
6	pursuant to FIFRA for the violations alleged above. In accordance with 40 C.F.R. § 22.31(a),
7	nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate
8	injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO
9	does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all
10	applicable provisions of FIFRA and regulations promulgated thereunder.
11	5.3. This Final Order shall become effective upon filing.
12	
13	SO ORDERED this 31 st day of <u>August</u> , 2010.
14	
15	Auno m. Jahle
16	Thomas M. Jahnke Regional Judicial Officer
17	U.S. Environmental Protection Agency
18	Region 10
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	CONSENT AGREEMENT AND FINAL ORDER - 6 DOCKET NO. FIFRA-10-2010-0233 U.S. Environmental Protection Agency 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 (206) 553-1037

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT** AGREEMENT AND FINAL ORDER in In the Matter of: Pace International, LLC, Docket No. FIFRA 10-2010-0233, was filed with the Regional Hearing Clerk on September 1, 2010.

On September 1, 2010 the undersigned certifies that a true and correct copy of the document was delivered to:

Mercer St. Peter, Assistant Regional Counsel U.S. Environmental Protection Agency Region 10, Suite 900 1200 Sixth Avenue, ORC-158 Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on September 1, 2010, to:

George Lobisser Chief Executive Officer Pace International, LLC 1201 3<sup>rd</sup> Avenue, #5450 Seattle, Washington 98101-3018

DATED this 1<sup>st</sup> day of September 2010.

<u>Allann Eng</u> Signature Print Name: <u>Sharon Eng</u> Regional Hearing Clerk **EPA Region 10**