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** FILED **
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U.S.EPA - Region 09

7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10 In the matter of:) Docket No. FIFRA-09-2017-00 04
11)
12 Gar Tootelian, Inc.,) CONSENT AGREEMENT
AND FINAL ORDER
13 Respondent.) pursuant to 40 C.F.R. §§ 22.13(b),
22.18(b)(2), and 22.18(b)(3)
14

15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency ("EPA"), Region IX, and Gar
17 Tootelian, Inc. ("Respondent") agree to settle this matter and consent to the entry of this Consent
18 Agreement and Final Order ("CAFO"). This CAFO simultaneously initiates and concludes this
19 proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).
20

21 A. AUTHORITY AND PARTIES

22 1. This is a civil administrative action brought pursuant to Section 14(a)(1) of the Federal
23 Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a)(1), for the assessment
24 of a civil administrative penalty against Respondent for violations of Sections 12(a)(1)(E) and
25 12(a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E) and 136j(a)(2)(S).

26 2. Complainant is the Director of the Enforcement Division, EPA Region IX, who has
27 been duly delegated to commence and settle an enforcement action in this matter.

28 3. Respondent is Gar Tootelian, Inc., a California corporation with headquarters offices
located at 8246 South Crawford Avenue in Reedley, California, 93654.

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B. STATUTORY AND REGULATORY BASIS

4. Under Section 2(s) of FIFRA, 7 U.S.C. §136(s), the term “person” means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

5. Under Section 2(u) of FIFRA, 7 U.S.C. §136(u), the term “pesticide” is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

6. Under Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), a pesticide is “misbranded” if its label does not bear the registration number assigned under Section 136(e) of FIFRA to each establishment in which it was produced.

7. Under Section 2(q)(2)(C)(iii) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iii), a pesticide is “misbranded” if there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing the net weight or measure of the content.

8. Under Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), the term “label” means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

9. Under Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), the term “labeling” means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time.

10. Under Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), 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.

11. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide that is adulterated or misbranded.

1 12. Under Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), it is unlawful for any
2 person to violate any regulation issued under Sections 3(a) or 19 of FIFRA, 7 U.S.C. §§ 136a(a)
3 and 136q.

4 13. Pursuant to FIFRA, 7 U.S.C. §§ 136-136y, the EPA Administrator promulgated
5 regulations governing the labeling requirements for pesticides and devices, which are codified at
6 40 C.F.R. Part 156.

7 14. Pursuant to Sections 3, 8, 19 and 25 of FIFRA, 7 U.S.C. §§ 136a, 136f, 136q and
8 136w, the EPA Administrator promulgated regulations pertaining to standards for pesticide
9 containers and pesticide containment structures (“the Container/Containment regulations”),
10 which are codified at 40 C.F.R. Part 165 and 40 C.F.R. §§ 156.140-156.159.

11 15. “Agricultural pesticide” means any pesticide product labeled for use in or on a farm,
12 forest, nursery, or greenhouse. 40 C.F.R. § 165.3.

13 16. “Appurtenance” means any equipment or device which is used for the purpose of
14 transferring a pesticide from a stationary pesticide container or to any refillable container,
15 including but not limited to, hoses, fittings, plumbing, valves, gauges, pumps and metering
16 devices. 40 C.F.R. § 165.3.

17 17. “Containment pad” means any structure that is designed and constructed to intercept
18 and contain pesticides, rinsates, and equipment wash water at a pesticide dispensing area. 40
19 C.F.R. § 165.3.

20 18. “Containment structure” means either a secondary containment unit or a containment
21 pad. 40 C.F.R. § 165.3.

22 19. “Establishment” means any site where a pesticidal product, active ingredient, or
23 device is produced, regardless of whether such site is independently owned or operated, and
24 regardless of whether such site is domestic and producing a pesticidal product for export only, or
25 whether the site is foreign and producing any pesticidal product for import into the United States.
26 40 C.F.R. § 165.3.

27 20. “Facility” means all buildings, equipment, structures, and other stationary items
28 which are located on a single site or on contiguous or adjacent sites and which are owned or

1 operated by the same person (or by any person who controls, who is controlled by, or who is
2 under common control with such person). 40 C.F.R. § 165.3.

3 21. "Operator" means any person in control of, or having responsibility for, the daily
4 operation of a facility at which a containment structure is located. 40 C.F.R. § 165.3.

5 22. "Owner" means any person who owns a facility at which a containment structure is
6 required. 40 C.F.R. § 165.3.

7 23. "Pesticide dispensing area" means an area in which pesticide is transferred out of or
8 into a container. 40 C.F.R. § 165.3.

9 24. "Produce" means to manufacture, prepare, propagate, compound, or process any
10 pesticide, including any pesticide produced pursuant to Section 5 of the Act, and any active
11 ingredient or device, or to package, repack, label, relabel, or otherwise change the container
12 of any pesticide or device. 40 C.F.R. § 165.3.

13 25. "Producer" means any person, as defined by the Act, who produces any pesticide,
14 active ingredient, or device (including packaging, repackaging, labeling, and relabeling). 40
15 C.F.R. § 165.3.

16 26. "Refilling establishment" means an establishment where the activity of repackaging
17 pesticide product into refillable containers occurs. 40 C.F.R. § 165.3.

18 27. "Refillable container" means a container that is intended to be filled with pesticide
19 more than once for sale or distribution. 40 C.F.R. § 165.3.

20 28. "Refiller" means a person who engages in the activity of repackaging pesticide
21 product into refillable containers. 40 C.F.R. § 165.3.

22 29. "Repackage" means, for the purposes of this part, to transfer a pesticide formulation
23 from one container to another without a change in the composition of the formulation, the
24 labeling content, or the product's EPA registration number, for sale or distribution. 40 C.F.R. §
25 165.3.

26 30. "Stationary pesticide container" means a refillable container that is fixed at a single
27 facility or establishment or, if not fixed, remains at the facility or establishment for at least 30
28 consecutive days, and that holds pesticide during the entire time. 40 C.F.R. § 165.3.

1 C. ALLEGED VIOLATIONS

2 31. Respondent is a "person" as that term is defined by Section 2(s) of FIFRA, 7 U.S.C.
3 § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

4 32. Respondent is an "owner" and "operator" of a "facility" that is an "establishment," as
5 those terms are defined by 40 C.F.R. § 165.3, located at 8246 Crawford Avenue in Reedley,
6 California (the "Reedley Establishment").

7 33. At all times relevant to this CAFO, Respondent was a "refiller" that "repackaged"
8 and dispensed the following "agricultural pesticides" at the following "refilling establishments"
9 whose principal business is retail sale, as those terms are defined by 40 C.F.R. § 165.3:

10 a. IAP Summer 415 Spray Oil, EPA Reg. No. 71058-5, at the Reedley
11 Establishment; and

12 b. IAP 440 Spray Oil, EPA Reg. No. 71058-6, at the Reedley Establishment.

13 As such, the Reedley Establishment and the agricultural pesticides it repackaged are subject to
14 the Container/Containment regulations.

15 34. Owners or operators of refilling establishments who repackage agricultural pesticides
16 and whose principal business is retail sale and that have a stationary pesticide container or a
17 pesticide dispensing (including container refilling) area must comply with the secondary
18 containment requirements of the Container/Containment regulations. 40 C.F.R. § 165.80(b)(1).

19 35. At all times relevant to this CAFO, the Reedley Establishment included an area
20 where agricultural pesticides were dispensed from a transport vehicle for the purposes of filling a
21 refillable container. This area was both a "pesticide dispensing area" and a "containment pad,"
22 as those terms are defined by 40 C.F.R. § 165.3.

23 36. The containment pad in the pesticide dispensing area and the secondary containment
24 unit at the Reedley Establishment were constructed after November 16, 2006 and are each "new
25 containment structures," as that term is defined by 40 C.F.R. § 165.83(a).

26 37. An inspection was conducted by an EPA Region IX inspector on or about February
27 23, 2016, at the Reedley Establishment.

1 label containing, inter alia, the producing establishment number as prescribed in paragraph (f) of
2 this section. 40 C.F.R. § 156.10(a)(1)(v). The producing establishment registration number
3 preceded by the phrase “EPA Est.”, of the final establishment at which the product was produced
4 may appear in any suitable location on the label or immediate container. 40 C.F.R. § 156.10(f).

5 44. On or about February 23, 2016, Respondent “distributed or sold” the pesticide, IAP
6 440 Spray Oil, in four blue tanks of 6,000-gallon maximum capacity at the Reedley
7 Establishment, as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), by holding
8 the pesticide for distribution, sale, or shipment.

9 45. On or about February 23, 2016, Respondent failed to have labels attached to the four
10 blue tanks of 6,000-gallon maximum capacity containing IAP 440 Spray Oil at the Reedley
11 Establishment that marked or identified the EPA producing establishment registration number of
12 the final establishment at which the bulk product, IAP 440 Spray Oil, was produced, as required
13 by 40 C.F.R. §§ 156.10(a)(4)(ii)(B), 156.10(a)(1)(v), and 156.10(f).

14 46. Respondent’s failure to mark or identify the EPA producing establishment
15 registration number of the final establishment at which the bulk product, IAP 440 Spray Oil, was
16 produced on the labels attached to the four blue tanks of 6,000-gallon maximum capacity
17 containing IAP 440 Spray Oil at the Reedley Establishment, as required by 40 C.F.R. §§
18 156.10(a)(4)(ii)(B), 156.10(a)(1)(v), and 156.10(f), constitutes “misbranding,” as that term is
19 defined by Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D).

20 47. Consequently, on or about February 23, 2016, Respondent’s distributions or sales of
21 the pesticide, IAP 440 Spray Oil, in four blue tanks of 6,000-gallon maximum capacity at the
22 Reedley Establishment constitute four violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §
23 136j(a)(1)(E), which prohibits a person from distributing or selling a misbranded pesticide.

24 **COUNT 6: Failure to Meet Standards for Openings of Refillable Containers**

25 48. Refillers of a pesticide product who are not the registrant of that pesticide product
26 must meet the following standards for openings on refillable containers: each opening of a
27 portable pesticide container that is designed to hold liquid pesticide formulations must have a
28 one-way valve, a tamper-evident device, or both. 40 C.F.R. §§ 165.45(e) and 165.70(b)(4).

1 49. At all times relevant to this CAFO, Respondent is a “refiller” who is not a registrant
2 of the pesticide, IAP 440 Spray Oil, as that term is defined by 40 C.F.R. § 165.3.

3 50. At all times relevant to this CAFO, the 500-gallon and 1,000-gallon bubble
4 containers used for refilling and transporting IAP 440 Spray Oil, a liquid pesticide formulation, at
5 the Reedley Establishment are “portable pesticide containers,” as that term is defined by 40
6 C.F.R. § 165.3.

7 51. On or about February 23, 2016, the 500-gallon and 1,000-gallon bubble containers
8 used for refilling and transporting IAP 440 Spray Oil at the Reedley Establishment were missing
9 one-way valves or tamper-evident devices.

10 52. On or about February 23, 2016, Respondent violated Section 12(a)(2)(S) of FIFRA, 7
11 U.S.C. § 136j(a)(2)(S), by failing to meet the standards for openings of refillable containers
12 required by 40 C.F.R. §§ 165.45(e) and 165.70(b)(4) for the 500-gallon and 1,000-gallon bubble
13 containers used for refilling and transporting IAP 440 Spray Oil at the Reedley Establishment.

14 COUNT 7: Failure to Protect Appurtenances

15 53. One of the general design requirements for all new containment structures is that the
16 owner or operator must protect appurtenances and pesticide containers against damage from
17 operating personnel and moving equipment. Means of protection include, but are not limited to,
18 supports to prevent sagging, flexible connections, the use of guard rails, barriers, and protective
19 cages. 40 C.F.R. § 165.85(b)(1).

20 54. On or about February 23, 2016, hoses and valves used to dispense IAP 440 Spray Oil
21 at the Reedley Establishment were not protected against damage from operating personnel and
22 moving equipment. These dispensing hoses and valves are “appurtenances,” as that term is
23 defined by 40 C.F.R. § 165.3.

24 55. On or about February 23, 2016, Respondent violated Section 12(a)(2)(S) of FIFRA, 7
25 U.S.C. § 136j(a)(2)(S), by failing to protect appurtenances at the Reedley Establishment, as
26 required by 40 C.F.R. § 165.85(b)(1).

1 COUNT 8: Configuration of the Discharge Outlet Through the
2 Base or Wall of the Containment Structure

3 56. One of the general design requirements for all new containment structures is that the
4 owner or operator must not configure appurtenances, discharge outlets, or gravity drains through
5 the base or wall of the containment structure. 40 C.F.R. § 165.85(b)(2).

6 57. On or about February 23, 2016, the pesticide containment unit, a new containment
7 structure, at the Reedley Establishment was configured with a drain in the structure's wall. This
8 drain in the wall is a discharge outlet through the wall of the containment structure.

9 58. On or about February 23, 2016, Respondent violated Section 12(a)(2)(S) of FIFRA, 7
10 U.S.C. § 136j(a)(2)(S), by configuring a discharge outlet through a wall of a containment
11 structure at the Reedley Establishment, as prohibited by 40 C.F.R. § 165.85(b)(2).

12 COUNTS 9 and 10: Failure to Anchor or Elevate Stationary Containers of Liquid Pesticides

13 59. One of the specific design requirements for new secondary containment units is that
14 the owner or operator must either anchor or elevate each stationary container of liquid pesticide
15 protected by a new secondary containment unit to prevent flotation in the event that the
16 secondary containment unit fills with liquid. 40 C.F.R. § 165.85(d).

17 60. On or about February 23, 2016, Tanks 15 and GP 68, both containing IAP 440 Spray
18 Oil, were in a new secondary containment unit but were neither anchored nor elevated.

19 61. On or about February 23, 2016, Respondent failed to either anchor or elevate Tanks
20 15 and GP 68, as required by 40 C.F.R. § 165.87(d).

21 62. On or about February 23, 2016, Respondent violated Section 12(a)(2)(S) of FIFRA, 7
22 U.S.C. § 136j(a)(2)(S), by failing to either anchor or elevate Tanks 15 and GP 68, as required by
23 40 C.F.R. § 165.85(d).

24 D. RESPONDENT'S ADMISSIONS

25 63. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
26 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
27 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section
28 I.C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the

1 assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any
2 right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the
3 proposed Final Order contained in this CAFO.

4 E. CIVIL ADMINISTRATIVE PENALTY

5 64. In final settlement of the violations of FIFRA specifically alleged in Section I.C of
6 this CAFO, Respondent shall pay a civil administrative penalty of THIRTY-TWO THOUSAND,
7 NINE HUNDRED, AND SIXTY DOLLARS (\$32,960). Respondent shall pay this civil penalty
8 no later than thirty (30) calendar days from the effective date of this CAFO. The civil penalty
9 shall be paid by remitting a certified or cashier's check, including the name and docket number
10 of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one
11 of the other methods listed below) and sent as follows:

12 Regular Mail:

13 U.S. Environmental Protection Agency
14 Fines and Penalties
15 Cincinnati Finance Center
16 PO Box 979077
17 St. Louis, MO 63197-9000

18 Wire Transfers:

19 Wire transfers must be sent directly to the Federal Reserve Bank in New
20 York City with the following information:

21 Federal Reserve Bank of New York
22 ABA = 021030004
23 Account = 68010727
24 SWIFT address = FRNYUS33
25 33 Liberty Street
26 New York, NY 10045
27 Beneficiary = U.S. Environmental Protection Agency

28 Certified or Overnight Mail:

U.S. Environmental Protection Agency
1005 Convention Plaza
Mail Station SL-MO-C2-GL
ATTN Box 979077
St. Louis, MO 63101

ACH (also known as Remittance Express or REX):

Automated Clearinghouse (ACH) payments to EPA can be made through
the U.S. Treasury using the following information:

1 U.S. Treasury REX/Cashlink ACH Receiver
2 ABA = 051036706
3 Account = 31006, Environmental Protection Agency
4 CTX Format Transaction Code 22 – checking

5 Physical Location of U.S. Treasury facility:
6 5700 Rivertech Court
7 Riverdale, MD 20737

8 Remittance Express (REX) = (866) 234-5681

9 On Line Payment:

10 This payment option can be accessed from the information below:

11 www.pay.gov
12 Enter "SFO 1.1" in the search field
13 Open form and complete required fields

14 If clarification regarding a particular method of payment remittance is
15 needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

16 Concurrently, a copy of each check, or notification that the payment has been made by one of the
17 other methods listed above, including proof of the date payment was made, shall be sent with a
18 transmittal letter, indicating Respondent's name, the case title, and docket number, to the
19 following addresses:

20 Regional Hearing Clerk
21 Office of Regional Counsel (ORC-1)
22 U.S. Environmental Protection Agency, Region IX
23 75 Hawthorne Street
24 San Francisco, CA 94105

25 Panah Stauffer
26 SDWA/FIFRA Section
27 Enforcement Division (ENF-3-3)
28 U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Edgar P. Coral
Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

1 65. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
2 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to
3 use such payment as a tax deduction.

4 66. If Respondent fails to pay the assessed civil administrative penalty of THIRTY-TWO
5 THOUSAND, NINE HUNDRED, AND SIXTY DOLLARS (\$32,960) as identified in Paragraph
6 64 by the deadline specified in that Paragraph, then Respondent shall also pay a stipulated
7 penalty to EPA upon EPA's written request. The amount of the stipulated penalty will be
8 EIGHT THOUSAND, TWO HUNDRED, AND FORTY DOLLARS (\$8,240) and will be
9 immediately due and payable upon EPA's written request, together with the initially assessed
10 civil administrative penalty of THIRTY-TWO THOUSAND, NINE HUNDRED, AND SIXTY
11 DOLLARS (\$32,960), resulting in a total penalty due of FORTY-ONE THOUSAND AND TWO
12 HUNDRED DOLLARS (\$41,200). Failure to pay the civil administrative penalty specified in
13 Paragraph 64 by the deadline specified in that Paragraph may also lead to any or all of the
14 following actions:

15 (1) EPA may refer the debt to a credit reporting agency, a collection
16 agency, or to the Department of Justice for filing of a collection action in the appropriate United
17 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
18 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
19 collection proceeding.

20 (2) The U.S. Government may collect the debt by administrative offset
21 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a
22 person to satisfy the debt the person owes the U.S. Government), which includes, but is not
23 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
24 C.F.R. Part 13, Subparts C and H.

25 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
26 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
27 business with EPA or engaging in programs EPA sponsors or funds.

1 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
2 Government may assess interest, administrative handling charges, and nonpayment penalties
3 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
4 civil administrative penalty specified in Paragraph 64 by the deadline specified in that Paragraph.

5 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §
6 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
7 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
8 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
9 (30) days of the effective date of this CAFO.

10 (b) Administrative Handling Charges. Pursuant to 31 U.S.C. §
11 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge, based on
12 either actual or average cost incurred (including both direct and indirect costs), for every month
13 in which any portion of the assessed penalty is more than thirty (30) days past due.

14 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
15 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
16 may be assessed on all debts more than ninety (90) days delinquent.

17 F. CERTIFICATION OF COMPLIANCE

18 67. In executing this CAFO, Respondent certifies that the information it has supplied
19 concerning this matter was at the time of submission, and is at the time of signature to this
20 CAFO, truthful, accurate, and complete; and that Respondent has corrected the violations alleged
21 in Section I.C of this CAFO. Under 18 U.S.C. § 1001, submitting false or misleading
22 information can result in significant penalties, including the possibility of fines and
23 imprisonment for knowing submission of such information.

24 G. RETENTION OF RIGHTS

25 68. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
26 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C
27 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
28 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,

1 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal
2 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
3 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
4 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

5 69. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
6 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
7 and permits.

8 H. ATTORNEYS' FEES AND COSTS

9 70. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in
10 this proceeding.

11 I. EFFECTIVE DATE

12 71. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
13 effective on the date that the Final Order contained in this CAFO, having been approved and
14 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

15 J. BINDING EFFECT

16 72. The undersigned representative of Complainant and the undersigned representative of
17 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
18 of this CAFO and to bind the party he or she represents to this CAFO.

19 73. The provisions of this CAFO shall apply to and be binding upon Respondent and its
20 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
21 and assigns.

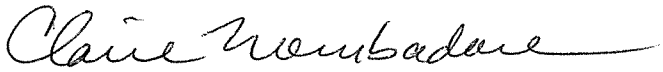
1 FOR RESPONDENT GAR TOOTELIAN, INC.:

2 1/29/17
3 DATE ~~3000~~


4 GREG MUSSON
5 President
6 Gar Tootelian, Inc.
7 8246 S. Crawford Avenue
8 Reedley, CA 93654

9 FOR COMPLAINANT EPA:

10 4/7/17
11 DATE

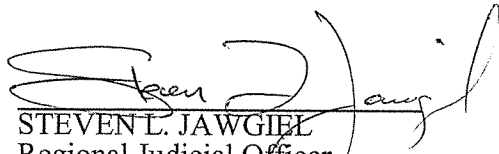

12 for KATHLEEN H. JOHNSON
13 Director
14 Enforcement Division
15 U.S. Environmental Protection Agency, Region IX
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II. FINAL ORDER

EPA and Gar Tootelian, Inc. having entered into the foregoing Consent Agreement,
IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2017-0004) be
entered, and Respondent shall pay a civil administrative penalty in the amount of THIRTY-TWO
THOUSAND, NINE HUNDRED, AND SIXTY DOLLARS (\$32,960), and comply with the
terms and conditions set forth in the Consent Agreement.

04/10/17
DATE


STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order, (Docket No FIFRA-09-2017-0004) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

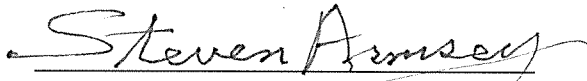
A copy was mailed via CERTIFIED MAIL to:

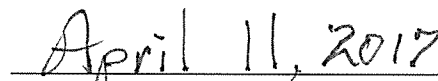
Greg Musson
President
Gar Tootelian, Inc.
8246 S. Crawford Avenue
Reedley, CA 93654

CERTIFIED MAIL NUMBER: 7016 1370 0000 2235 1152

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Edgar Coral
Assistant Regional Counsel (ORC-2)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Regional Hearing Clerk
U.S. EPA, Region IX


Date