



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 03 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Peyton King
Preston Motors Warehouse, LLC
1700 Vanderbilt Road, Suite A
Birmingham, Alabama 35234-1458

Re: Consent Agreement and Final Order - Docket No. TSCA-04-2015-2905(b)
Preston Motors Warehouse, LLC

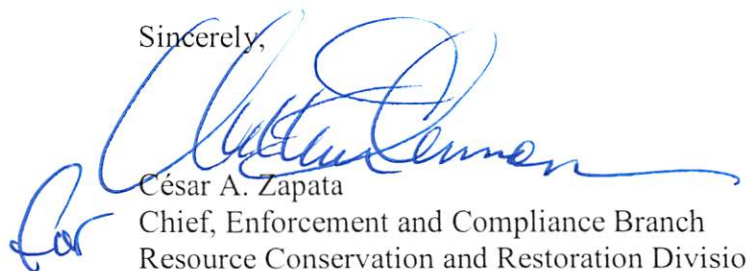
Dear Mr. King:

Enclosed is a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and the penalty due date is calculated from the effective date.

In addition, enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Preston Motors Warehouse, LLC, on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency.

If you have any questions, please feel free to contact Kris Lippert, of my staff, at (404) 562-8605.

Sincerely,


César A. Zapata
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Preston Motors Warehouse, LLC)
1700 Vanderbilt Road, Suite A)
Birmingham, Alabama 35234-1458)
)
Respondent.)
_____)

Docket No. TSCA-04-2015-2905(b)

10:01:17 8-10-15
ALVIN L. BEE
03/03/10

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Restoration Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Preston Motors Warehouse, LLC.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of the Resource Conservation and Restoration Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Resource Conservation and Restoration Division has the authority to commence an enforcement Action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Kris Lippert
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-8605

III. Specific Allegations

6. Respondent operates a “facility” in the State of Alabama and is a “person” as those terms are defined in 40 C.F.R. § 761.3.

7. On or about August 15, 2013, an inspection was conducted at Respondent's facility located at 1700 Vanderbilt Road, Suite A, Birmingham, Alabama ("Facility"), to determine compliance with the PCB regulations.
8. During the inspection, Respondent was storing for disposal twelve (12) Elemex Large PCB Capacitors, totaling less than 220 gallons of PCB fluid.
9. 40 C.F.R. § 761.3 defines PCB Items as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs. The Elemex Large PCB Capacitors are PCB Equipment.
10. 40 C.F.R. § 761.65(a)(1) requires that any PCB waste must be disposed of as required by Subpart D of the PCB regulations within 1-year from the date it was determined to be PCB waste and the decision was made to dispose it. During the inspection, Respondent could not provide any documentation to prove how long the twelve PCB Capacitors had been stored on-site. Therefore, Respondent violated 40 C.F.R. § 761.65(a)(1).
11. 40 C.F.R. § 761.40(a)(1) requires PCB Articles at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal from use if not already marked shall be marked with an M_L marking as illustrated in the figure in 40 C.F.R. § 761.45(a). At the time of the inspection, the twelve PCB Capacitors were not marked with the appropriate PCB label. Therefore, Respondent violated 40 C.F.R. § 761.40(a)(1).
12. Pursuant to 40 C.F.R. §§ 761.40(a)(10), 761.40(h) and 761.65(c)(3), storage areas used to store PCBs and PCB Items for disposal are required to be marked in accordance with § 761.45(a). At the time of the inspection, Respondent was storing the PCB Capacitors for disposal in areas that did not meet the requirements of 40 C.F.R. §§ 761.40(a)(10), 761.40(h) and 761.65(c)(3). Therefore, Respondent violated 40 C.F.R. §§ 761.40(a)(10), 761.40(h) and 761.65(c)(3).

13. 40 C.F.R. § 761.65(c)(8) requires that PCB Items be marked with the date when they were removed from service for disposal. At the time of the inspection, the twelve PCB Capacitors being stored on-site awaiting disposal were not marked with the dates when they were removed from service. Therefore, Respondent violated 40 C.F.R. § 761.65(c)(8).
14. 40 C.F.R. § 761.65(c)(5) requires all PCB Items in storage to be checked for leaks at least once every 30 days. At the time of the inspection, Respondent had not conducted inspections on the twelve PCB Capacitors. Therefore, Respondent violated 40 C.F.R. § 761.65(c)(5).

IV. Consent Agreement

15. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies the allegations set forth above.
16. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
17. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
18. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
19. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in Section III of this CAFO and shall not otherwise affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Compliance with this CAFO is not a defense to any action subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with TSCA and other applicable federal, state and local laws and regulations.

20. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

21. Respondent is assessed a civil penalty of SIX THOUSAND AND TWENTY-SIX DOLLARS (\$6,026.00), which shall be paid within 30 days from the effective date of this CAFO.
22. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1818

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

**Field Tag 4200 of the Fedwire message should read
“D 68010727 Environmental Protection Agency.”**

23. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

Kris Lippert
Enforcement and Compliance Branch
Resource Recovery and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

24. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
25. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on

any principal amount not paid within 90 days of the due date.

- 26. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
- 27. This CAFO shall be binding upon the Respondent, its successors and assigns.
- 28. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

- 29. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Preston Motors Warehouse, LLC
Docket No.: TSCA-04-2015-2905(b)

By: Peyton King (Signature) Date: 8/10/15
Name: PEYTON KING (Typed or Printed)
Title: MEMBER (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 8/20/15
G. Alan Farmer
Director
Resource Conservation and Restoration Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 15th day of September, 2015.

By: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and a copy of the foregoing Consent Agreement and Final Order (CAFO) and served a true and correct copy of the CAFO in the matter of Preston Motors Warehouse, LLC, Docket Number: TSCA-04-2015-2905(b), on the parties listed below in the manner indicated:

Robert Caplan (Via EPA Internal Mail)
Senior Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Kris Lippert (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Mr. Peyton King (Via Certified Mail – Return Receipt Requested)
Preston Motors Warehouse, LLC
1700 Vanderbilt Road, Suite A
Birmingham, Alabama 35234-1458

Date:

9-3-15



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511