



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 18 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robin Zahran
American Consumer Products Corporation
721 Acorn Hill Lane
Oak Brook, Illinois 60523

Re: Docket No.: FIFRA-04-2009-3023
American Consumer Products Corporation

Dear Mr. Zahran:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Melba Table at (404) 562-9086.

Sincerely,

Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Shannon Joyner, NCDACS

State File No. 110-101-1500

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

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IN THE MATTER OF:)
)
American Consumer Products Corporation)
)
)
Respondent.)
_____)

Docket No.: FIFRA-04-2009-3023

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), 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 Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is American Consumer Products Corporation.
2. EPA Region 4 filed a complaint against American Consumer Products Corporation on August 29, 2009. The first answer was filed on October 22, 2009. EPA amended its Complaint on March 26, 2010, and a second answer was filed on May 7, 2010. The parties were proceeding towards a hearing after the filing of the prehearing exchanges and the Respondent filed Chapter 11 Bankruptcy September 10, 2010, in the Northern District Illinois. In light of the bankruptcy filing and a determination on Respondent's ability to pay, EPA and Respondent have agreed to resolve this matter by entering into

a Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b). 40 C.F.R. § 22.13(b) is not relevant since that section pertains to settlements reached prior to the filing of a complaint.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) 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. § 22.18(b), this CAFO will conclude this matter.

II. Preliminary Statements

4. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Melba Table
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

6. Respondent is American Consumer Products Corporation, a Georgia and Illinois corporation, as indicated by the Georgia Secretary of State and the Illinois Secretary of State, doing business at all relevant times in Georgia, located at 1 American Consumer Way, Columbus, GA 31907.
7. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

8. On or about October 3, 2007, an authorized representative of the EPA conducted an inspection at Maxway #1482 located at 3400 Memorial Drive, Greenville, NC 27834.
9. At the time of the inspection, the Inspector observed six 32.5 fluid ounce containers of "Anti-Bacterial Formula 24-7 All Purpose Lemon Scent Cleaner," offered for sale on shelves located at Maxway #1482.
10. The Inspector collected evidence consisting of photographs documenting six containers and shipping records documenting 12 units shipped to Maxway #1482 by Variety Wholesalers, Inc., located at 218 Garnett St., Henderson, NC 27536.
11. On or about November 11, 2007, an authorized representative of the EPA conducted an inspection at Variety Wholesalers, Inc.
12. At the time of the inspection, the Inspector obtained evidence consisting of shipping records documenting 4 pallets of "Anti-Bacterial Formula 24-7 All Purpose Lemon Scent Cleaner." shipped to Variety Wholesalers, Inc., by the Respondent on at least one occasion.
13. "Anti-Bacterial Formula 24-7 All Purpose Lemon Scent Cleaner" is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
14. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as 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 (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

15. At the time of the above-noted inspections, Respondent produced and distributed "Anti-Bacterial Formula 24-7 All Purpose Lemon Scent Cleaner."
16. Respondent "distributes or sells" pesticides. The term "to distribute or sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
17. According to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful to distribute or sell any pesticide that is not registered under Section 3 of FIFRA, unless otherwise authorized by EPA.
18. "Anti-Bacterial Formula 24-7 All Purpose Lemon Scent Cleaner" is not a registered pesticide. By distributing and selling an unregistered pesticide on at least one occasion, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
19. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
20. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), and the Respondent's bankruptcy petition which was filed on September 10, 2010 in the Northern District of Illinois, the EPA proposes to assess a total civil penalty of ZERO dollars (\$0) against the Respondent for the above-described

violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
22. 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.
23. Complainant and Respondent, under consideration of the inability of the Respondent to pay the proposed penalty, agree to an assessment of a penalty of ZERO dollars (\$0).
24. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
25. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 14 of FIFRA, for the specific violations alleged herein. Except as specifically provided in the CAFO, EPA reserves all other civil and criminal authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the Respondent's responsibility to comply with said laws and regulations.
26. Respondent agrees that if it resumes business that it will comply with all applicable requirements of FIFRA, and that it will not produce, distribute, or sell unregistered pesticides in violation of FIFRA.

27. 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 FIFRA.

V. Final Order

26. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into the Final Order. The penalty assessed in this matter is **ZERO DOLLARS (\$0)**.
27. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
28. This CAFO shall be binding upon the Respondent, its successors and assigns.
29. The undersigned representative of the party 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.

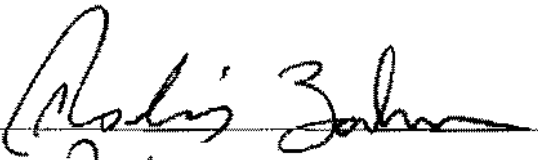
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V. Effective Date


30. 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:

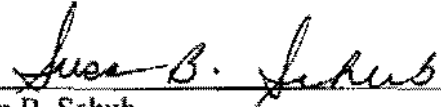
Respondent: American Consumer Products Corporation
Docket No.: FIFRA-04-2009-3023

By:  (Signature) Date: Nov. 23, 2010
Name: Robin Zahra (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 12/17/2010
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 18th day of January 2011.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

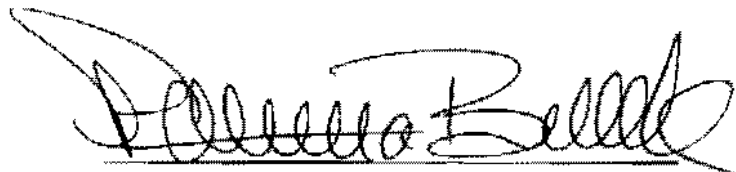
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of American Consumer Products Corporation Docket Number: FIFRA-04-2009-3023, to the addressees listed below.

Mr. Robin Zahran (via Certified Mail, Return Receipt Requested)
American Consumer Products Corporation
721 Acorn Hill Lane
Oak Brook, Illinois 60523

Melba Table (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Lucia Mendez (via EPA's internal mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Date: 1-18-11



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, Georgia 30303
(404) 562-9511