

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:

Ro Cher Enterprises, Inc. d/b/a Door and Window Warehouse Outlet, Inc.; Door and Window Warehouse, Co.; and/or Door and Window Superstore,

Respondent.

Docket Number: TSCA-05-2023-0004

RESPONSE TO ORDER TO SHOW CAUSE

1. Complainant filed a Complaint and Notice of Opportunity for Hearing in April 2023. Dkt. No. 1.
2. Proceeding without counsel, Respondent Ro Cher submitted a written response to the Complaint on July 6, 2023.¹ Dkt. No. 2.
3. On July 13, 2023, the Court found that this response did not meet the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits and ordered Ro Cher to file an Answer that complies with the Rules of Practice by August 11, 2023. Dkt. No. 5.
4. Ro Cher was unsure how to proceed without counsel and did not understand that Mr. Janakus's response to the Complaint had been found to be inadequate. Accordingly, Ro Cher did not submit an updated Answer by the August 11, 2023, deadline, and the

¹ This Answer, prepared and submitted *pro se*, included Mr. Janakus's recollection at the time that Ro Cher's EPA certification came up for renewal during the COVID pandemic and Ro Cher was then told by EPA that, because the Janakuses' company does not perform the installation of doors and windows, the renewal was not needed. Dkt. No. 2. After retaining counsel and reviewing the company's records, it appears to Respondent that the certification renewal and the call with EPA occurred in 2015, not during COVID. Respondent apologizes to the Court for any confusion.

Court issued an Order to Show Cause why Ro Cher had not filed an Answer and why a default order should not be entered against it. Dkt. No. 6.

5. Ro Cher sought an extension of time to respond to that Order due to its negotiations with counsel for representation in this action, and the Court granted that extension of time to October 23, 2023. Dkt. No. 9.
6. Ro Cher retained the undersigned pro bono counsel on October 19, 2023, and accordingly requested an extension of the deadline to respond to the Order to Show Cause until November 22, 2023, which the Court granted. Dkt. No. 13.
7. On November 16, 2023, Respondent filed a Complaint in federal district court alleging constitutional violations in connection with this proceeding and, on November 20, 2023, Respondent asked this Court to stay this proceeding pending the outcome of Respondent's federal case or, alternatively, for 90 days to continue settlement discussions with Complainant. That motion is pending before the Court.
8. Respondent apologizes for missing the Court's initial deadline to file a revised Answer and for any inconvenience that may have caused the Court or the Complainant. Respondent's revised Answer has been filed today, November 22, 2023, and is also attached here as **Exhibit 1**.

DATED: November 22, 2023.

Respectfully submitted,

s/ Molly E. Nixon
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CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2023, the foregoing document was sent to the following parties in the manner indicated below.

s/ Molly E. Nixon _____
MOLLY E. NIXON
Attorney for Respondent

Copy by OALJ E-Filing System to:

U.S. Environmental Protection Agency
Office of Administrative Law Judges
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Copy by Electronic Mail to:

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