

FILED

NANCY MARVEL
Regional Counsel
United States Environmental Protection Agency, Region IX

2012 SEP 17 PM 4: 33

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

IVAN LIEBEN
Assistant Regional Counsel
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3914

Attorneys for Plaintiff

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

_____)	Docket No. FIFRA-09-2011-0021
In the Matter of:)	
)	
Carimex International Trading Co., Inc)	CONSENT AGREEMENT AND
d/b/a SHCP Baltimore)	FINAL ORDER
)	
Respondent)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA Region IX") and FIFRA-09-2011-0021 ("Respondent") agree to settle this administrative enforcement action initiated under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties ("Consolidated Rules of Practice"), and consent to the entry of this Consent Agreement and Final Order ("CAFO").

*2012
9/18/12*

A. AUTHORITY AND PARTIES

1. EPA initiated this civil administrative proceeding for the assessment of a civil administrative penalty pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136/(a), and the Consolidated Rules of Practice, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent on September 22, 2011.

2. The Complaint, which alleges 118 separate violations by Respondent of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing the pesticide product, “Disinfectant Wipes,” without registering it as required by Section 3 of FIFRA, seeks a penalty against Respondent of up to \$6,500 for each violation.

3. EPA and Respondent have agreed to resolve the allegations set forth in the Complaint through the execution of this CAFO.

B. RESPONDENTS’ ADMISSIONS

4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the Complaint; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.C. of this CAFO; (iv) waives any right to contest the allegations contained in the Complaint; and (v) waives the right to appeal the proposed final order contained in this CAFO.

C. CIVIL ADMINISTRATIVE PENALTY

5. Respondent agrees to the assessment of a penalty in the amount of THREE

In the Matter of Carimex International Trading Co., Inc. d/b/a SHCP Baltimore
FIFRA Consent Agreement and Final Order

THOUSAND DOLLARS (\$3,000) plus interest, paid over a six (6) month period in accordance with the schedule attached as Attachment 1, as final settlement of the civil claims against Respondent arising under FIFRA as alleged in the Complaint.

6. Respondent shall pay each installment of the assessed penalty in accordance with the schedule attached as Attachment 1 of this CAFO. Payments shall be made by cashier's or certified check payable to the "Treasurer, United States of America," and shall be sent by certified mail, return receipt requested, to the following address:

U.S. Environmental Protection Agency, Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

Each payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of each payment of the penalty, Respondent shall send a copy of the check and transmittal letter to the following addresses:

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

AND

Julie Jordan
Pesticides Office (CED-5)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

7. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local

taxes.

8. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 5 in accordance with the schedule attached as Attachment 1, then Respondent shall pay to EPA a stipulated penalty of \$100 per day for each day that payment of the penalty is late, in addition to the assessed penalty. Stipulated penalties shall be paid upon written request by EPA. In addition, failure to pay the civil administrative penalty in accordance with Attachment 1 may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 6. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States

Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

D. CERTIFICATION AND COMPLIANCE

9. In executing this CAFO, Respondent certifies that (1) it is no longer selling or distributing any unregistered pesticide in the United States in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), including the "Disinfectant Wipes"; and (2) it is in compliance with all other FIFRA requirements at all facilities that it owns or operates.

E. RETENTION OF RIGHTS

10. In accordance with 40 C.F.R. § 22.18(c) and as provided below, this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Complaint. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. In addition to any other authority, right, or remedy available to EPA, EPA

specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the Complaint.

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

F. ATTORNEYS' FEES AND COSTS

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

G. EFFECTIVE DATE

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

H. BINDING EFFECT


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

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

In the Matter of Carimex International Trading Co., Inc. d/b/a SHCP Baltimore
FIFRA Consent Agreement and Final Order

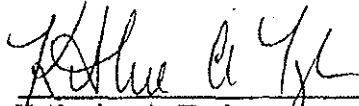
FOR RESPONDENT CARIMEX INTERNATIONAL TRADING CO. INC. D/B/A SHCP
BALTIMORE.

Aug. 10th 2012
DATE:

BY: 
NAME: ANDY YOON
TITLE: PRESIDENT

FOR COMPLAINANT EPA REGION IX:

9/14/2012
DATE

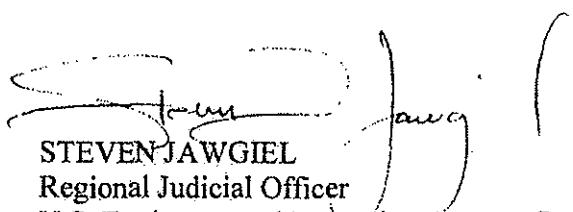
BY: 
Katherine A. Taylor
Associate Director for Agriculture
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street

In the Matter of Carimex International Trading Co., Inc. d/b/a SHCP Baltimore
FIFRA Consent Agreement and Final Order

II. FINAL ORDER

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2011-0021) be entered, and that Respondent shall pay a civil administrative penalty in the amount of THREE THOUSAND DOLLARS (\$3,000) plus interest in accordance with the schedule set forth in Attachment 1 and comply with the terms and conditions set forth in the Consent Agreement.

09/17/12
DATE


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

ATTACHMENT 1 - INSTALLMENT PAYMENT SCHEDULE
DOCKET NO. FIFRA-09-2011-021

Payment 1 to be paid within 30 days of the effective date of CAFO is \$500 (no interest).
Payment plus interest for all subsequent installments made after 30 days of the effective date of CAFO will be the following:

Pmt	Principal	Interest	Total Payment Amount	Due Date
2	\$500.00	\$2.05	\$502.05	within 30 days of deadline for 1 st installment
3	\$500.00	\$1.64	\$501.64	within 30 days of deadline for 2 nd installment
4	\$500.00	\$1.23	\$501.23	within 30 days of deadline for 3 rd installment
5	\$500.00	\$0.82	\$500.82	within 30 days of deadline for 4 th installment
6	\$500.00	\$0.41	\$500.41	within 30 days of deadline for 5 th installment

Total Payment: \$3,006.15

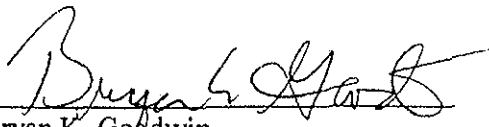
CERTIFICATION / CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket No. FIFRA-9-2011-0021, was hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency - Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy thereof was placed in the United States Mail, certified mail (7010 2780 0000 8388 6699), return receipt requested, addressed to the following address:

Mr. Andy Yoon
President
Carimex International Trading Co., Inc (d/b/a SHCP Baltimore)
2000 Washington Blvd.,
Baltimore, Maryland 21230

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

Ivan Lieben, Esq
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

Date 9/17/12