



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 No. TSCA-05-2023-0004

ORDER FOR RESPONDENT TO SHOW CAUSE

This proceeding was initiated on April 21, 2023, when Complainant, the Division Director of the Enforcement and Compliance Assurance Division at the U.S. Environmental Protection Agency, Region 5, filed a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent Ro Cher Enterprises, Inc., d/b/a Door and Window Warehouse Outlet, Inc., Door and Window Warehouse, Co., and/or Door and Window Superstore, for alleged violations of Section 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2689.

Respondent's owner and representative, Roger P. Janakus, filed a response with the Regional Hearing Clerk for Region 5 on July 6, 2023. Treating that response as an answer, the Regional Hearing Clerk then forwarded the matter to this Tribunal for adjudication.

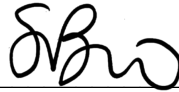
Upon being designated to preside, I observed that Respondent's response to the Complaint did not fully comport with the rules governing Answers that are set forth in 40 C.F.R. Part 22 ("Rules"). The response did not clearly admit, deny, deny for lack of knowledge, or otherwise explain each paragraph of the Complaint that alleges a fact or facts. Respondent also did not request a hearing on the issues. I therefore ordered Respondent to submit an Answer that complied with the Rules no later than August 11, 2023. See Order for Resp't to File Answer (July 13, 2023); 40 C.F.R. § 22.15. I also cautioned Respondent "THAT FAILURE TO TIMELY COMPLY WITH THIS ORDER MAY RESULT IN THE ENTRY OF DEFAULT JUDGMENT AGAINST HIM." Order for Resp't to File Answer at 2.

Under the Rules, "[a] party may be found to be in default: after motion, upon failure to file a timely answer to the complaint; upon failure to comply with the information exchange requirements of § 22.19(a) or an order of the Presiding Officer; or upon failure to appear at a conference or hearing." 40 C.F.R. § 22.17(a). "Default by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations." Id. In the event of default, this

Tribunal “shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued,” and “[t]he relief proposed in the complaint . . . shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.” 40 C.F.R. § 22.17(c).

To date, Respondent has not complied with the Order for Respondent to File Answer, requested an extension of the deadline to comply, or otherwise communicated with this Tribunal. Accordingly, Respondent is **ORDERED** to file and serve a document, on or before **September 7, 2023**, showing cause as to why it failed to file an Answer as directed by the Order for Respondent to File Answer and why a default order should not be entered against it.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: August 24, 2023
Washington, D.C.

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 No. TSCA-05-2023-0004

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order for Respondent to Show Cause**, dated August 24, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Original by OALJ E-Filing System to:
Mary Angeles, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Copy by Regular and Electronic Mail to:
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Copy by Electronic, Regular, and Certified Mail to:
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Certified Return Receipt No.: 7020-0090-0002-0876-4045
For Respondent

Dated: August 24, 2023
Washington, D.C.