

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
 :
Everyday Group, LLC, : Honorable Susan L. Biro,
 : Presiding Officer
Respondent. :
 :
Proceeding under the Federal : Docket No.
Insecticide, Fungicide and : FIFRA-02-2012-5201
Rodenticide Act, as amended. :
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STATUS REPORT

This status report is provided pursuant to the Court's January 31, 2013 "Order On Motion For Extension Of Time," which provides that "Complainant shall file another status report regarding the status of the parties' settlement negotiations on or before March 1, 2013" (emphasis deleted).

While the parties are not at the stage for which the undersigned had hoped at the time of the prior status report (January 29, 2013), they are moving in that direction. Respondent's counsel has provided to EPA information that goes to the question of the appropriateness of the penalty sought in the complaint under the applicable FIFRA enforcement response policy (penalty policy). In addition, counsel has informed the undersigned that has collected updated information for one of the three pesticides listed in the complaint and is continuing to seek information regarding the other two pesticides; such information could be of use for EPA to evaluate other factors impacting the appropriateness and magnitude of the penalty under the FIFRA penalty policy.

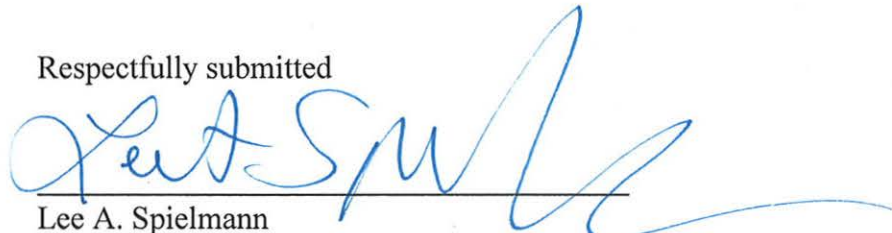
An exploratory offer has already been conveyed from EPA in an effort to move the

negotiations tangibly forward, and Respondent's counsel has informed the undersigned that the figure has been forwarded to the company; counsel has further averred that he will shortly be meeting with company ownership (this coming Friday, March 1st) for an in-depth discussion of EPA's settlement proposal. Counsel will then communicate with EPA by next Wednesday (March 6th) as to whether the offer has been accepted or rejected, and, if the latter, will likely provide a formal counter-proposal.

The parties have thus recently accelerated their efforts to reach a negotiated settlement, and, based on the tenor of the recent communications, it appears that both sides wish expeditiously to reach such a settlement.

Dated: February 27, 2013
New York, New York

Respectfully submitted



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TO: Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460

Sybil Anderson
Headquarters Hearing Clerk
EPA Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460-2001¹

Clarence J. Erickson, Esq.
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¹ As noted on page 5 of the prehearing order of January 4, 2013, "Pursuant to the Headquarters Hearing Clerk Pilot Project, rather than filing all documents with the Regional Hearing Clerk as specified in...40 C.F.R. § 22.5(a), **the ORIGINAL and one copy of each document filed in this proceeding shall be filed with the Headquarters Hearing Clerk...**" (emphases in original).

In re Everyday Group, LLC.
Docket No. FIFRA-02-2012-5201

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "STATUS REPORT," dated February 27, 2013, in the above-referenced proceeding in the following manner to the respective addressees listed below:

Original and one copy by
Pouch Mail, and one copy by
Fax Transmission, 202-565-0044:

Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460-2001

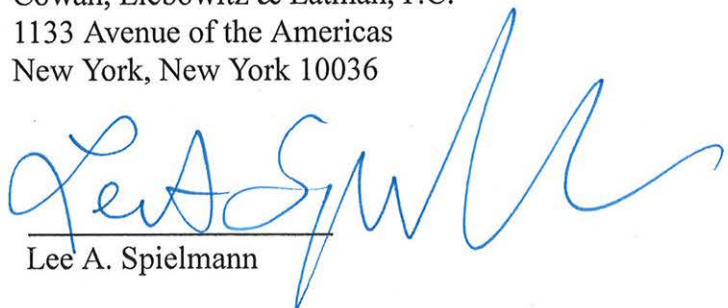
Copy by Fax Transmission,
202-565-0044, and Pouch Mail:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900 L
Washington, DC 20460

Copy by Fax Transmission,
212-575-0671, and First Class Mail:

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Dated: February 27, 2013
New York, New York


Lee A. Spielmann