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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Aylin, Inc.; Rt. 58 Food Mart, Inc.;)
Franklin Eagle Mart Corp.; and,)
Adnan Kiriscioglu,)
)
)
)
Respondents.)

Docket No. RCRA-0302-13-0039

RESPONDENT'S CONSENT MOTION FOR EXTENSION OF TIME

In accordance with 40 C.F.R. Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Respondents Aylin, Inc., Rt. 58 Food Mart, Inc., Franklin Eagle Mart Corp., and, Adnan Kiriscioglu (the "Respondents") submit this Consent Motion for Extension of Time to respond to the Order on Complainant's Motion for Discovery. Respondents request that they be given until **May 5, 2014**, to provide Complainant the ordered discovery responses for the following reasons:

1. Respondents' counsel spoke by telephone with Complainant's counsel, and Complainant's counsel agreed to a reasonable extension of time.
2. Respondents will provide their Prehearing Exchange(s), other than the ordered discovery responses, by April 4, 2014.
3. Respondent Adnan Kiriscioglu owns retail gasoline outlets in Environmental Protection Agency ("EPA") Region II, which are subject to an Information Request Letter ("IRL") with an April 4, 2014, return date. In this IRL, EPA Region II requests a considerable amount of underground storage tank compliance information from Respondent Kiriscioglu for those outlets. Respondent Kiriscioglu has retained separate counsel in New York State to represent him and the corporate entities for each outlet on that matter. The undersigned understands that counsel in that matter has requested an extension of time to respond to the IRL.
4. A staff of three (3) persons, including Mr. Kiriscioglu's daughter, oversees the day-to-day operations of the retail gasoline outlets owned by Mr. Kiriscioglu in EPA Regions II and III, including the Respondents. The staff has been particularly challenged over the past month because of the severe winter weather in

the Middle Atlantic States. The staff, even without the weather disruptions, is challenged to respond to both the discovery responses in this matter and Region II's IRL at the same time.

5. Mr. Kiriscioglu has been away from his home and office since March 15, 2014, on a previously-scheduled vacation. Mr. Kiriscioglu returns to the office on April 1, 2014.

6. Respondents' counsel currently operates his law practice as a solo practitioner. Respondents' counsel was in Tampa, Florida and San Francisco, California for two trade association clients' conventions from March 13, 2014, through March 23, 2014. During the week of March 24, 2014, Respondents' counsel was away from the office for significant blocks of time because of the local hospitalization of an immediate family member, who has been diagnosed with a malignant carcinoma on his liver. Respondent's counsel will be away from the office from April 7, 2014, through April 13, 2014 for another trade association client's convention.

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8. Respondents' Counsel initially made an attempt with Mr. Kiriscioglu's staff to determine which discovery responses could be submitted to Complainant by April 4, 2014. However, for the reasons set forth in Paragraph 6 above, Respondents and their counsel have determined that they will be unable to provide anything other than the Prehearing Exchange(s) by April 4, 2014.

WHEREFORE, for the reasons set forth above and in the accompanying memorandum of law, Respondents request this Court to issue an Order, granting Respondents' Consent Motion for Extension of Time.

Respectfully submitted,

Jeffrey L. Leiter

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ATTORNEY FOR RESPONDENTS

Date: March 31, 2014

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

In the Matter of:)	
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Aylin, Inc.; Rt. 58 Food Mart, Inc.;)	Docket No. RCRA-0302-13-0039
Franklin Eagle Mart Corp.; and,)	
Adnan Kiriscioglu,)	
)	
)	
Respondents.)	

**MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S CONSENT MOTION
FOR EXTENSION OF TIME**

In accordance with 40 C.F.R. Par 22, the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, Respondents Aylin, Inc.; Rt. 58 Food Mart, Inc.; Franklin Eagle Mart Corp.; and, Adnan Kiriscioglu (the "Respondents") submit this Memorandum of Law in Support of Respondents' Consent Motion for Extension of Time to respond to the Order on Complainant's Motion for Discovery (the "Motion"). In their Motion, the Respondents request that they be given until **May 5, 2014**, to provide Complainant the ordered discovery responses.

I. Factual and Procedural Background

On February 20, 2014, Complainant filed a Motion for Discovery (the "Discovery Motion"), requesting 70 interrogatories, 28 document requests and a "Financial Data Request Form" related to Respondents' inability to pay claim.

On March 12, 2014, the Court granted the Discovery Motion, ordering that the above discovery responses be included with Respondents' Prehearing Exchange(s) due on or before April 4, 2014.

Other factual matters relevant to the Respondents' Motion are set forth in the Motion.

II. Respondents' Request Will Not Unreasonably Delay the Proceedings

Respondents do not believe that the requested, one-month delay in providing the discovery responses to the Discovery Motion will unreasonably delay the proceedings. Complainants' counsel has agreed to a reasonable extension of the April 4, 2014, response date. Respondents still intend to serve their Prehearing Exchange(s), other than the discovery responses, by April 4, 2014. Further, Respondents' counsel expects that settlement discussions will continue with Complainant's counsel during the requested extension period.

Respondents' counsel has indicated to Complainant's counsel its intention to file several motions with the Court, if settlement cannot be reached. The intended motions are a request to the Court to file an amended answer and a request to strike Mr. Kiriscioglu individually as a Respondent in this matter. Respondents' counsel anticipates that these motions will be filed with the Court prior to May 5, 2014. Complainant's counsel will have the delayed discovery responses to respond timely to the expected motions from the Respondents.

III. The April 4, 2014 Deadline Does Create an Unreasonable Burden on Respondents

Answering 70 interrogatories, 28 document requests and a "Financial Data Request Form" for each Respondents' inability to pay claim in approximately three weeks from the date of the Court's Order will burden the Respondents. Complainant's counsel recognized this difficulty in agreeing to a reasonable extension of time for the Respondents to submit their discovery responses. Respondents did not object to the Discovery Motion; however, they expected that they would have more than three weeks to prepare their responses.

As noted in the Motion, Mr. Kiriscioglu has been away since March 15, 2014, returning to the office tomorrow. He has a small office staff of three persons, including his daughter, who is able to assist him in preparing the discovery responses. Mr. Kiriscioglu uses an outside accountant, and this CPA is in the middle of income tax "season" with all of his clients. More importantly, Mr. Kiriscioglu recently received an Information Request Letter ("IRL") from Environmental Protection Agency Region II for the retail gasoline outlets he owns in the New York City metropolitan area. Mr. Kiriscioglu has retained separate counsel on Long Island to assist him and his small office staff respond to the IRL. Mr. Kiriscioglu's New York counsel, upon information and belief, has requested an extension of Region II's April 4, 2014, response deadline because of the volume of underground storage tank compliance information requested by the Agency.

Respondents' counsel, as set forth in the Motion, has been out of the office on other clients' matters and with a health crisis with an immediate family member.

Respondents' counsel delayed filing the Motion, making an initial effort to see if a portion of the requested discovery could be completed and submitted to Complainant by the April 4, 2014 deadline; however, it will be possible only to get the Prehearing Exchange(s) to Complainant by the end of this week.

Respectfully submitted,



Date: March 31, 2014

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ATTORNEY FOR RESPONDENTS

Certificate of Service

I hereby certify that the foregoing Consent Motion for Extension of Time, dated March 31, 2014, was sent this day in the following manner to the addresses listed below.



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