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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
SAN FRANCISCO, CALIFORNIA

In the Matter of:)	Docket No. FIFRA-09-2024-0043
)	
U.S. Jaclean, Inc.,)	CONSENT AGREEMENT
)	AND FINAL ORDER
)	
<u>Respondent.</u>)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA"), and U.S. Jaclean, Inc. ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO").

A. AUTHORITY

1. EPA initiated this civil administrative penalty action against Respondent pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a)(1), by issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") on March 21, 2024 in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22.

2. The Complaint alleges that Respondent violated Sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (E), by distributing or selling unregistered and misbranded pesticides and Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(Ba)(1)(F), by distributing or selling a misbranded device.

3. EPA and Respondent have agreed to resolve this civil administrative proceeding without further litigation by executing this CAFO pursuant to 40 C.F.R. § 22.18(b).

B. RESPONDENT'S 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 the Complaint and over Respondent; (ii) neither admits nor denies the 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 the CAFO; (iv) waives any right to contest the allegations contained in the Complaint; and (v) waives the right to appeal the final order contained in the CAFO.

C. CIVIL ADMINISTRATIVE PENALTY

5 Respondent agrees to the assessment of a penalty in the amount of TWO HUNDRED AND FIFTY-SIX THOUSAND, NINE HUNDRED DOLLARS (\$256,900) plus interest, paid in four (4) quarterly installments over a twelve-month period, as final settlement of the civil claims against Respondent arising under the Act as alleged in the Complaint.

6. Respondent shall pay each installment of the assessed penalty in accordance with the payment schedule attached to this CAFO as Attachment A. Notwithstanding Respondent's agreement to pay the Assessed Penalty in accordance with the payment schedule specified in Attachment A, Respondent may pay the entire Assessed Penalty of TWO HUNDRED AND

FIFTY-SIX THOUSAND, NINE HUNDRED DOLLARS (\$256,900) no later than thirty (30) days after the effective date of the CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the payment schedule in Attachment A, elect to pay the entire principal balance remaining, together with any interest and other charges accrued up to the date of such full payment.

Each installment payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods listed below:

- a. Respondent may pay online through the Department of the Treasury website at www.pay.gov. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center, and complete the SFO Form Number 1.1.
- b. Respondent may also pay using any method or combination of methods provided on the following website:

<https://www.epa.gov/financial-additional-instructions-making-payments-epa>

If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091.

7. 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 or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
r9HearingClerk@epa.gov

Ejan Petrie
Enforcement and Compliance Assurance Division (ENF-2-3)
U.S. Environmental Protection Agency, Region IX
petrie.ejan@epa.gov

8. If Respondent fails to pay in full any installment of the assessed civil administrative penalty specified in Paragraph 5 in accordance with the payment schedule in Attachment A, then the entire remaining balance of the assessed penalty shall immediately become due and payable. Respondent also shall pay to EPA a stipulated penalty of FIVE HUNDRED DOLLARS (\$500.00) per day for each day that payment is late, in addition to the assessed penalty. Stipulated penalties shall accrue until the assessed penalty and all accrued stipulated penalties are paid and shall become due and payable upon written request by EPA. In addition, failure to pay the civil administrative penalty in accordance with the payment schedule in Attachment A 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 in accordance with the schedule in Attachment A. 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.

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.

In re: U.S. Jaclean Inc.

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D. TAX REPORTING

9. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement that provides the same information provided to the IRS to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty pursuant to 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires and Respondent herein agrees that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at sherrer.dana@epa.gov within 30 days after the Final Order ratifying this

Agreement is filed- EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date of the CAFO, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

- i) notify EPA's Cincinnati Finance Center of this fact via email within 30 days after the 30 days after the effective date of this CAFO; and
- ii) provide EPA's Cincinnati Finance Center with Respondent's TIN via email within five (5) days of Respondent's issuance and receipt of the TIN.

E. CERTIFICATION OF COMPLIANCE

10. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in compliance with any FIFRA requirements that may apply to its ongoing operations.

F. RETENTION OF RIGHTS

11. In accordance with 40 C.F.R. § 22.18(c), 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. 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.

12. 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.

G. ATTORNEY'S FEES AND COSTS

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

H. EFFECTIVE DATE

14. 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.

I. BINDING EFFECT

15. 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.

16. 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.

ATTACHMENT A

Payment Number	Payment shall be made <i>no later than</i>	Principal Amount	Interest Amount	Total Payment Amount
1	Thirty (30) days after the Effective Date.	U.S. \$64,225.00	U.S. \$0.00	U.S. \$64,225.00
2	One hundred twenty (120) days after the Effective Date.	U.S. \$64,225.00	U.S. \$1,926.75	U.S. \$66,151.75
3	Two hundred forty (240) days after the Effective Date.	U.S. \$64,225.00	U.S. \$1,712.67	U.S. \$65,937.67
4	Three hundred sixty (360) days after the Effective Date.	U.S. \$64,225.00	U.S. \$856.33	U.S. \$65,081.33
Totals:		U.S.\$256,900.00	U.S. \$4,495.75	U.S. \$261,395.75

FOR RESPONDENT, U.S. JACLEAN, INC.

8-19-2024

DATE



Michael Kogure
President
U.S. Jaclean, Inc.

FOR COMPLAINANT, EPA REGION IX:

8/28/2024

DATE

MATTHEW
SALAZAR

Digitally signed by MATTHEW
SALAZAR
Date: 2024.08.28 07:24:03 -07'00'

Matt Salazar, PE
Manager, Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

II. FINAL ORDER

Complainant and Respondent, U.S. Jaclean, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2024-0043) be entered and that Respondent shall pay a civil administrative penalty in the amount of TWO HUNDRED AND FIFTY-SIX THOUSAND, NINE HUNDRED DOLLARS (\$256,900) plus interest and comply with the terms and conditions set forth in the Consent Agreement and Attachment A.

DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original of the fully executed Consent Agreement and Final Order in the matter of U.S. Jaclean, Inc. (Docket No. FIFRA-09-2024-0043) has been filed with the Regional Hearing Clerk, Region IX and that a true and correct copy was sent by electronic mail to the following parties:

RESPONDENT:

Michael Kogure
President
U.S. Jaclean, Inc.
1816 W. 135th Street
Gardena, CA 90249
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U.S. EPA, Region IX