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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

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June 23, 1995

Reply To
Attn Of: S0-155

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Stanford J. Nudelman
2707 N.W. Nela Street
Portland, Oregon 97210

Re: In the Matter of: S.J. Nudelman and Son,
Docket No. 10-95-0012 (TSCA)

Dear Mr. Nudelman:

Enclosed is a conformed copy of the Consent Agreement and Consent Order (CACO) which the Regional Administrator signed on June 21, 1995. The original CACO is filed with the Regional Hearing Clerk.

Pursuant to the CACO, payment of the civil penalty of $100 is due no later than July 21, 1995. Please ensure the payment is made in the manner specified in Paragraph 14. Failure to comply with the terms of the CACO will result in the assessment of interest, handling charges, and nonpayment penalties in accordance with Paragraph 16.

On behalf of the U.S. Environmental Protection Agency, thank you for your cooperation in reaching a satisfactory resolution in this matter.

Sincerely,

Margaret B. Silver

Margaret B. Silver
Associate Regional Counsel

Enclosure

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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: S.J. NUDELMAN & SON, Respondent.	Docket No. 10-95-0012-TSCA CONSENT AGREEMENT AND CONSENT ORDER FOR PAYMENT OF CIVIL PENALTIES

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency ("EPA") initiated this proceeding for the assessment of a civil penalty pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), by issuing a complaint against Respondent, S.J. Nudelman & Son, on February 3, 1995.

2. The complaint charged Respondent with violation of the disposal requirements of the Polychlorinated Biphenyls ("PCBs") regulations, 40 C.F.R. § 761.60 and TSCA Section 15, 15 U.S.C. § 2614.

3. As a result of information exchanged during settlement negotiations, EPA and Respondent have agreed to resolve this matter by executing this Consent Agreement and Consent Order ("CACO").

II. CONSENT AGREEMENT

4. Respondent admits the jurisdictional allegations contained in the complaint.

5. Respondent neither admits nor denies the factual allegations, findings, or conclusions of law contained in the complaint.

6. Respondent represents that it has properly disposed of the leaking light ballast at its facility in accordance with 40 C.F.R. Part 761.

7. Subsequent to issuance of the Complaint, Respondent provided EPA with tax returns and other financial information demonstrating that it does not have the ability to pay the proposed penalty. Accordingly, in conformance with the TSCA PCB Penalty Policy, EPA has agreed to reduce the penalty proposed in the Complaint to $100.

8. Respondent agrees to the assessment of a civil penalty in the amount of $100.

9. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

10. Respondent waives its right to request an adjudicatory hearing on any issue addressed in this CACO.

11. Respondent represents that it is duly authorized to execute this CACO and that the party signing this CACO on its behalf is duly authorized to bind Respondent to the terms of this CACO.

12. Respondent and EPA agree to the issuance of the Consent Order below.

III. CONSENT ORDER

IT IS HEREBY ORDERED and ADJUDGED as follows:

13. For the reasons set forth above, Respondent is hereby assessed a penalty in the amount of $100.

14. Respondent shall pay the assessed penalty in full no later than 30 days from the date a conformed copy of this CACO is mailed to Respondent by mailing a certified check or money order, payable to the United States Treasurer, to:

U.S. Environmental Protection Agency
(Region 10 Hearing Clerk)
P.O. Box 360903M
Pittsburgh, Pennsylvania 15251

A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. A copy of the check and of the transmittal letter shall be delivered or mailed to the Regional Hearing Clerk at the following address:

U.S. Environmental Protection Agency
Region 10 Hearing Clerk
1200 Sixth Avenue, SO-155
Seattle, Washington 98101

15. Respondent's failure to comply with this CACO shall render the entire unpaid portion of the assessed penalty immediately due and payable, together with all accrued interest. Such failure may also subject Respondent to a civil action pursuant to TSCA Section 16(a)(4), 15 U.S.C. § 2615(a)(4), to collect any unpaid portion of the assessed penalty, together with

interest, handling charges and nonpayment penalties as set forth below. In any such collection action, the validity, amount, and appropriateness of the penalty is not subject to review.

16. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following amounts:

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C § 3717(a)(1) from the date a conformed copy of this CACO is mailed to Respondent; provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a copy of this CACO is mailed to Respondent.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of $15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the day the underlying penalty first becomes past due.

17. Each party shall bear its own costs, fees, and disbursements in this action.

18. This document is a "consent order" as that term is used in the Penalty Policy for the purposes of demonstrating a

"history of prior such violations" as provided in Section 16 of TSCA, 15 U.S.C. § 2615.

DATED this 15th day of ~~JUNE~~ JUN 21 1995, 1995.

Chuck Clarke

CHUCK CLARKE
Regional Administrator

Stipulated, Agreed, and Approved for Entry, Waiving Notice:

S.J. NUDELMAN & SON

Dated: 15th JUNE 1995

Stanford J. Nudelman
(signature)

MGR PRESIDENT Stanford Nudelman
(name and title)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Dated: 6/20/95

Margaret B. Silver
Margaret B. Silver
Associate Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing document, Consent Agreement and Consent Order for Payment of Civil Penalties in In the Matter of: S.J. Nudelman and Son, was delivered to the Regional Hearing Clerk and a copy was sent to Mr. Nudelman as follows:

Ms. Mary Shillcutt
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 10
1200 Sixth Avenue
Seattle, Washington 98101

By Hand Delivery
(Original)

Mr. Stanford J. Nudelman
2707 N.W. Nela Street
Portland, Oregon 97210

By Certified Mail
Return Receipt Requested
(Copy)

Dated: June 23, 1995

Pamela E. Riccio
Pamela E. Riccio
Environmental Protection
Agency