

Keith E. Lynott, Esq.
McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102
Tel: 973.622.4444
Fax: 973.624.7070

Attorneys for Third-Party Defendant, Reckitt Benckiser Inc.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, THE
COMMISSIONER OF THE NEW JERSEY
ENVIRONMENTAL PROTECTION AGENCY,
and THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION FUND,

Plaintiffs,

vs.

OCCIDENTAL CHEMICAL CORPORATION,
TIERRA SOLUTIONS, INC., MAXUS ENERGY
CORPORATION, REPSOL YPF, S.A., YPF, S.A.,
YPF HOLDINGS, INC. and CLH HOLDINGS,

Defendants,

MAXUS ENERGY CORPORATION and
TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

vs.

3M COMPANY,
A.C.C., INC.,
ACH FOOD COMPANIES, INC.,
ACTIVE OIL SERVICE,
ADCO CHEMICAL COMPANY,
AGC CHEMICALS AMERICAS, INC.,
ALDEN-LEEDS, INC.,
ALLIANCE CHEMICAL, INC.,
ALUMAX MILL PRODUCTS, INC.,
AMCOL REALTY CO.,
AMERICAN INKS AND COATINGS CORPORATION,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**ANSWER OF RECKITT BENCKISER
INC. TO THIRD-PARTY
COMPLAINT "B"**

APEXICAL, INC.,
APOLAN INTERNATIONAL, INC.,
ARKEMA, INC.,
ASHLAND INC.,
ASHLAND INTERNATIONAL HOLDINGS, INC.,
ASSOCIATED AUTO BODY & TRUCKS, INC.,
ATLAS REFINERY, INC.,
AUTOMATIC ELECTRO-PLATING CORP.,
AKZO NOBEL COATINGS, INC.,
BASF CATALYSTS LLC,
BASF CONSTRUCTION CHEMICALS INC.,
BASF CORPORATION,
BAYER CORPORATION,
BEAZER EAST, INC.,
BELLEVILLE INDUSTRIAL CENTER,
BENJAMIN MOORE & COMPANY,
BEROL CORPORATION,
B-LINE TRUCKING, INC.,
BORDEN & REMINGTON CORP.,
C.S. OSBORNE & CO.,
CAMPBELL FOUNDRY COMPANY,
CASCHEM, INC.,
CBS CORPORATION,
CELANESE LTD.,
CHEMICAL COMPOUNDS INC.,
CHEMTURA CORPORATION,
CLEAN EARTH OF NORTH JERSEY, INC.,
COSMOPOLITAN GRAPHICS CORPORATION,
CIBA CORPORATION,
COLTEC INDUSTRIES INC.,
COLUMBIA TERMINALS, INC.,
COMO TEXTILE PRINTS, INC.,
CONAGRA PANAMA, INC.;
CONOPCO, INC.,
CONSOLIDATED RAIL CORPORATION,
COOK & DUNN PAINT CORPORATION,
COSAN CHEMICAL CORPORATION,
COVANTA ESSEX COMPANY,
CRODA, INC.,
CRUCIBLE MATERIALS CORPORATION,
CURTISS-WRIGHT CORPORATION,
CWC INDUSTRIES, INC.,
DARLING INTERNATIONAL, INC.,
DAVANNE REALTY CO.,

DELEET MERCHANDISING CORPORATION,
DELVAL INK AND COLOR,
INCORPORATED,DILORENZO PROPERTIES
COMPANY, L.P.,
E.I. DU PONT DE NEMOURS AND COMPANY,
EASTMAN KODAK COMPANY,
EDEN WOOD CORPORATION,
ELAN CHEMICAL COMPANY, INC.,
EM SERGEANT PULP & CHEMICAL CO.,
EMERALD HILTON DAVIS, LLC,
ESSEX CHEMICAL CORPORATION,
EXXON MOBIL
F.E.R. PLATING, INC.,
FINE ORGANICS CORPORATION,
FISKE BROTHERS REFINING COMPANY,
FLEXON INDUSTRIES CORPORATION,
FLINT GROUP INCORPORATED,
FORT JAMES CORPORATION,
FOUNDRY STREET CORPORATION,
FRANKLIN-BURLINGTON PLASTICS, INC.,
GARFIELD MOLDING COMPANY, INC.,
GENERAL CABLE INDUSTRIES, INC.;
GENERAL DYNAMICS CORPORATION,
GENERAL ELECTRIC COMPANY,
GENTEK HOLDING LLC,
GIVAUDAN FRAGRANCES CORPORATION,
G. J. CHEMICAL CO.,
GOODY PRODUCTS, INC.,
GORDON TERMINAL SERVICE CO. OF N.J., INC.,
HARRISON SUPPLY COMPANY,
HARTZ MOUNTAIN CORPORATION,
HAVENICK ASSOCIATES L.P.,
HEXCEL CORPORATION,
HEXION SPECIALTY CHEMICALS, INC.,
HOFFMANN-LA ROCHE INC.,
HONEYWELL INTERNATIONAL INC.,
HOUGHTON INTERNATIONAL INC.,
HUDSON TOOL & DIE COMPANY, INC,
HY-GRADE ELECTROPLATING CO.,
ICI AMERICAS INC.,
INNOSPEC ACTIVE CHEMICALS LLC,
INX INTERNATIONAL INK CO.,
ISP CHEMICALS INC.,
ITT CORPORATION,

KEARNY SMELTING & REFINING CORP.,
KAO BRANDS COMPANY,
KOEHLER-BRIGITT STAR, INC.,
LINDE, INC.,
LUCENT TECHNOLOGIES, INC.,
MACE ADHESIVES & COATINGS COMPANY, INC.,
MALLINCKRODT INC.,
MERCK & CO., INC.,
METAL MANAGEMENT NORTHEAST, INC.,
MI HOLDINGS, INC.,
MILLER ENVIRONMENTAL GROUP, INC.,
MORTON INTERNATIONAL, INC.,
N L INDUSTRIES, INC.,
NAPPWOOD LAND CORPORATION,
NATIONAL FUEL OIL, INC.,
NATIONAL-STANDARD, LLC,
NELL-JOY INDUSTRIES, INC.,
NESTLE U.S.A., INC.,
NEW JERSEY TRANSIT CORPORATION,
NEWS AMERICA, INC.,
NEWS PUBLISHING AUSTRALIA LIMITED,
NORPAK CORPORATION,
NOVELIS CORPORATION,
ORANGE AND ROCKLAND UTILITIES, INC.,
OTIS ELEVATOR COMPANY,
PRC-DESOTO INTERNATIONAL, INC.,
PASSAIC PIONEERS PROPERTIES COMPANY,
PFIZER INC.,
PHARMACIA CORPORATION,
PHELPS DODGE INDUSTRIES, INC.,
PHILBRO, INC.,
PITT-CONSOL CHEMICAL COMPANY,
PIVOTAL UTILITY HOLDINGS, INC.,
PPG INDUSTRIES, INC.,
PRC-DESOTO INTERNATIONAL, INC.,
PRAXAIR, INC.,
PRECISION MANUFACTURING GROUP, LLC,
PRENTISS INCORPORATED,
PROCTER & GAMBLE MANUFACTURING COMPANY,
PRYSMIAN COMMUNICATIONS CABLES AND
SYSTEMS USA LLC,
PSEG FOSSIL LLC,
PUBLIC SERVICE ELECTRIC AND GAS COMPANY,
PURDUE PHARMA TECHNOLOGIES, INC.,

QUALA SYSTEMS, INC.,
QUALITY CARRIERS, INC.,
RECKITT BENCKISER INC.,
REICHHOLD, INC.,
REVERE SMELTING & REFINING CORPORATION,
REXAM BEVERAGE CAN COMPANY,
ROMAN ASPHALT CORPORATION,
ROYCE ASSOCIATES, A LIMITED PARTNERSHIP,
R.T. VANDERBILT COMPANY, INC.,
RUTHERFORD CHEMICALS LLC,
S&A REALTY ASSOCIATES, INC.,
SCHERING CORPORATION,
SEQUA CORPORATION,
SETON COMPANY,
SIEMENS WATER TECHNOLOGIES CORP.
SINGER SEWING COMPANY
SPECTRASERV, INC.,
STWB, INC.,
SUN CHEMICAL CORPORATION,
SVP WORLDWIDE, LLC,
TATE & LYLE INGREDIENTS AMERICAS, INC.,
TEVA PHARMACEUTICALS USA, INC.,
TEVAL CORP.,
TEXTRON INC.,
THE DIAL CORPORATION,
THE DUNDEE WATER POWER AND LAND COMPANY,
THE NEWARK GROUP, INC.,
THE OKONITE COMPANY, INC.,
THE SHERWIN-WILLIAMS COMPANY,
THE STANLEY WORKS,
THE VALSPAR CORPRATION,
THIRTY-THREE QUEEN REALTY INC.,
THREE COUNTY VOLKSWAGEN CORPORATION,
TIDEWATER BALING CORP.,
TIFFANY & CO.,
TIMCO, INC.,
TRIMAX BUILDING PRODUCTS, INC.,
TROY CHEMICAL CORPORATION, INC.,
UNIVERSAL OIL PRODUCTS COMPANY,
V. OTTILIO & SONS, INC.,
VELSICOL CHEMICAL CORPORATION,
VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.,
VERTELLUS SPECIALTIES INC.,
VITUSA CORP.,

VULCAN MATERIALS COMPANY,
W.A.S. TERMINALS CORPORATION,
W.A.S. TERMINALS, INC.,
W.C. INDUSTRIES,
WHITTAKER CORPORATION,
WIGGINS PLASTICS, INC.,
ZENECA INC.,

Third-Party Defendants.

ANSWER OF RECKITT BENCKISER INC. TO THIRD-PARTY COMPLAINT "B"

Third-Party Defendant Reckitt Benckiser Inc. ("Reckitt" or "Third-Party Defendant"), by and through its undersigned counsel, and in accordance with this Court's Case Management Order V, Section 9, entered April 16, 2009 ("CMO V"), hereby answers the Third-Party Complaint "B" of Defendants/Third-Party Plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc. ("Third-Party Plaintiffs"), as follows:

GENERALLY

1. Reckitt denies each and every allegation contained in Third Party Complaint "B" that is not otherwise herein addressed, including, without limitation, any allegations concerning the relief sought against Reckitt in the First Count and the Second Count.

AS TO PROCEDURAL BACKGROUND

(Paragraphs 1 through 15)

2. Reckitt responds that the referenced pleadings speak for themselves. Pursuant to CMO V, no response is required.

AS TO THE THIRD PARTY PLAINTIFFS

(Paragraphs 16 through 18)

3. Pursuant to CMO V, no response is required.

AS TO THE THIRD PARTY DEFENDANTS

(Paragraphs 19 through 210)

4. Pursuant to CMO V, to the extent that the allegations of Paragraphs 19 through 209 relate to parties other than Reckitt, no response is required.
5. Reckitt admits the allegations of Paragraph 161.
6. The allegations of Paragraph 210 state a legal conclusion as to which no response is required.

AS TO DEFINITIONS

(Paragraphs 211 through 236)

7. Paragraphs 211 through 236 contain definitions. Pursuant to CMO V, no response is required.

AS TO FACTUAL ALLEGATIONS

(Paragraphs 237 Through 3445)

8. The referenced pleadings speak for themselves. Pursuant to CMO V, no response is required, except to the extent noted below.
9. Answering the allegations of Paragraph 295, Reckitt admits that Airwick Industries, Inc. owned the facility located at 111 Commerce Road, Carlstadt, New Jersey, Block 127, Lot 3 on the tax assessment map of the Borough of Carlstadt. Reckitt denies that Airwick Industries, Inc owned the facilities located at 145 and 179 Commerce Road, Carlstadt, New Jersey and lacks knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 295.
10. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraphs 296-298, inclusive.

11. Answering the allegations of Paragraph 299, Reckitt admits that Reckitt & Colman plc purchased the stock of Airwick Industries, Inc. (among other stock and assets) from an affiliate of Ciba-Geigy AG in 1985 and that Airwick Industries, Inc. was subsequently merged into Reckitt & Colman, North America, Inc.

12. Reckitt admits the allegations of the first sentence of Paragraph 300, except states that the change of name to Reckitt & Colman, Inc. occurred on January 3, 1989. The second sentence of Paragraph 300 states a legal conclusion as to which no answer is required.

13. Answering the allegations of Paragraph 301, Reckitt admits that Airwick Industries, Inc. and/or the Airwick Industries Division of Reckitt & Colman, Inc. manufactured consumer air fresheners, carpet cleaners, disinfectants and other cleaning products at the facility located at 111 Commerce Road, Carlstadt, New Jersey from approximately 1962 to approximately 1990. Except as admitted. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 301.

14. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraphs 302 and 303.

15. Reckitt denies the allegations of the first sentence of Paragraph 304. Reckitt lacks information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 304.

16. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 305.

17. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 306, except Reckitt admits, based upon its investigation of the site features, that an on-site drainage ditch at one time led from the property at 111 Commerce

Road, Carlstadt to Moonachie Creek and that Moonachie Creek leads to the Hackensack River. Reckitt denies the allegations of Paragraph 306 to the extent they allege that dioxin or any other substances now defined as Hazardous Substances pursuant to applicable laws, were discharged from such property to the Hackensack River, the Passaic River or the Newark Bay Complex.

18. Reckitt denies the allegations of Paragraph 307.

19. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 308, except Reckitt admits that Ciba-Geigy Limited conducted a proceeding pursuant to and in accordance with the Environmental Cleanup and Responsibility Act, N.J.D.A. 13:1K-6, *et seq.* ("ECRA") in relation to the properties and facilities located at 111, 145 and 179 Commerce Road, Carlstadt, New Jersey under the supervision of the New Jersey Department of Environmental Protection ("NJDEP"); that Ciba-Geigy Limited submitted certain reports to the NJDEP in connection with such proceeding; and that the NJDEP issued a full compliance letter in connection with such proceeding acknowledging that all investigation and remediation necessary to satisfy the NJDEP's requirements had been performed.

20. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 309, except Reckitt admits that as follows: Ciba-Geigy Limited conducted a proceeding pursuant to and in accordance with ECRA in relation to the properties and facilities located at 111, 145 and 179 Commerce Road; Ciba-Geigy Limited submitted certain reports in connection with such proceeding; and the NJDEP issued a full compliance letter in connection with such proceeding acknowledging that all investigation and remediation necessary to satisfy the NJDEP's requirements had been performed. Reckitt further admits that, during 1990 and 1991 Reckitt conducted a proceeding pursuant to and in accordance with ECRA in relation to the properties and facilities located at 111 and 145 Commerce Road and, in

connection with performing a closure of two underground fuel oil tanks in or about March, 1991, that Reckitt reported an apparent leak of fuel oil; that Reckitt performed investigation and remediation of soil in the area of such tanks to the full satisfaction of the NJDEP; and that the NJDEP approved of Reckitt's Negative Declaration in connection with such ECRA proceeding.

21. Reckitt denies the allegations of Paragraph 310.

AS TO FIRST COUNT

New Jersey Spill Compensation And Control Act, N.J.S.A. 58:10-23.11.F.A.2(A)

22. Answering the allegations of Paragraph 3446, Reckitt incorporates by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 21 herein.

23. Reckitt denies the allegations of Paragraph 3447 to the extent such allegations are directed to Reckitt. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations stated in Paragraph 3447 to the extent directed to other parties.

24. Paragraph 3448 states a legal conclusion as to which no response is required.

25. Reckitt denies the allegations of Paragraph 3449 to the extent such allegations are directed to Reckitt. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations stated in Paragraph 3449 to the extent directed to other parties.

26. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in Paragraph 3450.

27. Reckitt denies the allegations of Paragraph 3451 to the extent such allegations are directed to Reckitt. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations stated in Paragraph 3451 to the extent directed to other parties.

AS TO SECOND COUNT

Statutory Contribution

28. Answering the allegations of Paragraph 3452, Reckitt incorporates by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 27 herein.

29. Reckitt denies the allegations of Paragraph 3453 to the extent such allegations are directed to Reckitt. Reckitt lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations stated in Paragraph 3453 to the extent directed to other parties.

FIRST AFFIRMATIVE DEFENSE

The Third-Party Complaint is barred in whole or in part as it fails to state a cause of action against Third-Party Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Third-Party Defendant is not a discharger or a person in any way responsible for a discharge under N.J.S.A. 58:10-23.11 *et seq.* ("Spill Act") with respect to the Newark Bay Complex and Passaic River.

THIRD AFFIRMATIVE DEFENSE

Claims of Third-Party Plaintiffs are barred, in whole or in part, by the statutory defenses to liability set forth in the Spill Act and the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.* ("WPCA").

FOURTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs have no Spill Act claim against Third-Party Defendant because they have not cleaned up and/or removed a discharge of hazardous substances within the meaning of the Spill Act.

FIFTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are barred by the entire controversy doctrine.

SIXTH AFFIRMATIVE DEFENSE

Some or all of Third-Party Plaintiffs do not have standing to sue.

SEVENTH AFFIRMATIVE DEFENSE

The damages sought by Third-Party Plaintiffs are wholly speculative, conjectural, unreasonable and excessive.

EIGHTH AFFIRMATIVE DEFENSE

Third-Party Defendant cannot be liable for or be required to pay Third-Party Plaintiffs' damages that arise out of conduct lawfully undertaken in compliance with applicable laws, regulations, rules, orders, ordinances, directives and common law, and other requirements of all federal, state and local government entities ("Environmental Laws").

NINTH AFFIRMATIVE DEFENSE

The Third-Party Complaint is barred and/or is constitutionally impermissible to the extent that it seeks to impose retroactive liability.

TENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' Complaint is barred to the extent that it seeks relief for damages incurred prior to the effective date of the Spill Act.

ELEVENTH AFFIRMATIVE DEFENSE

At all relevant times, Third-Party Defendant complied with all applicable Environmental Laws and industry standards, and otherwise conducted itself reasonably, prudently, in good faith, and with due care for the rights, safety and property of others.

TWELFTH AFFIRMATIVE DEFENSE

The claims asserted against Third-Party Defendant in the Complaint are barred because at all relevant times Third-Party Defendant exercised due care with respect to hazardous substances, if any, that may have been handled at the Carlstadt, New Jersey properties for which Reckitt is alleged to bear responsibility.

THIRTEENTH AFFIRMATIVE DEFENSE

The Third-Party claims are barred in whole or in part by the doctrine of preemption.

FOURTEENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs suffered no losses or injuries that were proximately caused by Third-Party Defendant.

FIFTEENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims against Third-Party Defendant are barred, in whole or in part, by the applicable Statute of Limitations and/or the equitable doctrines of laches and/or estoppel.

SIXTEENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are barred in whole or in part by the doctrines of waiver, estoppel and/or assumption of risk.

SEVENTEENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are barred, in whole or in part, by Third-Party Plaintiffs' failure to comply with the prerequisites to liability under the Spill Act including, without limitation, Third-Party Plaintiffs have not incurred costs authorized by the Spill Act and Third-Party Plaintiffs have failed to perform cleanup and removal activities in accordance with the National Contingency Plan to the greatest extent possible.

EIGHTEENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are barred because neither they nor Plaintiffs have incurred "costs of restoration and replacement ... of any natural resources damaged or destroyed by a discharge" under the Spill Act.

NINETENTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are not ripe for adjudication because Third-Party Plaintiffs have joint liability to the Plaintiffs and have not paid more than their fair share of such liability.

TWENTIETH AFFIRMATIVE DEFENSE

The claims asserted against Third-Party Defendant in the Complaint are barred because any release or threat of release of any hazardous substances, if any, and any costs, injuries or damages resulting therefrom, were caused by the intervening or supervening negligence, acts or omissions of persons over whom Third-Party Defendant had no control, whether by, in whole or part, contract or otherwise, or any duty to control.

TWENTY-FIRST AFFIRMATIVE DEFENSE

If Third-Party Plaintiffs sustained any injury or are entitled to any damages, such injury and damages were wholly, or in part, caused by Third-Party Plaintiffs' own acts or omissions, negligence, lack of due care and fault and/or that of Third-Party Plaintiffs' agents or employees. In the event that Third-Party Plaintiffs are found to have sustained any injury and are entitled to damages, Third-Party Plaintiffs' recovery against Third-Party Defendant, if any, must be reduced by the proportionate damages caused by the acts and conduct of Third-Party Plaintiffs and/or their respective agents or employees.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Although Third-Party Defendant denies that it is liable for the contamination described in Third-Party Plaintiffs' Complaint, in the event it is found liable, Third-Party Defendant is entitled to an offset against any such liability on its part for the equitable share of the liability of any person or entity not joined as a defendant in this action that would be liable to Third-Party Plaintiffs.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The amount of damages, if any, should be reduced by any amounts recovered from any other source.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The disposal of waste, if any, which allegedly originated from Third-Party Defendant, was undertaken in accordance with the then state of the art, the then accepted industrial practices and technology, and the then prevailing legal requirements.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Any discharge that allegedly originated from property of the Third-Party Defendant was investigated and remediated under the oversight of State and/or federal agencies in accordance with the then state of the art, the then accepted industrial practice and technology, and the then prevailing requirements.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs are not entitled to recover costs incurred for cleanup actions not undertaken in coordination or conjunction with federal agencies.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

The damages Third-Party Plaintiffs seek, if awarded, would result in unjust enrichment to the Third-Party Plaintiffs.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Third-Party Defendant's liability to Third-Party Plaintiffs, if any, is limited to Spill Act contribution claims by Third Parties and excludes any such claims that may properly be apportioned to other parties under applicable law.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs cannot assert contribution claims against Third-Party Defendant because the discharges for which the Plaintiffs are seeking relief are different from Third-Party Defendant's alleged discharges and the harm associated with such discharges is divisible from the harm caused by the discharges for which Plaintiffs are seeking relief.

THIRTIETH AFFIRMATIVE DEFENSE

Third-Party Plaintiffs cannot seek contribution under the Joint Tortfeasors Contribution Law because Third-Party Defendant is not liable for "the same injury" caused by Third-Party Plaintiffs' discharges and does not share a common liability to the State.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Third-Party Plaintiffs' claims are barred, in whole or in part, because no actions or inactions by Third-Party Defendant have resulted in any permanent impairment or damage to a natural resource.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Without admitting liability, Third-Party Defendant alleges that if it is found to have been engaged in any of the activities alleged in the Third-Party Complaint, such activities were *de minimis* and not the cause of any damages or other claims by Third-Party Plaintiffs.

THIRTY-THIRD AFFIRMATIVE DEFENSE

The claims alleged in the Third Party Complaint are barred, in whole or in part, by Third Party Plaintiffs' failure to mitigate damages.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs are not entitled to recover from Third-Party Defendant more than Third-Party Defendant's fair, equitable, and proportionate share, if any, of the costs and damages sought by Third Party Plaintiffs or to otherwise recover from Third-Party Defendant more than the amount of such relief, if any, for which Third-Party Defendant is liable.

COUNTER-CLAIMS, CROSS CLAIMS AND THIRD/FOURTH PARTY CLAIMS

Pursuant to CMO V, no such claims are required to be asserted at this time and are expressly reserved.

DESIGNATION OF TRIAL COUNSEL

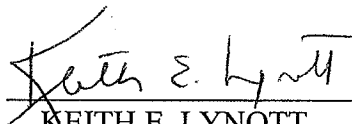
In accordance with Rule 4:25-4, Keith E. Lynott, Esq., is designated to try this case on behalf of Reckitt.

WHEREFORE, Third-Party Defendant Reckitt Benckiser Inc. respectfully requests that the Court enter an Order dismissing the Third-Party Complaint "B" with prejudice, and awarding

to Reckitt its costs, attorney fees and any other relief the Court deems just and proper.

Respectfully submitted,

MCCARTER & ENGLISH, LLP
*Attorneys for Third-Party Defendant Reckitt
Benckiser Inc.*

By: 

KEITH E. LYNOTT

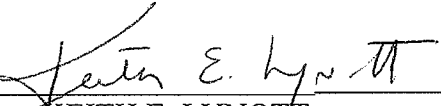
Dated: February 11, 2010

CERTIFICATION PURSUANT TO R. 4:5-1(b)(2)

Pursuant to R. 4:5-1(b)(2), the undersigned hereby certifies that:

- (a) The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding and no action or arbitration proceeding is contemplated by the undersigned;
- (b) Since it is the legal position of the undersigned that the potential liability, if any, of a third party defendant for the claims set forth in the Third Party Complaint is several, only, there are no non-parties which should be joined in the action pursuant to R.4:28; but that
- (c) In the event the Court shall determine that the potential liability of a third party defendant, if any, for the claims set forth in the Third Party Complaint is in any respect joint and several (which is denied), then all or some of the non-parties listed on the October 7, 2009 posting by O'Melveny and Myers may constitute non-parties who should be joined in the action pursuant to R. 4:28; and
- (d) In either event, some or all of such non-parties are subject to joinder pursuant to R.4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

McCARTER & ENGLISH, LLP
Attorneys for Third-Party Defendant Reckitt
Benckiser Inc..



KEITH E. LYNOTT

Dated: February 11, 2010

CERTIFICATION OF SERVICE PURSUANT TO RULE 4:6-1 AND RULE 1:5-3

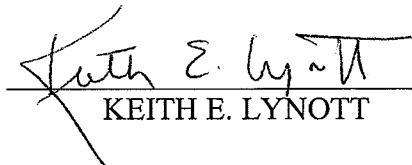
Keith E. Lynott, of full age, hereby certifies as follows:

1. I am an attorney-at-law admitted to practice in the State of New Jersey and a member of the firm of McCarter & English, LLP, attorneys for Third-Party Defendant Reckitt Benckiser Inc.

2. On the date set forth below, which is within the time period allowed for service under CMO V, ¶9(c)(ii) and in accordance with CMO V and CMO VI, I caused to be submitted for filing, via regular mail, with the Clerk of the Superior Court, Essex County Courthouse, 50 West Market Street, Newark, NJ 07102, an original and two copies of the Answer of Third-Party Defendant Reckitt Benckiser Inc. to Third-Party Complaint "B" and Case Information Statement.

3. On the date set forth below, in accordance with CMO V and CMO VI, I caused to be electronically served, by posting on www.sfile.com/njdepvocc, a true and accurate copy of the Answer of Third-Party Defendant Reckitt Benckiser Inc. to Third-Party Complaint "B" and Case Information Statement upon all parties that have consented to electronic service.

4. On the date set forth below, in accordance with CMO V and CMO VI, I caused to be served, via regular mail, a true and accurate copy of the Answer of Third-Party Defendant Reckitt Benckiser Inc. and Case Information Statement upon Counsel of Record for parties that have not consented to electronic service, listed on the attached "Third-Party Defendants for Regular Service."



KEITH E. LYNOTT

Dated: February 11, 2010

Third-Party Defendants for Regular Service as of February 5, 2010

NAMED THIRD-PARTY DEFENDANT	THIRD-PARTY COMPLAINT	NOTICE OF APPEARANCE: COUNSEL OF RECORD
Borough of Hasbrouck Heights	A	Richard J. Dewland Coffey & Associates 465 South Steet Morristown, NJ 07960 973.539.4500 rjd@coffeylaw.com
City of Orange	A	John P. McGovern Assistant City Attorney City of Orange Township 29 North Day St. Orange, NJ 07050 973.266.4197 973.674.2021 - fax jmcgovern@ci.orange.nj.us
Passaic Pioneers Properties Company	B	John A. Daniels Daniels & Daniels LLC 6812 Park Ave. Guttenberg, NJ 07093 202.868.1868 201.868.2122 - fax jad1903@gmail.com
Town of Harrison	A	Norma Garcia Castano Quigley LLC 1120 Bloomfield Ave. West Caldwell, NJ 07006 973.808.1234 973.808.8480 - fax ngarcia@cq-law.com
Township of Irvington	A	Gustavo Garcia Municipal Attorney Township of Irvington Irvington Municipal Building Civic Square Irvington, NJ 07111 973.399.6637 973.399.6723 - fax
Township of Union	A	Frank P Arleo Arleo, Donohue & Biancamano, LLC 622 Eagle Rock Ave. West Orange, NJ 07052 973.736.8660 973.736.1712 - fax