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STATE OF CALIFORNIA
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of:

One World Technologies, Inc.

RESPONDENT

**ADMINISTRATIVE DECISION FOR
RIGID PLASTIC PACKAGING
CONTAINER PENALTIES**

**PUBLIC RESOURCES CODE
SECTION 42300, ET SEQ.**

AGENCY NO: 2023-002-RPPC

The California Department of Resources Recycling and Recovery (“CalRecycle” or “Department”), formerly the California Integrated Waste Management Board (“Board”), is filing this Decision to seek penalties in the amount of \$51,000.00 from One World Technologies, Inc. (hereafter “OWT” or “Respondent”). CalRecycle succeeded to the Board’s authority on January 1, 2010, pursuant to Public Resources Code (“PRC”) section 40401(a)(1). CalRecycle is authorized to enforce the California Rigid Plastic Packaging Container (“RPPC”) law, PRC section 42300 et seq. and the California Code of Regulations (“CCR”), Chapter 4 of Division 7 of Title 14, section 17943 et seq.

PROCEDURAL HISTORY

CalRecycle mailed, by certified mail, to the address previously provided by Respondent, an Accusation along with required documents notifying Respondent of their procedural rights, and Request for Hearing form, on or about May 15, 2023, and resent these documents again on May 31, 2023.

As of July 5, 2023, Respondent did not file a “Notice of Defense/Request for Hearing” with CalRecycle. The matter shall be determined as a default pursuant to CCR section 17949 and Government Code (GC) section 11520. CalRecycle takes action against Respondent based upon evidence and affidavits that may be used without any further notice to Respondent.

FACTUAL FINDINGS

1. During the relevant RPPC Compliance Certification measurement period, from calendar year January 1, 2021 through December 31, 2021, OWT was a product manufacturer who was selling products packaged within RPPCs in California.
 - a. CalRecycle verified that OWT product(s) were being sold and/or offered for sale in RPPCs in California, specifically,
 - i. In May 2019, staff verified OWT “Ryobi” 34 piece Impact Driving Kit was offered for sale in an RPPC at Home Depot.
 - ii. In June 2022, staff verified OWT “Ryobi” 35 piece Reciprocating Saw Blade Set, packaged in an RPPC, are offered for sale online through Home Depot and Amazon.
 - iii. In July 2022, staff verified that the following OWT “Ryobi” products are offered for sale, packaged in RPPCs, at Home Depot in Fairfield, CA:

- A. “Ryobi” Wood Door Lock Installation Set A99DLK5 and Wood-Metal Door Lock Installation Set A99DLK4 (product design and packaging identical for both products).
 - B. “Ryobi” Wood Door Trimmer A99DT01.
 - iv. Respondent’s self-certification indicates sales of various products throughout California in 2021.
2. On or about March 24, 2021, CalRecycle sent OWT a 2021 Compliance Certification Notice via USPS certified mail to the address confirmed via the 2020 Pre-Certification Notice. Confirmation of delivery and receipt of the notice was provided via USPS certified mail return receipt, dated April 18, 2021.
3. OWT did not submit the 2021 Compliance Certification by the April 1, 2022 due date. CalRecycle sent a *Notice of Violation and Penalty for Non-Submittal of 2021 Compliance Certification for the Rigid Plastic Packaging Container Law, One World Technologies, Inc, Anderson, South Carolina (Notice of Violation)* on April 7, 2022. CalRecycle provided OWT 30 calendar days, from the original due date, to submit the required information.
4. OWT’s 2021 Compliance Certification was received via email on May 2, 2022, after the April 1, 2022 due date. The submission included a letter stating they were noncompliant. The submission did not include the elements for a required submission, pursuant to statute and regulation; to be a complete submission OWT would have needed to provide:
 - A statement of compliance
 - Product Manufacturer Certification
 - Product Manufacturer calculations
 - Complete container information
 - Container Manufacturer certifications
 - Container compliance calculations
5. Based on email communications, verbal communications, and self-certified data from OWT, OWT did not meet any compliance options for the 2021 measurement period.

LEGAL FINDINGS

6. The information set forth in paragraphs 1 through 5 are incorporated by reference as if fully set forth here.

Violation 1: Late Submittal

7. As previously noted, OWT did not submit the 2021 Compliance Certification by the April 1, 2022, due date in violation of CCR section 17945.2(c). The submission was received over one month late, on or about May 2, 2022.
8. Based on the penalty table in CCR section 17949(f), the resulting penalty is \$1,000.

Violation 2: Container Noncompliance

9. Based on the submitted 2021 Compliance Certification and admission of non-compliance received on May 2, 2022, none of OWTs products in RPPCs achieved compliance using any compliance option (CCR section 17945.3(d)).
10. Staff determined zero compliance using the Postconsumer Material Content Compliance formula and the Postconsumer Material Content Compliance Penalty formula. The resulting penalty calculated per that formula is \$50,000.

Penalty Factors Considered

11. Pursuant to PRC section 42322 and CCR section 17949(h) "An Administrative Law Judge or the Department may consider factors in modifying or reducing penalties for violations." CalRecycle has taken the penalty factors into consideration, taking note of the following:

- a. Impact on diversion or sustainable markets in California:

There is no evidence that OWT attempted to come into compliance or attempted to make any packaging modifications or reductions during the 2021 measurement period. Since OWT's submission in May 2022, the Department has not received or found evidence that OWT made any packaging

modifications to comply with the law after the measurement period.

b. Size of the product manufacturer:

The Department's investigation into OWT indicates that it is a private company with estimated annual sales of \$224.9 million.

c. Technological feasibility of compliance:

OWT has not reported, and staff are not aware, of any technological barriers preventing OWT from complying with the law.

d. Good faith efforts to comply with this Article, including compliance history:

Based on the 2021 Compliance Certification submission, OWT did not comply with the RPPC law and did not meet the container requirements per the law. Staff does not have evidence that OWT attempted to make any packaging modifications or reductions in order to comply during the measurement period.

e. The economic advantage of not complying with this Article:

OWT did not have to perform research and development, and avoided costs associated with updating the containers that OWT sells into California.

ORDER

Pursuant to PRC section 42322 and GC section 11520, THE FOLLOWING ORDER is hereby made:

Respondent, One World Technologies, Inc. is ordered to pay a penalty of \$51,000.00 to the Department of Resources Recycling and Recovery within 30 days of the date of this decision.

RESPONDENTS' RIGHT TO FILE WRITTEN MOTION

Pursuant to GC section 11520(c): "Within seven days after service on the Respondent of a decision based on the Respondent's default, the Respondent may serve a written motion requesting that the decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:

- (1) Failure of the person to receive notice served pursuant to Section 11505.
- (2) Mistake, inadvertence, surprise, or excusable neglect."

This decision shall become effective on the date signed below.

Dated this ____ day of July 2023.

Rachel Machi Wagoner
Director
Department of Resources Recycling and
Recovery