



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 12 2019

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Tom Archer  
President  
Archer Custom Builders  
431 S. Main Street, Suite 301  
Memphis, Tennessee 38103

Re: Archer Custom Builders  
Ratified Consent Agreement and Final Order  
Docket No. TSCA-04-2019-2507(b)

Dear Mr. Archer:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Mary Summers of the U. S. Environmental Protection Agency's staff at (404) 562-9188 or email [summers.mary@epa.gov](mailto:summers.mary@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth  
Chief  
Chemical Safety and Land Enforcement Branch

Enclosure

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA**

**In the Matter of:** )  
 )  
Archer Custom Builders )  
 )  
Respondent. )  
\_\_\_\_\_ )

**Docket No.: TSCA-04-2019-2507(b)**

2019 JUL 12 AM 7:15  
RECEIVED  
REGIONAL OFFICE  
ATLANTA, GEORGIA

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) is vested in the Administrator of the United States Environmental Protection Agency (EPA). Complainant is the Administrator of the United States Environmental Protection Agency (EPA). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, Region 4, is delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). Respondent is Archer Custom Builders, a company doing business in the State of Tennessee.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with

40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. Pursuant to Sections 402 and 406 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2682 and 2686, the Administrator of the EPA promulgated Residential Property Renovation Rules at 40 C.F.R. Part 745, Subpart E including the Pre-Renovation Education Rule, the Renovation, Repair and Painting Rule, and the Lead-Based Paint Activities Rule. It is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with any of the rules issued under 40 C.F.R. Part 745, Subpart E.

## **III. Specific Allegations**

4. Respondent is a “firm” that performs “renovations” for compensation as those terms are defined, by 40 C.F.R. § 745.83. Based on a review of Respondent’s records during an EPA inspection at Respondent’s office on July 24, 2017, the EPA determined that on or about April 17, 2017 thru June 17, 2017, Respondent performed renovation activities at a residential unit, built in 1954, located at 251 W. Chickasaw Parkway, Memphis, Tennessee 38111. The residential unit is “target housing,” as that term is defined by 40 C.F.R. § 745.103.
5. The EPA alleges that Respondent failed to apply to the EPA and obtain firm certification to perform, offer or claim to perform renovations or dust sampling for compensation to, pursuant to 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a).

## **IV. Consent Agreement**

6. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.

7. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the Final Order accompanying the Consent Agreement.
8. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in the Final Order section of this CAFO.
9. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart E.
10. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations of violation in Section III of this CAFO. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

#### **V. Final Order**

11. Respondent is assessed a civil penalty of **THREE THOUSAND, ONE HUNDRED FIFTY DOLLARS** (\$3,150) which shall be paid within thirty (30) days after the effective date of this CAFO.
12. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

**The Respondent shall note on the face of the check the Respondent's Name and the Docket Number TSCA-04-2019-2507(b).**

The penalty payment shall be sent by one of the methods below:

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Phone Number: (314) 425-1819

13. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Ms. Mary Summers  
Lead and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

14. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
15. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if

the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 30 days of the due date.

16. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
17. This CAFO shall be binding upon the Respondent, its successors and assigns.
18. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.


**The remainder of this page intentionally left blank.**

**VI. Effective Date**

19. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**


**Respondent:** Archer Custom Builders  
**Docket No.:** TSCA-04-2019-2507(b)

By:  (Signed) Date: 6/26/2019

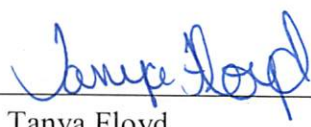
Name: THOMAS ARCHER (Typed or Printed)

Title: OWNER (Typed or Printed)

**Complainant:** U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 07/09/19  
Suzanne G. Rubini  
Acting Director  
Enforcement and Compliance Assurance Division

**APPROVED AND SO ORDERED** this 11<sup>th</sup> day of July, 2019

By:   
Tanya Floyd  
Regional Judicial Officer


**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Archer Custom Builders TSCA-04-2018-2507(b), to the addressees listed below:

Mr. Thomas Archer (via Certified Mail, Return Receipt Requested)  
Owner  
Archer Custom Builders  
431 S. Main Street  
Memphis, Tennessee 38103

Mary Summers (via EPA's internal mail)  
Lead and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Robert Caplan, Senior Attorney (via EPA's internal mail)  
Office of Regional Counsel  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511

Date: 7-12-19