



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In Reply Refer To Mail Code: 3RC50

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Victor Villalobos c/o VB Platinum Tile & Carpet, Inc.
11867 Benton Lake Road
Bristow, VA 20136

OCT 22 2015

Re: Consent Agreement and Final Order
EPA Docket No.: TSCA-03-2015-0198

Dear Mr. Villalobos:

Enclosed is a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above. For your file, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Abramson".

Jennifer M. Abramson
Senior Assistant Regional Counsel

Enclosures

cc: Craig E. Yussen, EPA

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REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN RE:)	DOCKET NO. TSCA-03-2015-0198
)	
VB Platinum Tile & Carpet, Inc.)	CONSENT AGREEMENT
11867 Benton Lake Road)	
Bristow, VA 20136)	Proceeding Under Section 16(a) of
)	the Toxic Substances Control Act,
Respondent,)	15 U.S.C. § 2615(a).
)	
1121 Kalmia Road, NW)	
Washington, DC)	
)	
Target Housing.)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. Pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act ("TSCA"), U.S.C. §§ 2615(a) and 2689, the Director of the Land and Chemicals Division for the United States Environmental Protection Agency, Region III ("EPA"), initiated this administrative proceeding for the assessment of civil penalties against VB Platinum Tile & Carpet, Inc. ("Respondent"), by issuance of a Complaint and Notice of Opportunity to Request a Hearing ("Complaint") filed with the Regional Hearing Clerk on August 7, 2015. The Complaint, incorporated herein by reference, alleges that Respondent violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E - *Residential Property Renovation* in connection with a renovation conducted at target housing located at 1121 Kalmia Road, NW in Washington, DC between February and June 2011. This Consent Agreement and the accompanying Final Order, collectively, the "CAFO", resolve the violations alleged in the Complaint against Respondent.
2. For the purpose of this proceeding, Respondent admits the jurisdictional allegations set forth in the Complaint and herein.
3. Except as provided in paragraph 2, above, Respondent neither admits nor denies the specific factual allegations contained in the Complaint and herein.
4. For the purpose of this proceeding, Respondent consents to the issuance of this CAFO and agrees to comply with the terms of this CAFO.
5. For the purpose of this proceeding, Respondent consents to the payment of a civil penalty in the amount and in the manner set forth in this CAFO.

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6. For the purpose of this proceeding, Respondent expressly waives its right to contest the allegations in the Complaint and herein, and its right to appeal the Final Order accompanying this Consent Agreement.

7. Respondent shall bear its own costs and attorney fees.

II. FINDINGS OF FACT

8. EPA incorporates by reference all factual allegations contained in the Complaint.

III. CONCLUSIONS OF LAW

9. EPA incorporates by reference all legal conclusions contained in the Complaint.

IV. SETTLEMENT RECITATION

10. In settlement of the violation alleged in the Complaint, Respondent consents to the assessment of a civil penalty of six hundred dollars (\$600), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon receipt by Respondent of a true and correct copy of the fully-executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.

11. The aforesaid settlement amount is based upon EPA's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16 of TSCA, 15 U.S.C. § 2615; EPA's August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, revised April 2013; and EPA's May 3, 2012 *Pilot RRP Penalty Program for Micro-Businesses*.

12. Payment of the civil penalty amount required under the terms of Paragraph 10, above, shall be made as follows:

- a. by Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO, 63197-9000.
Contact: Craig Steffen 513-487-2091
Molly Williams 513-487-2076

- b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

- c. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA 021030004
Account No. 68010727
SWIFT Address FRNYUS33
33 Liberty Street
NY, NY 10045

(Field tag 4200 of Fedwire message should read "D 68010727
Environmental Protection Agency")

- e. By automatic clearinghouse ("ACH") to the following account:

U.S. Treasury REX/Cashlink ACH Receiver
ABA 051036706
Account No. 310006
Environmental Protection Agency
CTX Format
Transaction Code 22 – checking
Contact: John Schmid
202-874-7026

- f. Online payments can be made at WWW.PAY.GOV by entering "sfo 1.1" in the search field, and opening the form and completing the required fields.

- g. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

The payment shall also reference the above case caption and docket number (Docket No.: TSCA-03-2015-0198). At the same time that any payment is made, Respondent shall

mail a copy of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

Lydia A. Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Jennifer M. Abramson (3RC50)
Senior Asst. Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

13. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and also to assess a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO may result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

The cost of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

14. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

V. CERTIFICATION

15. Respondent certifies that it is currently in compliance with all applicable requirements of TSCA, 15 U.S.C. §§ 2601 *et seq.*

VI. OTHER APPLICABLE LAWS

16. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable Federal, State, and local laws and regulations.

VII. RESERVATION OF RIGHTS

17. This CAFO resolves only EPA's civil claims for penalties against Respondent for the specific violation alleged in the Complaint and herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the TSCA, the regulations promulgated thereunder, and any other Federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

18. This settlement shall constitute full and final satisfaction of all civil claims for penalties which EPA may have against Respondent under Sections 16(a) and 409 of the TSCA, 15 U.S.C. §§ 2615(a) and 2689, for the specific violation alleged in the Complaint and herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the Federal laws and regulations administered by EPA.

IX. PARTIES BOUND

19. This CAFO shall apply to and be binding upon the EPA, Respondent, and the officers, directors, successors, and assigns of Respondent. By his signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

X. EFFECTIVE DATE

20. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA -- Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XI. ENTIRE AGREEMENT

21. This CAFO constitutes the entire agreement and understanding of the Parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed herein.

For Respondent:

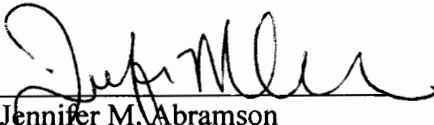
09/23/15
Date



Victor Villalobos
VB Platinum Tile & Carpet, Inc.

For EPA:

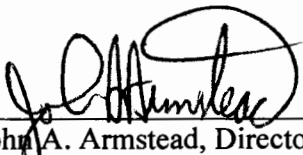
10/1/15
Date



Jennifer M. Abramson
Office of Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator or his designee issue the Final Order attached hereto.

10/20/15
Date



John A. Armstead, Director
Land and Chemicals Division

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

VB Platinum Tile & Carpet, Inc.
11867 Benton Lake Road
Bristow, VA 20136

Respondent,

1121 Kalmia Road, NW
Washington, DC

Target Housing.

EPA Docket No. TSCA-03-2015-0198

FINAL ORDER

**Proceeding under Section 16(a) of the
Toxic Substances Control Act,
15 U.S.C. § 2615(a).**

REGIONAL HEARING OFFICER
EPA REGION III, PHOENIX, AZ, PA

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FINAL ORDER

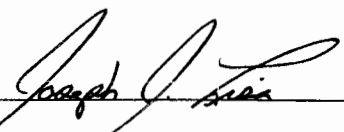
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, VB Platinum Tile & Carpet, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013), *Pilot RRP Penalty Program for Micro-Businesses* (May 3, 2012), and the statutory factors set forth in Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

NOW, THEREFORE, PURSUANT TO Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SIX HUNDRED DOLLARS (\$600.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Oct. 21, 2015
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:) DOCKET NO. TSCA-03-2015-0198
)
VB Platinum Tile & Carpet, Inc.)
11867 Benton Lake Road)
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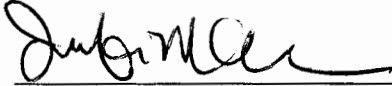
CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

Original and one copy by hand-delivery: Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail: Victor Villalobos c/o VB Platinum Tile & Carpet, Inc.
11867 Benton Lake Road
Bristow, VA 20136

OCT 22 2015
Date


Jennifer M. Abramson (3RC50)
Senior Assistant Regional Counsel
U.S. EPA, Region III

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1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
Docket No.: TSCA-03-2015-0198

FROM: Mary B. Coe
Acting Regional Counsel (3RC00)

[Signature] 10/8/15
[Signature] 10.20.15

John A. Armstead, Director
Land and Chemicals Division (3LC00)

TO: Joseph J. Lisa
Regional Judicial Officer (3RC00) 10-21-2015

The attached Consent Agreement and Final Order ("CAFO") have been negotiated with VB Platinum Tile & Carpet, Inc. ("Respondent") in settlement of an actionable Toxic Substances Control Act ("TSCA") violation. The compliance issue addressed in the CAFO involves the failure to comply with a requirement of the Residential Property Renovation regulations at 40 C.F.R. Part 745, Subpart E in connection with a renovation for compensation at pre-1978 housing, which subjects Respondent to civil penalties under Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689.

The litigation team calculated a civil penalty of six hundred dollars (\$600) in accordance with the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require; EPA's August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, revised April 2013 and EPA's *May 3, 2012 Pilot RRP Penalty Program for Micro-Businesses*.

We recommend that you sign the attached Final Order assessing six hundred dollars (\$600) in civil penalties against Respondent. After you execute the Final Order, please return the documents to Jennifer M. Abramson of Office of Regional Counsel for further processing.

Respondent's Contact Information:

Victor Villalobos c/o VB Platinum Tile & Carpet, Inc.
11867 Benton Lake Road
Bristow, VA 20136
(571) 241-1667
oswaldovc@yahoo.com

cc: Victor Villalobos

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