

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED  
MAY 22 2009 P 3 40  
3000  
MAY 22 2009

\_\_\_\_\_  
In the Matter of: )  
)  
PropSys Management Company )  
55 Lisbon Street )  
Suite 2100 )  
Lewiston, Maine 04240 )  
)  
Respondent. )  
)  
Proceeding under Section 16(a) of the )  
Toxic Substances Control Act, )  
42 U.S.C. § 2615(a). )  
\_\_\_\_\_ )

**Docket No.**  
**TSCA-01-2009-0101**

**COMPLAINT AND  
NOTICE OF  
OPPORTUNITY FOR  
HEARING**

**I. STATUTORY AND REGULATORY BACKGROUND**

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, U.S. Environmental Protection Agency (“EPA”), Region 1. Respondent, PropSys Management Company (“PropSys”), is hereby notified of Complainant’s determination that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, entitled “Disclosure of Known Lead-

Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property,” as set forth at 40 C.F.R. Part 745, Subpart F. Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

2. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental of homes and apartments.

3. In 1996, EPA promulgated regulations to implement the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”).

4. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the housing stock addressed by the Act is termed “target housing.” “Target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing), or any 0-bedroom dwelling.

5. The Disclosure Rule requires that, prior to the lessee becoming obligated to lease target housing, the lessor of such housing must, among other things:

(a) provide the lessee with a lead hazard information pamphlet;

(b) disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased;

(c) provide the lessee with any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased;

(d) include, within or in an attachment to a lease contract, a Lead Warning Statement; and

(e) include, within or in an attachment to a lease contract, a statement by the lessor either disclosing the presence of known lead-based paint or lead-based paint hazards in the target housing or indicating no knowledge thereof.

6. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), each failure to comply with a requirement of the Disclosure Rule is a violation of Section 409 of TSCA.

7. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 409 of TSCA shall be liable to the United States for a civil penalty.

8. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occurred after March 15, 2004 through January 12, 2009, are subject to penalties up to \$11,000 per violation. Violations that occur on or after January 13, 2009, are subject to penalties up to \$16,000 per violation. [73 Fed. Reg. 75340, December 11, 2008]

## **II. GENERAL ALLEGATIONS**

9. Respondent is a corporation established under the laws of the State of Maine with a principal office located at 55 Lisbon Street, Suite 2100, Lewiston, Maine. Respondent manages several residential and commercial properties in Maine. Respondent offers a complete array of property management services, including rental

management, tenant placement, maintenance management and full accounting services, with a focus on managing and preserving affordable housing units for low and moderate income families and seniors.

10. At all times relevant to this Complaint, Respondent offered for lease the following properties located in Lewiston, Maine, each of which was constructed prior to 1978. Thus, at all times relevant to this Complaint, Respondent was a “lessor,” as defined in 40 C.F.R. § 745.103.

Complex	Address
CentreVille Commons	5 Knox St., #201
CentreVille Commons	22 Knox St., #202
Washburn Apartments	308 Bates St., #3A
Washburn Apartments	308 Bates St., #4B
Maple Knoll Apartments	78 Maple St., #11
Maple Knoll Apartments	78 Maple St., #38
Pleasant View Acres	50 Fairmount St., #24
Pleasant View Acres	50 Fairmount St., #112
Pleasant View Acres	50 Fairmount St., #45
Pleasant View Acres	50 Fairmount St., #78

11. At all times relevant to this Complaint, all of the properties listed above in Paragraph 10, were “target housing,” as defined in 40 C.F.R. § 745.103. Furthermore, none of these properties satisfied the requirements for an exemption to the provisions of the Act or the Disclosure Rule.

12. At all times relevant to this Complaint, the following records or reports pertaining to lead-based paint and/or lead-based paint hazards for the target housing listed above in Paragraph 10 were available to Respondent:

- (a) CentreVille Commons - Lead-Based Paint Risk Assessment, July 11, 2003;
- (b) Washburn Apartments - (1) Lead Paint Inspection Report, May 5, 2004; (2) Lead Paint Inspection Report, June 16, 2005; and (3) letter from Respondent to HUD regarding Lead-Based Paint Compliance, April 25, 2007.

(c) Maple Knoll Apartments - Lead-Based Paint Risk Assessment, November 2000; and

(d) Pleasant View Acres - (1) Lead-Based Paint Risk Assessment, November 2000; (2) letter from Respondent to HUD regarding Lead-Based Paint Compliance, April 25, 2007; and (3) Lead Paint Inspection Report, December 17, 2007.

13. On July 31, 2007, EPA Region 1 conducted a compliance inspection at Respondent's offices in Lewiston, Maine to determine Respondent's compliance with the Disclosure Rule ("2007 Inspection").

14. On February 12, 2008, EPA Region 1 sent an Information Request Letter ("IRL") to Respondent requesting additional information regarding Respondent's compliance with the Disclosure Rule.

15. On or about March 17, 2008, Respondent submitted its response to the IRL ("IRL Response").

16. On July 29, 2008, EPA Region 1 conducted a follow-up compliance inspection at Respondent's offices in Lewiston, Maine to determine its compliance with the Disclosure Rule ("2008 Inspection").

17. Complainant has identified the following violations of the Act and the Disclosure Rule based on the 2007 and 2008 Inspections and the IRL Response as well as other follow-up information and documents obtained from Respondent and/or other sources.

### **III. VIOLATIONS**

#### **Count 1 - Failure to Provide Lead Hazard Information Pamphlet**

18. Complainant incorporates by reference Paragraphs 1 through 17.

19. Pursuant to 40 C.F.R. § 745.107(a)(1), before a lessee is obligated under any contract to lease target housing, a lessor must provide a lessee with an EPA-approved

lead hazard information pamphlet such as the EPA document entitled, “Protect Your Family From Lead in Your Home,” or an equivalent pamphlet that has been approved by EPA for use in the state where such target housing is located.

20. For each lease of target housing listed below, Respondent failed to provide the lessee with an EPA-approved lead hazard information pamphlet before the lessee became obligated under a contract to lease said housing:

Complex	Address	Tenant(s)	Lease Date	Children
CentreVille Commons	5 Knox St., #201	Khadija Mohamed	07/20/07	2 children under 6
CentreVille Commons	22 Knox St., #202	Faduma Mohamed	05/30/07	3 children between 6 and 18
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	10/03/06	None
Washburn Apartments	308 Bates St., #4B	Crystal Lucas	09/08/06	None
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	08/15/06	None
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	05/04/07	None
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	02/01/07	None
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	06/14/06	None
Pleasant View Acres	50 Fairmount St., #45	Jennifer Bates	12/10/07	None
Pleasant View Acres	50 Fairmount St., #78	Hassan Aden	08/31/07	2 children under 6

21. Respondent’s failure to provide the lessees of the target housing listed above in Paragraph 20 with an EPA-approved lead hazard information pamphlet before the lessee became obligated under a contract to lease said housing constitutes 10 violations of 40 C.F.R § 745.107(a)(1), and Section 409 of TSCA.

**Count 2 - Failure to Disclose Presence of Lead-Based Paint/Paint Hazards and to Provide Reports**

22. Complainant incorporates by reference Paragraphs 1 through 21.

23. Pursuant to 40 C.F.R. § 745.107(a)(2), the lessor must disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased before the lessee becomes obligated under a contract to lease said housing.

24. Pursuant to 40 C.F.R. § 745.107(a)(4), the lessor must provide the lessee with any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased before the lessee becomes obligated under a contract to lease said housing.

25. For each lease of target housing listed below, Respondent failed to: (a) disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards; and/or (b) provide the lessee with the records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased, as described above in Paragraph 12, before the lessee became obligated under a contract to lease said housing:

Complex	Address	Tenant(s)	Lease Date	Children
CentreVille Commons	5 Knox St., #201	Khadija Mohamed	07/20/07	2 children under 6
CentreVille Commons	22 Knox St., #202	Faduma Mohamed	05/30/07	3 children between 6 and 18
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	10/03/06	None
Washburn Apartments	308 Bates St., #4B	Crystal Lucas	09/08/06	None
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	02/01/07	None

Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	06/14/06	None
Pleasant View Acres (08)	50 Fairmount St., #45	Jennifer Bates	12/10/07	None
Pleasant View Acres (08)	50 Fairmount St., #78	Hassan Aden	08/31/07	2 children under 6

26. Respondent's failure to disclose to the lessees of the target housing listed above in Paragraph 25, the presence of any known lead-based paint and/or lead-based paint hazards, and/or provide them with the records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing, as described above in Paragraph 12, before the lessees became obligated under a contract to lease said housing, constitutes eight violations of 40 C.F.R §§ 745.107(a)(2) and (a)(4), and Section 409 of TSCA.

**Count 3 - Failure to Include Lead Warning Statement Within or as an Attachment to Lease**

27. Complainant incorporates by reference Paragraphs 1 through 26.

28. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing must include the Lead Warning Statement within or as an attachment to the contract.

29. For each contract to lease target housing listed below, Respondent failed to include the Lead Warning Statement within or as an attachment to the contract:

Complex	Address	Tenant(s)	Lease Date	Children
CentreVille Commons	5 Knox St., #201	Khadija Mohamed	07/20/07	2 children under 6
CentreVille Commons	22 Knox St., #202	Faduma Mohamed	05/30/07	3 children between 6 and 18
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	10/03/06	None



Washburn Apartments	308 Bates St., #4B	Crystal Lucas	09/08/06	None
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	08/15/06	None
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	05/04/07	None
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	02/01/07	None
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	06/14/06	None
Pleasant View Acres (08)	50 Fairmount St., #45	Jennifer Bates	12/10/07	None
Pleasant View Acres (08)	50 Fairmount St., #78	Hassan Aden	08/31/07	2 children under 6

30. Respondent's failure to include the Lead Warning Statement within or as an attachment to each contract to lease the target housing listed above in Paragraph 29, constitutes 10 violations of 40 C.F.R. § 745.113(b)(1), and Section 409 of TSCA.

**Count 4 - Failure to Include Disclosure Statement Regarding Lead-Based Paint/Paint Hazards in Lease**

31. Complainant incorporates by reference Paragraphs 1 through 30.

32. Pursuant to 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include, within or as an attachment to the contract, a statement by the lessor either disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

33. For each contract to lease the target housing listed below, Respondent failed to include, within or as an attachment to the contract, a statement either disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing, or indicating no knowledge of the same:

Complex	Address	Tenant(s)	Lease Date	Children
CentreVille Commons	5 Knox St., #201	Khadija Mohamed	07/20/07	2 children under 6
CentreVille Commons	22 Knox St., #202	Faduma Mohamed	05/30/07	3 children between 6 and 18
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	10/03/06	None
Washburn Apartments	308 Bates St., #4B	Crystal Lucas	09/08/06	None
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	08/15/06	None
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	05/04/07	None
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	02/01/07	None
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	06/14/06	None
Pleasant View Acres (08)	50 Fairmount St., #45	Jennifer Bates	12/10/07	None
Pleasant View Acres (08)	50 Fairmount St., #78	Hassan Aden	08/31/07	2 children under 6

34. Respondent's failure to include a statement either disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing, or indicating no knowledge of the same, within or as an attachment to each contract to lease the target housing listed above in Paragraph 33, constitutes 10 violations of 40 C.F.R. § 745.113(b)(2), and Section 409 of TSCA.

#### **IV. PROPOSED PENALTY**

35. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires that Complainant consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

36. To assess a penalty for the alleged violations in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's December 2007 Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy (the "ERPP"), a copy of which is enclosed with this Complaint. The ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

37. The specific penalties proposed for each of the violations alleged in this Complaint are set forth, below:

Count	Regulation Violated	Description	Penalty
1	40 C.F.R. § 745.107(a)(1)	Failure to provide lead hazard information pamphlet	\$ 47,800
2	40 C.F.R. §§ 745.107(a)(2) and (4)	Failure to disclose lead-based paint/paint hazards and to provide reports	\$ 42,640
3	40 C.F.R. § 745.113(b)(1)	Failure to include lead warning statement in lease	\$ 37,940
4	40 C.F.R. § 745.113(b)(2)	Failure to include disclosure statement regarding lead-based paint/paint hazards in lease	\$ 26,030
		<b>Total</b>	\$154,410 (rounded to <b>\$154,400</b> )

The cumulative penalty for all violations alleged in this Complaint is \$154,410 which, under EPA policy, has been rounded to the nearest \$100 to yield the total \$154,400 proposed penalty. The calculation of the proposed penalty is explained in further detail in Attachment 1 to this Complaint.

#### **V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

38. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on

any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. Any request for a hearing must be included in Respondent's written Answer to this Complaint ("Answer") and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

39. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

40. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, Massachusetts 02114-2023

41. Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to William D. Chin, the attorney

assigned to represent Complainant in this matter, and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, Massachusetts 02114-2023

42. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

43. Any settlement in this matter shall be made final by the issuance of a written Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

## **VI. QUICK RESOLUTION**

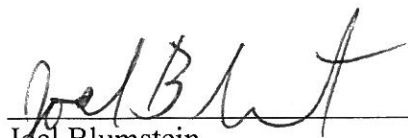
44. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's or certified check, payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint ("TSCA-01-2009-0101") and should be forwarded to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

In addition, Respondent should also forward notice of payment of the civil penalty as well as a copy of the payment check to the Regional Hearing Clerk and EPA's attorney at their respective mailing addresses described above in Paragraphs 40 and 41.

#### **VII. SETTLEMENT CONFERENCE**

45. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or his designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. To explore the possibility of settlement, Respondents or Respondent's counsel should contact William D. Chin, Enforcement Counsel, at the address cited above or by calling 617-918-1728. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted in order to avoid default.

  
\_\_\_\_\_  
Joel Blumstein  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

9/22/09  
\_\_\_\_\_  
Date

***In the Matter of: PropSys Management Company***  
**TSCA-01-2009-0101**  
**Attachment #1 to Complaint - Proposed TSCA Penalty**

The following provides the justification for the proposed penalty calculation in the administrative penalty action against PropSys Management Company ("PropSys" or "Respondent") that seeks \$154,400 in penalties for alleged violations of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act, codified at 42 U.S.C. § 4851 *et seq.*, and its implementing regulations at 40 C.F.R. § 745, Subpart F ("Lead Disclosure Rule").

Section 16(a) of the Toxic Substances Control Act, (TSCA), 15 U.S.C. § 2615(a) authorizes the assessment of a civil penalty of not more than \$10,000 for violations of Section 409 of TSCA, 15 U.S.C. § 2689. Section 409 provides that it shall be unlawful for any person to fail or refuse to comply with any rule or order issued under Subchapter IV of TSCA, Lead Exposure Reduction, including 40 C.F.R. Part 745, Subpart F. In accordance with the Debt Collection Improvement Act (DCIA) and as referenced by 40 C.F.R. § 745.118(f), penalties for each violation occurring after July 28, 1997 and before January 13, 2009 shall be increased to \$11,000.<sup>1</sup>

The alleged violations of the Real Estate Notification and Disclosure Rule ("Disclosure Rule") are based upon inspections of PropSys on July 31, 2007 and on July 29, 2008. The lease agreements gathered during the two inspections were reviewed for compliance with the Disclosure Rule.

---

<sup>1</sup> TSCA § 16(a)(1), 15 U.S.C. § 2615(a)(1), provides that any person who violates section 409 of TSCA "shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation." However, this maximum penalty amount is limited by Section 10108(b)(5) of Title X, 42, U.S.C. § 4852d(b)(5), which makes violations of the Disclosure Rule enforceable under TSCA § 409 and provides that "for purposes of enforcing this section under the Toxic Substances Control Act, ...the penalty for each violation applicable under Section 16 of that Act...shall not be more than \$10,000." Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Act of 1996, 31 U.S.C. § 3701, on June 27, 1997, EPA issued the Civil Monetary Penalty Inflation Adjustment Rule adjusting this \$10,000 figure upward by 10% to \$11,000 for violations that occur after July 28, 1997. See 62 Fed. Reg. 35037 (1997). On December 11, 2008, EPA further adjusted the maximum penalty amount to \$16,000 for violations that occur after January 12, 2009. See 73 Fed. Reg. 75340 (2008); 40 C.F.R. Part 19.



**COUNT 1 - FAILURE TO PROVIDE LESSEES WITH AN EPA-APPROVED LEAD HAZARD INFORMATION PAMPHLET**

**Provision Violated:** 40 C.F.R. § 745.107(a)(1) requires lessors to provide lessees an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use by EPA.

**Circumstance Level:** Failure to provide a lessee an EPA-approved lead hazard information pamphlet pursuant to 40 C.F.R. § 745.107(a)(1), results in *a high probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 1* violation.

**Extent of Harm:** The Disclosure Rule ERP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Complex	Address	Tenant(s)	Level/Extent	Penalty Amount
Centre Ville Commons	5 Knox St., #201	Khadija Mohamed	Level 1/Major	\$11,000
Centre Ville Commons	22 Knox St., #202	Faduma Mohamed	Level 1/Significant	\$7,740
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	Level 1/Minor	\$2,580
Washburn Apartments	308 Bates St., #4B	Crystal Lucas	Level 1/Minor	\$2,580
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	Level 1/Minor	\$2,580
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	Level 1/Minor	\$2,580



Pleasant View Acres	50 Fairmount St., #45	Jennifer Bates	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #78	Hassan Aden	Level 1/Major	\$11,000
			<b>Total - Count 1</b>	<b>\$47,800</b>

**COUNT 2 - FAILURE TO DISCLOSE TO A LESSEE THE PRESENCE OF ANY KNOWN LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS AND TO PROVIDE TO LESSEE ANY RECORDS OR REPORTS AVAILABLE TO LESSOR PERTAINING TO LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS**

**Provision Violated:** 40 C.F.R. § 745.107(a)(2) requires lessors to disclose to lessees the presence of any known lead-based paint and/or lead-based paint hazards in the target housing and 40 C.F.R. § 745.107(a)(4) requires lessors to provide lessees with any records or reports available to lessors pertaining to lead-based paint and/or lead-based paint hazards in the target housing.

**Circumstance Level:** Failure to disclose to lessees the presence of any known lead-based paint and/or lead-based paint hazards and to provide lessees with any records or reports available to lessors pertaining to lead-based paint and/or lead-based paint hazards in the target housing pursuant to 40 C.F.R. § 745.107(a)(2)/ (a)(4), results in a *high probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(2)/(a)(4) is a *Level 1* violation.

**Extent of Harm:** The Disclosure Rule ERP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Complex	Address	Tenant(s)	Level/Extent	Penalty Amount
Centre Ville Commons	5 Knox St., #201	Khadija Mohamed	Level 1/Major	\$11,000
Centre Ville Commons	22 Knox St., #202	Faduma Mohamed	Level 1/ Significant	\$7,740
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	Level 1/Minor	\$2,580

Washburn Apartments	308 Bates St., #4B	Crystal Lucas	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #45	Jennifer Bates	Level 1/Minor	\$2,580
Pleasant View Acres	50 Fairmount St., #78	Hassan Aden	Level 1/Major	\$11,000
			<b>Total - Count 2</b>	<b>\$42,640</b>

**COUNT 3 - FAILURE TO INCLUDE AS AN ATTACHMENT, OR WITHIN A CONTRACT TO LEASE TARGET HOUSING, THE LEAD WARNING STATEMENT**

**Provision Violated:** 40 C.F.R. § 745.113(b)(1) requires that each contract to lease target housing include as an attachment, or within the contract, the Lead Warning Statement.

**Circumstance Level:** Failure to include the Lead Warning Statement in the language of the lease contract, or an attachment thereto, pursuant to 40 C.F.R. § 745.113(b)(1), results in a *high probability* of impairing a lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(1) is a *Level 2* violation.

**Extent of Harm:** The Disclosure Rule ERP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Complex	Address	Tenant(s)	Level/Extent	Penalty Amount
Centre Ville Commons	5 Knox St., #201	Khadija Mohamed	Level 2/Major	\$10,320
Centre Ville Commons	22 Knox St., #202	Faduma Mohamed	Level 2/Significant	\$6,450
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	Level 2/Minor	\$1,550

Washburn Apartments	308 Bates St., #4B	Crystal Lucas	Level 2/Minor	\$1,550
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	Level 2/Minor	\$1,550
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	Level 2/Minor	\$1,550
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	Level 2/Minor	\$1,550
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	Level 2/Minor	\$1,550
Pleasant View Acres	50 Fairmount St., #45	Jennifer Bates	Level 2/Minor	\$1,550
Pleasant View Acres	50 Fairmount St., #78	Hassan Aden	Level 2/Major	\$10,320
			<b>Total - Count 3</b>	<b>\$37,940</b>

**COUNT 4 - FAILURE TO INCLUDE IN A LEASE, OR AS AN ATTACHMENT THERETO, A STATEMENT BY THE LESSOR DISCLOSING THE PRESENCE OF KNOWN LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS, OR LACK OF KNOWLEDGE THEREOF**

**Provision Violated:** 40 C.F.R. § 745.113(b)(2) requires that each contract to lease target housing include, as an attachment or within the lease contract, a statement by a lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

**Circumstance Level:** Failing to include the statement of knowledge of lead-based paint and/or lead-based paint hazards as an attachment, or within the contract to lease target housing, results in a *medium probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information with regard to leasing the target housing in question. Because the intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in the housing, violation of this provision deprives lessees of their right to make decisions based upon risk. As a result, under the Disclosure Rule ERP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(2) is a *Level 3* violation.

**Extent of Harm:** The Disclosure Rule ERP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability

due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant *a significant* extent factor. The absence of children or pregnant women warrants *a minor* extent factor.

Complex	Address	Tenant(s)	Level/Extent	Penalty Amount
Centre Ville Commons	5 Knox St., #201	Khadija Mohamed	Level 3/Major	\$7,740
Centre Ville Commons	22 Knox St., #202	Faduma Mohamed	Level 3/ Significant	\$5,160
Washburn Apartments	308 Bates St., #3A	Hawo Khamis	Level 3/Minor	\$770
Washburn Apartments	308 Bates St., #4B	Crystal Lucas	Level 3/Minor	\$770
Maple Knoll Apartments	78 Maple St., #11	Richard Crocker	Level 3/Minor	\$770
Maple Knoll Apartments	78 Maple St., #38	Sasha Hilliard, Vanessa Blair	Level 3/Minor	\$770
Pleasant View Acres	50 Fairmount St., #24	Victoria Fish	Level 3/Minor	\$770
Pleasant View Acres	50 Fairmount St., #112	Tambra Schnitker, Shirley Peter	Level 3/Minor	\$770
Pleasant View Acres	50 Fairmount St., #45	Jennifer Bates	Level 3/Minor	\$770
Pleasant View Acres	50 Fairmount St., #78	Hassan Aden	Level 3/Major	\$7,740
			<b>Total - Count 4</b>	<b>\$26,030</b>

In the Matter of: PropSys Management Company  
Docket No. TSCA-01-2009-0101

**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing Complaint to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,  
By Hand Delivery:


Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (RAA)  
Boston, MA 02114

One copy, By Certified Mail,  
Return Receipt Requested:

Susan Michaud-Bosse  
Vice-President  
PropSys Management Company  
55 Lisbon Street, Suite 2100  
Lewiston, ME 04240

Dated: \_\_\_\_\_

9/23/09



William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, MA 02114