



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

Via Federal Express

Benjamin M. Cohan
Office of Regional Counsel
(215) 814-2618 (tel.)
(215) 814-2603 (fax)

March 18, 2013

Edward Fackenthal, Esq.
1945 Swedesford Road
Malvern, PA 19355

Re: IN RE: Mr. Joseph Del Viscio d/b/a/ Roman Builders
EPA Docket No. TSCA-03-2013-0103

Dear Mr. Fackenthal:

Enclosed you will find a true and correct copy of the executed settlement in the above captioned matter, which was filed with the Regional Hearing Clerk today. Please note that the settlement is effective today, March 18, 2012. Section VI of the CAFO sets forth your client's payment obligations. Thank you for working with us toward resolution of this matter.

Sincerely,


Benjamin M. Cohan
Senior Assistant Regional Counsel

Enclosures
cc: Craig Yussen (3LC61)

RECEIVED

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III
2013 MAR 18 PM 1:49

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

IN RE:)	DOCKET NO. TSCA-03-2013-0103
)	
Mr. Joseph Del Viscio d/b/a)	
Roman Builders)	
723 Mitchell Ave.)	CONSENT AGREEMENT
Morton, PA 19070-1805)	Proceeding under Sections 16(a) and 409
)	of the Toxic Substances Control Act,
Respondent.)	15 U.S.C. §§ 2615(a) and 2689
)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III ("Complainant" or "EPA" or "Agency") and Mr. Joseph Del Viscio d/b/a Roman Builders ("Respondent"), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615(a) and 2689, the federal regulations set forth at 40 C.F.R. Part 745, Subpart E, and 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).
2. The violations cited herein pertain to the Respondent's alleged failure, to comply with requirements of 40 C.F.R. Part 745, Subpart E, Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act ("RLBPHRA"), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.
3. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA's civil claims alleged in Section IV ("Findings of Fact and Conclusions of Law") of this Consent Agreement.

II. JURISDICTION

4. The U.S. Environmental Protection Agency and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the RLBPHRA,

42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart E, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the Consolidated Rules of Practice.

III. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the "CAFO".
6. Except as provided in Paragraph 5 of this Consent Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
10. Each Party to this Consent Agreement shall bear its own costs and attorney's fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding *Subchapter IV – Lead Exposure Reduction*, TSCA Section 401 to 412, 15 U.S.C. §§ 2681 to 2692.
12. Section 402(c) of TSCA, 15 U.S.C § 2682, required the Administrator of EPA to promulgate regulations for the certification of individuals engaged in renovation or remodeling activities in target housing, public buildings built before 1978, and commercial buildings.
13. Section 407 of TSCA, 15 U.S.C. § 2687 required that the regulations promulgated by the Administrator include such record keeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV.

14. EPA promulgated the Renovation, Repair and Painting Rule (the “RRP Rule”) codified at 40 C.F.R. Part 745, Subpart E, Residential Property Renovation.
15. Among other things, under the RRP rule, each person who performs for compensation, a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to conduct renovation, remodeling and or painting activities in target housing and or child-occupied facilities; and persons must be employed by an EPA-certified renovation firm.
16. 40 C.F.R. § 745.83 defines “pamphlet” to mean, in relevant part, the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* developed under 406(b) of TSCA.
17. 40 C.F.R. § 745.83 defines “person” to mean any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.
18. 40 C.F.R. § 745.83 defines “renovation” to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. § 745.223. The term “renovation” includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces.
19. 40 C.F.R. § 745.83 defines “renovator” to mean an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.
20. 40 C.F.R. § 745.103 defines “target housing” to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.
21. 40 C.F.R. § 745.85(a) requires that renovations must be performed by certified firms, in accordance with 40 C.F.R. § 745.89, using certified renovators in accordance with 40

C.F.R. § 745.90.

22. 40 C.F.R. § 745.83 defines “firm” to mean a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.
23. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E, of the RRP rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).
24. Respondent is, and was at the time of violations alleged herein, a “person” within the meaning of 40 C.F.R. § 745.83.
25. Respondent is, and was at the time of violations alleged herein, a “firm” and a “renovator” as those terms are defined by 40 C.F.R. § 745.83.
26. Respondent Joseph Del Viscio, by and through his business entity known as Roman Builders, performed the foregoing “renovations” as that term is defined by 40 C.F.R. § 745.83.
27. On November 17, 2011, a duly authorized EPA inspector conducted an inspection at Respondent’s place of business to determine Respondent’s level of compliance with the RRP Rule.
28. During the inspection, the inspector collected, among other things, two renovation contracts, for renovations conducted at “target housing” as that term is defined by 40 C.F.R. § 745.103.
29. On or about June 2, 2010, Respondent signed a contract to perform a renovation on a property located at 17 Ellis Avenue., Haverford, PA 19083. This property was constructed before 1978.
30. On or about June 15, 2010, Respondent signed a contract to perform a renovation on a property located at 56 Cedarbrook Road, Ardmore, PA 19003. This property was constructed before 1978.
31. The properties identified in paragraphs 29 and 30, above, are “target housing” as that term is defined by 40 C.F.R. § 745.103.

V. VIOLATIONS

Counts I - II

32. The allegations contained in Paragraphs 1 through 31 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
33. Pursuant to 40 C.F.R. § 745.86, firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with RRP for a period of three (3) years following completion of the renovation.
34. Pursuant to 40 C.F.R. § 745.86(b), Respondent is required to retain and provide documentation of compliance with the work practice standards set forth in 40 C.F.R. § 745.85(a).
35. During the November 17, 2011 inspection, the EPA inspector collected two contracts for the renovations described in paragraphs 29 and 30, above.
36. Respondent failed to provide and/or retain records documenting compliance with 40 C.F.R. § 745.85(a) for either contract, thus constituting 2 separate violations of 40 C.F.R. § 745.86.
37. Respondent's failure to provide and/or retain records are violations of Section 409 of TSCA, 15 U.S.C. § 2689, which subjects Respondent to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Counts III - IV

38. The allegations contained in Paragraphs 1 through 37 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
39. Pursuant to 40 C.F.R. § 745.86, firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with RRP for a period of three (3) years following completion of the renovation.
40. Pursuant to 40 C.F.R. § 745.86(b), Respondent is required to retain and provide documentation of compliance with the post renovation cleaning verification standards found in 40 C.F.R. § 745.85(b).
41. During the November 17, 2011 inspection, the EPA inspector collected two contracts for

renovations described in paragraphs 29 and 30 above.

42. Respondent failed to provide and/or retain records documenting compliance with 40 C.F.R. § 745.85(b) for either contract, thus constituting 2 separate violations of 40 C.F.R. § 745.86.
43. Respondent's failure to provide and/or retain records are violations of Section 409 of TSCA, 15 U.S.C. § 2689, which subjects Respondent to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Counts V-VI

44. The allegations contained in Paragraphs 1 through 43 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
45. Pursuant to 40 C.F.R. § 745.84(a)(1), a firm must provide Pre-Renovation Education ("PRE") information in the form of an EPA approved lead hazard information "Pamphlet" to customers prior to performing renovations of target housing. Firms are also required to obtain receipts for the PRE information from customers and to keep a copy of the signed PRE forms for at least three years.
46. Respondent failed to distribute EPA Pamphlets to customers prior to commencing renovations at the target housing identified in paragraphs 29 and 30, above, thus constituting 2 separate violations of 40 C.F.R. § 745.84(a)(1) .
47. Respondent's failure to distribute the EPA Pamphlet to customers of the renovation projects identified in paragraphs 29 and 30, above, are violations of Section 409 of TSCA, 15 U.S.C. § 2689, which subjects Respondent to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count VII

48. The allegations contained in paragraphs 1 through 47 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
49. Pursuant to 40 C.F.R. § 745.81(a)(2)(ii), and with exceptions not relevant here, no firm may perform, offer, or claim to perform renovations in target housing or child occupied facilities without certification from EPA in accordance with 40 C.F.R. Part 745, Subpart E.
50. Respondent failed to obtain the requisite EPA certification for, *inter alia*, the renovations Respondent performed at the target housing identified in paragraphs 29 and 30, above,

thus constituting a violation of 40 C.F.R. § 745.81(a)(2)(ii).

51. Respondent's failure to obtain EPA certification for, *inter alia*, the renovations Respondent performed at the target housing identified in paragraphs 29 and 30, above are violations of Section 409 of TSCA, 15 U.S.C. § 2689, which subjects Respondent to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

VI. CIVIL PENALTY

52. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Three Thousand, Seven Hundred and Sixty-Six Dollars (\$3,766.00) which Respondent shall be liable to pay in accordance with the terms set forth below.
53. The civil penalty of Three Thousand, Seven Hundred and Sixty-Six Dollars (\$3,766.00) set forth in Paragraph 52, above, shall be paid in four (4) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
- 1st Payment: The first payment in the amount of Nine Hundred and Forty-Seven Dollars and Forty Nine Cents (\$ 947.49), consisting of a principal payment of \$937.94 and an interest payment of \$9.55, shall be paid no later than three (3) calendar months after the date on which this CAFO is mailed or hand-delivered to Respondent;
 - 2nd Payment: The second payment in the amount of Nine Hundred and Forty-Seven Dollars and Forty Nine Cents (\$ 947.49), consisting of a principal payment of \$940.34 and an interest payment of \$7.15, shall be paid no later than six (6) calendar months after the date on which this CAFO is mailed or hand-delivered to Respondent;
 - 3rd Payment: The third payment in the amount of Nine Hundred and Forty-Seven Dollars and Forty Nine Cents (\$ 947.49), consisting of a principal payment of \$942.70 and an interest payment of \$4.79, shall be paid no later than nine (9) calendar months after the date on which this CAFO is mailed or hand-delivered to Respondent;
 - 4th Payment: The forth and final payment in the amount of Nine Hundred and Forty-Seven Dollars and Forty Nine Cents (\$ 947.49), consisting of a principal payment of \$945.02 and an interest payment of \$2.47, shall be paid no later than twelve (12) calendar months after

the date on which this CAFO is mailed or hand-delivered to Respondent

54. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Three Thousand, Seven Hundred and Sixty-Six Dollars (\$3,766.00) and total interest payments in the amount of Twenty Three Dollars and Ninety Six Cents (\$23.96) for a total payment in the amount of Three Thousand, Seven Hundred and Eighty Nine Dollars and Ninety Six Cents (\$3,789.96).
55. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 52, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
56. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 53, above, Respondent may pay the entire civil penalty of Three Thousand, Seven Hundred and Sixty-Six Dollars (\$3,766.00) within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as calculated in Paragraph 53, above, and as described therein. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full-payment.
57. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including the penalty criteria 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's, 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. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 19, 2010) in conjunction with EPA's May 3, 2012 *Pilot RRP Penalty Program for Micro-Businesses*, and 40 C.F.R. Part 19.
58. Respondent shall remit each installment payment for the civil penalty and interest,

pursuant to Paragraph 53, above, and/or the full payment pursuant to Paragraph 56, above, and/or any administrative fees and late payment penalties, in accordance with Paragraphs 61 and 62, below, in the following manner:

a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2013-0103**;

b. All checks shall be made payable to “**United States Treasury**”;

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Eric Volck 513-487-2105

d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

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

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

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

I. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

j. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty shall be sent simultaneously to:

Benjamin Cohan
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

59. 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 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 Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
60. In accordance with 40 C.F.R. § 13.11(a), 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 the 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).
61. The costs of EPA's administrative handling of overdue debts is 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.
62. A penalty charge of six (6%) 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).
63. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

VII. EFFECT OF SETTLEMENT

64. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under TSCA for the specific violations alleged in Section V ("Violations"), above. 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.

VIII. OTHER APPLICABLE LAWS

65. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

IX. CERTIFICATION OF COMPLIANCE

66. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that it is currently in compliance with the provisions of TSCA, the RRP Rule and 40 C.F.R. Part 745, Subpart E.

X. RESERVATION OF RIGHTS

67. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged 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 TSCA, the RRP Rule, 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 EPA Regional Hearing Clerk.

XI. PARTIES BOUND

68. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, and Respondent's officers and directors (in their official capacity), successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is

fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

XII. EFFECTIVE DATE

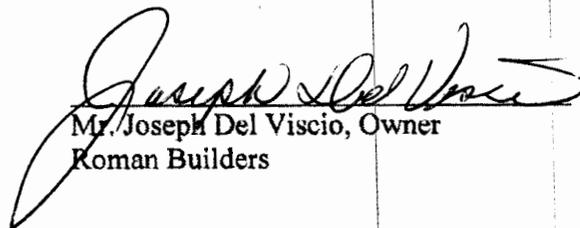
69. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules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

XIII. ENTIRE AGREEMENT

70. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

2/13/13
Date


Mr. Joseph Del Viscio, Owner
Roman Builders

For Complainant:

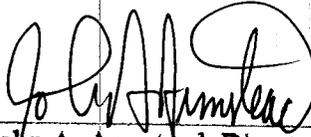
2/26/13
Date


Benjamin Cohan, Sr. Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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

3.11.13

Date



John A. Armstead, Director
Land and Chemicals Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

RECEIVED

TSCA-03-2013-0103

2013 MAR 18 PM 1:50

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III REGIONAL HEARING CLERK

1650 Arch Street REGION III, PHILA. PA

Philadelphia, Pennsylvania 19103-2029

IN RE:)	DOCKET NO. TSCA-03-2013-0103
)	
Mr. Joseph Del Viscio d/b/a)	
Roman Builders)	
723 Mitchell Ave.)	
)	
Respondent.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the above captioned United States Environmental Protection Agency's Consent Agreement and Final Order, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order, along with its enclosures and/or attachments, were sent by UPS Overnight mail to:

Edward Fackenthal, Esq. (Respondent's Counsel of Record)
1945 Swedesford Road
Malvern, PA 19355

Sincerely,


Benjamin M. Cohan
Senior Assistant Regional Counsel

Date: 3/18/13

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

SUBJECT: Mr. Joseph Del Viscio d/b/a Roman Builders
Docket No. TSCA-03-2013-0103
Consent Agreement and Final Order

FROM: Marcia E. Mulkey
Regional Counsel (3RC00)

and

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

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order ("CAFO") will resolve an administrative enforcement action against Respondent Joseph Del Viscio d/b/a Roman Builders pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), for violations of Sections 15, 402(c) and 406(b) TSCA, 15 U.S.C. §§ 2614, 2682(c) and 2686(b), 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 the "Renovation Repair and Painting Rule" ("RRP Rule"), as set forth at 40 C.F.R. Part 745, Subpart E, which statutory and regulatory provisions are enforceable pursuant to the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The CAFO resolves Respondent's RRP Rule violations with respect to independent renovations of residential properties located at: 1) 17 Ellis Avenue, Haverford, PA 19083; and 2) 56 Cedarbrook Road, Ardmore, PA 19003. These properties are "target housing" as defined by 40 C.F.R. § 745.103. During the relevant time period, Respondent was a firm and renovator of the subject residential dwelling as set forth in the CAFO.

This CAFO is being entered into pursuant to 40 C.F.R. § 22.18(b)(2) and (3), as well as 22.13(b)(providing for simultaneous commencement and conclusion of proceedings). Under the terms of the CAFO, Respondent will pay a civil penalty in the amount of \$3,766.00.

The proposed settlement is based upon consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 42 U.S.C. § 2615(a)(2)(B), requiring EPA to consider the nature, circumstances, extent, and gravity of the violations, the violator's ability to pay, ability to continue in business, history of prior violations, degree of culpability and other factors as justice may require, and 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*, dated August, 2010(ERPP), as modified by the alternative penalty matrix set forth in the memorandum from Rosemarie A. Kelley entitled "Pilot RRP Penalty Program for Micro-Businesses"(May 3, 2012).

Pursuant to 40 C.F.R. § 22.18(b) and the Region III Delegations Manual at Delegation 22-3-C, 1200 TN RIII-106 (June 7, 1995), Final Orders must be signed by the Regional Administrator or the Regional Judicial Officer. We recommend that you sign the attached Final Order and return it to the Office of Regional Counsel for further processing.

Attachment

cc: Edward Fackenthal, Esq. (Counsel for Respondent)