

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. Environmental
Protection Agency-Reg 2

2015 JAN -9 AM 11: 44

REGIONAL HEARING
CLERK

IN THE MATTER OF:)
)
Olshan Properties, Incorporated)
f/ka and d/b/a Mall Properties Incorporated)
Respondent.)
)
)
)
)
)
)

Docket No.
TSCA-02-2015-9272

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency ("EPA") alleges that Olshan Properties, Incorporated, f/k/a and d/b/a Mall Properties Incorporated ("Respondent") failed to comply with Section 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2689.
2. EPA learned that on or about March 1, 2013, Respondent leased residential property located at 68 Montague Street, Brooklyn, New York, 11201.
3. The property listed in paragraph 2, above, was constructed prior to 1978 and is target housing¹ subject to the Real Estate Disclosure Rule of TSCA.
4. Respondent, as a firm that leases residential units in target housing, was required to retain a copy of lead-based paint disclosure records for no less than three years from the commencement of the leasing period under 40 C.F.R. § 745.113(c)(1). Respondent failed to retain and provide such records to EPA.
5. EPA and Respondent agree that settlement of this matter by payment of a civil penalty in the amount of \$3,000 (three thousand dollars) is in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.13(b), and 40 C.F.R. § 22.18(b)(2).
7. In signing this Agreement, Respondent: (1) admits that Respondent is subject to the Real Estate Disclosure Rule requirements (40 C.F.R. § 745, Subpart F); (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as described in paragraph 4, above; (3) neither admits nor denies the factual findings contained herein; (4) consents to

¹ Target Housing is defined in TSCA Section 401 as any housing constructed before 1978, except for: 1) housing for the elderly or persons with disabilities (unless a child less than six years of age resides or is expected to reside in such housing); and 2) any zero-bedroom dwelling.

the assessment of the penalty; and (5) waives any right to contest the findings and terms contained herein.

8. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) Respondent has submitted information on the disclosure activities cited herein and has taken steps designed to ensure that a violation of this requirement described in paragraph 4, above, does not recur and (2) Respondent is submitting proof of payment of the civil penalty with this agreement.
9. The civil penalty of \$3,000 (three thousand dollars) has been paid in accordance with the Instructions for Making a Payment that were provided to the Respondent.
10. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil penalty claims for the violations cited herein.
11. No portion of the civil penalty paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal or state income tax purposes.
12. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.
13. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to TSCA or 40 C.F.R. Part 22.
14. Each party shall bear its own costs and fees, if any.
15. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED, Olshan Properties Incorporated,
f/k/a and d/b/a Mall Properties Incorporated


Name (print): Andrea L. Olshan

Title (print): CEO

Signature: 

Date 12/15/2014

APPROVED BY EPA:


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Date December 30, 2014

In the Matter of Olshan Properties Incorporated,
f/k/a and d/b/a Mall Properties, Incorporated
Docket Number TSCA-02-2015-9272

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2 concurs in the foregoing Expedited Settlement Agreement in the case of Olshan Properties Incorporated, f/k/a and d/b/a Mall Properties Incorporated, bearing Docket No. TSCA-02-2015-9272. Said Expedited Settlement Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under authority of Section 16(a) of TSCA 15 U.S.C. § 2615(a).

DATED: January 8, 2015
New York, New York

Helen Ferrara

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency-Region 2
290 Broadway
New York, New York 10007-1866

**Olshan Properties Incorporated,
f/k/a and d/b/a Mall Properties Incorporated
600 Madison Avenue, 14th Floor
New York, New York 10022**

CASE DEVELOPMENT OFFICER: Theresa Bourbon

DOCKET NUMBER: TSCA-02-2015-9272

ADDRESS OF ALLEGED VIOLATION: 68 Montague Street, Brooklyn, NY 11201

The following penalty is based on EPA's Expedited Settlement Agreement pilot program:

Violation Summary

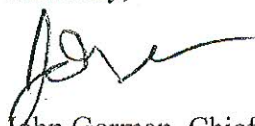
COUNT	VIOLATION	PENALTY
3	40 C.F.R. §745.113(c)(1) <ul style="list-style-type: none">• Violation - Failure to retain a copy of the disclosure records for no less than three years from the commencement of the leasing period, as required by 40 C.F.R § 745.113(c)(1). <p>This violation occurred in the three (3) leases at 68 Montague Street, for Apartment Units #3E, #1F, and #3A, Level 6</p>	\$1,000 X 3
		\$3,000

If you determine that you are not subject to, or have not violated, the foregoing requirement(s), then please provide a written explanation, along with any relevant documentation to Theresa Bourbon at the address below within thirty (30) days of your receipt of this letter.

Theresa Bourbon
US EPA Region 2, DECA/PTSB
2890 Woodbridge Avenue, MS-225
Edison, New Jersey 08837

If you have questions, or wish to discuss the general circumstances of your case, please contact the case officer, Theresa Bourbon, at 732-906-6873, or bourbon.theresa@epa.gov.

Sincerely,



John Gorman, Chief
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency – Region 2

Enclosures

Expedited Settlement Agreement
Instructions for Making a Payment
Proposed Penalty Worksheet



Attachment A

Instructions for Making a Payment

Respondent shall pay, by cashiers or certified check, a civil penalty in the amount of **THREE THOUSAND DOLLARS (\$3,000)** to the "Treasurer of the United States of America." The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the Expedited Settlement Agreement Final Order. Such check shall be mailed to:

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

Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"
- 6) Name of Respondent: **Olshan Properties incorporated,
f/k/a and d/b/a Mall Properties Incorporated**
- 7) Docket Number: TSCA-02-2015-9272

Payment must be received at the above address (or account of EPA) on or before **30 calendar days** after the receipt of the letter invitation setting forth the opportunity for expedited settlement. Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007

and

Theresa Bourbon
US EPA Region 2
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-225
Edison, New Jersey 08837

Failure to pay the penalty in full according to the above provisions will result in the withdrawal of the offer for expedited settlement, without prejudice, and the EPA will initiate a formal enforcement action and seek up to the maximum penalty per day for each violation.

Pepper Raymond

Subject: FW: Wire OUT 3,000.00 XXXXXX2812 68 MONTAGUE LLC

-----Original Message-----

From: BANKUNITED [<mailto:wiretransfer@bankunited.com>]
Sent: Tuesday, December 16, 2014 3:25 PM
To: Nicole Glay; Michael Gibson
Subject: Wire OUT 3,000.00 XXXXXX2812 68 MONTAGUE LLC

BANKUNITED
14817 OAK LANE
MIAMI LAKES, FL 33016

68 MONTAGUE LLC

5500 NEW ALBANY ROAD EAST APT 310
NEW ALBANY OH 43054-

OUTGOING WIRE TRANSFER

Wire Transfer Ref# : 20141216RO276840
IMAD : 20141216F7B74M2C000386 TIME STAMP : 12161522 RFB :
Receiver ABA : 021030004 TREAS NYC

BNF : XXXXXX0727
TREASURER OF UNITED STATES OF AMERI
33 LIBERTY STREET
NEW YORK, NY

ORG : XXXXXX2812
68 MONTAGUE LLC
5500 NEW ALBANY ROAD EAST APT 310
NEW ALBANY OH 43054-

OBI : DOCKET #TSCA-02-2015-9272
OLSHAN PROPERTIES INC.
DBA MALL PROPERTIES INC.
D 68010727 EPA

BBI :

INS :

Transfer Amount : 3,000.00

Transfer Fee : 0.00

Debit Account # : XXXXXX2812 Total Debit : 3,000.00

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

In the Matter of Olshan Properties Incorporated,
f/k/a & d/b/a Mall Properties Incorporated
Docket Number TSCA-02-2015-9272

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk.
U.S. EPA- Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail Return Receipt Requested:

Kara Rakowski, Esq.
Belkin Burden Wenig & Goldman LLP
270 Madison Avenue
New York, NY 10016

Dated: 1/9/15
New York, New York

