



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

SEP 06 2017

Daniel Wilenchik
Legal Counsel
Andromeda Advantage Inc.
49-12 31st Place, Long Island City, NY 11101

RECEIVED
2017 SEP -6 AM 11:10
U.S. ENVIRONMENTAL PROTECTION AGENCY

Re: In the Matter of Skyline Restoration, Inc., Docket No. TSCA-02-2017-9274

Dear Mr. Wilenchik,

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the United States Environmental Protection Agency.

Please note that payment is due within thirty (30) days of the date on which the Regional Judicial Officer signed the enclosed Consent Agreement and Final Order. Please arrange for payment of this penalty according to the schedule and instructions given in the Order.

Sincerely yours,

Stuart N. Keith
Assistant Regional Counsel
Waste & Toxic Substances Branch
Office of Regional Counsel

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

2017 SEP - 6 AM 11:40

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In the Matter of :
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Skyline Restoration, Inc., :
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Respondent :
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:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act :
:
-----X

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
TSCA-02-2017-9274

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and 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 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and

22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Skyline Restoration, Inc. ("Skyline" or "Respondent").
2. Respondent's primary place of business is located at 11-20 37th Avenue, Long Island City, New York 11101.
3. Respondent is engaged in the business of renovation and painting.
4. Respondent is a "firm" as that term is defined at 40 C.F.R. § 745.83.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692, and set forth at 40 C.F.R. Part 745, Subpart E, referred to as the "Renovation, Repair, and Painting (RRP) Rule."
6. On or about October 19, 2015, the United States Environmental Protection Agency, Region 2 ("EPA"), received a tip/complaint from a tenant at the complex of multi-residential buildings known as Westbeth Center for the Arts, located at 445-463 West Street, New York 10014 (the "Property"), where Respondent was conducting renovations. The Property is target housing, as that term is defined by TSCA § 401(17), 15 U.S.C. § 2681(17).
7. On October 22, 2015, EPA sent an Information Request Letter ("IRL") to Respondent as part of EPA's investigation of Respondent's compliance with the work practice standards of the RRP while conducting renovations at the Property.
8. On October 29, 2015, EPA representatives conducted an inspection of the Property. During the inspection, the inspectors observed scaffolding at the exterior of the Westbeth building at 455 West Street, which indicated recent work, and met with a representative of Respondent who was at the

Property supervising the renovations. Respondent's representative confirmed that the renovations the Respondent had undertaken involved work that would be regulated under the RRP Rule.

9. On or about December 7, 2015, Respondent submitted a response to EPA's IRL, dated October 22, 2015.

10. Based on the observations made during the inspection, including statements made by Respondent's on-site representative, and Respondent's response to the IRL, EPA determined that the renovation work performed by Respondent at the Property from approximately June 2015 until at least the time of inspection was subject to the requirements of the RRP Rule and that Respondent had violated the regulations as set forth below.

11. EPA determined that Respondent failed to obtain written acknowledgement of having provided the owner of multi-unit target housing with the Renovate Right pamphlet as required by 40 C.F.R. § 745.84(a)(1).

12. EPA determined that Respondent failed to post warning signs clearly defining the work area and warning occupants not involved in renovation activities to remain outside of the work area as required by 40 C.F.R. § 745.85(a)(1).

13. In a letter dated March 22, 2017 entitled "Opportunity to Settle Prospective Federal Enforcement Action Under TSCA and Its Implementing Regulations," EPA set forth its determinations regarding Respondent's violations of the RRP Rule and invited Respondent to a meeting to discuss these findings.

14. On May 10, 2017, EPA and Respondent held an informal settlement conference at Respondent's request to discuss EPA's findings with regard to Respondent's failures to comply with TSCA and the RRP Rule during the renovation at the Property.

15. As a result of the informal settlement conference and the parties' further communications, the parties agreed to enter into this Consent Agreement.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. For the purposes of this Consent Agreement, Respondent: (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) to commence a civil administrative proceeding for the violations described in the “Findings of Fact and Conclusions of Law” section, above; and (b) neither admits nor denies the specific factual allegations contained in the “Findings of Fact and Conclusions of Law” section, above.
2. Respondent shall hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.
3. Respondent certifies that it is currently in compliance with the statutory provisions of Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692 and the implementing regulations codified at 40 C.F.R. Part 745, Subpart E.
4. Respondent shall pay, by cashier’s or certified check or electronic fund transfer (“EFT”), a civil penalty in the amount of **EIGHT THOUSAND FOUR HUNDRED AND TWENTY-EIGHT DOLLARS (\$8,428)** due on or before **30 calendar days** from the date of signature of the Final Order at the end of this document.
5. Payment must be received at the address listed in Paragraph 6, below, or the EFT must be received by the Federal Reserve Bank of New York, on or before the due date specified above (the date by which such payment must be received shall hereafter be referred to as the “due date”).

a. Failure to pay the full amount of the penalty according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection or other appropriate action.

b. Further, if a payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

6. If a payment is made by cashier's or certified check, each such payment shall be payable to the "Treasurer of the United States of America." Each check shall be identified with a notation of the name and docket number of this case, as set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, if Respondent chooses to pay by electronic fund transfer ("EFT"), 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 Code for Federal Reserve Bank of NY receiving payment: **68010727**
- 4) ABA number: **021030004**
- 5) Field Tag 4200 of the Fedwire message should read "**D68010727**
Environmental Protection Agency"
- 6) Name of Respondent: Skyline Restoration, Inc.
- 7) Case Docket Number TSCA-02-2017-9274

7. Any responses, documentation, and other communication submitted in connection with this Consent Agreement shall be sent to:

Demian Ellis
Pesticides and Toxic Substances Branch – Lead Team
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 2
2890 Woodbridge Avenue – Building 205
Edison, New Jersey 08837

and

Stuart Keith, Esquire
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any written future correspondence (including any correspondence related to payment of the penalty) to Respondent at the following address:

John Tsampas, President
Skyline Restoration, Inc.
11-20 37th Avenue
Long Island City, New York 11101

8. The civil penalties and any stipulated penalties provided for herein are “penalt[ies]” within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.

9. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims described in the Findings of Fact and Conclusions of Law set forth above.

10. Full payment of the penalty described in paragraph 4 shall only resolve Respondent’s liability for federal civil penalties for the violations and facts described in paragraphs 11 and 12 in the

Findings of Facts and Conclusions of Law. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law.

11. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms.

12. Respondent consents to the issuance of the accompanying Final Order.

13. Respondent agrees that all terms of settlement are set forth herein.

14. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

15. Respondent hereby waives its right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein or on the accompanying Final Order.

16. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.

17. Respondent waives any rights it may have to appeal this Consent Agreement and the accompanying Final Order.

18. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations,

nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

19. The signatory for Respondent certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

20. Each party hereto agrees to bear its own costs and fees in this matter.

21. Respondent consents to service upon it of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

Skyline Restoration, Inc.

RESPONDENT:

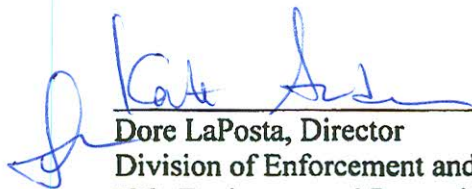
BY: 

NAME: JOHN TSAMPAS
(PLEASE PRINT)

TITLE: President

DATE: August 29, 2017

COMPLAINANT:



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

DATE: AUG 30 2017