

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

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REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:

Judith Kime
44 Country Manor Lane
Linden, PA 17744

Docket No.: TSCA-03-2012-0042

Respondent

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CONSENT AGREEMENT
Preliminary Statement

1. The Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("Complainant") and Judith Kime, individually ("Respondent"), wishing to settle EPA's claims for civil penalties arising from the violations alleged in the Administrative Complaint and Notice of Opportunity for a Hearing ("Complaint") issued on September 28, 2012, incorporated herein by reference, have consented to the entry of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules"), 40 C.F.R. Part 22 including, but not limited to, 40 C.F.R. § 22.18(b)(2) and (3). This Consent Agreement ("CA") and the accompanying Final Order ("FO"), settle violations by Respondents of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.* ("RLBPHRA"), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"), which statutory and regulatory provisions are enforceable pursuant to Section 409 of TSCA, 15 U.S.C. § 2689.
2. For purposes of this proceeding only, Respondent admits to the jurisdictional allegations set forth in the Complaint and herein.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in the Complaint or herein, except as provided in Paragraph 2, above.
4. For the purposes of this proceeding only, Respondent hereby expressly waives her right to a hearing on any issue of law or fact set forth in the Complaint or herein and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.

6. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
7. Respondent shall bear he own costs and attorney's fees, if any.
8. The provisions of this CAFO shall be binding upon Respondent. Respondent certifies that she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto.
9. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed herein.
10. Respondent certifies that she is currently in full compliance with RLBPHRA, 42 U.S.C. §§ 4851 *et seq.*, and the Disclosure Rule codified at 40 C.F.R. Part 745.
11. Nothing in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

Notice of Action to the Commonwealth of Pennsylvania

12. EPA has given the Commonwealth of Pennsylvania prior notice of the issuance of this CAFO.

Civil Penalty

13. Respondents agree to pay the amount of Fifteen Thousand Dollars (\$15,000.00) in satisfaction of all civil claims for penalties which Complainant may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged in the Complaint. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO.
14. The aforesaid settlement amount is based upon Complainant's consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), which include the nature, circumstances, extent, and gravity of the violations and the violator's ability to pay, ability to continue in business, history of prior violations, and degree of culpability, and other matters as justice may require.
15. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
16. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil

penalty that is paid within 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).

17. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a 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 30 day period after the payment is due and an additional \$15.00 for each subsequent 30 days the penalty remains unpaid.
18. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than 90 calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
19. a. All payments shall be made to the U.S. Treasury by check and sent by U.S Postal Service regular mail shall be addressed to:

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

The customer service contact for this address may be reached at 513-487-2105

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- b. All payments made by check and sent by UPS, FedEx, or overnight mail delivery service (except as noted in section c, below) shall be addressed 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

The U.S. Bank customer service contact for overnight delivery is 314-418-1028.

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

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

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- d. All payments made by electronic funds transfer ("EFT") shall be directed to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 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"

The Federal Reserve customer service contact may be reached at 212-720-5000.

- e. 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

Customer service contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681

- f. On-line payment option

WWW.PAY.GOV

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

- g. Additional payment guidance is available at:

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

20. All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this Consent Agreement (TSCA-03-2012-0042).

21. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)

1650 Arch Street
Philadelphia, PA 19103-2029

and

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

RESERVATION OF RIGHTS

22. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondents, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment, nor shall anything in this Consent Agreement and the attached Final Order be construed to limit the United States' authority to pursue criminal sanctions against any person or entity. In addition, Complainant reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this CA/FO, following its filing with the Regional Hearing Clerk.

FULL AND FINAL SATISFACTION

23. EPA hereby agrees and acknowledges that the settlement of the proposed penalty as set forth above shall be in full and final satisfaction of all civil claims for penalties which EPA may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) for the violations alleged in the Complaint.

EFFECTIVE DATE

24. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator or the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

Date: 02/14/2013


By: Judith Kime
Judith Kime

For the United States Environmental Protection Agency:

Date:

2/15/13

By:



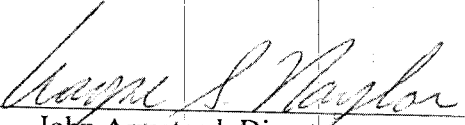
Louis F. Ramalho
Sr. Assistant Regional Counsel

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

Date:

2/20/13

By:



John Armstead, Director
Land and Chemicals Division

for

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

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In the Matter of:

**Judith Kime
44 Country Manor Lane
Linden, PA 17744**

Docket No.: TSCA-03-2012-0042

Respondent

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FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Judith Kime, individually ("Respondent"), have executed a document entitled "Consent Agreement", which I hereby ratify as a Consent Agreement in accordance with Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), published at 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

NOW, THEREFORE, PURSUANT TO Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Lead Paint Disclosure Act"), 42 U.S.C. §§ 4851 et seq. and 40 C.F.R. Part 745, Subpart F, which authorizes the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, for violations of the Lead Paint Disclosure Act, and the Consolidated Rules of Practice, and having determined, based on the representations of the parties to the attached Consent Agreement, that the civil penalty agreed therein was based upon the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), IT IS HEREBY ORDERED that Respondent pay a civil penalty of Fifteen Thousand Dollars (\$15,000.00) and comply with the terms and conditions of the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

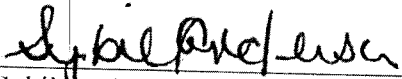
Date: 2/26/13

By: Renee Sarajian
Renee Sarajian
Regional Judicial Officer
United States Environmental Protection Agency
Region III

In The Matter of **Judith Kime, Respondent**
Docket No. TSCA-03-2013-0042

CERTIFICATE OF SERVICE

I certify that the foregoing **Consent Agreement and Final Order**, dated February 27, 2013, was sent this day in following manner to the addresses listed below:



Sybil Anderson
Headquarters Hearing Clerk

Dated: **February 27, 2013**

Copy By Regular Mail and Email To:

Louis F. Ramalho, Esquire
Assistant Regional Counsel (3RC50)
U.S. EPA
1650 Arch Street
Philadelphia, PA 19103-2029

Email: ramalho.louis@epa.gov

J. Michael Wiley, Esquire
Raup, Wiley & Sholder
634 West Fourth Street
Williamsport, PA 17701

Email: jmwiley@raupwiley.com