

**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Pj’s restoration LLC) **Docket No. TSCA-07-2020-0016**
)
)
Respondent)

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Pj’s restoration LLC, (“Respondent”), failed to comply with the regulations governing certification, in violation of Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689.
2. TSCA § 402 requires the Administrator of EPA to promulgate regulations governing lead-based paint activities to ensure, among other things, that contractors engaged in such activities are certified. These regulations are codified at Part 745 of Title 40 of the Code of Federal Regulations.
3. 40 C.F.R. § 745.81(a)(2)(ii) prohibits firms from performing, offering, or claiming to perform renovations without certification from EPA under § 745.89 in target housing or child-occupied facilities on or after April 22, 2010, unless the renovation qualifies for an exception. 40 C.F.R. § 745.89 covers firm certifications, including the requirement under § 745.89(a)(1) that firms that perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling.
4. Respondent, as a firm which performs, offers, or claims to perform residential renovations and repairs for compensation on housing constructed prior to 1978, was required to obtain an initial firm certification from EPA, under 40 C.F.R. §§ 745.89(a)(1) and 745.81(a)(2)(ii). Respondent failed to obtain an initial firm certification from EPA.
5. EPA has considered the appropriateness of the penalty pursuant to Section 16(a)(2)(B) of TSCA, 15 U.S.C. 2615(a)(2)(B), and has determined that the appropriate penalty for the violation is \$1,000. However, pursuant to the statutory requirement that EPA consider a Respondent’s ability to pay, Respondent has demonstrated that it is unable to pay any penalty in this matter. Therefore, Complainant conditionally agrees to resolve the claims alleged herein. EPA and Respondent agree that settlement of this matter for a mitigated civil penalty of \$0 is in the public interest.

6. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).
7. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirement in Paragraph 2 (above); (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.
10. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the alleged violation, and has submitted true and accurate documentation of such correction along with this Agreement.
11. This Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violation alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
13. 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.
14. By signing and returning this Agreement to EPA, Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal this Agreement.
16. Each party shall bear its own costs and fees, if any.
17. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.
18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

FOR THE RESPONDENT:

Name (print): Philip J Southard

Title (print): _____

Signature: Philip Southard

Date: 8-9-2020

FOR THE COMPLAINANT:

CANDACE BEDNAR Digitally signed by CANDACE BEDNAR
Date: 2020.08.12 12:45:53 -05'00'

Date: _____

Candace Bednar
Branch Chief, Chemical Branch
Enforcement and Compliance Assurance Division

ERIN WEEKLEY Digitally signed by ERIN WEEKLEY
Date: 2020.08.10 15:21:41 -05'00'

Date: _____

Erin Weekley
Office of Regional Counsel

FINAL ORDER

Pursuant to the authority of Section 16 of Toxic Substances Control Act, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall comply with all terms of the Expedited Settlement Agreement; and
2. Respondent is assessed a civil penalty of \$0.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.

KARINA BORROMEIO

Digitally signed by KARINA BORROMEIO

Date: 2020.08.12 16:22:02 -05'00'

Date: _____

KARINA BORROMEIO
Regional Judicial Officer

U.S. Environmental Protection Agency, Region 7

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

weekley.erin@epa.gov.

Copy via Email to Respondent:

[REDACTED]

Dated this _____ day of _____, _____.

LISA HAUGEN Digitally signed by LISA
HAUGEN
Date: 2020.08.13 09:24:27
-05'00'

Signed