



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
2890 WOODBRIDGE AVENUE  
EDISON, NEW JERSEY 08837-3679

JUL 31 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7001 0320 0004 5645 6429

Mr. Luis Nieves, President  
L & D Painting & Lead Abatement  
2601 Wave Ave.  
Medford, New York 11763

Re: L & D Painting & Lead Abatement, Docket No. TSCA-02-2014-9273

Dear Mr. Nieves:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2.

Please contact Mr. Robert Fitzpatrick at (732) 321-6731, should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief  
Pesticides and Toxic Substances Branch

Enclosure

REGIONAL HEARING  
CLERK

2014 SEP 11 AM 11:45

U.S. Environmental  
Protection Agency-Reg 2

RECEIVED  
JUL 22 2014  
R2 LEAD TEAM

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency-Reg 2  
2014 SEP 11 AM 11:46  
REGIONAL HEARING  
CLERK

IN THE MATTER OF: )  
 )  
 )  
**L & D Painting & Lead Abatement** )  
Respondent. )  
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Docket No.  
TSCA-02-2014-9273  
**EXPEDITED SETTLEMENT  
AGREEMENT AND  
FINAL ORDER**

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency (“EPA”) alleges **L & D Painting & Lead Abatement** (“Respondent”) failed to comply with Section 402 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2682.
2. EPA learned that on or about January 17, 2013, Respondent conducted lead-based paint abatement activities at 572 West 187<sup>th</sup> Street, New York, New York 10033.
3. The property listed in paragraph 2, above, was constructed prior to 1978, and is target housing<sup>1</sup> subject to the Lead-Based Paint Abatement Rule of TSCA.
4. Respondent, as a firm that performs, offers, or claims to perform lead-based paint abatement activities, in target housing was required to notify EPA prior to the commencement of abatement activities under 40 C.F.R. § 745.227(e)(4)(i). Respondent failed to provide such notice.
5. EPA and Respondent agree that settlement of this matter by payment of a civil penalty in the amount of \$1,000 (one 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 Lead-Based Paint Activities requirements (40 C.F.R. § 745 Subpart L); (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 therein; (4) consents to the assessment of the penalty; and (5) waives any right to contest the findings contained herein.

<sup>1</sup> 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.



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 abatement 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 \$1,000 (one 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 claims cited herein.
11. 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 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, L & D Painting & Lead Abatement**

Name (print): Luis E. Nieves

Title (print): Pres.

Signature: 

Date 7-17-2014

**APPROVED BY EPA:**

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Date 7/22/14

## FINAL ORDER

The Regional Judicial Officer of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of L & D Painting & Lead Abatement bearing Docket No. TSCA-02-2014-9273. 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: July 29, 2014  
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

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

RECEIVED  
JUL 31 2014  
R2 LEAD TEAM

IN THE MATTER OF:

L & D Painting & Lead Abatement  
Respondent.

) Docket No.  
) TSCA-02-2014-9273

) **EXPEDITED SETTLEMENT**  
) **AGREEMENT AND**  
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CLERK  
2014 SEP 11 AM 11:46  
U.S. Environmental  
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IT IS SO AGREED, **L & D Painting & Lead Abatement**

Name (print): Luis E. Nieves

Title (print): Pres.

Signature: *Luis E. Nieves*

Date 7-17-2014

APPROVED BY EPA:

DECA-RCB-UST

Date \_\_\_\_\_

31 JUL 20 11 02 AM '14  
 U.S. ENVIRONMENTAL PROTECTION AGENCY  
 Division of Enforcement and Compliance Assistance  
 Dore LaPosta, Director

In the Matter of L & D Painting & Lead Abatement  
Docket Number TSCA-02-2014- 9273

CERTIFICATE OF SERVICE

This is to certify that on the 31 day of July 2014, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2014-9273, by certified mail, return receipt requested, to:

**Mr. Luis Nieves, President  
L & D Painting & Lead Abatement  
2601 Wave Ave.  
Medford, New York 11763**

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

  
Michael Jemery