

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:	)	DOCKET NO. TSCA-03-2019-0017
)	
Tri-State Creations, LLC	)	U.S. EPA-REGION 3-RHC
10 E. 6 th Avenue, Suite 310	)	FILED-11APR2019PM3:18
Conshohocken, PA 19428)	
	)	Proceeding under Sections 16(a) and 409
Respondent.	)	of the Toxic Substances Control Act,
	)	15 U.S.C. §§ 2615(a) and 2689


EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement is entered into by the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA” or “Agency”) and Tri-State Creations, LLC (hereinafter “Respondent”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, the federal regulations set forth at 40 C.F.R. Part 745, Subpart E, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).
2. EPA finds that Respondent was subject to the “Renovation, Repair and Painting” (“RRP”) Rule set forth at 40 C.F.R. Part 745, Subpart E, promulgated under Sections 402(c) and 406(b) of TSCA, 15 U.S.C. §§ 2682(c) and 2686(b) during a “renovation” as defined by 40 C.F.R. § 745.83, of “target housing” as defined at Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.223, at four private residences in Philadelphia, Pennsylvania on the following dates: February 20, 2016, October 21, 2016, February 1, 2017, and April 21, 2017, (the Renovations).
3. During a June 16, 2017, inspection EPA collected documents. EPA finds that Respondent failed to comply with the RRP Rule during the Renovations by failing to: a) obtain initial certification from EPA to perform renovations for compensation as required by 40 C.F.R § 745.89(a); b) obtain, from the owner, a written acknowledgement that the owner has received the pamphlet or obtain a certificate of mailing at least seven (7) days prior to the renovation as required by 40 C.F.R. § 745.84(a)(1); and c) perform the recordkeeping and reporting requirements as required by 40 C.F.R § 745.86. In violating the RRP Rule, Respondent violated sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and 40 C.F.R. § 745.87(a).

4. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Expedited Settlement Agreement and the attached Final Order, (hereinafter "ESA or Agreement").
5. Except as provided in Paragraph 4 of this Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Expedited Settlement Agreement.
6. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement of this Agreement.
7. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Agreement and any right to appeal the attached Final Order.
8. Respondent consents to the issuance of this Agreement and agrees to comply with its terms and conditions.
9. Each Party to this Agreement shall bear its own costs and attorney's fees.
10. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, authorizes assessment of a civil penalty of up to \$38,892 per day, per violation, for violations occurring on or after January 15, 2018.
11. The following were considered for purposes of determining the appropriate civil penalty for the violations in this case: statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B); EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule: Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, revised April 2013; and *Lead-Based Paint (LBP) Expedited Settlement Policy (ESP)*, which was a pilot on May 29, 2012 but became a final policy on August 19, 2015. The parties enter into this Agreement in order to settle the civil violations alleged above. Pursuant to TSCA and the Consolidated Rules of Practice, based on the nature of the violations, and other relevant factors, EPA has determined an appropriate civil penalty to settle this action is **\$6,800**.
12. Respondent agrees that within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check with the case name, address and docket number of this Agreement (TSCA-03-2019-0017), for the amount specified above, payable to "**United States Treasury**," U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. Copies of the check shall be sent simultaneously to Ms. Annie Hoyt, U.S. Environmental Protection Agency, Region III (Mail Code ESC), 701 Mapes Road, Fort Meade, MD 20755-5350, and Ms. Bevin Esposito, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region III (Mail Code 3RC00), 1650 Arch Street, Philadelphia, PA 19103-2029.

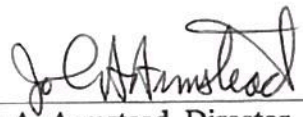
- 13. Respondent certifies, subject to civil and criminal penalties for making a false statement to the U.S. Government, that it has corrected all violations and is in full compliance with the RRP Rule including, obtaining renovator and/or firm certification and training.
- 14. This Agreement settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of the RRP Rule, TSCA or any other federal statute or regulation.
- 15. Nothing in this Agreement is intended to, nor shall be construed to operate in any way to resolve, any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment.
- 16. If Respondent does not sign and return this Agreement **within 20 days of the date of its receipt**, this proposed Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.
- 17. This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. 22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.
- 18. The undersigned representative certifies that he is fully authorized to execute this Agreement and to legally bind Tri-State Creations, LLC to this Agreement.

IT IS SO AGREED:

Name (print): Josh Schneider
 Title (Print): Member
 Signature:  Date: 3-22-19

APPROVED BY:

4.11.19
 Date


 John A. Armstead, Director
 Land and Chemicals Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:)	DOCKET NO. TSCA-03-2019-0017
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Tri-State Creations, LLC)	EXPEDITED SETTLEMENT
)	AGREEMENT
10 E. 6 th Avenue, Suite 310)	AND FINAL ORDER
Conshohocken, PA 19428)	
	)	U.S. EPA-REGION 3-RHC
	)	FILED-11APR2019PM3:18
Respondent.	)	Proceeding under Sections 16(a) and 409
	)	of the Toxic Substances Control Act,
	)	15 U.S.C. §§ 2615(a) and 2689

FINAL ORDER

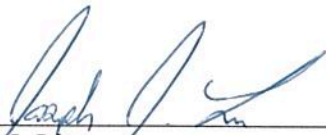
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned Respondent have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules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

WHEREFORE, pursuant to the authority of Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of the RRP Rule, and having determined, based on the representations of the parties to the attached Expedited Settlement Agreement, that the agreed-upon six thousand eight hundred dollar (\$6,800) civil penalty was based upon consideration of the

factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B) and EPA's Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule: Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule, revised April 2013, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of six thousand eight hundred dollars (\$6,800) in accordance with the payment provisions set forth in the attached Expedited Settlement Agreement.

The effective date of the foregoing Expedited Settlement Agreement and this **FINAL ORDER** is the date on which this **FINAL ORDER** is filed with the EPA Regional Hearing Clerk.

4-11-2019
Date



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

Expedited Settlement Agreement
In the Matter of: Tri State Creations, LLC
Docket Number: TSCA-03-2019-0017

CERTIFICATE OF SERVICE

I certify that on APR 11 2019, the original and one (1) copy of foregoing *Expedited Settlement Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Mr. David C. Silverman, Esq.
Sherman, Silverstein, Kohl, Rose & Podolsky, P.A.
308 Harper Drive, Suite 200
Moorestown, New Jersey 08057
Phone: 856-661-2073
Email: dsilverman@shermansilverstein.com

Copy served via **Hand Delivery or Inter-Office Mail** to:

Annie Hoyt
USEPA Region 3 (ESC)
Environmental Science Center
701 Mapes Road
Ft. Meade, MD 20755
Phone: 410-305-2640
Email: Hoyt.annie@epa.gov

Dated: APR 11 2019

Beverly Espinoza
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 7017 1450 0000 2079 0995