

U. S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 RENNER BOULEVARD

LENEXA, KANSAS 66219

2017 MAY 22 PM 1:57

BEFORE THE ADMINISTRATOR

In the Matter of:

Bryan J. Timmermeyer,

Respondent

)
)
) Docket No. TSCA-07-2017-0122
)
) EXPEDITED SETTLEMENT
) AGREEMENT AND FINAL ORDER

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency ("EPA") alleges that Bryan J. Timmermeyer ("Respondent") failed to comply with Section 1018 of the Residential Lead Based Paint Hazard Reduction Act (Disclosure Rule), 42 U.S.C. § 4852d.
2. The Disclosure Rule requires the Administrator of EPA to promulgate regulations governing the disclosure of lead-based paint hazards in target housing which is offered for sale or lease, including providing the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act (15 U.S.C. § 2686). 42 U.S.C. § 4852d(a)(1)(A). These regulations are codified at 40 C.F.R. Part 745, Subpart F.
3. 40 C.F.R. § 745.107(a)(1) requires lessors provide lessees, before the lessee is obligated under any contract to lease target housing, an EPA approved lead hazard information pamphlet entitled *Protect Your Family From Lead in Your Home* (hereinafter *Protect Your Family Pamphlet*) or an equivalent pamphlet that has been approved for use in each State by EPA.
4. Respondent, as a lessor of housing constructed prior to 1978, was required to provide lessee the *Protect Your Family Pamphlet* before the lessee was obligated under the lease. Respondent failed to provide the lessee of 3020 NE 53rd Terrace, Kansas City, Missouri, with the *Protect Your Family Pamphlet* prior to lessee being obligated under a lease dated June 1, 2016.
5. EPA and Respondent agree that settlement of this matter for a civil penalty of \$1,000.00 (one thousand dollars and no cents) is in the public interest.
6. Not more than thirty (30) calendar days after the effective date of the Final Order, Respondent shall deposit the civil penalty amount listed in Paragraph 5 by one of the following methods:

- A. Dispatch a cashier's or certified check or money order with a notation for Docket No. TSCA-07-2017-0122 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-07-2017-0122
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

- B. Dispatch a cashier's or certified check or money order by an overnight/common carrier (*e.g.*, FedEx® or United Parcel Service of America, Inc.) with a notation for Docket No. TSCA-07-2017-0122 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

- C. Make electronic payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).

7. Concurrently with Paragraph 6, Respondent shall forward a copies of the cashier's or certified check or money order or documentation of a wire transfer to the following addresses with a certification that regarding the violations alleged herein, Respondent is in compliance with the Disclosure Rule.

Cassandra Mance
Compliance Officer
WWPD/TOPE
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

By written notice to Respondent, EPA may change the address and/or person listed above.

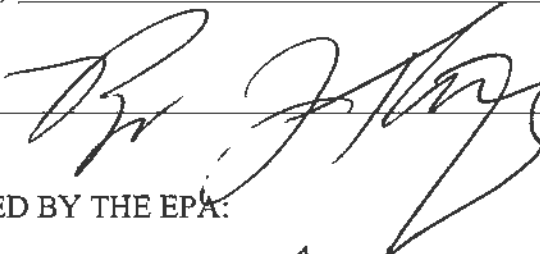
8. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).
9. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirement in Paragraph 3 (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.
11. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violation, and has submitted true and accurate documentation of such correction along with this Agreement; (b) agrees to provide payment of the civil penalty set forth in Paragraph 5; (c) agrees to submit a true and accurate proof of payment of said civil penalty as set forth in Paragraph 7; and (d) agrees to release said payment to EPA upon entry of the Final Order attached hereto.
12. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in Paragraph 5, Respondent shall be resolved of liability for Federal civil penalties for the violation and facts only alleged herein.
13. 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.
14. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, the Disclosure Rule, any other federal statute or regulation, or this Agreement.
15. 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. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.
17. Each party shall bear its own costs and fees, if any.

18. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.
19. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

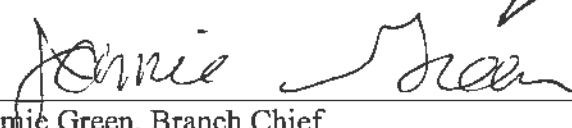
Name (print): Bryan Timmermeyer

Title (print): _____

Signature: 

Date: 5-1-2017

APPROVED BY THE EPA:



Jamie Green, Branch Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 5/10/2017



Kelley Catlin
Office of Regional Counsel

Date: 5/10/17

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. Bryan J. Timmermeyer ("Respondent") shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of \$1,000.00 (one thousand dollars and no cents); and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via a certified or cashier's check or money order or through a wire transfer as described in the Expedited Settlement Agreement.

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 BORRROMEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

Date: May 22, 2017

IN THE MATTER Of Bryan J. Timmermeyer, Respondent
Docket No. TSCA-07-2017-0122

CERTIFICATE OF SERVICE

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

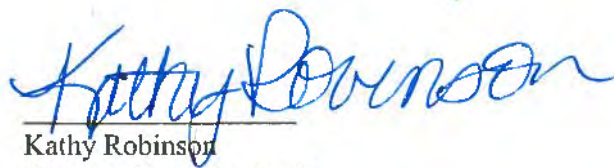
Copy via Email to Complainant:

catlin.kelley@epa.gov

Copy via First Class Mail to Respondent:

Mr. Bryan J. Timmermeyer
3500 NE Shady Lane Drive
Kansas City, Missouri 64119

Dated: 5/23/17



Kathy Robinson
Hearing Clerk, Region 7