

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
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**U. S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

**BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
Farr Rentals LLC ) **Docket No. TSCA-07-2018-0188**  
Canton, Missouri 63435 )  
 )  
Respondent )

**CONSENT AGREEMENT AND FINAL ORDER**

The U.S. Environmental Protection Agency (EPA or Complainant), Region 7 and Farr Rentals LLC (Respondent), have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of 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. §§ 22.13(b) and 22.18(b)(2).

**Section I**

**Jurisdiction**

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated Section 409 of the TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F, *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential*

*Property*, promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

## **Section II**

### **Parties**

3. The Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA, Region 7, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.

4. The Respondent is Farr Rentals LLC located in Canton, Missouri.

## **Section III**

### **Statutory and Regulatory Background**

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended the TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. Section 1018 of the Act required the EPA and the Department of Housing and Urban Development (HUD) to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phase out of residential lead-based paint use in 1978. The regulations, issued March 6, 1996, and codified at 40 C.F.R. Part 745 Subpart F, require that sellers and lessors of most residential housing built before 1978: a) disclose the presence of known lead-based paint and/or lead-based paint hazards in the target housing; b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; c) provide purchasers and lessees with a federally approved lead hazard information pamphlet; d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for

the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; and e) include certain disclosure and acknowledgment language in the sales or leasing contract.

6. The regulation at 40 C.F.R. § 745.87(a) provides that failure or refusal to comply with any provision of 40 C.F.R. Part 745, Subpart E, is a violation of Section 409 of TSCA, 15 U.S.C. § 2689. Section 409 of TSCA, 15 U.S.C. § 2689, provides that it shall be unlawful for any person to fail to comply with, *inter alia*, any provision of 40 C.F.R. Part 745, Subpart E.

7. Section 18(b)(5) of the Residential Lead Based Paint Hazard Reduction Act, 42 U.S.C. § 4852d(b)(5), authorizes the EPA Administrator to assess a civil penalty of up to \$10,000 for each violation of the Residential Lead Based Paint Hazard Reduction Act, prohibited under Section 409 of TSCA, 15 U.S.C. § 2689, and the penalty authority set forth under Section 16 of TSCA, 15 U.S.C. § 2615. The Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased the statutory maximum penalties to \$17,047 for violations that occur after November 2, 2015.

## Section IV

### General Factual Allegations

8. Respondent is, and at all times referred to herein was a “person” within the meaning of the TSCA.

9. Respondent is the “lessor” as defined by 40 C.F.R. § 745.103, for the lease of 207 N. 6<sup>th</sup>, Canton, Missouri (the Property).

10. The Property was constructed before 1978.

11. The Property is “target housing” as defined by 40 C.F.R. § 745.103.

**Violations**

12. The Complainant hereby states and alleges that Respondent has violated the TSCA and federal regulations promulgated thereunder, as follows:

**Count 1**

13. The facts stated in Paragraphs 8 through 12 above are herein incorporated.

14. Respondent entered into a contract to lease the target housing unit located at 207 N. 6<sup>th</sup>, Canton, Missouri on or about November 1, 2015.

15. Respondent failed to provide the lessee(s) of 207 N. 6<sup>th</sup>, Canton, Missouri, with an EPA-approved lead hazard information pamphlet or to perform any other lead-based paint disclosure activities before lessee(s) was obligated under contract to lease the target housing unit.

16. Respondent's failure to perform the acts indicated in Paragraph 15 above are a violation of 40 C.F.R. §§ 745.107(a)(1), and in accordance with 40 C.F.R. § 745.118(e), violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of the TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of the TSCA, 15 U.S.C. § 2615.

**Section V**

**Consent Agreement**

17. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

18. Respondent neither admits nor denies the factual allegations set forth above.

19. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

20. Respondent and the EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

21. The undersigned representative of Respondent certifies that she is fully authorized to enter into the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

22. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F.

23. 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 Sixteen Thousand Dollars (\$16,000). The penalty has been adjusted to reflect Respondent's size of business. 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. Because of Respondent's inability to pay the penalty, therefore, Complainant conditionally agrees to resolve the claims alleged herein.

24. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Zero Dollars (\$0.00), based on a substantiated ability to pay claim.

25. Complainant reserves the right to take any enforcement action with respect to any other violations of the TSCA or any other applicable law and/or regulation administered by the EPA.

26. The effect of settlement described in Paragraph 23 above is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in Paragraph 22 of this Consent Agreement and Final Order.

27. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty as specified in the Final Order.

**Section VI**

**Final Order**

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

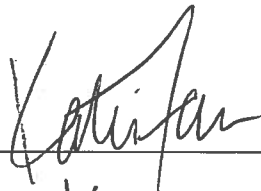
1. Based on an analysis of Respondent's ability to pay, EPA is not assessing a civil penalty in this matter.

2. Respondent and Complainant shall each bear their own costs and attorney's fees incurred as a result of this matter.

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

**RESPONDENT  
FARR RENTALS LLC**

Date: 3/30/18


By: 

Katie Farr  
Print Name

owner  
Title

**COMPLAINANT**  
**U. S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 4/4/18

  
\_\_\_\_\_  
for Jamie Green, Chief  
Toxics and Pesticides Branch  
Water, Wetlands, and Pesticides Division

Date: 4/4/18

  
\_\_\_\_\_  
Julie Murray  
Office of Regional Counsel



**IT IS SO ORDERED.**

Date: April 9, 2018

Karina Borromeo

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

CERTIFICATE OF SERVICE

I certify that on the date below, I hand delivered the original and one true copy of this Consent Agreement and Final Order to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. I further certify that a true and correct copy of the foregoing order was sent this day in the following manner to the addressees:

Copy via electronic mail to Respondent:

Ms. Katie Farr  
*kmf1989@icloud.com*

AND

Copy via Certified Mail, Return Receipt Requested to Respondent:

Ms. Katie Farr  
Registered Agent  
Farr Rentals LLC  
511 Clark Street  
Canton, Missouri 63435

Dated this 9<sup>th</sup> day of April, 2018.

  
\_\_\_\_\_  
Signed