



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2013 JUN -4 P 4: 05

REGIONAL HEARING
CLERK

JUN - 4 2013

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Mr. Faisal Ahmed
Accolade Construction Group, Inc.
320 E. 22nd Street, Apt.2A
New York, New York 10010

Re: Accolade Construction Group, Inc., Docket No. TSCA-02-2013-9271

Dear Mr. Ahmed,

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the United States Environmental Protection Agency. This letter was previously mailed to you on April 10, 2013 and was returned as undeliverable to our offices on May 22nd. During our conversation yesterday about this matter, you indicated that this was a mistake and that EPA should redeliver the document to the same address.

Please note that payment is due within forty-five (45) days of the date on which the Regional Judicial Officer signed the enclosed Consent Agreement and Final Order. Please arrange for payment of this penalty according to the schedule and instructions given in the Order.

Sincerely yours,

Stuart N. Keith
Assistant Regional Counsel
Waste & Toxic Substances Branch
Office of Regional Counsel

Enclosures

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

REGIONAL HEARING
CLERK

-----X
: In the Matter of :
: :
: CONSENT AGREEMENT :
: AND :
: :
: FINAL ORDER :
: :
: Docket No. :
: TSCA-02-2013-9271 :
: :
-----X

In the Matter of

Accolade Construction Group, Inc.,

Respondent.

Proceeding under Section 16(a) of
the Toxic Substances Control Act.

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" at 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice") provide in 40 C.F.R. Section 22.13(b) that where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. Section 22.18(b)(2) and (3).

On May 30, 2012, the Chief of the Pesticides and Toxic Substances Branch, Division of

Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (“EPA”), issued an Opportunity to Show Cause Letter for Violations of the Toxic Substances Control Act (“Show Cause Letter”) to Respondent Accolade Construction Group, Inc. (“Respondent”), whose primary place of business is or was located at 320 E. 22nd Street, Apt.2A, New York, New York 10010. The Show Cause for TSCA Violations letter alleged that Respondent failed to ensure compliance with provisions of 40 C.F.R. Part 745, Subpart E, from September 2010 to June 2011 for a residential property renovation that Respondent was engaged in. Any failure or refusal to ensure compliance with the regulations is a violation of 42 U.S.C. Section 4852d(b)(5) and TSCA Section 409, 15 U.S.C. § 2689.

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. Section 22.13(b) and 40 C.F.R. Section 22.18(b)(2) and (3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT

1. Respondent is Accolade Construction Group, Inc.
2. Respondent’s primary place of business is or was located at 320 E. 22nd Street, Apt. 2A, New York, New York 10010.
3. On or about January 4, 2011, duly designated representatives of the EPA conducted an inspection of Respondent’s renovation activities at 36 Gramercy Park East, New York, New York, hereinafter “the inspection”.
4. As a result of the inspection, EPA determined that Respondent was a firm engaged in lead renovation activities from September 2010 to June 2011 and failed to: (1) provide the owner of the dwelling unit with the EPA-approved lead hazard information pamphlet pursuant to

40 C.F.R. § 745.84(a)(1); (2) post signs clearly defining the work area and to warn occupants and other persons not involved in renovation activities to remain outside of the work area; to prepare, to the extent practicable, signs in the primary language of the occupants; and to post signs before beginning the renovation and make sure they remain in place and readable until the renovation and the post-renovation cleaning verification have been completed, pursuant to 40 C.F.R.

§ 745.85(a)(1); (3) obtain initial certification from EPA under 40 C.F.R. § 745.89(a), pursuant to 40 C.F.R. § 745.81(a)(2)(ii); (4) ensure that individuals performing renovation on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90, as required by 40 C.F.R. § 745.89(d); (5) before beginning the renovation, to close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material, pursuant to 40 C.F.R. § 745.85(a)(2)(i)(B); (6) close windows in the work area pursuant to 40 C.F.R. § 745.85(a)(2)(i)(C); and (7) use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area, pursuant to 40 C.F.R.

§ 745.85(a)(2)(i)(E).

5. On September 6, 2012, the parties met for an informal settlement conference and negotiated this settlement.

CONCLUSIONS OF LAW

1. Respondent, a firm that engages in lead abatement activities, is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, and set forth at 40 C.F.R. Part 745, Subpart E.

2. Based on the Respondent's failure to comply with the regulations cited in paragraph 4 of the Findings of Fact above, EPA has determined Respondent committed

violations of those regulations which are violations of Sections 15 and 409 of TSCA, 15 U.S.C. § 2614 and § 2689.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of 40 C.F.R. Part 745, Subpart E.
2. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) to commence a civil administrative proceeding for the violations described in the "Conclusions of Law" section, above; (b) neither admits nor denies the specific factual determinations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the determination set forth in paragraph 2 of the "Conclusions of Law" section, above.
3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)** to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

Alternatively, payment may be by electronic fund transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- 6) Accolade Construction Group, Inc.
- 7) Docket Number TSCA-02-2013-9271

Payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date"). Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007

and

James Crossmon, Lead Team
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-225
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of

payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims described in Paragraph 4 of the Finding of Fact and Paragraph 2 of the Conclusions of Law set forth above. Nothing herein shall be read to preclude EPA or the United States from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent hereby waives its right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on the determinations contained in the "Findings of Fact" section, and in the "Conclusions of Law" section. Respondent further waives its right otherwise to contest all such determinations.

7. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, the Deputy Regional Administrator, or the Regional Judicial Officer where the purpose of such discussion, memorandum, or

communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

8. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT: **Accolade Construction Group, Inc.**
BY: [Signature]
NAME: Faisal Ahmed
(PLEASE PRINT)
TITLE: PRESIDENT
DATE: 3/20/13

COMPLAINANT: [Signature]
Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency, Region 2
290 Broadway
New York, New York 10007
DATE: April 2, 2013

In the Matter of Accolade Construction Group, Inc.
Docket Number TSCA-02-2013-9271

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Accolade Construction Group Inc., bearing Docket Number TSCA-02-2013-9271. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, 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 Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.

DATE: April 9, 2013

Helen Ferrara

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007

In the Matter of Accolade Construction Group Inc.,
Docket Number TSCA-02-2013-9271

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk.
U.S. EPA- Region II
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail Return Receipt Requested:

Mr. Faisal Ahmed
Accolade Construction Group, Inc.
320 E. 22nd Street, Apt.2A
New York, New York 10010

Dated: **APR 10 2013**
New York, New York


