

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 4

In the Matter of:

**Aprinta Real Estate Holdings LLC**

Respondent.

Docket No. **TSCA-04-2020-3203(b)**

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Enforcement and Compliance Assurance Division of the Environmental Protection Agency (EPA), who has been delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA. Respondent is Aprinta Real Estate Holdings LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

**II. Preliminary Statements**

3. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of the EPA promulgated regulations in 40 C.F.R. Part 761 pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates Section 15 of TSCA, 15 U.S.C. § 2614 may be assessed a civil penalty in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. Part 19, as amended. Each day a violation continues may constitute a separate violation.

### III. Specific Allegations

4. Respondent is a user of PCB Items operating in the State of Alabama and is a "person" as defined in 40 C.F.R. § 761.3.
5. On or about June 25, 2019 and March 10, 2020, inspectors with the Alabama Department of Environmental Management conducted inspections on behalf of the EPA at a facility owned and operated by Respondent, located at 694 1<sup>st</sup> Way, Alexander City, Alabama, to determine compliance with the PCB regulations.
6. At the time of the inspections, one (1) Westinghouse PCB-Contaminated Transformer (Serial # 69M12050) containing approximately 100 gallons of fluid with a PCB concentration of 189 parts per million (ppm) and twelve (12) assumed-to-be PCB Capacitors in three (3) capacitor banks (Serial # VCI-307894-B, Serial # VCI-301892, and the third capacitor bank with an unidentified Serial #) were observed as being disposed in the field behind the warehouse located at the facility.
7. The term "PCB Capacitor" is defined in 40 C.F.R. § 761.3, as any capacitor that contains  $\geq 500$  ppm PCBs.
8. According to 40 C.F.R. § 761.2(a)(4), if the date of manufacture of a capacitor is unknown, any person must assume the capacitor contains  $\geq 500$  ppm PCBs. Any such capacitor therefore is assumed to be a PCB Capacitor.
9. The term "PCB-Contaminated Electrical Equipment" is defined in 40 C.F.R. § 761.3, as any electrical equipment including, but not limited to, transformers that contain PCBs at concentrations of  $\geq 50$  ppm and  $< 500$  ppm in the contaminating fluid.
10. The term "PCB items" is defined in 40 C.F.R. § 761.3, as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
11. The term "PCB article" is defined in 40 C.F.R. § 761.3, as any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB Article" includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item (1) which is formed to a specific shape or design during manufacture; (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.
12. 40 C.F.R. § 761.3 defines "Disposal" as intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. "Disposal" includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.
13. 40 C.F.R. § 761.50(b)(2) states that any person removing from use a PCB Item containing an intact and non-leaking PCB Article must dispose of it in accordance with 40 C.F.R. § 761.60(b), or decontaminate it in accordance with 40 C.F.R. § 761.79. During the inspections, the PCB Items

identified in Paragraph 6, above, were observed as being illegally disposed in the field behind the warehouse. Therefore, the EPA alleges that the Respondent disposed of PCBs in violation of 40 C.F.R. § 761.50(b)(2).

14. On June 3, 2020, Respondent properly removed and disposed the PCB Items identified in Paragraph 6, above.
15. Pursuant to 40 C.F.R. § 761.205(a)(2), all generators (other than generators exempt from notification under paragraph (c)(1) of this section), commercial storers, transporters, and disposers of PCB waste who first engage in PCB waste handling activities after February 5, 1990, shall notify the EPA of their PCB waste activities by filing EPA Form 7710-53 with the EPA prior to engaging in PCB waste handling activities. The EPA alleges that Respondent failed to notify the EPA of its waste handling activities in violation of 40 C.F.R. § 761.205(a)(2).

#### **IV. Consent Agreement**

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual and legal allegations.
17. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
18. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
19. Respondent certifies that, to the best of its knowledge, as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
20. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or the U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect the Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.
21. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.
22. The parties agree to accept service of this CAFO by email to the individuals named in the Certificate of Service who are each authorized to receive service.

#### **V. Terms of Payment**

23. Respondent is assessed a civil penalty of **TWENTY-SEVEN THOUSAND AND SIX HUNDRED DOLLARS (\$27,600.00)**, which shall be paid within 30 days from the effective date of this CAFO.

24. Respondent shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Respondent's name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Address for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station: SL-MO-C2-GL  
St. Louis, Missouri 63101  
Delivery Contact Phone Number: (314) 425-1819

If paying by EFT, transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
REX (Remittance Express): 1-866-234-5681

25. At the time of payment, Respondent shall email a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960  
bullock.patricia@epa.gov;

and

Kris Lippert  
Chemical Safety Section  
Enforcement Compliance and Assurance Division  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960  
lippert.kris@epa.gov.

26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
27. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.
30. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

#### **VI. Effective Date**

31. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages]**

The forgoing Consent Agreement In the Matter of **Aprinta Real Estate Holdings LLC**, Docket Number **TSCA-04-2020-3203(b)** Is Hereby Stipulated, Agreed and Approved for Entry.

FOR RESPONDENT:

*Dilip Bhavnani*  
Signature

August 5, 2020  
Date

Printed Name: Dilip K. Bhavnani  
Title: Partner  
Address: 6600 Bandini Blvd., Los Angeles, CA 90040

The forgoing Consent Agreement In the Matter of **Aprinta Real Estate Holdings LLC**, Docket Number **TSCA-04-2020-3203(b)** Is Hereby Stipulated, Agreed and Approved for Entry.

FOR COMPLAINANT:

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Carol L. Kemker  
Director  
Enforcement Compliance and Assurance Division  
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

**Aprinta Real Estate Holdings LLC**

Respondent.

Docket No. **TSCA-04-2020-3203(b)**

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED.**

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Tanya Floyd  
Regional Judicial Officer



## CERTIFICATE OF SERVICE

I certify that the foregoing “Consent Agreement” and “Final Order,” in the Matter of Aprinta Real Estate Holdings LLC, Docket No. TSCA-04-2020-3203(b), were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

To Respondent:        Dilip Bhavnani  
                                  Managing Partner  
                                  Aprinta Real Estate Holdings LLC  
                                  6600 Bandini Boulevard  
                                  Los Angeles, California 90040  
                                  Tel.: (213) 820-9596  
                                  [dilip@sunscopeusa.com](mailto:dilip@sunscopeusa.com)

To EPA:                    Kris Lippert, Environmental Engineer  
                                  [lippert.kris@epa.gov](mailto:lippert.kris@epa.gov)  
                                  (404) 562-8605

                                  Robert Caplan, Senior Attorney  
                                  [caplan.robert@epa.gov](mailto:caplan.robert@epa.gov)  
                                  (404) 562-9520

                                  Quantindra Smith  
                                  [smith.quantindra@epa.gov](mailto:smith.quantindra@epa.gov)  
                                  (404) 562-9520

                                  U.S. EPA Region 4  
                                  61 Forsyth Street, S.W.  
                                  Atlanta, Georgia 30303-8960

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Patricia A. Bullock, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960