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U.S.EPA - Region 09

1  
2 UNITED STATES  
3 ENVIRONMENTAL PROTECTION AGENCY  
4 REGION IX  
5 75 HAWTHORNE STREET  
6 SAN FRANCISCO, CA 94105

7 In the Matter of: )  
8 )  
9 Port Street Realty Corporation ) Docket No. TSCA-09-2015-0010  
10 and ColFin AI-CA 4, LLC, ) CONSENT AGREEMENT  
11 ) AND FINAL ORDER  
12 )  
13 )  
14 Respondents. )

15 I. CONSENT AGREEMENT

16 Complainant, the Chief of the Waste and Chemical Section,  
17 Enforcement Division of the United States Environmental  
18 Protection Agency, Region IX ("EPA") and Respondents, Port  
19 Street Realty Corporation and ColFin AI-CA 4, LLC  
20 ("Respondents") agree to settle this matter and consent to the  
21 entry of this Consent Agreement and Final Order ("CAFO").

22 A. AUTHORITY

23 1. EPA initiated this civil administrative proceeding for  
24 the assessment of a civil penalty pursuant to Section 16(a) of  
25 the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a),  
26 by issuing a Complaint and Notice of Opportunity for Hearing  
27 ("Complaint") against Respondents on June 22, 2015, in accordance  
28 with the Consolidated Rules of Practice Governing the  
Administrative Assessment of Civil Penalties and the  
Revocation/Termination or Suspension of Permits at 40 C.F.R. Part  
22.

29 2. The Complaint alleges that Respondents violated Section  
30 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with Section

1 1018 of Title X of the Residential Lead-Based Paint Hazard  
2 Reduction Act of 1992 ("Section 1018"), 42 U.S.C. § 4852d, and  
3 federal regulations promulgated to implement Section 1018 at 40  
4 C.F.R. Part 745, Subpart F.

5 3. EPA and Respondents have agreed to resolve this civil  
6 administrative proceeding by executing this CAFO pursuant to 40  
7 C.F.R. § 22.18(b).

8 B. RESPONDENTS' ADMISSIONS

9 4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the  
10 purpose of this proceeding, Respondents (i) admit that EPA has  
11 jurisdiction over the subject matter of this CAFO and over  
12 Respondents; (ii) neither admit nor deny the specific factual  
13 allegations contained in the Complaint; (iii) consent to any and  
14 all conditions specified in this CAFO and to the assessment of  
15 the civil administrative penalty under Section I.C of this CAFO;  
16 (iv) waive any right to contest the allegations contained in the  
17 Complaint; and (v) waive the right to appeal the proposed final  
18 order contained in this CAFO.

19 C. CIVIL ADMINISTRATIVE PENALTY

20 5. Respondents agree to the assessment of a penalty in the  
21 amount of FOUR THOUSAND, SIX HUNDRED AND NINETY DOLLARS (\$4,690)  
22 as final settlement of the civil claims against Respondents  
23 arising under TSCA as alleged in the Complaint.

24 6. Respondents shall pay the assessed penalty no later than  
25 thirty (30) days after the effective date of the CAFO.

26 The assessed penalty shall be paid by **certified or cashier's**

27

1 check, payable to "Treasurer, United States of America," or paid  
2 by one of the other methods listed below and sent as follows:

3 Regular Mail:

4 U.S. Environmental Protection Agency  
5 Fines and Penalties  
6 Cincinnati Finance Center  
7 PO Box 979077  
8 St. Louis, MO 63197-9000

9 Wire Transfers:

10 Wire transfers must be sent directly to the Federal Reserve Bank  
11 in New York City with the following information:

12 Federal Reserve Bank of New York  
13 ABA = 021030004  
14 Account = 68010727  
15 SWIFT address = FRNYUS33  
16 33 Liberty Street  
17 New York, NY 10045  
18 Field Tag 4200 of the Fedwire message should read "D 68010727  
19 Environmental Protection Agency"

20 Overnight Mail:

21 U.S. Bank  
22 1005 Convention Plaza  
23 Mail Station SL-MO-C2GL  
24 ATTN Box 979077  
25 St. Louis, MO 63101

26 ACH (also known as REX or remittance express):

27 Automated Clearinghouse (ACH) for receiving US currency  
28 PNC Bank  
29 808 17th Street, NW  
30 Washington, DC 20074  
31 ABA = 051036706  
32 Transaction Code 22 - checking  
33 Environmental Protection Agency  
34 Account 31006  
35 CTX Format

36 On Line Payment:

37 This payment option can be accessed from the information below:

38 [www.pay.gov](http://www.pay.gov)  
39 Enter "sf01.1" in the search field  
40 Open form and complete required fields

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42 and ColFin AI-CA 4, LLC

1 If clarification regarding a particular method of payment  
2 remittance is needed, contact the EPA Cincinnati Finance Center  
3 at 513-487-2091.

3 Concurrently, a copy of the check or notification that the  
4 payment has been made by one of the other methods listed above,  
5 including proof of the date payment was made, shall be sent with  
6 a transmittal letter indicating Respondents' names, the case  
7 title, and the docket number to:

8 a) Regional Hearing Clerk (ORC-1)  
9 Office of Regional Counsel  
10 U.S. Environmental Protection Agency, Region IX  
11 75 Hawthorne Street  
12 San Francisco, California 94105

11 b) Max Weintraub  
12 Waste and Chemical Section (ENF-2-2)  
13 Enforcement Division  
14 U.S. Environmental Protection Agency, Region IX  
15 75 Hawthorne Street  
16 San Francisco, CA 94105

15 7. Payment of the above civil administrative penalty shall  
16 not be used by Respondents or any other person as a tax deduction  
17 from Respondents' federal, state, or local taxes.

18 8. If Respondents fail to pay the assessed civil  
19 administrative penalty specified in Paragraph 5 by the deadline  
20 specified in Paragraph 6, then Respondents shall pay to EPA a  
21 stipulated penalty of \$150 per day in addition to the assessed  
22 penalty. Stipulated penalties shall accrue until such time as  
23 the assessed penalty and all accrued stipulated penalties are  
24 paid and shall become due and payable upon written request by  
25 EPA. In addition, failure to pay the civil administrative  
26 penalty by the deadline specified in Paragraph 6 may lead to any  
27 or all of the following actions:

1 a. The debt being referred to a credit reporting agency, a  
2 collection agency, or to the Department of Justice for filing of  
3 a collection action in the appropriate United States District  
4 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such  
5 collection action, the validity, amount, and appropriateness of  
6 the assessed penalty and of this CAFO shall not be subject to  
7 review.

8 b. The debt being collected by administrative offset (i.e., the  
9 withholding of money payable by the United States to, or held by  
10 the United States for, a person to satisfy the debt the person  
11 owes the Government), which includes, but is not limited to,  
12 referral to the Internal Revenue Service for offset against  
13 income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

14 c. EPA may (i) suspend or revoke Respondents' licenses or other  
15 privileges; or (ii) suspend or disqualify Respondents from doing  
16 business with EPA or engaging in programs EPA sponsors or funds.  
17 40 C.F.R. § 13.17.

18 d. In accordance with the Debt Collection Act of 1982 and 40  
19 C.F.R. Part 13 interest, penalties charges, and administrative  
20 costs will be assessed against the outstanding amount that  
21 Respondents owe to EPA for Respondents' failure to pay the civil  
22 administrative penalty by the deadline specified in Paragraph 6.  
23 Interest will be assessed at an annual rate that is equal to the  
24 rate of current value of funds to the United States Treasury  
25 (i.e., the Treasury tax and loan account rate) as prescribed and  
26 published by the Secretary of the Treasury in the Federal  
27 Register and the Treasury Fiscal Requirements Manual Bulletins.

1 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed  
2 monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).  
3 Administrative costs for handling and collecting Respondents'  
4 overdue debt will be based on either actual or average cost  
5 incurred, and will include both direct and indirect costs. 40  
6 C.F.R. § 13.11(b). In addition, if this matter is referred to  
7 another department or agency (e.g., the Department of Justice,  
8 the Internal Revenue Service), that department or agency may  
9 assess its own administrative costs, in addition to EPA's  
10 administrative costs, for handling and collecting Respondents'  
11 overdue debt.

12 D. RESPONDENTS' CERTIFICATION

13 9. In executing this CAFO, Respondents certify that, to  
14 the best of Respondents' knowledge, they are now fully in  
15 compliance with Section 1018 and federal regulations promulgated  
16 to implement Section 1018 at 40 C.F.R. Part 745, Subpart F.

17 E. RETENTION OF RIGHTS

18 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO only  
19 resolves Respondents' liability for federal civil penalties for  
20 the violations and facts specifically alleged in the Complaint.  
21 Nothing in this CAFO is intended to or shall be construed to  
22 resolve (i) any civil liability for violations of any provision  
23 of any federal, state, or local law, statute, regulation, rule,  
24 ordinance, or permit not specifically alleged in the Complaint;  
25 or (ii) any criminal liability. EPA specifically reserves any  
26 and all authorities, rights, and remedies available to it  
27 (including, but not limited to, injunctive or other equitable

1 relief or criminal sanctions) to address any violation of this  
2 CAFO or any violation not specifically alleged in the Complaint.

3 11. This CAFO does not exempt, relieve, modify, or affect  
4 in any way Respondents' duty to comply with all applicable  
5 federal, state, and local laws, regulations, rules, ordinances,  
6 and permits.

7 F. ATTORNEYS' FEES AND COSTS

8 12. Each party shall bear its own attorneys' fees, costs,  
9 and disbursements incurred in this proceeding.

10 G. EFFECTIVE DATE

11 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and  
12 22.31(b), this CAFO shall be effective on the date that the final  
13 order contained in this CAFO, having been approved and issued by  
14 either the Regional Judicial Officer or Regional Administrator,  
15 is filed.

16 H. BINDING EFFECT

17 14. The undersigned representative of Complainant and the  
18 undersigned representative of Respondents each certifies that he  
19 or she is fully authorized to enter into the terms and conditions  
20 of this CAFO and to bind the party he or she represents to this  
21 CAFO.

22 15. The provisions of this CAFO shall apply to and be  
23 binding upon Respondents and their officers, directors,  
24 employees, agents, trustees, servants, authorized  
25 representatives, successors, and assigns.

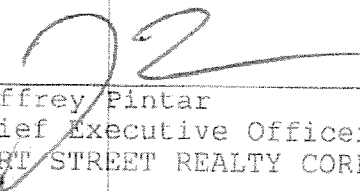
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27 In the Matter of Port Street Realty Corporation  
28 and ColFin AI-CA 4, LLC

1 FOR RESPONDENT, PORT STREET REALTY CORPORATION

2 7.3. 2015

3 DATE

  
Jeffrey Pinter  
Chief Executive Officer  
PORT STREET REALTY CORPORATION

6 FOR RESPONDENT, COLFIN AI-CA 4, LLC

7 2015

8 DATE

Name:  
Title:  
ColFin AI-CA 4, LLC

11 FOR COMPLAINANT, EPA REGION IX:

12 2015

13 DATE

Douglas K. McDaniel  
Chief, Waste and Chemical Section  
Enforcement Division  
U.S. ENVIRONMENTAL PROTECTION AGENCY,  
REGION IX

27 In the Matter of Port Street Realty Corporation  
28 and ColFin AI-CA 4, LLC



1 FOR RESPONDENT, PORT STREET REALTY CORPORATION


2

3 \_\_\_\_\_ 2015  
DATE

\_\_\_\_\_  
Jeffrey Pintar  
Chief Executive Officer  
PORT STREET REALTY CORPORATION


6 FOR RESPONDENT, COLFIN AI-CA 4, LLC

7 July 22, 2015  
8 DATE

\_\_\_\_\_  
  
Name: Fred Tuomi  
Title: Authorized Signatory  
ColFin AI-CA 4, LLC

11 FOR COMPLAINANT, EPA REGION IX:

12 AUGUST 5, 2015  
13 DATE

\_\_\_\_\_  
  
Douglas K. McDaniel  
Chief, Waste and Chemical Section  
Enforcement Division  
U.S. ENVIRONMENTAL PROTECTION AGENCY,  
REGION IX

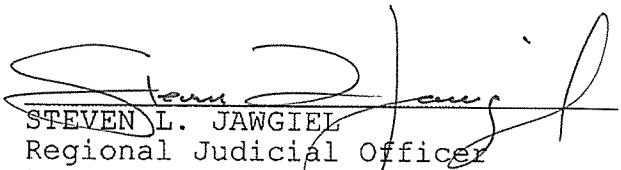
27 In the Matter of Port Street Realty Corporation  
28 and ColFin AI-CA 4, LLC

1  
2 II. FINAL ORDER

3 Complainant and Respondents, having entered into the  
4 foregoing Consent Agreement,

5 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-  
6 2015-0010) be entered, and that Respondents shall pay a civil  
7 administrative penalty in the amount of FOUR THOUSAND, SIX  
8 HUNDRED AND NINETY DOLLARS (\$4,690) and comply with the terms and  
9 conditions set forth in the Consent Agreement. This Consent  
10 Agreement and Final Order shall become effective upon filing.

11  
12 08/06/15  
13 DATE

  
14 STEVEN L. JAWGIEL  
15 Regional Judicial Officer  
16 U.S. Environmental Protection  
17 Agency, Region IX  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 In the Matter of Port Street Realty Corporation  
28 and ColFin AI-CA 4, LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of Port Street Realty and ColFin AI-CA 4 (TSCA-09-2015-0010), signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk, and was served on Respondents, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:  
(certified with return receipt)

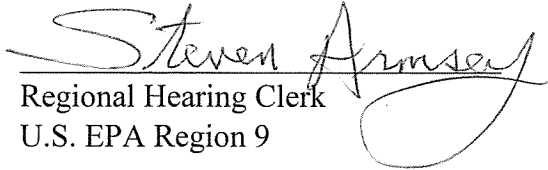
Respondents - Jeffrey Pintar  
Chief Executive Officer  
Port Street Realty Corporation  
27772 Calle Arroyo  
San Juan Capistrano, CA 92675

Steven Mehlman, Esq.  
Law Offices of Kimball, Tirey & St. John LLP  
500 Ygnacio Valley Road, Suite 290  
Walnut Creek, CA 94596

HAND DELIVERED:

Complainant - Carol Bussey, Esq.  
Office of Regional Counsel  
Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA

Dated at San Francisco, CA this day of Aug. 6, 2015.

  
Regional Hearing Clerk  
U.S. EPA Region 9