

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

|  |   |   |
|--|---|---|
| In the Matter of:                            | ) | DOCKET NO.: TSCA-03-2018-0140           |
|  | ) |   |
| American Heritage Property Management, LLC   | ) | Proceeding Under Section 16(a) of the   |
| 131 Centerville Road, Suite C                | ) | Toxic Substances Control Act, 15 U.S.C. |
| Lancaster, Pennsylvania 17603                | ) | Section 2615(a)                         |
|  | ) |   |
| Respondent,                                  | ) |   |
|  | ) |   |
| 411 Elwyn Terrace in Manheim, Pennsylvania   | ) | <b>U.S. EPA-REGION 3-RHC</b>            |
| 127 Church Street in Lancaster, Pennsylvania | ) | FILED-13SEP2018pm3:16                   |
|  | ) |   |
| Target Housing.                              | ) |   |
|  | ) |   |

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**CONSENT AGREEMENT**

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Preliminary Statement

This Consent Agreement is entered into by the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and American Heritage Property Management, LLC (“Respondent”) pursuant to Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act (“RLBPHRA”), 42 U.S.C. § 4852d(b)(5); Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689; and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under RLBPHRA or TSCA arising from alleged violations of the Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property regulations codified at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”) and the Residential Property Renovation regulations codified at 40 C.F.R. 745, Subpart E (the “RRP Rule”).

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.

4. For the purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
6. Respondent shall bear his own costs and attorney's fees.
7. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

Complainant's Findings of Fact and Conclusions of Law

8. In accordance with 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
9. At all relevant times to the violations alleged in this Consent Agreement, Respondent was a limited liability company registered in the Commonwealth of Pennsylvania and a "person" under Section 1018(b)(5) of RLBPHRA, 42 U.S.C. § 4852d(b)(5), and under Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689.
10. At all relevant times to the violations alleged in this Consent Agreement, the "residential dwelling[s]" located at 411 Elwyn Terrace in Manheim, Pennsylvania and at 127 Church Street in Lancaster, Pennsylvania described below were constructed prior to 1978 and were not "housing for the elderly" or persons with disabilities or "0-bedroom dwelling[s]" as those terms are defined in 40 C.F.R. § 745.103, and were each "target housing" as this term is defined at 40 C.F.R. § 745.103 and incorporated by reference at 40 C.F.R. § 745.83.

**DISCLOSURE RULE VIOLATIONS**

11. The allegations contained in Paragraphs 1 through 10 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
12. Respondent was an "agent" or "lessor" in connection with a January 28, 2015 lease transaction involving a residential dwelling located at 411 Elwyn Terrace in Manheim, Pennsylvania, as those terms are defined at 40 C.F.R. § 745.103.
13. The lease transaction involving the residential dwelling described in Paragraph 12 was not a lease of target housing found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program as provided at 40 C.F.R. § 745.101(b); a short-term lease of 100 days or less, where no lease renewal or extension can occur as provided at 40 C.F.R. § 745.101(c), or a renewal of an existing lease in which the lessor has previously disclosed all information required under § 745.107 and where no new information described in § 745.107 has come into the possession of the lessor as provided at 40 C.F.R. § 745.101(d).



COUNT 1 - FAILURE TO PROVIDE LEAD HAZARD INFORMATION PAMPHLET

14. The allegations contained in Paragraphs 1 through 13 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
15. Pursuant to 40 C.F.R. § 745.115(a), each agent is required to ensure compliance with all requirements of the Disclosure Rule. To ensure compliance, the agent must either ensure that the lessor has performed all activities required under §§ 745.107, 745.110, and 745.113 or personally ensure compliance with the requirements of §§ 745.107, 745.110, and 745.113.
16. Pursuant to 40 C.F.R. § 745.107(a)(1), before any purchaser or lessee is obligated under any agreement to purchase or lease target housing, the seller or lessor must provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet, either the EPA document entitled *Protect Your Family From Lead in Your Home* or an equivalent pamphlet that has been approved for use in Pennsylvania by EPA.
17. Respondent failed to provide the lessee with an EPA-approved lead hazard information pamphlet or ensure that the lessor provided the lessee with an EPA-approved lead hazard information pamphlet before the lessee became obligated under the January 28, 2015 lease transaction to rent the property located at 411 Elwyn Terrace in Manheim, Pennsylvania.
18. Pursuant to 40 C.F.R. § 745.118(e), Respondent's acts or omissions described in Paragraph 17 constitute a violation of 40 C.F.R. § 745.107(a)(1) of the Disclosure Rule; Section 1018(b)(5) of RLBPHRA, 42 U.S.C. § 4852d(b)(5); and Section 409 of TSCA, 15 U.S.C. § 2689.

**RRP RULE VIOLATIONS**

19. The allegations contained in Paragraphs 1 through 18 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
20. At all times relevant to the violations alleged in this Consent Agreement, Respondent was a "firm" as this term is defined at 40 C.F.R. § 745.83.
21. In 2016, Respondent agreed to conduct maintenance and repair work involving the disturbance of painted surfaces in a residential dwelling located at 127 Church Street in Lancaster, Pennsylvania, and subcontracted to perform this work to a different entity.
22. The work performed at 127 Church Street in Lancaster, Pennsylvania in 2016 described in Paragraph 21 was a "renovation" as this term is defined at 40 C.F.R. § 745.83.
23. Respondent's conduct with respect to the work performed at 127 Church Street in Lancaster, Pennsylvania in 2016 constituted a renovation for compensation under 40 C.F.R. § 745.82(a) and was subject to the RRP Rule.

### COUNT 2 – FAILURE TO BE FIRM CERTIFIED

24. The allegations contained in Paragraphs 1 through 23 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
25. Pursuant to 40 C.F.R. § 745.81(a)(2), firms are required to be EPA certified under § 745.89 prior to performing renovations at target housing.
26. Respondent was not an EPA certified firm at the time the work at 127 Church Street in Lancaster, Pennsylvania in 2016 was performed.
27. Respondent's acts or omissions described in Paragraph 26 constitute a violation of 40 C.F.R. § 745.81(a)(2) of the RRP Rule, and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

### COUNT 3 – FAILURE TO OBTAIN ACKNOWLEDGEMENT OF RECEIPT

28. The allegations contained in Paragraphs 1 through 27 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
29. Pursuant to 40 C.F.R. § 745.84(a)(1), firms are required to obtain from owners and occupants of dwelling units a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet before beginning renovation activities.
30. Respondent failed to obtain from the owner or occupant of the housing located at 127 Church Street in Lancaster, Pennsylvania a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* before the renovation activities in 2016 began.
31. Respondent's acts or omissions described in Paragraph 30 constitute a violation of 40 C.F.R. § 745.84(a)(1) of the RRP Rule, and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

### COUNT 4 – FAILURE TO RETAIN RECORDS DEMONSTRATING COMPLIANCE

32. The allegations contained in Paragraphs 1 through 31 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
33. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations are required to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the RRP Rule for a period of 3 years following completion of the renovation.
34. Section 40 C.F.R. § 745.86(b) specifies the types of records required to be retained pursuant to 40 C.F.R. § 745.86(a) and includes, but is not limited to, records documenting that a certified renovator was assigned to the project, that the certified renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b).



35. Respondent failed to retained records documenting compliance with the RRP Rule including records documenting that a certified renovator was assigned to the project, that the certified renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b) for the renovation performed at 127 Church Street in Lancaster, Pennsylvania in 2016.

36. Respondent's acts or omissions described in Paragraphs 35 constitute a violation of 40 C.F.R. § 745.86(a) of the RRP Rule and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### Civil Penalty

37. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of sixteen thousand four hundred and fifty dollars (\$16,450). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty of sixteen thousand four hundred and fifty dollars (\$16,450) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

38. The Parties represent that the settlement terms are based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy* (December 2007) and *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013).

39. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

40. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

41. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to

Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

42. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

43. Respondent shall pay the amount described in Paragraph 37 by sending a certified or cashier's check payable to the "United States Treasury," as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO, 63197-9000.  
Contact: Craig Steffen 513-487-2091  
Jessica Henderson 513-487-2718

b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone contact: 314-418-1028

c. All payment made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York  
ABA 021030004  
Account No. 68010727  
SWIFT Address FRNYUS33  
33 Liberty Street  
NY, NY 10045



(Field tag 4200 of Fedwire message should read “D 68010727 Environmental Protection Agency”)

e. By automatic clearinghouse (“ACH”) to the following account:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA 051036706  
Account No. 310006  
Environmental Protection Agency  
CTX Format  
Transaction Code 22 – checking

Contact: John Schmid 202-874-7026  
REX 866-234-5681

f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

g. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

All payments shall also reference the above case caption and docket number (Docket No. TSCA-03-2018-0140). At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Jennifer M. Abramson (3RC50)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### Certification

44. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that it currently is in compliance with the Disclosure Rule and RRP Rule. Respondent further certifies that it understands that for sales and leases involving housing constructed prior to 1978, it must provide the *Protect Your Family From Lead in Your Home* lead hazard information pamphlet to purchasers and lessees and otherwise comply with the requirements of the Disclosure Rule, and that for renovations for compensation performed at housing constructed prior to 1978, it (or any renovation contractors it hires) must provide *The Lead-Safe Certified Guide to Renovate Right* to owners and adult occupants and otherwise comply with the requirements of the RRP Rule.

#### Other Applicable Laws

45. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

Reservation of Rights

46. This CAFO resolves only EPA's civil claims for penalties for the specific violations alleged in this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of *the Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder, and any other Federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Full and Final Satisfaction

47. This settlement shall constitute full and final satisfaction of all claims for civil penalties which Complainant may have under TSCA or the RLBPHRA for the specific violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the Federal laws and regulations administered by EPA.

Parties Bound

48. This CAFO shall apply to and be binding upon Complainant, Respondent, and Respondent's officers, directors, successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

Effective Date

49. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

50. This CAFO constitutes the entire agreement and understanding of the Complainant and Respondent concerning settlement of the action referenced in the caption above, and there are no representations, warranties, covenants, terms, or conditions agreed upon between Complainant and Respondent other than those expressed herein.

For Respondent:



Aug 6, 2018  
Date

Richard F. Gottshall  
Richard F. Gottshall, President  
American Heritage Property Management, LLC

For Complainant:

8/16/18  
Date

Jennifer M. Abramson  
Jennifer M. Abramson  
Counsel for Complainant

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

9.11.18  
Date

John A. Armstead  
John A. Armstead, Director  
Land and Chemicals Division  
U.S. EPA, Region III

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

In the Matter of:

) DOCKET NO.: TSCA-03-2018-0140

)  
) American Heritage Property Management, LLC  
) 131 Centerville Road, Suite C  
) Lancaster, Pennsylvania 17603

) FINAL ORDER

) Respondent,

) Proceeding Under Section 16(a) of the  
) Toxic Substances Control Act, 15 U.S.C.  
) Section 2615(a)

)  
) 411 Elwyn Terrace in Manheim, Pennsylvania  
) 127 Church Street in Lancaster, Pennsylvania

) U.S. EPA-REGION 3-RHC  
) FILED-13SEP2018pm3:16

) Target Housing.  
)

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, American Heritage Property Management, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Section 1018 Disclosure Rule Final Enforcement Response Policy* (December 2007); *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013); 45 C.F.R. 19 and the statutory factors set forth in Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.


**NOW, THEREFORE, PURSUANT TO** Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act; Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689; and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SIXTEEN THOUSAND FOUR HUNDRED AND FIFTY DOLLARS (\$16,450)**, in accordance with the payment



provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Sept 13, 2018  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

American Heritage Property Management, LLC  
131 Centerville Road, Suite C  
Lancaster, Pennsylvania 17603

Respondent,

411 Elwyn Terrace in Manheim, Pennsylvania  
127 Church Street in Lancaster, Pennsylvania

Target Housing.

)  
) DOCKET NO.: TSCA-03-2018-0140

) Proceeding Under Section 16(a) of the  
) Toxic Substances Control Act, 15 U.S.C.  
) Section 2615(a)

**CERTIFICATE OF SERVICE**

I certify that on SEP 13 2018, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Gordon A. Einhorn, Esquire  
Thomas, Thomas & Hafer LLP  
305 North Front Street  
Sixth Floor  
Harrisburg, PA 17101

Copy served via **Hand Delivery or Inter-Office Mail and via E-mail** (at [Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)), to:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
Office of Regional Counsel (3RC50)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)



Dated: SEP 13 2018

Bevin Esposito  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 7015 1520 0003 0896 2717