



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAY 04 2007

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Joe Chiaramonte  
J.A.C. Management  
1045 NE 29<sup>th</sup> Drive, #2  
Oakland Park, FL 33334

RE: Consent Agreement and Final Order  
Docket No. TSCA-04-2007-2712(b)

Dear Mr. Chiaramonte:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in this matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.05(a) of the Consolidated Rules of Practice, as amended.

Also, enclosed is a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to SEC's website at [www.sec.gov](http://www.sec.gov).

Should you have any questions, please contact Ms. Liz Wilde at (404) 562-8998.

Sincerely,

Saundi J. Wilson, Paralegal Specialist  
Office of Air, Toxics, and General Law  
Office of Environmental Accountability

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
 )  
J.A.C. Management )  
 )  
Respondent )  
\_\_\_\_\_ )

Docket Number: TSCA-04-2007-2712(b)

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**CONSENT AGREEMENT 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), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is J.A.C. Management (hereinafter, "Respondent").

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. The Administrator of EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Pursuant to 42 U.S.C. § 4852d(b)(5), a violation of any rule in 40 C.F.R. Part 745, is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689. Any person who violates Section 409 of TSCA may be assessed a penalty of up to \$10,000 for each such violation, in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and Section 1018. For a violation occurring after January 31, 1997, a penalty of up to \$11,000 may be assessed pursuant to 40 C.F.R. Part 19, and in accordance with 40 C.F.R. § 745.118(f).

4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994

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### **III. Specific Allegations**

5. Respondent is a lessor, as defined at 40 C.F.R. § 745.103, of residential housing identified as Oakland Palms Apartments located at 4071 N. Dixie Highway, Oakland Park, Florida. This residential housing is “target housing,” as defined at 40 C.F.R. § 745.103.

6. Based on information obtained by EPA on or about April 3, 2003, relating to Respondent’s contracts to lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and the following regulations:

- Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor shall provide the lessee an EPA-approved lead hazard information pamphlet before the lessee is obligated under any contract to lease target housing.

Respondent failed to provide lessees an EPA-approved pamphlet.

- Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing shall include, as an attachment to or within the contract, a “Lead Warning Statement.”

Respondent failed to include the required “Lead Warning Statement.”

- Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing shall include, as an attachment to or within the contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

Respondent failed to include an appropriate statement.

- Pursuant to 40 C.F.R. § 745.113(b)(3), each contract to lease target housing shall include, as an attachment to or within the contract, a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee, or an indication that no such records or reports are available.

Respondent failed to include the appropriate information.

### **IV. Consent Agreement**

7. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

8. Respondent waives its right to a hearing on the allegations contained herein.

9. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

10. Respondent certifies that as of the date of its execution of this CAFO, it is otherwise in compliance with the requirements of 40 C.F.R. Part 745, Subpart F.

11. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or pursue criminal enforcement.

12. 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 40 C.F.R. Part 745, Subpart F.

#### **V. Final Order**

13. Respondent is assessed a civil penalty of Eleven Thousand Dollars (\$11,000). Respondent shall pay the civil penalty within thirty (30) days of the effective date of this CAFO.

14. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon lockbox 371099M  
Pittsburgh, PA 15251-7099

Wire transfer of US dollars must be wired to the following address:

Mellon Bank  
SWIFT address = MELNUS3P  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235.

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

15. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been 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, S.W.  
Atlanta, GA 30303

Liz Wilde  
Children's Health, Lead and Asbestos  
Management Section  
U.S. EPA Region 4  
SNAFC – 12<sup>th</sup> Floor  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303.

16. 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.

17. Pursuant to 31 U.S.C. § 3717, 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.

18. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

19. This CAFO shall be binding upon the Respondent, its successors and assigns.

20. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Liz Wilde  
Children's Health, Lead and Asbestos  
Management Section  
U.S. EPA Region 4  
SNAFC - 12<sup>th</sup> Floor  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-8998

21. 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 bind that party to it.

**VI. Effective Date**

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

**AGREED AND CONSENTED TO:**

**RESPONDENT: J.A.C. MANAGEMENT**  
**DOCKET NUMBER: TSCA-04-2007-2712(b)**

By: [Signature] Date: 1/18/07  
Name: Joseph Chiaramonte (Typed or Printed)  
Title: owner (President) (Typed or Printed)

**COMPLAINANT: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

By: Carol D. Kember for Date: 2/28/07  
Beverly H. Banister  
Director  
Air, Pesticides and Toxics  
Management Division  
Region 4

**APPROVED AND SO ORDERED** this 3<sup>rd</sup> day of May, 2007 [Signature]

By: [Signature]  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

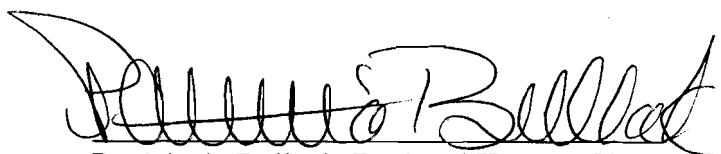
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: J.A.C. Management, Docket Number: TSCA-04-2007-2712(b), to the addressees listed below.

Liz Wilde (via EPA's internal mail)  
Children's Health, Pb and Asbestos  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Alan Dion (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

Mr. Joe Chiaramonte (via Certified Mail, Return Receipt Requested)  
J.A.C. Management  
1045 NE 39<sup>th</sup> Drive  
Oakland Park, FL 33334

Date: 5-4-07

  
Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 4/16/07  
(Name) (Date)

in the OEH, OATGL at (404) 562-9504  
(Office) (Telephone Number)

- |  |   |
|--|---|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill   |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill   |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                  |
|  | <input type="checkbox"/> This is a modification   |

PAYEE: JAC Management  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 11,000  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2007-2712(6)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- |  |                              |
|--|------------------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)  |
|  | 3. Designated Program Office |
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |