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U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of)	
)	
)	Docket No. TSCA-07-2014-0023
)	
MCB, LLC.)	
708 North 49th Street)	
Omaha, Nebraska 68132)	
)	
)	
Respondent)	

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and MCB, LLC. (Respondent or MCB) have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Renovation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Section I

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E, *Lead-Based Paint Renovation, Repair and Painting Rule*, (RRP Rule) promulgated pursuant to 15 U.S.C. §§ 2682, 2686 and 2687.

Section II

Parties

3. The Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.

4. The Respondent is MCB, a business under the laws of the state of Nebraska.

Section III

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.

6. On June 1, 1998, EPA promulgated information distribution and record keeping requirements codified at 40 C.F.R. Part 745, Subpart E, *Requirements for Hazard Education Before Renovation of Target Housing* (Pre-Renovation Education Rule or PRE Rule) pursuant to 15 U.S.C. § 2686. On April 22, 2008, amended and re-codified the PRE Rule information distribution and recordkeeping requirements and promulgated additional regulations at 40 C.F.R. Part 745, Subpart E, *Lead-Based Paint Renovation, Repair and Painting Rule* (RRP Rule) pursuant to 15 U.S.C. §§ 2682, 2686 and 2687. The regulations aimed to protect the public from

lead-based paint hazards associated with renovation, repair, and painting activities. Under the RRP Rule each person or firm who performs for compensation a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to conduct renovation, remodeling and/or painting activities. Firms and individuals performing renovation, repair, and painting projects for compensation that disturb lead-based paint must use certified renovators who follow specific work practices to prevent lead contamination. Prior to the start of renovation, the firm or individual performing the renovation must provide the owners and occupants of the target housing units subject to regulated renovation, repair, and/or painting a copy of the U.S. Environmental Protection Agency-approved *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* pamphlet, and maintain written acknowledgment that the pamphlet has been provided.

7. Section 402 of TSCA, 15 U.S.C. § 2682, requires that the Administrator of EPA promulgate regulations regarding the activities of individuals and contractors engaged in lead-based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of such individuals and contractors.

8. EPA promulgated regulations regarding lead-based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of individuals and firms who are involved in these activities. These regulations are found within 40 C.F.R. Part 745, Subpart E.

9. Section 406 of TSCA, 15 U.S.C. § 2686, requires that the Administrator of EPA promulgate regulations to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

10. EPA promulgated regulations requiring each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation. These regulations are found within 40 C.F.R. Part 745, Subpart E.

11. The term *target housing* means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling. 15 U.S.C. § 2681(17).

12. The term *renovation* means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this part (40 C.F.R. § 745.223). The term renovation includes, but is not limited to, the following: the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces. 40 C.F.R. § 745.83.

13. The term *firm* means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State Tribal, or local government agency; or a nonprofit organization. 40 C.F.R. § 745.83.

14. The term *person* means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof;

any interstate body; and any department, agency, or instrumentality of the Federal Government.

40 C.F.R. § 745.83.

15. 40 C.F.R. § 745.81(a)(2)(ii) states that on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under §745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in §745.82(a) or (c).

16. 40 C.F.R. § 745.89(a)(1) states that firms that perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling.

17. Pursuant to 40 C.F.R. § 745.89(d)(2), firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

18. Pursuant to 40 C.F.R. § 745.86(b)(6), certain records must be retained including, but not limited to, documentation of compliance with the work practice requirements, including documentation that a certified renovator was assigned to the project.

19. The “Work Practice Standards” that must be followed by firms performing renovations on target housing are set forth at 40 C.F.R. § 745.85. The Work Practice Standards include, but are not limited to:

- (a) Pursuant to 40 C.F.R. § 745.85(a)(1), firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area;
- (b) Pursuant to 40 C.F.R. § 745.85(a)(2)(i)(B), for interior renovations firms must close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material;

- (c) Pursuant to 40 C.F.R. § 745.85(a)(2)(i)(C), for interior renovations firms must close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material as required by this section;
- (d) Pursuant to 40 C.F.R. § 745.85(a)(2)(i)(D), for interior renovations firms must cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater as required by this section;
- (e) Pursuant to 40 C.F.R. § 745.85(a)(4)(i), for interior renovations firms must contain waste from renovation activities to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal per this section;
- (f) Pursuant to 40 C.F.R. § 745.85(a)(4)(ii), for interior renovations firms must, at the conclusion of each work day and at the conclusion of the renovation, store waste that has been collected from renovation activities under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.
- (g) Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(A), for exterior renovations firms must close all doors and windows within 20 feet of the renovation. On multi-story buildings, close all doors and windows within 20 feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation;
- (h) Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(C), for exterior renovations firms must, before beginning the renovation, cover the ground with plastic sheeting or other

disposable impermeable material extending 10' beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10' of such ground covering.

20. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E (RRP Rule) violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

21. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred after January 12, 2009.

Section IV

General Factual Allegations

22. Respondent is, and at all times referred to herein was, a "firm" and a "person" within the meaning of TSCA.

23. Respondent is a renovation firm performing renovation, repair, and painting work on target housing.

24. On May 16, 2013, pursuant to its authority under Section 11 of TSCA, 15 U.S.C. § 2610, a representative of the United States Environmental Protection Agency, Region 7 conducted a work site inspection 5053 S. 39th Street in Omaha, Nebraska (hereinafter, "the

Property”), where Respondent had conducted “renovations”, as defined by C.F.R. § 745.83, for compensation.

25. The Property was constructed before 1978.

26. The Property is “target housing” as defined by 40 C.F.R. § 745.103.

27. At the time of the EPA inspection, the EPA representative observed and documented that, in the course of its renovation of the Property, MCB failed to:

- obtain initial certification from the EPA under 40 C.F.R. §745.89 per 40 C.F.R. §745.81(a)(2)(ii);
- assign a certified renovator to each renovation performed by the firm per 40 C.F.R. 745.89(d)(2);
- post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area per 40 C.F.R. §745.85(a)(1);
- close and cover all ducts opening in the work area with taped-down plastic sheeting or other material per 40 C.F.R. §745.85(a)(2)(i)(B);
- close all doors and windows within the work area per 40 C.F.R. §745.85(a)(2)(i)(C);
- cover the floor with plastic sheeting or other disposable impermeable material before beginning the renovation per 40 C.F.R. §745.85(a)(2)(i)(D);
- contain waste from renovation activities and to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal per 40 C.F.R. §745.85(a)(4)(i);
- ensure that waste that has been collected is stored behind containment at the end of the day per 40 C.F.R. §745.85(a)(4)(ii);
- keep doors within 20 feet of the renovation closed per 40 C.F.R. §745.85(a)(2)(ii)(A); and
- cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet per 40 C.F.R. §745.85(a)(2)(ii)(C).

Violations

28. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

Count 1

29. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

30. At the time of the EPA inspection it was discovered that Respondent failed to obtain initial certification from EPA to perform renovations or dust sampling per 40 CFR 745.89(a).

31. At the time of the EPA inspection it was discovered that Respondent, on or after April 22, 2010, failed to obtain certification from EPA under §745.89 before performing, offering, or claiming to perform renovations in target housing or child-occupied per §745.81(a)(2)(ii).

32. At the time of the EPA inspection, renovations at 5053 S. 39th Street in Omaha, Nebraska did not qualify for one of the exceptions identified in §745.82.

33. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 2

34. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

35. At the time of the EPA inspection it was discovered that Respondent failed to assign a certified renovator to each renovation performed by the firm per 40 C.F.R. 745.89(d)(2).

36. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 3

37. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

38. At the time of the EPA inspection it was discovered that Respondent failed to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area per 40 C.F.R. §745.85(a)(1).

39. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 4

40. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

41. At the time of the EPA inspection it was discovered that Respondent and failed to close and cover all ducts opening in the work area with taped-down plastic sheeting or other material per 40 C.F.R. §745.85(a)(2)(i)(B).

42. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 5

43. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

44. At the time of the EPA inspection it was discovered that Respondent failed, close all doors and windows within the work area per 40 C.F.R. §745.85(a)(2)(i)(C).

45. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 6

46. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

47. At the time of the EPA inspection it was discovered that Respondent failed to cover the floor with plastic sheeting or other disposable impermeable material before beginning the renovation per 40 C.F.R. §745.85(a)(2)(i)(D).

48. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 7

49. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

50. At the time of the EPA inspection it was discovered that Respondent failed to contain waste from renovation activities and to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal per 40 C.F.R. §745.85(a)(4)(i).

51. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 8

52. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

53. At the time of the EPA inspection it was discovered that Respondent failed to ensure that waste that has been collected is stored behind containment at the end of the day per 40 C.F.R. §745.85(a)(4)(ii).

54. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 9

55. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

56. At the time of the EPA inspection it was discovered that Respondent failed to keep doors within 20 feet of the renovation closed per 40 C.F.R. §745.85(a)(2)(ii)(A).

57. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count 10

58. The facts stated in Paragraphs 20 through 28 above are herein incorporated.

59. At the time of the EPA inspection it was discovered that Respondent failed to cover the floor with plastic sheeting or other disposable impermeable material before beginning the renovation per 40 C.F.R. §745.85(a)(2)(ii)(C).

60. Respondent's failure to perform the act described above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Section V

Consent Agreement

61. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

62. Respondent neither admits nor denies the factual allegations set forth above.

63. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

64. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

65. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart E.

66. Respondent consents to the issuance of the Final Order hereinafter recited and

consents to the payment of a mitigated civil penalty as specified in the Final Order. This mitigated penalty is based on the determination that Respondent qualified for a micro-business category and Ability to Pay determination based on financial information submitted to EPA during pre-filing negotiations.

67. The effect of settlement described in Paragraph 68 below is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 65 of this Consent Agreement and Final Order.

68. Payment of this civil penalty in full shall resolve all civil and administrative claims for all violations of Section 409 of TSCA, 15 U.S.C. 2689 and 40 C.F.R. Subpart E alleged in this document.

69. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project (SEP), which the parties agree is intended to secure significant environmental and/or public health benefits:

- A. Abatement SEP: No later than six months after the effective date of this CAFO, Respondent will have a certified abatement contractor, not associated with any of the principals in this action, complete all Abatement SEP work at residence located at 108 N 35th Street in Omaha, Nebraska. All Abatement SEP work shall be performed in accordance the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and all applicable federal, state, and local laws and regulations. The Abatement SEP work consists of replacing 11 windows.
- B. Within thirty (30) days of completion of the Abatement SEP work described above in Paragraph 69.A. Respondent will have a certified inspector, other than the certified abatement contractor performing the Abatement SEP, conduct clearance sampling on the Abatement SEP work described above in Paragraph 69.A. The Respondent agrees

to correct any lead-based paint hazards indicated by the clearance sampling results. The clearance sampling and any necessary corrections shall be performed per HUD guidelines.

70. The Abatement SEP work described in Paragraph 69 above, is estimated to be four thousand four-hundred dollars (\$4,400). However, Respondent can only receive a maximum SEP credit of four thousand one-hundred seventy-four dollars (\$4,174).

71. Within thirty (30) days of the effective date of the Final Order and before the Abatement SEP work can begin, Respondent will provide EPA with a copy of the letter sent to:

Lead-Based Paint Program Manager
Nebraska Department of Health & Human Services
Division of Public Health Environmental Health Unit
Office of Environmental Health Hazards and Indoor Air
Lead-Based Paint Program
301 Centennial Mall South
P.O. Box 95026
Lincoln, NE 68509-5026

The letter to the State should inform the State of Respondent's intent to perform the Abatement SEP and request procedural information pertaining to the performance of the SEP.

72. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following:

- A. A detailed description of the Abatement SEP as implemented;
- B. Itemized costs for the Abatement SEP work documented by copies of purchase orders, receipts or canceled checks;
- C. Final Abatement Report as required by State law;
- D. The clearance sampling results; and
- E. The following certification signed by Respondent:

I, Brian Barnes/Kristin Barnes, certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information and

performing the work required pursuant to Paragraph 58 as listed in the Consent Agreement and Final Order (“CAFO”), Docket No. TSCA-07-2014-0023, the information, to the best of its knowledge and belief, is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

F. All reports shall be directed to the following:

Candace Bias-Bednar
WWPD/TOPE
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and

Lead-Based Paint Program Manager
Nebraska Department of Health & Human Services
Division of Public Health Environmental Health Unit
Office of Environmental Health Hazards and Indoor Air
Lead-Based Paint Program
301 Centennial Mall South
P.O. Box 95026
Lincoln, NE 68509-5026

73. If the SEP referenced above is not timely completed to the satisfaction of the EPA in accordance with the terms of this Final Order, Respondent shall pay a stipulated penalty in the amount of 100% of the projected costs of the SEP minus any documented expenditures determined by the EPA to be acceptable for the SEP. This stipulated penalty is consistent with the EPA SEP Policy, effective May 1, 1998. For the SEP, the following instances constitute a failure to complete the project in accordance with the terms of this Final Order:

- (i) Failure to expend the funds in a manner acceptable to the EPA or otherwise to complete the project pursuant to the terms of this consent agreement.
- (ii) Failure to ensure, through good faith and timely efforts, that the SEP project is completed by the anticipated completion date of within one (1)

year of the effective date of the Final Order. In the event of circumstances beyond its control rendering the anticipated completion date unfeasible, Respondent may demonstrate good faith by promptly notifying the EPA Region 7 contact identified in Paragraph 61.E above of the change in circumstances and proposing a new completion date acceptable to the EPA for the SEP.

- (iii) Any stipulated penalties for which Respondent is liable under this agreement shall be due and payable within ten (10) days of Respondent's receipt of a written demand from Complainant.

74. Respondent certifies that he is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

75. Respondent certifies that he is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to the EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

76. For federal income tax purposes, Respondent agrees that he will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

77. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

78. Respondent understands that his failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order below may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charged for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Section VI

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a civil penalty of four-hundred sixty-four dollars (\$464.00) within thirty (30) days of the effective date of this Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made

payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

Wire transfers should be directed to the Federal Reserve Bank of New York:

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

2. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Jennifer Trotter, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

4. This CAFO shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7.

5. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

RESPONDENT
MCB, LLC.

Date: 5/27/14


By:  _____

Kristin Barnes
Print Name

member / owner
Title


COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 6/3/2014



Jamie Green, Chief
Toxics and Pesticides Branch
Water, Wetlands and Pesticides Division

Date: 6/3/2014



Jennifer Trotter
Office of Regional Counsel

IT IS SO ORDERED.

Date: 6-10-14

Karina Borromeo

Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency

IN THE MATTER Of MCB, LLC, Respondent
Docket No. TSCA-07-2014-0023

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

trotter.jennifer@epa.gov

Copy mailed First Class Mail to Respondent:

J. Barton Seitz
Baker Botts L.L.P.
The Warner
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004-2400

Dated: 6/10/14



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7

IN THE MATTER Of MCB, LLC, Respondent
Docket No. TSCA-07-2014-0023

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

trotter.jennifer@epa.gov

Copy mailed First Class Mail to Respondent:

Ms. Kristin Barnes
MCB, LLC.
708 North 49th Street
Omaha, Nebraska 68132

Dated: 10/10/14



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7