



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 04 2009

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0182 9474

Mr. Thomas A Nowakowski  
Mr. Brian T. Nowakowski  
Mr. Michael Moore and Apple Apt., Inc.  
15545 Mack Avenue  
Detroit, Michigan 48224

Re: In the Matter of: Apple Apartment, Inc.  
Consent Agreement and Final Order, Docket No. TSCA- 05-2009-0002

Dear Mr. Nowakowski:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on May 4, 2009, with the Regional Hearing Clerk.

In consideration of Respondents' cooperation in settling this matter, EPA agrees to mitigate the proposed penalty of \$11,920 to \$8,344. This civil penalty is to be paid in the manner described in paragraphs 9 and 10. Please be certain that the number **BD 2750947X006** and the docket number are written on both the transmittal letter and on the check. Payment is due by June 3, 2009 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Scott Cooper".

Scott Cooper  
Pesticides and Toxic Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. TSCA-05-2009-0002</b>
	)	
<b>Thomas A. Nowakowski,</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Brian T. Nowakowski,</b>	)	<b>Under Section 16(a) of the Toxic Substances</b>
<b>Michael Moore, and</b>	)	<b>Control Act, 15 U.S.C. § 2615(a)</b>
<b>Apple Apartments, Inc.,</b>	)	
	)	
<b>Respondents</b>	)	

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**RECEIVED**  
MAY 04 2009  
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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region 5, brought this administrative action seeking a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. On January 7, 2009, EPA filed the Complaint in this action against Respondents Thomas A. Nowakowski, Brian T. Nowakowski, Michael Moore, and Apple Apartments, Inc. The Complaint alleges that Respondents violated Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5); Section 409 of TSCA, 15 U.S.C. § 2689; and 40 C.F.R. § 745.113(a)(1), (2), (3), (4), and (7), in one contract to sell target housing by Respondent Thomas A. Nowakowski, and 40 C.F.R. § 745.113(b)(1), (2), (3), (4), and (6) in three contracts to lease target housing by Respondents Brian T. Nowakowski, Michael Moore, and Apple Apartments, Inc..

**Stipulations**

3. Respondents admit the jurisdictional allegations in the Complaint and neither admit nor deny the factual allegations in the Complaint.

4. Respondents waive any right to contest the allegations in the Complaint and their right to appeal this Consent Agreement and Final Order (CAFO).
5. Respondents certify that they are complying fully with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations at 40 C.F.R. Part 745.
6. Respondents consent to the assessment of the civil penalty stated in this CAFO and to the terms of this CAFO.
7. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

**Civil Penalties**

8. In consideration of Respondents' cooperation in settling this matter, EPA agrees to mitigate the proposed penalty of \$11,920 to \$8,344.
9. Within 30 days after the effective date of this CAFO, Respondents must pay the \$8,344 civil penalty by sending a cashier's or certified check, by regular U.S. Postal Service mail, payable to the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check must state In the matter of Thomas A. Nowakowski, Brian T. Nowakowski, Michael Moore, and Apple Apartments, Inc., the docket number of this CAFO, and the billing document number.

10. A transmittal letter stating Respondents' names, complete address, the case docket number, and the billing document number must accompany the payment. Respondents must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Scott Cooper (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Mary McAuliffe (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

11. This civil penalty is not deductible for federal tax purposes.

12. If Respondents do not pay the civil penalty timely, or any stipulated penalties due under paragraph 14, below, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

13. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

14. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in the Complaint.

15. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

16. This CAFO does not affect Respondents' responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable federal, state, and local laws.

17. The terms of this CAFO bind Respondents, and their successors and assigns.

18. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

19. Each party agrees to bear its own costs and attorney's fees in this action.

20. This CAFO constitutes an entire agreement between the parties.

**In the Matter of Thomas A. Nowakowski,  
Brian T. Nowakowski,  
Michael Moore, and  
Apple Apartments, Inc., Respondents**

4-3-09

Date




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Kim Corbin  
Attorney  
On behalf of Thomas A. Nowakowski,  
Brian T. Nowakowski, Michael Moore, and  
Apple Apartments, Inc.

**In the Matter of Thomas A. Nowakowski,  
Brian T. Nowakowski,  
Michael Moore, and  
Apple Apartments, Inc., Respondents**

**United States Environmental Protection Agency, Complainant**

4/28/09  
Date

  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of Thomas A. Nowakowski,  
Brian T. Nowakowski,  
Michael Moore, and  
Apple Apartments, Inc.  
Docket No. TSCA-05-2009-0002**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4/30/09  
Date

Walter W. Kovalick  
for  
Bharat Mathur  
Acting Regional Administrator  
United States Environmental Protection Agency  
Region 5

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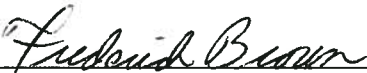
**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Consent Agreement and Final Order involving Thomas A. Nowakowski, Brian T. Nowakowski, Michael Moore, and Apple Apartments, Inc., of Detroit, Michigan was filed on May 4, 2009, with the Regional Hearing Clerk (E-13J), U. S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7001 0320 0006 0182 9474, to:

Mr. Thomas A Nowakowski  
Mr. Brian T. Nowakowski  
Mr. Michael Moore and Apple Apt., Inc.  
15545 Mack Avenue  
Detroit, Michigan 48224

with intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Mary McAuliffe, Counsel for Complainant/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
Frederick Brown, PTCS (LC-8J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. TSCA-05-2009-0002

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