



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 18 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Darren G. Meadows
Attorney at Law
Hull Barrett, PC
801 Broad Street, 7th Floor
Augusta, Georgia 30901

Re: Cedar Street, LLC d/b/a Carolina Breeze Apartments
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2013-2724(b)

Dear Mr. Meadows:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "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 any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Ronald Raye of the EPA Region 4 staff at (404) 562-9612 or email raye.ronald@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony G. Toney', with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
Cedar Street, LLC d/b/a Carolina Breeze)
Apartments)
)
Respondent)

Docket No. TSCA-04-2013-2724(b)

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HEARING CLERK

CONSENT AGREEMENT AND 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), 40 C.F.R. Part 22. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) is vested in the Administrator of the United States Environmental Protection Agency. The Administrator of the EPA has delegated this authority under TSCA to the Regional Administrator of the EPA Region 4 by the EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator of the EPA Region 4 has re-delegated this authority under TSCA to the Director of the Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. In accordance with 40 C.F.R. § 22.3(a), the Complainant in this matter is the Director of the Air, Pesticides and Toxics Management Division. Respondent is Cedar Street, LLC d/b/a Carolina Breeze Apartments a limited liability company doing business in the State of South Carolina.

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 the 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, also known as Title X of the Housing and Community Development Act of 1992. Pursuant to Title X, it is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with a provision of Title X or any rule or order issued under Title X.
4. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, the penalty for each violation of Title X of TSCA shall not exceed \$10,000. The Debt Collection Improvement Act of 1996 requires the EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation of Title X occurring after January 30, 1997, through January 12, 2009, is \$11,000 and for each violation occurring after January 12, 2009, the maximum penalty is \$16,000.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Ronald Raye
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9612

III. Specific Allegations

6. Respondent is a Lessor, as defined at 40 C.F.R. § 745.103, of residential housing located at 100 Cedar Street, Myrtle Beach, South Carolina. These residential units are "target housing," as defined at 40 C.F.R. § 745.103.
7. Based on information obtained by the EPA on or about February 24, 2010, relating to Respondent's contracts to lease its target housing described above, the EPA alleges that Respondent violated Section 409 of TSCA and 40 C.F.R. Part 745, Subpart F as follows:
 - a. Pursuant to 40 C.F.R. § 745.107(a)(4), a Lessor shall provide to the Lessee(s) any records or reports available to the Lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing. Respondent failed to provide to the Lessee(s) any records or reports in at least one lease.
 - b. 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 that pertain to lead hazard information, or an indication that no such list exists. Respondent failed to include the appropriate information in at least one lease.
 - c. Pursuant to 40 C.F.R. § 745.113(b)(6), each contract to lease target housing shall include in the contract for lease signatures of the Lessor, Agent, and Lessee(s) certifying to the accuracy of their statements, as well as dates. Respondent failed to include the appropriate information as to Lessor in at least one lease.

8. After consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, and Respondent's actions after being notified of the alleged violations in having the property inspected and found to be lead-based paint free by a certified inspector, the EPA proposes to assess a penalty in the amount of \$5,853.

IV. Consent Agreement

9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
10. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
11. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
12. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart F.
13. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the 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 to pursue criminal enforcement.
14. 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 TSCA.

V. Final Order

15. Respondent is assessed a civil penalty of **FIVE THOUSAND EIGHT HUNDRED FIFTY THREE DOLLARS (\$5,853)**. Four payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments will be due in ninety (90) day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **FIVE THOUSAND EIGHT HUNDRED NINETY DOLLARS AND FORTY CENTS (\$5,890.40)**. Respondent shall make payments in accordance with the following schedule:

<u>Payment No.</u>	<u>Payment due Date</u>	<u>Payment Due</u>
1	within 30 days of date CAFO filed	\$1,472.60
2	within 120 days of date CAFO filed	\$1,472.60
3	within 210 days of date CAFO filed	\$1,472.60
4	within 300 days of date CAFO filed	\$1,472.60

16. Respondent shall submit each installment payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America."

The Respondent shall note on the face of the check the Respondent's Name and the Docket Number associated with this CAFO.

The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.)

U.S. Bank
Government Lockbox 979077
U S EPA Fines & Penalties
1005 Convention Plaza
SL-MO-G2GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1818.

17. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being 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
Atlanta, Georgia 30303-8960;

Ronald Raye
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

Saundi J. Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

18. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.

19. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
20. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **FIVE THOUSAND EIGHT HUNDRED FIFTY THREE DOLLARS (\$5,853)** within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
21. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. 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, the 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). 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 ninety (90 days) of the due date.

22. 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 pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
23. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
24. This CAFO shall be binding upon the Respondent, its successors and assigns.
25. 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 binds that party to this CAFO.

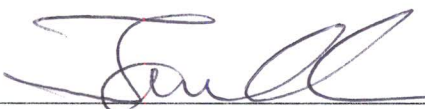
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VI. Effective Date

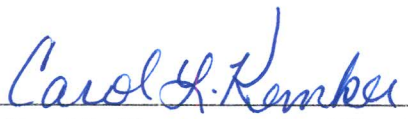
26. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

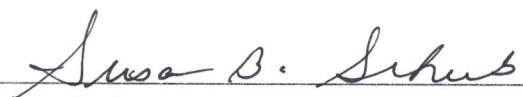
Respondent: Cedar Street, LLC d/b/a Carolina Breeze Apartments
Docket No.: TSCA-04-2013-2724(b)

By:  Date: 7/30/13
Name: JAMES CHEN
Title: Managing Member

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 9/11/13
Carol L. Kemker, Acting Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 16 day of Sept., 2013.

By: 
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 Cedar Street, LLC d/b/a Carolina Breeze Apartments.

Docket Number: TSCA-04-2013-2724(b), to the addressees listed below:

Mr. Darren G. Meadows
Attorney at Law
Hull Barrett, PC
801 Broad Street, 7th Floor
Augusta, Georgia 30901

(via Certified Mail, Return Receipt Requested)

Ronald Raye
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

(via EPA's internal mail)

Robert Caplan, Senior Attorney
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960

(via EPA's internal mail)



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9511

Date: _____

9-18-13