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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. TSCA-10-2014-0181
STUDENT WORKS PAINTING, INC,	)	
d.b.a. College Works Painting	)	CONSENT AGREEMENT
	)	
Boise, Idaho,	)	
	)	
Respondent.	)	

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**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

1.2. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Student Works Painting, Inc., doing business as College Works Painting ("Respondent"), agrees to issuance of the Final Order attached to this Consent Agreement ("Final Order").

## II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Air, Waste and Toxics, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of TSCA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of TSCA together with the specific provisions of TSCA and the implementing regulations that Respondent is alleged to have violated.

## III. ALLEGATIONS

3.1. Section 409 of TSCA, 15 U.S.C. § 2689, makes it unlawful for any person to fail to comply with, among other things, any rule promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682. Pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, EPA has promulgated rules governing lead-based paint activities, including certification of individuals and firms for renovations and work practice standards for renovations. These rules are codified at 40 C.F.R. Part 745, Subpart E, Residential Property Renovation.

3.2. 40 C.F.R. Part 745, Subpart E applies to all renovations performed for compensation in target housing.

3.11. Respondent used one certified renovator and three non-certified renovators to conduct the College Works Painting Renovation.

#### COUNT I

3.12. Under 40 C.F.R. §§ 745.85(a)(1) and 745.89(d)(3), “firms must post signs clearly defining the work area and warning occupants and other persons not involved in the renovation activities to remain outside of the work area. . . . These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed.”

3.13. During the College Works Painting Renovation, Respondent failed to post signs warning occupants and other persons not involved in the renovation activities to remain outside the work area.

3.14. Respondent’s failure to post warning signs is a violation of 40 C.F.R. § 745.85(a)(1) and 745.89(d)(3).

#### COUNT II

3.15. Under 40 C.F.R. §§ 745.85(a)(2)(ii)(C) and 745.89(d)(3), firms conducting exterior renovations must “cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater.”

3.16. During the College Works Painting Renovation, Respondent did not cover the ground with plastic sheeting or other material to collect falling paint debris.

3.17. Respondent’s failure to cover the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris is a violation of 40 C.F.R. § 745.85(a)(2)(ii)(C) and 745.89(d)(3).

3.3. "Target Housing" is defined at Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. §§ 745.83 and 745.103, to mean "any housing constructed prior to 1978, except housing for the elderly or persons with disabilities . . . ."

3.4. "Person" is defined at 40 C.F.R. § 745.83 to mean "any natural or judicial person including any individual, corporation, partnership, or association . . . ."

3.5. "Firm" is defined at 40 C.F.R. § 745.83, to mean a "company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity . . . ."

3.6. "Renovation" is defined at 40 C.F.R. § 745.83 to mean "the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces," including "scraping."

3.7. "Renovator" is defined at 40 C.F.R. § 745.83 to mean "an individual who either performs or directs workers to perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA authorized State or Tribal program."

3.8. In July 2011, Respondent painted for compensation the exterior surfaces of a residential home located at 1815 North 7th Street, Boise, Idaho, which was built in approximately 1940 ("College Works Painting Renovation").

3.9. The College Works Painting Renovation included scraping paint which resulted in the disturbance of painted surfaces and paint chips falling to the ground.

3.10. Therefore, Respondent is a "renovator" who performed a "renovation" on "target housing," as these terms are defined at 40 C.F.R. §§ 745.83 and 745.103. Respondent is also a "corporation," and therefore a "firm," as defined at 40 C.F.R. § 745.83.

### COUNT III

3.18. Under 40 C.F.R. §§ 745.85(a)(2)(ii)(D) and 745.89(d)(3), firms conducting exterior renovations must “erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate adjacent buildings or migrate to adjacent properties” if the renovation will affect surfaces within 10 feet of the property line.

3.19. During the College Works Painting Renovation, Respondent did not erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and paint chips from the renovation did not contaminate adjacent buildings or migrate to adjacent properties.

3.20. The College Works Painting Renovation affected surfaces within 10 feet of the property line.

3.21. Respondent’s failure to erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and paint chips from the renovation did not contaminate adjacent buildings or migrate to adjacent properties is a violation of 40 C.F.R. § 745.85(a)(2)(ii)(D) and 745.89(d)(3).

### COUNT IV

3.22. Under 40 C.F.R. §§ 745.86(a) and (b)(6), firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E, including “documentation that the certified renovator provided on-the-job training for workers used on the project.”

3.23. Respondent was unable to provide documentation to demonstrate that the non-certified workers working on the College Works Painting Renovation received on-the-job training from a certified renovator.

3.24. Respondent's failure to provide documentation to demonstrate that a certified renovator provided the non-certified workers on the College Works Painting Renovation on-the-job training is a violation of 40 C.F.R. § 745.86(a) and (b)(6).

#### **ENFORCEMENT**

3.25. Under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per violation per day.

#### **IV. TERMS OF SETTLEMENT**

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), EPA has taken into account the nature, circumstances, extent, and gravity of the violations, and with respect to Respondent, 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. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$39,532.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.9. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in Part III.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorney's fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order. Respondent expressly waives the notice requirement and its opportunity to request a hearing on the Final Order pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 2615(a)(2).

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated permit action.

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Smith.candace@epa.gov](mailto:Smith.candace@epa.gov)

Kim Farnham  
U.S. Environmental Protection Agency  
Region 10, Mail Stop AWT-150  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Farnham.kim@epamail.epa.gov](mailto:Farnham.kim@epamail.epa.gov)

4.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the assessed penalty under Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4). In any collection action, the validity, amount, and appropriateness of the penalty assessed by this Consent Agreement and the Final Order are not subject to review.

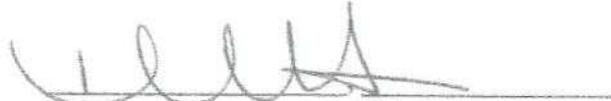
4.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, Respondent shall be responsible for payment of interest on any unpaid portion of the assessed penalty at the rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the

4.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

9/29/14

FOR RESPONDENT:

  
Name Title

Tracy Meneves Authorized Representative  
STUDENT WORKS PAINTING, INC. d/b/a/  
College Works Painting

DATED:

9/29/14

FOR COMPLAINANT:



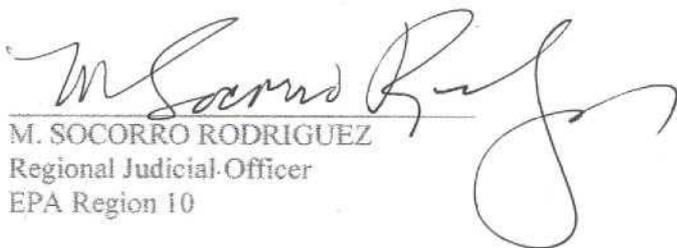
(ja) Kate Kelly, Director  
Office of Air, Waste and Toxics  
EPA Region 10





1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 30<sup>th</sup> day of September, 2014.

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Student Works Painting, Inc., d.b.a. College Works Painting, Docket No.: TSCA-10-2014-0181**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Helen Tovar  
General Counsel  
College Works Painting  
1682 Langley Avenue  
Irvine, California 92614

DATED this 30<sup>th</sup> day of Sept., 2014

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10

