



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED

APR 03 2015

EPA ORC WJS
Office of Regional Hearing Clerk

April 3, 2015

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

BY HAND

Re: JPAA Chen Services, L.L.C.
Docket No. TSCA-01-2015-0042

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of an Administrative Complaint and Opportunity to Request a Hearing and a Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen E. Woodward".

Kathleen E. Woodward
Senior Enforcement Counsel

Enclosure

cc: Jimmy Chen, Owner, JPAA Chen Services, L.L.C.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

| | | |
|----------------------------|---|---------------------------------------|
| In the Matter of: |) | |
| |) | ADMINISTRATIVE COMPLAINT |
| |) | AND |
| JPAA Chen Services, L.L.C. |) | NOTICE OF |
| 258-02 Pembroke Ave. |) | OPPORTUNITY FOR HEARING |
| Great Neck, NY 11020 |) | |
| Respondent. |) | Docket No. TSCA-01-2015-0042 |
| |) | Proceeding under Section 16(a) of the |
| |) | Toxic Substances Control Act, |
| |) | 15 U.S.C. § 2615(a) |

I. STATEMENT OF AUTHORITY

1. Complainant, the United States Environmental Protection Agency, Region 1 (“EPA”), issues this administrative Complaint and Notice of Opportunity for Hearing under Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22.

II. NATURE OF THE ACTION

2. This Complaint notifies Respondent JPAA Chen Services, L.L.C. (“Respondent”) that EPA has determined that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, entitled “Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property,” as set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”). EPA seeks civil penalties

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pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of TSCA Section 409, 15 U.S.C. § 2689, are subject to the assessment by EPA of civil and/or criminal penalties.

III. STATUTORY AND REGULATORY BASIS

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental of homes and apartments.

4. In 1996, EPA promulgated regulations to implement the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart F.

5. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the housing stock addressed by the Act's transaction requirements is termed "target housing," and is defined as any housing constructed prior to 1978, excepting housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

6. Pursuant to 40 C.F.R. § 745.103, "lessor" means any entity that offers target housing for lease, rent, or sublease.

7. The Lead-Based Paint Disclosure Rule regulations set forth at 40 C.F.R. Part 745, Subpart F, require that the lessors of target housing must take the following actions, among others, prior to lessees becoming obligated to lease target housing:

- a. Provide to lessees an EPA-approved lead hazard information pamphlet;
- b. Disclose to lessees the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased;
- c. Include, either within or as an attachment to the lease contract, a Lead Warning Statement; and
- d. Provide lessees with any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased.

8. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), each failure to comply with a requirement of the Disclosure Rule is a violation of Section 409 of TSCA.

9. Pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), any person who violates a provision of Section 409 of TSCA shall be liable to the United States for a civil penalty.

10. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occurred after March 15, 2004 through January 12, 2009, are subject to penalties up to \$11,000 per violation. Violations that occurred on or after January 13, 2009, are subject to penalties up to \$16,000 per violation, pursuant to the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. § 19.4. See also 73 Fed. Reg. 75340 (Dec. 11, 2008).

IV. GENERAL ALLEGATIONS

11. Respondent is a corporation formed under the laws of the State of New York.
12. Respondent owns 11 rental properties containing 21 units in New Haven, Connecticut.
13. At the time of the violations alleged in this Complaint, Respondent managed and offered for lease residential apartments in New Haven, Connecticut, including the following three properties:
 - a. 147 Blatchley Ave., New Haven, CT 06513, hereinafter referred to as “147 Blatchley Ave.”;
 - b. 31 Rowe Street 2F and 3F, New Haven, CT 06513, hereinafter referred to as “31 Rowe Street”; and
 - c. 67 Adeline Street 2F, New Haven, CT 06519, hereinafter referred to as “67 Adeline Street”.
14. Pursuant to 40 C.F.R. § 745.103, Respondent is the “lessor” of the three properties listed in Paragraph 13.
15. All three properties listed in Paragraph 13 were constructed prior to 1978 and are, therefore, “target housing” as defined in 40 C.F.R. § 745.103.
16. None of the target housing listed above in Paragraph 13 satisfies the requirements for an exemption to the provisions of the Act or 40 C.F.R. Part 745, Subpart F.

17. Respondent offered for lease the following units of residential housing to lessees on the dates set forth below:
- a. 147 Blatchley Ave. — A lessee signed the lease on May 1, 2014, and the lease term commenced on May 1, 2014;
 - b. 31 Rowe Street — A lessee signed the lease on January 1, 2014, and the lease term commenced on January 1, 2014;
 - c. 67 Adeline Street — A lessee signed the lease on December 19, 2013, and the lease term commenced on December 19, 2013.
18. On June 10, 2014, an EPA inspector conducted an inspection at one of Respondent's properties, 53 Thorn Street, New Haven, CT 06519, regarding Respondent's compliance with the Disclosure Rule with respect to its residential real estate properties in New Haven, Connecticut.
19. Following the June 10, 2014 inspection, EPA reviewed lease transaction documents provided by Respondent.
20. The documents provided by Respondent to EPA included lease transaction documents for all three properties listed above in Paragraphs 13 and 17.
21. During the inspection and subsequent investigation, EPA discovered that children under the age of six years old were living at the target housing located at 67 Adeline Street, and that children between the ages of six and 18 were living at the housing located at 147 Blatchley Ave. during all times relevant to this Complaint.
22. Based upon EPA's inspection, other information and documents obtained from Respondent, and EPA's subsequent investigations, EPA has identified the following violations of the Act and the Disclosure Rule.

V. VIOLATIONS

COUNT I: Failure to Provide Lead Hazard Information Pamphlets

23. Complainant re-alleges paragraphs 1 through 22.

24. Pursuant to 40 C.F.R. § 745.107(a)(1), before a lessee is obligated under a contract to lease target housing, a lessor must provide the lessee with an EPA-approved lead hazard information pamphlet, such as the EPA document entitled, “Protect Your Family From Lead in Your Home,” or an equivalent pamphlet that has been approved for use in particular states by EPA.

25. Respondent failed to provide an EPA-approved lead hazard information pamphlet to the lessee who became obligated, under a contract signed on May 1, 2014, to lease the target housing located at 147 Blatchley Ave. before the lessee became obligated under that contract to lease said housing.

26. Respondent failed to provide an EPA-approved lead hazard information pamphlet to the lessee who became obligated, under a contract signed on January 1, 2014, to lease the target housing located at 31 Rowe Street, before the lessee became obligated under that contract to lease said housing.

27. Respondent failed to provide an EPA-approved lead hazard information pamphlet to the lessee who became obligated, under a contract signed on December 19, 2013, to lease the target housing located at 67 Adeline Street, before the lessee became obligated under that contract to lease said housing.

28. Accordingly, Respondent’s failure to provide the lessees who leased the target housing described above in Paragraphs 25, 26, and 27 with an EPA-approved lead hazard information

pamphlet before the lessees became obligated under contracts to lease said housing constitutes three (3) violations of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA.

COUNT II: Failure to Include Lead Warning Statement

29. Complainant re-alleges paragraphs 1 through 28.

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

31. Respondent failed to include a Lead Warning Statement within or as an attachment to the contract with the lessee who became obligated, under a contract signed on May 1, 2014, to lease the target housing located at 147 Blatchley Ave. before the lessee became obligated under that contract to lease said housing.

32. Respondent failed to include a Lead Warning Statement within or as an attachment to the contract with the lessee who became obligated, under a contract signed on January 1, 2014, to lease the target housing located at 31 Rowe Street before the lessee became obligated under that contract to lease said housing.

33. Respondent failed to include a Lead Warning Statement within or as an attachment to the contract with the lessee who became obligated, under a contract signed on December 19, 2013, to lease the target housing located at 67 Adeline Street before the lessee became obligated under that contract to lease said housing.

34. Respondent's failure to include Lead Warning Statements within or as attachments to the contracts to lease the target housing described in Paragraphs 31, 32, and 33 constitutes three (3) violations of 40 C.F.R. § 745.113(b)(1) and Section 409 of TSCA.

**COUNT III: Failure to Include a Statement by the Lessor Disclosing the Presence of
Known Lead-Based Paint or Hazards, or Lack of Knowledge Thereof**

35. Complainant re-alleges Paragraphs 1 through 34.

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

37. Respondent failed to include, as an attachment or within the lease contracts with the following lessees, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating the lack of knowledge of the presence of lead-based paint and/or lead-based paint hazards:

- a. Lease signed by a lessee on May 1, 2014, for 147 Blatchley Ave.;
- b. Lease signed by a lessee on January 1, 2014, for 31 Rowe Street; and
- c. Lease signed by a lessee on December 19, 2013, for 67 Adeline Street.

38. Respondent's failure to include as attachments or within the lease contracts listed in Paragraph 37 above, statements by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards constitutes three (3) violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

**COUNT IV: Failure to Include a List of Any Records Available to the Lessor that
Pertain to Lead-Based Paint or Hazards in the Housing, or the Failure to Indicate
That No Such Records Exist**

39. Complainant re-alleges Paragraphs 1 through 38.

40. Pursuant to 40 C.F.R. § 745.113(b)(3), a contract to lease target housing must include as an attachment or within the contract to lease target housing a list of any records or reports available to the lessor that pertain to lead-based paint or lead-based paint hazards in the housing, or an indication that no such records exist.

41. Respondent failed to include as an attachment or within the following lease contracts, a list of records or reports that pertain to lead-based paint or lead-based paint hazards in the housing, or an indication that no such records exist:

- a. Lease signed by a lessee on May 1, 2014, for 147 Blatchley Ave.;
- b. Lease signed by a lessee on January 1, 2014, for 31 Rowe Street; and
- c. Lease signed by a lessee on December 19, 2013, for 67 Adeline Street.

42. Respondent's failure to include, as attachments or within the lease contracts listed in Paragraph 41 above, lists of any records or reports available to the lessor that pertain to lead-based paint or lead-based paint hazards in the housing, or an indication that no such records exist constitutes three (3) violations of 40 C.F.R. § 745.113(b)(3) and TSCA Section 409, 15 U.S.C. § 2689.

VI. PROPOSED CIVIL PENALTY

43. Based on the violations described in this Complaint, EPA seeks to assess a total civil penalty of \$67,000 against Respondent. The proposed civil penalty has been determined in accordance with Section 16 of TSCA, 15 U.S.C. § 2615, the provisions of 40 C.F.R. § 745.118(f), as well as the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 and its implementing regulations at 40 C.F.R. Part 19.

44. In determining the amount of any penalty to be assessed, Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requires that Complainant consider the nature, circumstances, extent, and gravity of the violations, and with respect to Respondent, its ability to pay, the effect of the proposed penalty on its ability to continue in business, any history of prior such violations, its degree of culpability, and such other matters as justice may require.

45. To assess a penalty for the alleged violations in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's December 2007 Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy (the "ERP"), a copy of which is enclosed with this Complaint. The ERP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

46. Count I: Failure to Provide Lead Hazard Information Pamphlet. For three violations of 40 C.F.R. § 745.107(a)(1), EPA proposes a total penalty of \$27,340 as follows:

- | | | |
|----|--------------------------------------|----------|
| a. | For violation at 147 Blatchley Ave.: | \$8,500 |
| b. | For violation at 31 Rowe Street: | \$2,840 |
| c. | For violation at 67 Adeline Street: | \$16,000 |

47. Count II: Failure to Include Lead Warning Statement. For three violations of 40 C.F.R. § 745.113(b)(1), EPA proposes a total penalty of \$20,140 as follows:

- a. For violation at 147 Blatchley Ave.: \$7,090
- b. For violation at 31 Rowe Street: \$1,710
- c. For violation at 67 Adeline Street: \$11,340

48. Count III: Failure to Include a Statement by the Lessor Disclosing the Presence of Known Lead-Based Paint or Hazards, or Lack of Knowledge Thereof. For three violations of 40 C.F.R.

§ 745.113(b)(2), EPA proposes a total penalty of \$15,020 as follows:

- a. For violation at 147 Blatchley Ave.: \$5,670
- b. For violation at 31 Rowe Street: \$850
- c. For violation at 67 Adeline Street: \$8,500

49. Count IV: Failure to Include a List of Any Records Available to the Lessor that Pertain to Lead-Based Paint or Hazards in the Housing, or the Failure to Indicate That No Such Records

Exist. For three violations of 40 C.F.R. § 745.113(b)(3), EPA proposes a total penalty of \$4,520 as follows:

- a. For violation at 147 Blatchley Ave.: \$1,680
- b. For violation at 31 Rowe Street: \$260
- c. For violation at 67 Adeline Street: \$2,580

VII. VII. QUICK RESOLUTION

50. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondents have the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's or certified check, payable

to "The Treasurer, United States of America." The check should also note the docket number of this Complaint (TSCA-01-2012-0042) and should be forwarded to:

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

In addition, at the time of payment, Respondents should also forward notice of payment of the civil penalty as well as copies of the payment check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

and

Kathleen E. Woodward
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Mail Code: OES-04-2
Boston, Massachusetts 02109-3912

If payment is made within thirty (30) days of receipt of the Complaint, Respondents need not file an Answer. If Respondents agree to pay the penalty but need additional time, Respondents may file a statement to that effect with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint. In that event, Respondents need not file an Answer, as described in the following section of this Complaint, and will be allowed sixty (60) days from receipt of the Complaint to pay the penalty. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondents to default. See 40 C.F.R. § 22.18(a).

51. Any settlement in this matter shall be made final by the issuance of a written Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

VIII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

52. As provided by Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with 5 U.S.C. § 554, Respondent has the right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with Part 22, a copy of which is enclosed with this Complaint. **To avoid being found in default, Respondent must file a written Answer within thirty (30) days of Respondent's receipt of this Complaint.** The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. If Respondent has no knowledge of a particular fact and so states, the allegation is considered denied. Failure to deny an allegation constitutes an admission. Respondent's Answer must also state all facts and circumstances, if any, which constitute grounds for a defense and, if desired, must specifically request an administrative hearing. If Respondent denies any material fact or raises any affirmative defense, Respondent will be considered to have requested a hearing. The Answer must be sent to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, Massachusetts 02109-3912

Respondent should also send a copy of the Answer and all other documents which Respondent files in this action to Kathleen E. Woodward, the attorney assigned to represent EPA in this matter, at:

Kathleen E. Woodward
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912

53. The filing and service of documents, other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided with the Complaint.

IX. INFORMAL SETTLEMENT CONFERENCE

54. Whether or not Respondent requests a hearing, Respondent may confer informally with EPA concerning the facts of this case, or the amount of the proposed penalty, and the possibility of settlement. Respondent is encouraged to contact Kathleen E. Woodward, Senior Enforcement Counsel, at (617) 918-1780, to discuss the legal matters relating to this Complaint or to arrange an informal settlement conference.

Please note that a request for an informal settlement conference does not extend the thirty-day period within which a written Answer must be submitted to avoid default.

Kathleen E. Woodward, Senior Enforcement Counsel, at the above address and telephone, has been designated to represent Complainant and is authorized to receive service of process in this action.

3/31/15
Date


Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

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In the Matter of:))
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JPAA Chen Services, L.L.C.))
258-02 Pembroke Ave.))
Great Neck, NY 11020))
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Respondent.))
_____)

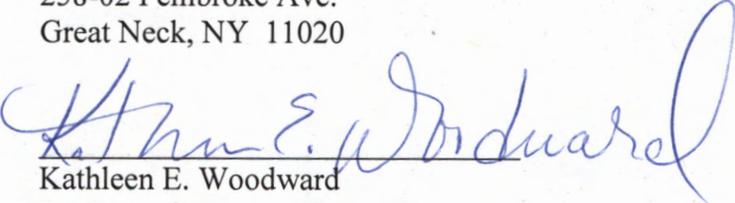
Docket No. TSCA-01-2015-0042

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for a Hearing has been sent to the following persons on the date noted below:

Original and One Copy (Hand-Delivered):
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, Massachusetts 02109-3912

Copy, including 40 C.F.R. Part 22 and Disclosure Rule Penalty Enforcement Response And Penalty Policy (Certified Mail, Return Receipt Requested):
Jimmy Chen, Owner
JPAA Chen Services, L.L.C.
258-02 Pembroke Ave.
Great Neck, NY 11020

Dated: April 3, 2015

Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912