

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. TSCA-08-2007-0008

2007 OCT 24 AM 11:22

EPA REGION VIII
HEARING CLERK

In the Matter of:)
)
Gerald A. Kelly Trust,) ANSWER
)
Respondent)

1. Respondent admits the allegations listed in paragraphs 1, 2, 4, 5, 7, 9, 11, 12 and 16.
2. Respondent denies the allegations listed in paragraphs 3, 6, 13, 15, 17 and 18.
3. Respondent denies the allegations listed in paragraphs 8 and 10. Gerald A. Kelly Trust is only part owner of the subject property.
4. Respondent denies the allegations listed in paragraph 14. There was no violation of the Act intentionally or negligently. Gail Razor, the resident in apartment 8264C Jamboree Circle, was, prior to entering into a lease agreement, provided with a lead-based disclosure document advising her of the dangers associated with lead-based paint. Gail Razor also signed an acknowledgment form stating, inter alia, that she received the lead-based paint disclosure document. Although the executed form was not in the Razor file on the date of the EPA inspection, a copy of the form used is attached hereto as Exhibit A and incorporated herein by reference. A copy of Gail Razor's Affidavit is also attached hereto as exhibit B and incorporated herein by reference.
5. Respondent respectfully requests a public hearing before an administrative law judge to contest the facts alleged by the EPA in the complaint and the appropriateness of the proposed penalty.

Date: Oct. 20, 2007


Roderick R. Hubbard

Exhibit A

Lead Based Paint Disclosure (Rentals)

Attachment to Residential Lease or Rental Agreement for the Property known as:

Street Address	City	State	Zip
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WARNING! LEAD FROM PAINT, DUST, AND SOIL CAN BE DANGEROUS IF NOT MANAGED PROPERLY!

Penalties for failure to comply with Federal Lead-Based Paint Disclosure Laws include treble (3 times) damages, attorney fees, costs, and a penalty up to \$10,000 for each violation.

Disclosure for Target Housing Rentals and Leases Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must also receive a federally approved pamphlet on lead poisoning prevention.

Landlord's Disclosure to Tenant and Real Estate Licensee(s)

(a) Landlord acknowledges that Landlord has been informed of Landlord's obligations. Landlord is aware that Landlord must retain a copy of this disclosure for no less than three years from the commencement of the leasing period.

(b) Presence of Lead-Based Paint and/or Lead-Based Paint Hazards (check one box below):

- Landlord has no knowledge of any Lead-Based Paint and/or Lead-Based Paint Hazards in the housing
- Landlord has knowledge of Lead-Based Paint and/or Lead-Based Paint Hazards are present in the housing

Explain: _____

(c) Records and Reports available to Landlord (check one box below):

- Landlord has no reports or records pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in the housing
- Landlord has provided Tenant with all available records and reports pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards are present in the housing (List documents below): _____

Tenant's Acknowledgment

(d) Tenant has read the Lead Warning Statement above and understands its contents.

(e) Tenant has received copies of all information, including any records and reports listed by Landlord above.

(f) Tenant has received the pamphlet, "Protect Your Family From Lead in Your Home."

Real Estate Licensee's Acknowledgement

Each Real Estate licensee signing below acknowledges receipt of the above Landlord's Disclosure, has informed Landlord of Landlord's obligation, and is aware of licensee's responsibility to ensure compliance.

Certification of Accuracy

I certify that the statements I have made are Accurate to the best of my knowledge.

LANDLORD ACADEMY MANOR

Date: _____

TENANT _____

Date: _____

Real Estate Licensee (Listing) _____ Date _____

Real Estate Licensee (Leasing) _____ Date _____

CERTIFICATION OF SERVICE

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

I hereby certify that on this 22nd day of October, 2007, a copy of the foregoing Answer was served by certified mail, return receipt requested to:

Eduardo Quintana
Senior Enforcement Attorney
Legal Enforcement Program
U.S.E.P.A Region 8
1595 Wynkoop Street (ENF-L)
Denver, CO 80202-1129

The original and one copy was served by certified mail, return receipt requested:

Tina Artemis
Region 8 Hearing Clerk
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202

Date: 10 22 07

Signature: Michelle Lane

Name: Michelle Lane