

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

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|----------------------------------|---|---------------------------------------|
| In the matter of: | : | Administrative Complaint |
| | : | |
| Frederick Gentile | : | U.S. EPA Docket No. |
| d/b/a | : | TSCA-03-2018-0092 |
| Gentile Construction and General | : | |
| Contracting | : | Proceeding Under Section 16(a) of the |
| 2527 South 11th Street | : | Toxic Substances Control Act |
| Philadelphia, PA 19148-4405 | : | 15 U.S.C. § 2615(a). |
| Respondent, | : | |
| | : | |
| Stoneleigh Apartments | : | |
| 4524-4538 Walnut Street | : | |
| Philadelphia, PA 19139 | : | |
| Target Housing. | : | |
| | : | |

U.S. EPA-REGION 3-RHC
FILED-3MAY2019pm3:03

REFILING OF PARTIAL WITHDRAWAL OF ADMINISTRATIVE COMPLAINT

1. On November 8, 2018, U.S. EPA Region III filed a Partial Withdrawal of Administrative Complaint in this matter.
2. Because of the change in the complainant as a result of the realignment of offices in U.S. EPA Region III described below and to correct some typographical errors, the Region is refiling the Partial Withdrawal of Administrative Complaint.
3. On May 17, 2018, the Director of the Land and Chemicals Division for U.S. EPA Region III filed an Administrative Complaint against Frederick Gentile

(the "Respondent"), doing business as Gentile Construction and General Contracting.

4. The Administrative Complaint alleges that the Respondent violated Section 409 of TSCA, of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2689.
5. As of May 17, 2018, the Director of the Land and Chemicals Division for U.S. EPA Region III was the "complainant" for purposes of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, and Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a).
6. On April 15, 2019, the authority to file administrative complaints pursuant to 40 C.F.R. Part 22 and Section 16(a) of TSCA was transferred to the Director of U.S. EPA Region III's Enforcement and Compliance Assurance Division.
7. Because of the transfer of authority, the Director of U.S. EPA Region III's Enforcement and Compliance Assurance Division (the "Complainant") is now the complainant for the purposes of 40 C.F.R. Part 22 and Section 16(a) of TSCA.
8. 40 C.F.R. § 22.14(d) allows a Complainant to withdraw all or part of a complaint as of right if the Respondent has not yet filed an Answer.
9. As of April 24, 2019, the Respondent had not filed an Answer with the

Regional Hearing Clerk or the Complainant.

10. After a re-review of the evidence in this matter, the Complainant in this matter has decided to partially withdraw the Administrative Complaint by dropping one of the violations alleged in the Administrative Complaint.
11. Count VI, contained in Paragraphs 78 through 83 of the Administrative Complaint, alleges that the Respondent violated 40 C.F.R. § 745.84(a)(1) by failing to obtain a written acknowledgement of provision of EPA's Lead Hazard Information Pamphlet to the owner of the unit that is undergoing renovations or written certification of mailing of the Pamphlet to the owner of the unit at least seven days prior to the renovation.
12. Because of the partial withdrawal of the Administrative Complaint, the Complainant no longer alleges that the Respondent violated 40 C.F.R. § 745.84(a)(1) and strikes Paragraphs 78 through 83 from the Administrative Complaint.
13. As a result of this partial withdrawal of the Administrative Complaint, the Complainant also reduces the penalty she is seeking by the portion of the total penalty pled in the Administrative Complaint attributable to Count VI, that is, \$580.
14. The Complainant now seeks a total penalty of \$18,440 for the Respondent's

violations alleged in the Administrative Complaint.

Respectfully submitted,

5/3/19

Date

Philip Yeany

Philip Yeany
Senior Assistant
Regional Counsel

Frederick Gentile
TSCA-03-2018-0092

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, I hand delivered to the Regional Hearing Clerk, EPA Region III, two copies of the Refiling of Partial Withdrawal of Complaint for this matter. In addition, I caused a true and correct copy of the same to be served as follows:

First Class Mail

Frederick Gentile
d/b/a
Gentile Construction and General Contracting
2527 South 11th Street
Philadelphia, PA 19148-4405

5/3/19
Date

Philip Yeany
Philip Yeany
Senior Assistant
Regional Counsel

U.S. EPA-REGION 3-RHC
FILED-3MAY2019PM3:03



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

First Class Mail

Frederick Gentile
Gentile Construction and General Contracting
2527 South 11th Street
Philadelphia, PA 19148-4405

May 3, 2019

Re: Refiling of Partial Withdrawal of Complaint
EPA Docket No. TSCA-03-2018-0092

Dear Mr. Gentile:

I have enclosed for your information a copy of the U.S. EPA's Refiling of Partial Withdrawal of Administrative Complaint. If you have any questions about this matter, please contact me at 215-814-2495.

Sincerely,

A handwritten signature in cursive script that reads "Philip Yeany".

Philip Yeany
Senior Assistant
Regional Counsel

Enclosures

