

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Jennifer ABIZAYSON 12/22/11
Name of Contact person Date

in the Office of Regional Counsel, Region III 215-814-2066
²⁰⁶⁶~~2074~~

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Company making payment: WEST BEACH Valley Realty, Inc

The Total Dollar Amount of Receivable: \$ 2800
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number: TSCA-03-2012-0055

The Site-Specific Superfund Acct. Number NA _____

The Designated Regional/HQ Program Office LCD

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|------------------------------|
| 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | |



RECEIVED
DEC 29 PM 4:53
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
REGIONAL HEARING CLERK
EPA REGION III PHILA. PA

In Reply Refer To Mail Code: 3RC50

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

12/29/11

Ryan M. Tira, Esquire
McNerney, Page, Vanderlin & Hall
433 Market Street
P.O. Box 7
Williamsport, PA 17703

Re: Consent Agreement and Final Order
EPA Docket No.: TSCA-03-2012-0055

Dear Mr. Tira:

Enclosed is a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above, with respect to you client West Branch Valley Realty, Inc.. For your file, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066.

Sincerely,

Jennifer M. Abramson
Senior Assistant Regional Counsel

Enclosures

cc: Kyle Chelius, EPA

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

RECEIVED
 2011 DEC 29 PM 4:15
 GENERAL HEARING CLERK
 EPA REGION III PHILA, PA

IN RE:	)	DOCKET NO. TSCA-03-2012-0055
)	
West Branch Valley Realty, Inc.	)	CONSENT AGREEMENT
1719 Four Mile Drive)	
Williamsport, PA 17701	)	Proceeding under Sections 16(a) and 409
	)	of the Toxic Substances Control Act,
Respondent,	)	15 U.S.C. §§ 2615(a) and 2689
)	
319 Russell Avenue)	
Williamsport, PA 17701)	
)	
1202 Isabella Street)	
Williamsport, PA 17701)	
)	
Target Housing.)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA” or “Agency”) and West Branch Valley Realty, Inc. doing business as RE/MAX West Branch (“Respondent”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, the federal regulations set forth at 40 C.F.R. Part 745, Subpart F, 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 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).

2. The violations cited herein pertain to the Respondent’s alleged failure, as an agent for a seller and for a lessor of certain housing, to comply with requirements of 40 C.F.R. Part 745, Subpart F, Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act (“RLBPHRA”), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

3. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA’s civil claims alleged in Section IV (“Findings of Fact and

Conclusions of Law”) of this Consent Agreement.

II. JURISDICTION

4. The U.S. Environmental Protection Agency and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the RLBPHRA, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the Consolidated Rules of Practice.

III. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the “CAFO”.

6. Except as provided in Paragraph 5 of this Consent Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement.

7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

8. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

10. Each Party to this Consent Agreement shall bear its own costs and attorney’s fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

12. Pursuant to Section 1004(27) of the RLBPHRA, 42 U.S.C. § 4851b(27), Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term “target housing” means “any

housing constructed prior to 1978, except 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.”

13. Pursuant to Section 1004(23) of the RLBPHRA, 42 U.S.C. § 4851b(23), Section 401(14) of TSCA, 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “residential dwelling” means either a single family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

14. At all times relevant to the violations alleged in this Consent Agreement, Respondent was the “agent” for the “seller” in connection with a January 13, 2008 “contract for the purchase and sale of residential real property” for property located at 319 Russell Avenue in Williamsport, Pennsylvania (“Russell Avenue Sales Transaction”), as those terms are defined at 40 C.F.R. § 745.103.

15. At all times relevant to the violations alleged in this Consent Agreement, Respondent was the “agent” for the “lessor” in connection with an October 5, 2007 agreement to lease the 1st Floor of a “residential dwelling” located at 1202 Isabella Street in Williamsport, Pennsylvania (“Isabella Street Lease Transaction”), as those terms are defined at 40 C.F.R. § 745.103.

16. At all relevant times to the violations alleged in this Consent Agreement, the residential dwellings located on the properties described in Paragraphs 14 and 15 were constructed prior to 1978 and were not “housing for the elderly” or persons with disabilities or “0-bedroom dwelling[s]” as those terms are defined in 40 C.F.R. § 745.103, and were “target housing” as these terms are defined at 40 C.F.R. § 745.103.

17. The Russell Avenue Sales Transaction was not a “[s]ale[] of target housing at foreclosure,” as provided at 40 C.F.R. § 745.101(a).

18. The Isabella Street Lease Transaction was not a “[l]ease[] of target housing . . . found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program,” as provided at 40 C.F.R. § 745.101(b); a “[s]hort-term lease[] of 100 days or less, where no lease renewal or extension can occur,” as provided at 40 C.F.R. § 745.101 (c); or a “[r]enewal[] of [an] existing lease[] . . . in which the lessor has previously disclosed all information required under § 745.107 and where no new information described in § 745.107 has come into the possession of the lessor,” as provided at 40 C.F.R. § 745.101(d).

19. Pursuant to 40 C.F.R. § 745.115(a), “[e]ach agent shall ensure compliance with all requirements of [40 C.F.R. Part 745, Subpart F]. To ensure compliance, the agent shall: . . . (2) Ensure that the seller or lessor has performed all activities required under §§ 745.107, 745.110, and 745.113 or personally ensure compliance with the requirements of §§ 745.107, 745.110, and 745.113.”

COUNT 1 – RUSSELL AVENUE SALES TRANSACTION

20. The allegations contained in Paragraphs 1 through 19 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

21. Pursuant to 40 C.F.R. § 745.113(a)(7), each contract to sell target housing shall include an attachment containing the signatures of the sellers, agents, and purchasers certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.

22. The attachment to the contract for the Russell Avenue Sales Transaction did not include an agent signature certifying to the accuracy of the agent’s statements to the best of the agent’s knowledge.

23. Respondent’s failure to personally ensure compliance with the requirements of 40 C.F.R. § 745.113(a)(7), in regards to the Russell Avenue Sales Transaction, constitutes a violation of 40 C.F.R. § 745.115(a)(2), Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

COUNTS 2 AND 3 – ISABELLA STREET LEASE TRANSACTION

24. The allegations contained in Paragraphs 1 through 19 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

25. Pursuant to 40 C.F.R. § 745.113(b)(4), the lessor is required to include, either as an attachment to or within the contract for lease, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (b)(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686.

26. The contract for the Isabella Street Lease Transaction did not include, as an attachment to or within such contract, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (b)(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686.

27. Respondent’s failure to ensure that the lessor performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(4), or to personally ensure such compliance, in regards to the

Isabella Street Lease Transaction, constitutes a violation of 40 C.F.R. § 745.115(a)(2), Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

28. Pursuant to 40 C.F.R. § 745.113(c)(1), the agent shall retain a copy of the completed attachment or lease contract containing the information required under 40 C.F.R. § 745.113(b) for no less than 3 years from the commencement of the leasing period.

29. The copy of the completed lease contract being maintained by Respondent for the Isabella Street Lease Transaction pursuant to 40 C.F.R. § 745.113(c)(1) did not include the lead warning statement required by 40 C.F.R. § 745.113(b)(1).

30. Respondent's failure to personally ensure compliance with the requirements of 40 C.F.R. § 745.113(c)(1), in regards to the Isabella Street Lease Transaction, constitutes a violation of 40 C.F.R. § 745.115(a)(2), Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

V. CIVIL PENALTY

31. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of two thousand eight hundred dollars (\$2,800) which Respondent shall be liable to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described in Paragraphs 34 through 37, Respondent must pay such civil penalty no later than THIRTY (30) CALENDAR DAYS after the date on which a true and correct copy of the signed and executed CAFO is mailed or hand-delivered to Respondent.

32. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent's, 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. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Section 1018 — Disclosure Rule Enforcement Response and Penalty Policy*, and 40 C.F.R. Part 19.

33. Payment of the civil penalty amount described in Paragraph 31, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, *i.e.*, TSCA-03-2012-0055;
- b. All checks shall be made payable to “**United States Treasury**”;
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
U.S. EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004

33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty described in Paragraph 31 shall be sent simultaneously to:

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

34. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

35. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of the 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).

36. The costs of EPA's administrative handling of overdue debts is charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. §13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

37. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. §13.11 (c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

38. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

VI. EFFECT OF SETTLEMENT

39. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under TSCA and/or the RLBPHRA for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law"), above.

Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VII. OTHER APPLICABLE LAWS

40. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VIII. CERTIFICATION OF COMPLIANCE

41. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that it currently is in compliance with the provisions of TSCA, the RLPHRA and 40 C.F.R. Part 745, Subpart F.

IX. RESERVATION OF RIGHTS

42. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law") herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18 (c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under TSCA, the RLPHRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the EPA Regional Hearing Clerk.

X. PARTIES BOUND

43. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, and Respondent's officers and directors (in their official capacity), successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

XI. EFFECTIVE DATE

44. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to

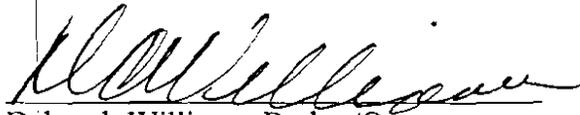
the Consolidated Rules of Practice.

XII. ENTIRE AGREEMENT

45. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

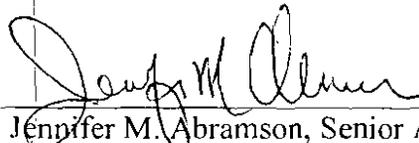
12/15/11
Date



Deborah Williams, Broker/Owner
West Branch Valley Realty, Inc. doing business as RE/MAX West Branch

For Complainant:

12/22/11
Date



Jennifer M. Abramson, Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

12/27/11
Date



Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

RECEIVED

2011 DEC 29 PM 4: 53

FEDERAL HEARING CLERK
EPA REGION III PHILA. PA

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN RE:	)	DOCKET NO. TSCA-03-2012-0055
)	
West Branch Valley Realty, Inc.	)	FINAL ORDER
1719 Four Mile Drive)	
Williamsport, PA 17701	)	Proceeding under Sections 409 and 16(a)
	)	of the Toxic Substances Control Act,
Respondent,	)	15 U.S.C. §§ 2689 and 2615(a)
)	
319 Russell Avenue)	
Williamsport, PA 17701)	
)	
1202 Isabella Street)	
Williamsport, PA 17701)	
)	
Target Housing.)	

FINAL ORDER

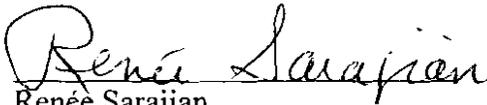
Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned Respondent have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

WHEREFORE, Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, and 40 C.F.R. Part 745, Subpart F, authorize the assessment of a civil penalty under Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of the RLBPHRA, and having determined, based on the representations of the parties to the attached Consent Agreement, that the agreed-upon two

thousand eight hundred dollar (\$2,800) civil penalty was based upon consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of two thousand eight hundred dollars (\$2,800) in accordance with the payment provisions set forth in the attached Consent Agreement.

The effective date of the foregoing Consent Agreement and this **FINAL ORDER** is the date on which this **FINAL ORDER** is filed with the EPA Regional Hearing Clerk.

12/29/11
Date


Renée Sarajian
Regional Judicial Officer
U.S. EPA - Region III

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

2011 DEC 29 PM 4:53
REGIONAL HEARING CLERK
EPA REGION III PHILA. PA

IN RE:) DOCKET NO. TSCA-03-2012-0055
)
)
West Branch Valley Realty, Inc.) CONSENT AGREEMENT
1719 Four Mile Drive)
Williamsport, PA 17701)
) Proceeding under Sections 409 and 16(a)
) of the Toxic Substances Control Act,
Respondent,) 15 U.S.C. §§ 2689 and 2615(a)
)
)
319 Russell Avenue)
Williamsport, PA 17701)
)
)
1202 Isabella Street)
Williamsport, PA 17701)
)
)
Target Housing.)

CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

Original and one copy by hand-delivery:

Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail

Ryan M. Tira, Esquire
McNerney, Page, Vanderlin & Hall
433 Market Street
P.O. Box 7
Williamsport, PA 17703

12/29/11
Date


Jennifer M. Abramson (3RC50)
Senior Assistant Regional Counsel
U.S. EPA, Region III



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

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
Docket No.: TSCA-03-2012-0053

FROM: Marcia E. Mulkey
Regional Counsel (3RC00)

Abraham Ferdas, Director
Land and Chemicals Division (3LC00)

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order (“CAFO”) have been negotiated with West Branch Valley Realty, Inc. (“Respondent”) in settlement of actionable Toxic Substances Control Act (“TSCA”) violations. The compliance issues addressed in the CAFO involve the failure to comply with requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, codified at 42 U.S.C. §§ 4851 *et seq.*, and EPA’s regulations at 40 C.F.R. Part 745, Subpart F in connection with a sales transaction and a lease transaction involving target housing located in Reading, Pennsylvania, which subject Respondent to civil penalties under Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689.

The litigation team calculated a civil penalty of two thousand eight hundred dollars (\$2,800) in accordance with the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent’s, 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, and with EPA’s *Section 1018 Disclosure Rule Final Enforcement Response Policy (“ERP”)*, dated December 2007

We recommend that you sign the attached Final Order assessing two thousand eight hundred (\$2,800) in civil penalties against Respondent. After you execute the Final Order, please return the documents to Jennifer M. Abramson of Office of Regional Counsel for further processing.

Attachments

cc: Ryan M. Tira, Esquire
McNerney, Page, Vanderlin & Hall

