

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

RECEIVED  
2016 JUN -2 PM 3:57  
REGIONAL HEARINGS CLERK  
EPA REGION III PHILA, PA

In the Matter of: )  
)  
Gunton Corporation )  
26150 Richmond Road )  
Bedford Heights, OH 44146 )  
  
RESPONDENT )  
)  
)  
)  
)  
)  
)

**Docket No.: TSCA-03-2016-0057**

Proceeding Under Section 16(a) of the  
Toxic Substances Control Act, 15 U.S.C.  
Section 2615(a)

**CONSENT AGREEMENT**

This Consent Agreement is entered into by the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Gunton Corporation (or “Respondent”) pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, 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. §§ 22.18(b)(2) and (3)).

**I. PRELIMINARY STATEMENT AND STIPULATIONS**

1. The violations set forth in the Administrative Complaint filed on February 29, 2016 pertain to the Respondent’s alleged failure, during the performance of a renovation for compensation on certain pre-1978 housing, to comply with the Lead Renovation, Repair, and Painting Program (commonly known as the “RRP Rule”), set forth at 40 C.F.R. Part 745, Subpart E.
2. In accordance with 40 C.F.R. §§ 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby resolves, as part of the settlement set forth herein, EPA’s civil claims alleged in the Administrative Complaint filed in this matter on February 29, 2016.

## II. JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter pursuant to Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.

## III. GENERAL PROVISIONS

4. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in Paragraph 10 of the Consent Agreement, which incorporated by reference the findings of fact and allegation of law alleged in the Administrative Complaint filed in this matter on February 29, 2016.
5. Except as provided in Paragraph 4, above, the Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in the Administrative Complaint.
6. 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.
7. 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.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
9. Each party to this Consent Agreement shall bear its own costs and attorney’s fees.

## IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. The findings of fact and conclusions of law alleged in the Administrative Complaint filed on February 29, 2016 are incorporated by reference herein as fully set forth in this Consent Agreement.

V. CIVIL PENALTY

11. 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 Four Hundred Dollars (\$2,400.00)** 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. If Respondent pays the entire penalty of \$2,400.00 within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against the Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
12. The Parties represent that the settlement terms are reasonable and are based upon EPA'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 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule ("LBP Consolidated ERPP")*, dated August 2010. Complainant has also considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the December 6, 2013 memorandum by EPA Assistant Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)*.
13. Payment of the civil penalty amount 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 Respondent's name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2016-0057**;
  - 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  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen 513-487-2091  
Secondary Contact: Molly Williams, (513) 487-2076

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

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
1005 Convention Plaza 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  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

14. Respondent may also pay the amount described in Paragraph 11 above, electronically or on-line as follows:

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

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
(Field Tag 4200 of the wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

- b. 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 Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026 or  
Remittance Express (REX): 1-866-234-5681

c. On-Line Payment Option:

[WWW.PAY.GOV/PAYGOV](http://WWW.PAY.GOV/PAYGOV)

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

d. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103 - 2029, and

Louis Ramalho (3RC50)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

15. 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 the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

16. The costs of the EPA's administrative handling of overdue debts will be 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.
17. A late penalty payment of six percent (6%) 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).
18. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

#### VI. EFFECT OF SETTLEMENT

19. 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 for the specific violations alleged in the Complaint. 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

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

#### VIII. CERTIFICATION OF COMPLIANCE

21. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief that it currently is complying with applicable provisions of TSCA and 40 C.F.R. Part 745 Subpart E.

#### IX. RESERVATION OF RIGHTS

22. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged against the Respondent in this CAFO. 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, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under TSCA 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

23. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the Respondent's successors, agents and assigns.

XI. EFFECTIVE DATE

24. The effective date of this Consent Agreement and the accompanying Final Order (which is signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer), shall be the date the CAFO is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XII. ENTIRE AGREEMENT

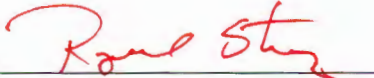
25. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon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

XIII. EXECUTION

26. The person signing this Consent Agreement on behalf of the Respondent acknowledges and certifies by his signature that he is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**For Respondent:**

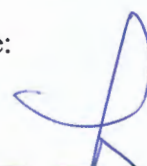
Date: 4.12.16



Reginald Stacy, Treasurer  
Gunton Corporation  
610-631-9500

**For Complainant:**

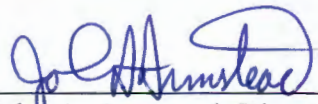
Date: 4-19-16



US EPA, Region III  
Louis Ramalho, 3RC50  
Sr. Assistant Regional Counsel  
(215) 814-2603

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 5.9.16

By:   
John A. Armstead, Director  
Land and Chemicals Division,  
U.S. EPA, Region III



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

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. P.

2016 JUN -2 PM 3:57

RECEIVED

In the Matter of: )

Gunton Corporation )  
26150 Richmond Road )  
Bedford Heights, OH 44146 )

RESPONDENT )

Docket No.: TSCA-03-2016-0057

) Proceeding Under Section 16(a) of the  
) Toxic Substances Control Act, 15 U.S.C.  
) Section 2615(a)

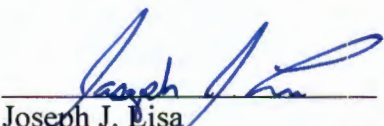
**FINAL ORDER**

The Complainant, the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III and Respondent, Gunton Corporation, 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 into this Final Order as if set forth fully herein.

**WHEREFORE**, pursuant to the authority of Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of the Lead; Renovation, Repair, and Painting Program, 40 C.F.R. Part 745, and having determined, based on the representations of the parties to the attached Consent Agreement, that the civil penalty agreed therein 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 Four Hundred Dollars (\$2,400.00)** in accordance with the payment provisions set forth in the attached Consent Agreement, including payment of any applicable interest, and complying with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the CAFO is filed with the EPA Regional Hearing Clerk.

Date: 6-2-2016


  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region III

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, a true and correct copy of the attached Consent Agreement and Final Order, Docket No. TSCA-03-2016-0057, was mailed overnight via UPS, confirmation of receipt requested to:

**John C. McMeekin II, Esq., CLMP**  
**Rawle & Henderson LLP**  
**The Widener Building, 16<sup>th</sup> Floor**  
**One South Penn Square**  
**Philadelphia, PA 19107**  
**(215) 575-4324 office**  
**(215) 370-9626 mobile**  
**(215) 563-2583 fax**

Date 6/2/2016

  
\_\_\_\_\_  
Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2016 JUN -2 PM 3:57

RECEIVED