

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of: :
: :
P.B.S., Inc. (d.b.a. "The Window Man") : U.S. EPA Docket No. TSCA-03-2024-0117
3853-A Pickett Road :
Fairfax, VA 22031-3605 : Proceeding under Sections 16(a) and 409 of the
: Toxic Substances Control Act, 15 U.S.C.
Respondent. : §§ 2615(a) and 2689
:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and P.B.S., Inc. (d.b.a. "The Window Man") ("Respondent") (collectively the "Parties"), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act, 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. The Toxic Substances Control Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the Toxic Substances Control Act ("TSCA") for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(5).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations 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 Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(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. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Subchapter IV – Lead Exposure Reduction, TSCA Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. TSCA Section 402, 15 U.S.C. § 2682, required the Administrator to promulgate regulations governing lead-based paint activities. The regulations are codified at 40 C.F.R. Part 745, subpart E, and informally known as the Lead-Based Paint Renovation Repair and Painting Rule ("RRP Rule").
13. Section 402(c) of TSCA, 15 U.S.C. § 2682(c), required the Administrator of EPA to promulgate regulations for the certification of individuals engaged in renovation or remodeling activities in target housing, public buildings built before 1978, and commercial buildings.

14. Section 407 of TSCA, 15 U.S.C. § 2687, required that the regulations promulgated by the Administrator include such record keeping and reporting requirements as may be necessary to ensure the effective implementation of TSCA Subchapter IV.
15. Under the RRP Rule, each person who performs for compensation a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to conduct renovation, remodeling and/or painting activities in target housing and/or child-occupied facilities or must be employed by an EPA-certified renovation firm.
16. Pursuant to 40 C.F.R. § 745.83, the term "firm" means "a company, partnership, corporation, sole proprietorship or individual doing business, association or other business entity; a Federal, State, Tribal or local government agency; or a nonprofit organization."
17. Pursuant to 40 C.F.R. § 745.83, the term "renovation" means "the modification of any existing structure, or portion thereof that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. § 745.223."
18. Pursuant to 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."
19. Respondent is a corporation operating under the laws of the Commonwealth of Virginia and has a principal place of business at 3853-A Pickett Road, Fairfax, VA 22031.
20. Respondent is a "person" as that term is defined at 40 C.F.R. § 745.83 and is subject to the assessment of civil penalties for the violations alleged herein.
21. At all times relevant to the violations alleged herein, Respondent was and is a "firm" as that term is defined at 40 C.F.R. § 745.83.
22. On May 25, 2023, EPA received a tip and complaint from an occupant of the Tilden Gardens Apartment Complex in Washington, D.C. concerning the window renovation being performed by Respondent at the Tilden Gardens Apartment Complex located at 3000 Tilden St. NW, Washington, D.C. 20008. The Tilden Gardens Apartment Complex operates as a housing co-operative, whereby residents own shares of the co-operative entitling them to occupy an apartment and the co-operative owns the real property.

- 23. The tipster identified in Paragraph 22, above, provided photographs to the EPA to support their complaint, including photographs showing multiple active window renovation work areas throughout the Tilden Gardens Apartment Complex. The photographs do not show warning signs directing occupants and other persons to stay out of the work areas and the work areas do not appear to be isolated to contain all dust and debris. Other photographs show paint dust and chips on the floor and dresser in the tipster’s child’s bedroom. No information was provided by the tipster about the age of their child.
- 24. On July 19, 2023, an EPA inspector conducted an announced records inspection at Respondent’s principal place of business to determine Respondent’s compliance with the RRP Rule, 40 C.F.R. Part 745, Subpart E (“Records Inspection”).
- 25. During the Records Inspection, the EPA inspector identified and collected nine (9) renovation contracts for the following Tilden Gardens Apartment Complex units for further review:

Address	Contract Date
3930 Connecticut Ave. NW #202H, Washington, D.C. 20008	6/9/2021
3000 Tilden ST NW #202I, Washington, D.C. 20008	6/8/2021
3900 Connecticut Ave. NW #306F, Washington, D.C. 20008	6/8/2021
3900 Connecticut Ave. NW #406G, Washington, D.C. 20008	6/7/2021
3000 Tilden St. NW #501I, Washington, D.C. 20008	6/10/2021
3024 Tilden St. NW #202C, Washington, D.C. 20008	6/7/2021
3900 Connecticut Ave. NW #102F, Washington, D.C. 20008	6/9/2021
3900 Connecticut Ave. NW #201G, Washington, D.C. 20008	6/10/2021
3930 Connecticut Ave. NW #201H, Washington, D.C. 20008	6/10/2021

- 26. Based on the information collected during the Records Inspection and subsequent investigation, Respondent entered into contracts with the occupants of the properties listed in Paragraph 25, above, to perform “renovations” as such term is defined by 40 C.F.R. § 745.83. The renovations took place from January 2022 through Summer 2023.

27. Based on the information collected during the Records Inspection and subsequent investigation, the nine (9) properties identified in Paragraph 25, above, were all constructed prior to 1978 and are, therefore, "target housing" as such term is defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103.
28. According to the contracts observed by EPA during the Records Inspection, the renovations performed by Respondent at the properties listed in Paragraph 25, above ("the Tilden Gardens renovations"), were "renovations performed for compensation at target housing" as described in 40 C.F.R. § 745.82.
29. During the Records Inspection, the EPA inspector collected recordkeeping checklists for the Tilden Gardens contracts documenting that the safe work practices and cleanup standards required by the RRP Rule were followed. Respondent was unable to produce a recordkeeping checklist for the renovation at apartment #201H.
30. The recordkeeping checklists collected by EPA during the Records Inspection and subsequent investigation listed Michael Linton, an employee of Respondent, as the certified renovator assigned to all of the Tilden Gardens renovations.
31. Renovator certification records collected by the EPA inspector during the Records Inspection and subsequent investigation show that Michael Linton's renovator certification expired on August 21, 2017, and that he did not obtain recertification until August 23, 2022, after the Tilden Gardens renovations had commenced.
32. On April 9, 2024, Respondent provided information to EPA showing that three of the nine Tilden Gardens renovations took place under the direct supervision of Ryan Sepulveda, a certified renovator, as that term is defined at 40 C.F.R. § 745.83.
33. During the Records Inspection, Respondent was unable to produce acknowledgments of receipt of EPA's pamphlet entitled, *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* ("Renovate Right Pamphlet") from the owner(s) of any of the properties identified in Paragraph 25, above.
34. During the Records Inspection, Respondent was unable to produce acknowledgments of receipt of EPA's Renovate Right Pamphlet from an adult occupant of any of the properties identified in Paragraph 25, above.

Count I

Failure to Ensure that an EPA-Certified Renovator was Assigned to the Renovations

35. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

36. 40 C.F.R. § 745.89(d)(2) requires that firms performing renovations "must ensure that a certified renovator is assigned to each renovation performed by the firm."
37. Between January 2022 and August 23, 2022, Respondent failed to ensure that a certified renovator was assigned to the Tilden Gardens renovations.
38. Between January 2022 and August 23, 2022, Respondent violated 40 C.F.R. § 745.89(d)(2) by failing to ensure that a certified renovator was assigned to the Tilden Gardens renovations.
39. In failing to comply with 40 C.F.R. § 745.89(d)(2), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count II

Failure to Obtain Acknowledgment of Receipt of EPA Renovate Right Pamphlet from Owner of Dwelling Units

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. 40 C.F.R. § 745.84(a)(1)(i) requires that firms performing renovations on dwelling units must provide the owner of the unit with a copy of EPA's Renovate Right Pamphlet and "obtain, from the owner, a written acknowledgment that the owner has received the pamphlet."
42. 40 C.F.R. § 745.86(b)(2), requires that "[f]irms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance" with the RRP Rule for 3 years "following completion of the renovation," including "signed and dated acknowledgments of receipt as described in § 745.84(a)(1)(i)..."
43. At the time of the Records Inspection, Respondent failed to produce a written acknowledgment of receipt of EPA's Renovate Right Pamphlet from the owner of any of the Tilden Gardens Apartment Complex properties listed in Paragraph 25, above.
44. At the time of the Records Inspection, Respondent violated 40 C.F.R. § 745.84(a)(1)(i) and 745.86(b)(2) by failing to obtain and make available to EPA upon request written acknowledgments of receipt of EPA's Renovate Right Pamphlet from the owner of any of the Tilden Gardens Apartment Complex properties identified in Paragraph 25, above.
45. In failing to comply with 40 C.F.R. § 745.84(a)(1)(i) and 745.86(b)(2), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to

the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count III

Failure to Obtain Acknowledgment of Receipt of EPA Renovate Right Pamphlet from Adult Occupants of Dwelling Units

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
47. 40 C.F.R. § 745.84(a)(2)(i) requires that firms performing renovations on dwellings where the owner does not occupy the dwelling must provide an adult occupant of the unit with a copy of EPA's Renovate Right Pamphlet and "obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet."
48. 40 C.F.R. § 745.86(b)(2) requires that "[f]irms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance" with the RRP Rule for 3 years "following completion of the renovation," including "signed and dated acknowledgments of receipt as described in § 745.84 ... (a)(2)(i)..."
49. At the time of the Records Inspection, Respondent failed to produce a written acknowledgment of receipt of EPA's Renovate Right Pamphlet from an adult occupant of any of the Tilden Gardens Apartment Complex properties listed in Paragraph 25, above.
50. At the time of the Records Inspection, Respondent violated 40 C.F.R. § 745.84(a)(2)(i) and 745.86(b)(2) by failing to obtain and make available to EPA upon request written acknowledgments of receipt of EPA's Renovate Right Pamphlet from the adult occupants of any of the Tilden Gardens Apartment Complex properties identified in Paragraph 25, above.
51. In failing to comply with 40 C.F.R. § 745.84(a)(2)(i) and 745.86(b)(2), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count IV

Failure to Retain and Make Records Available to EPA

52. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
53. 40 C.F.R. § 745.86(b)(6), requires that "[f]irms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance" with the RRP Rule for 3 years "following completion of the renovation," including

"[d]ocumentation of compliance with the requirements of [40 C.F.R.] § 745.85. 40 C.F.R. § 745.85 sets forth safe work practices and cleanup standards which must be followed by certified renovators performing renovations on target housing, as those terms are defined in 40 C.F.R. § 745.83.

54. At the time of the Records Inspection, Respondent failed to make available to EPA upon request a recordkeeping checklist demonstrating compliance with the requirements of 40 C.F.R. § 745.85 governing safe work practices and cleanup standards for the renovation at Apartment #201H at the Tilden Gardens Apartment Complex.
55. At the time of the Records Inspection, Respondent violated 40 C.F.R. § 745.86(b)(6) by failing to make available to EPA upon request a recordkeeping checklist for Apartment #201H.
56. In failing to comply with 40 C.F.R. § 745.86(b)(6), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count V
Failure to Post Warning Signs in the Work Area

57. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
58. 40 C.F.R. § 745.85(a)(1) requires that "[f]irms must post signs clearly defining the work area and warning other persons not involved in renovation activities to remain outside of the work area. ... [T]hese signs must be posted before beginning the renovation and must remain in place ... until the renovation and post-renovation cleaning verification have been completed."
59. Based on the photographs taken by the tipster at the time of the Tilden Gardens renovations and submitted to the EPA, Respondent failed to post signs defining the work area and warning others to remain outside the work area. No signs are visible in any of the 21 photos of active work areas submitted by the tipster.
60. At the time of the Tilden Gardens renovations, Respondent violated 40 C.F.R. § 745.85(a)(1) by failing to post signs clearly defining the work area and warning other persons not involved in the renovation activities to remain outside of the work area.
61. In failing to comply with 40 C.F.R. § 745.85(a)(1), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count VI
Failure to Adequately Isolate Work Area

62. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
63. 40 C.F.R. § 745.85(a)(2)(i)-(ii) require that firms must "isolate the work area so that no dust or debris leaves the work area while the renovation is being performed" and "maintain the integrity of the containment," and otherwise set forth specific requirements for isolation of interior and exterior renovations.
64. Based on the photographs taken by the tipster at the time of the Tilden Gardens renovations and submitted to the EPA, Respondent failed to adequately isolate interior and exterior work areas. Inadequate containment measures and dust and debris outside of the containment areas on floors and windows are visible in 25 of the photos submitted by the tipster.
65. At the time of the Tilden Gardens Apartment Complex renovations, Respondent violated 40 C.F.R. § 745.85(a)(2)(i)-(ii) by failing to adequately isolate work areas.
66. In failing to comply with 40 C.F.R. § 745.85(a)(2)(i)-(ii), Respondent is in violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

CIVIL PENALTY

67. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of FIFTY-TWO THOUSAND TWO HUNDRED ELEVEN dollars (\$52,211), which Respondent shall be liable to pay in accordance with the terms set forth below.
68. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in TSCA Section 16(a)(2)(B), including the following: the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, 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* which reflects the statutory penalty criteria and factors set forth at TSCA, Section 16(a)(2)(B), the appropriate

Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

- 69. Respondent agrees to pay a civil penalty in the amount of **\$52,211** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
- 70. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
- 71. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, TSCA-03-2024-0117.
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person:

Peter A. Herrick, Esq.
Assistant Regional Counsel
herrick.peter@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Office
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

"Proof of Payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

- 72. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Consent Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty the following amounts.

- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate; any lower rate would fail to provide Respondent adequate incentive for timely payment.
 - b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.
 - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.
73. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions may include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
74. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
75. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
76. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
77. The parties consent to service of the Final Order by e-mail at the following valid email addresses: herrick.peter@epa.gov (for Complainant), and jromanick@grddlaw.com (for Respondent).
78. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, **including** amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of the Final Order per Paragraph 85; and
 - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

- 79. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
- 80. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about Respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

81. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

82. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the TSCA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

83. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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). EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

84. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

85. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, or his/her designee,


the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

86. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties 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 Consent Agreement and Final Order.

For Respondent: P.B.S. Inc. (d.b.a. "The Window Man")

Date: 6/14/2024

By: 

Thomas Patterson
President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
Peter A. Herrick, Esq.
Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jul 02, 2024

9:47 am

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
: :
P.B.S., Inc. (d.b.a. "The Window Man") : U.S. EPA Docket No. TSCA-03-2024-0117
3853-A Pickett Road :
Fairfax, VA 22031-3605 : Proceeding under Sections 16(a) and 409 of the
: Toxic Substances Control Act, 15 U.S.C. §§ 2615
Respondent. : and 2689
:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, P.B.S., Inc. (d.b.a. "The Window Man") 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, 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* (August 2010), which reflects the statutory penalty criteria and factors set forth at TSCA, Section 16(a)(2)(B), and the statutory factors set forth in Section 16(a)(2)(B) of the Toxic Substances Control Act, 15 U.S.C. § 2615.

NOW, THEREFORE, PURSUANT TO Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIFTY-TWO THOUSAND TWO HUNDRED ELEVEN DOLLARS (\$52,211)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not

waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of THE Toxic Substances Control Act and the regulations promulgated thereunder.

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

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

