

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

IN RE:	)	DOCKET NO. TSCA-03-2013-0099
	)	
Chuckudi Anya d/b/a	)	
Window Depot USA of	)	
Frederick, MD, LLC	)	<b>ADMINISTRATIVE COMPLAINT AND</b>
5702 Industry Lane, #45-A	)	<b>NOTICE OF OPPORTUNITY FOR A</b>
Frederick, MD 21704	)	<b>HEARING PURSUANT TO</b>
	)	<b>SECTIONS 16(a) AND 409 OF THE</b>
Respondent	)	<b>TOXIC SUBSTANCES CONTROL ACT</b>
	)	<b>("TSCA") 15 U.S.C. §§ 2615(a) AND 2689</b>

2013 SEP 10 AM 9:50  
 REGION III  
 EPA REGION III  
 PHILADELPHIA  
 RECEIVED

**I. STATEMENT OF AUTHORITY**

This Administrative Complaint and Notice of Opportunity for a Hearing ("Complaint") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency, ("EPA" or the "Agency") by 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 in 40 C.F.R. Part 745, Subpart E, 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, a copy of which is enclosed with this Complaint. The Administrator has delegated this authority, under TSCA, to the Regional Administrators and this authority has been further delegated in the U.S. EPA Region III to, *inter alia*, the Director of the Land and Chemicals Division ("Complainant"), pursuant to EPA Region III Delegation No. 12-2-A.

The Respondent in this action is Chuckudi Anya d/b/a Window Depot USA of Frederick, MD, LLC, Maryland license number 94975, District of Columbia license number 20859, ("Respondent").

In support of this Complaint, Complainant alleges the following:

**II. NATURE OF ACTION**

1. This Complaint alleges that Respondent performed renovations for compensation on two (2) pre-1978 dwelling units. These two renovations took place between November and December of 2011.

2. By issuing this Complaint, Complainant alleges violations by Respondent of Sections 15, 407, and 409 of TSCA, 15 U.S.C. §§ 2614, 2687, and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart E (also known as the “Renovation, Repair, and Painting Rule” or the “RRP Rule”). Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

### III. JURISDICTION

3. 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 Residential Lead-Based Paint Hazard Reduction Act (“RLBPHRA” or the “Act”), 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart E, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the Consolidated Rules of Practice.

### IV. STATUTORY AND REGULATORY BACKGROUND

4. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account during the renovation of homes and apartments. To carry out this purpose, the Act added a new title to TSCA entitled “Title IV – Lead Exposure Reduction,” which currently includes Sections 401-411 of TSCA, 15 U.S.C. §§ 2681-2692.

5. In 2008, under the authority of Sections 402(c)(3), 404, 406, and 407 of TSCA, EPA issued its final RRP rule. The Final RRP Rule, codified in 40 C.F.R. part 745, Subparts E, L, and Q, addressed lead-based paint hazards created by renovation, repair, and painting activities that disturb painted surfaces in target housing and child-occupied facilities.

6. In 2010, the RRP Rule was amended to, among other things, require renovation firms to provide a copy of the records demonstrating compliance with the training and work practice requirements of the RRP Rule to the owner and, if different, the occupant of the building being renovated or the operator of the child-occupied facility.

7. On October 4, 2011, the Final RRP Rule became effective. Pursuant to Section 407 of TSCA, 15 U.S.C. § 2687, the Final RRP Rule includes record keeping and reporting requirements, promulgated under 40 C.F.R. § 745.86, to insure the effective implementation of TSCA Subchapter IV.

8. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule). Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with the requirement of the RRP Rule is a violation of Section 409 of TSCA. Pursuant to 40 C.F.R. § 745.87(b), the failure to establish and maintain the records required by the RRP Rule is a violation of Section 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

9. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. § 745.87(d) authorize the assessment of a civil penalty of up to \$ 25,000 per day per violation of the RRP Rule. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occur on or after January 13, 2009, are subject to penalties up to \$ 37,500 per day per violation. *See*, 37 Fed. Reg. 75340 (December 11, 2008).

## V. DEFINITIONS AND REGULATORY REQUIREMENTS

10. 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.

11. Pursuant to 40 C.F.R. § 745.83, the term “person” means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

12. 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. The term “renovation” includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping); and interim controls that disturb painted surfaces.

13. Pursuant to 40 C.F.R. § 745.83, the term “renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.

14. Pursuant to 40 C.F.R. § 745.103 and Section 401(17) of TSCA, 15 U.S.C. § 2681(17), 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 six (6) years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

15. Pursuant to Section 401(14) of TSCA, 15 U.S.C. § 2681(14), 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 residences of one or more persons.

16. Pursuant to 40 C.F.R. § 745.103, the term “owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgage holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

## **VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

17. Respondent is an individual person doing business as Window Depot USA of Frederick, MD, LLC.

18. Respondent’s principal place of business is located at 5702 Industry Lane, #45-A, Frederick, MD 21791.

19. Respondent is and at all times referred to herein was a “person” within the meaning of 40 C.F.R. § 745.83.

20. At all times relevant to this Complaint, Respondent, by and through his company, Window Depot USA of Frederick, MD, LLC, is and was a “firm” and a “renovator” as those terms are defined by 40 C.F.R. § 745.83.

21. At all times relevant to this Complaint, Respondent, by and through his company, Window Depot USA of Frederick, MD, LLC performed “renovation[s]” as that term is defined by 40 C.F.R. § 745.83.

22. On May 23, 2012, duly authorized EPA inspectors conducted an inspection at Respondent’s place of business to determine Respondent’s level of compliance with the RRP Rule.

23. During the May 23, 2012 inspection, the inspectors collected, among other things, two renovation contracts, for renovations conducted in “target housing” as that term is defined by 40 C.F.R. § 745.103.
24. On or about November 10, 2011, Respondent signed a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83, on a property located at 3407 Woods Avenue, Alexandria, VA 22302 (“Woods Avenue Contract”). This property was constructed before 1978 and is considered “target housing” as that term is defined by 40 C.F.R. § 745.103.
25. Pursuant to the Woods Avenue Contract, Respondent, for compensation, among other things, removed and replaced eighteen (18) windows at the property.
26. On or about December 8, 2011, Respondent signed a contract to perform a “renovation” as that term is defined by 40 C.F.R. § 745.83 on a property located at 11940 Goya Drive, Potomac, MD 20854 (“Goya Drive Contract”). This property was constructed before 1978 and is considered “target housing” as that term is defined by 40 C.F.R. § 745.103.
27. Pursuant to the Goya Drive Contract, Respondent, for compensation, among other things, removed and replaced twenty three (23) windows at the property.
28. At all times relevant to this Complaint, the renovation projects were renovations performed for compensation subject to the RRP Rule pursuant to 40 C.F.R. § 745.82(a).
29. The renovations performed at the properties described in paragraphs 24 through 28 do not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

## VII. VIOLATIONS

### **Counts I and II – Failure to Retain Records Demonstrating that a Certified Renovator Performed or Directed Workers to Perform Tasks Described in 40 C.F.R. § 745.85(a)**

30. The allegations contained in Paragraphs 1 through 29 of this Complaint are incorporated by reference herein as though fully set forth at length.
31. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain all records necessary to demonstrate compliance with 40 C.F.R. § 745, Subpart E, for a period of three (3) years following completion of the renovation. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovations must retain all records documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed or directed workers to perform tasks described in 40 C.F.R. § 745.85(a), the regulation that delineates work practice standards for renovation activities.

32. At all times relevant to this Complaint, Respondent failed to retain records that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) at the two residential dwellings where Respondent conducted renovations: 3407 Woods Avenue, Alexandria, Virginia and 11940 Goya Drive, Potomac, Maryland.

33. Respondent's failure to retain records documenting that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) at each of the two renovation projects listed in Paragraph 32 constitutes two violations of 40 C.F.R. §§ 745.86(a) and 745.86(b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

**Counts III and IV – Failure to Retain Records Demonstrating that a Certified Renovator Performed Post-Renovation Cleaning Verification Described in 40 C.F.R. § 745.85(b)**

34. The allegations contained in paragraphs 1 through 33 of this Complaint are incorporated by reference herein as though fully set forth at length.

35. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E, for a period of three (3) years following completion of the renovation. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovation must retain all records documenting compliance with the work practice standards promulgated in 40 C.F.R. § 745.85, including documentation that a certified renovator complied with the standards for post-renovation cleaning verification, described in 40 C.F.R. § 745.85(b).

36. At all times relevant to this Complaint, Respondent failed to retain records that a certified renovator performed post-renovation cleaning verification described in 40 C.F.R. § 745.85(b) at the two residential dwellings where Respondent conducted renovations: 3407 Woods Avenue, Alexandria, Virginia and 11940 Goya Drive, Potomac, Maryland.

37. Respondent's failure to retain records documenting that a certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b) at each of the two renovation projects listed in Paragraph 36 constitutes two violations of 40 C.F.R. §§ 745.86(a) and 745.86(b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

**VIII. PROPOSED PENALTY**

38. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires that Complainant consider the nature, circumstances, extent, and gravity of the violations and, with respect to Respondent, its ability to pay, the effect of the proposed penalty on the ability to

continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

39. To assess a penalty for the alleged violations in this Complaint, Complainant will take into account the particular facts and circumstances of this case with specific reference to EPA's August 2010 Interim Final Policy entitled, *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (the "LBP Consolidated ERPP"). The LBP Consolidated ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

40. Any proposed penalty in this matter will be developed based upon the best information available to Complainant. However, any such penalty may also be adjusted if Respondent is able to establish a bona fide claim of its ability to pay a penalty by providing Complainant with adequate financial documentation of its claim.

41. By this Complaint, Complainant seeks to assess civil penalties against Respondent of up to \$37,500 per day per violation for each violation of the RRP Rule alleged herein, as discussed further below:

**Counts I and II– Failure to Retain Records Demonstrating that a Certified Renovator Performed or Directed Workers to Perform Tasks Described in 40 C.F.R. § 745.85(a)**

42. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and 745.86(b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on two (2) separate occasions when it failed to retain records that a certified renovator performed or directed workers to perform tasks described in 40 C.F.R. § 745.85(a).

43. Failure to maintain records demonstrating that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with the work practice standards of 40 C.F.R. § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

44. In assessing the penalty for each violation of the RRP Rule, EPA takes into account the circumstances and possible consequences of the violation. EPA has developed six circumstance levels, with levels 1 and 2 corresponding to violations having a high probability of impacting human health and the environment, levels 3 and 4 corresponding to violations having a medium

probability of impacting human health and the environment, and levels 5 and 6 having a low probability of impacting human health and the environment. The circumstance levels are further subdivided into (a) and (b) classifications corresponding to whether the violations in question were violations of a “chemical control” nature (as in the RRP Rule) or a “hazard assessment” nature (as in the PRE Rule).

45. Failure to retain records demonstrating that a certified renovator performed or directed workers to perform tasks describe in 40 C.F.R. § 745.85(a) is assessed as a circumstance level 6a, as per the LBP Consolidated ERPP.

46. The term “extent” represents the degree, range, or scope of a violation’s potential for harm. The TSCA Penalty Guidelines provide three “extent” categories: *Major*, *Significant*, and *Minor*. In the context of the RRP Rule, the measure of the “extent” of harm focuses on the overall intent of the rules and the amount of harm the rules are designed to prevent. The *Major* category corresponds to violations with the potential for serious damage to human health or the environment. The *Significant* category corresponds to violations with the potential for significant damage to human health or the environment. The *Minor* category corresponds to violations with the potential for lesser amount of damage to human health or the environment. EPA uses three determinable facts to assess the extent category: (1) the age of any children who occupy target housing; (2) whether a pregnant woman occupies target housing; and (3) whether a child or children under six had access to the child-occupied facility during renovations/abatement.

47. One of the factors EPA uses in determining the extent category to apply to a violation is the presence of children at the residence in question. Age is determined by the age of the youngest child residing in the target housing at the time the violation occurred or at the time the renovation occurred. Children under the age of 6 are most likely to be adversely affected by the presence of lead-based paint and/or lead-based paint hazards based on habits (particularly hand-to-mouth activity) and vulnerability due to their physical development. If EPA knows or has reason to believe that a child under the age of 6 is present, then for purposes of proposing a gravity-based penalty, the Major extent category should be used. Where the age of the youngest individual is not known, a Significant extent factor should be used.

48. Respondent has provided no evidence or information to demonstrate the presence or age of the youngest individual at either of the properties in question. Therefore the extent category assessed will be *Significant*.

49. The total penalty for a circumstance level of 6a and an extent level of significant is \$2,040. The total penalty for two counts of the foregoing violation is \$4,080.

**Counts III and IV – Failure to Retain Records Demonstrating that a Certified Renovator Performed Post-Renovation Cleaning Verification Described in 40 C.F.R. § 745.85(b)**

50. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and 745.86(b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on two (2) separate occasions when it failed to retain records that certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b).

51. Failure to retain records that a certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b) impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with the work practice standards of 40 C.F.R. § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

52. In assessing the penalty for each violation of the RRP Rule, EPA takes into account the circumstances and possible consequences of the violation. EPA has developed six circumstance levels, with levels 1 and 2 corresponding to violations having a high probability of impacting human health and the environment, levels 3 and 4 corresponding to violations having a medium probability of impacting human health and the environment, and levels 5 and 6 having a low probability of impacting human health and the environment. The circumstance levels are further subdivided into (a) and (b) classifications corresponding to whether the violations in question were violations of a "chemical control" nature (as in the RRP Rule) or a "hazard assessment" nature (as in the RRP Rule).

53. Failure to retain records demonstrating that a certified renovator performed post-renovation cleaning verification described in 40 C.F.R. § 745.86(b) is assessed as a circumstance level 6a, as per the LBP Consolidated ERPP.

54. The term "extent" represents the degree, range, or scope of a violation's potential for harm. The TSCA Penalty Guidelines provide three "extent" categories: *Major*, *Significant*, and *Minor*. In the context of the RRP Rule, the measure of the "extent" of harm focuses on the overall intent of the rules and the amount of harm the rules are designed to prevent. The *Major* category corresponds to violations with the potential for serious damage to human health or the environment. The *Significant* category corresponds to violations with the potential for significant damage to human health or the environment. The *Minor* category corresponds to violations with the potential for lesser amount of damage to human health or the environment. EPA uses three determinable facts to assess the extent category: (1) the age of any children who occupy target

housing; (2) whether a pregnant woman occupies target housing; and (3) whether a child or children under six had access to the child-occupied facility during renovations/abatement.

55. One of the factors EPA uses in determining the extent category to apply to a violation is the presence of children at the residence in question. Age is determined by the age of the youngest child residing in the target housing at the time the violation occurred or at the time the renovation occurred. Children under the age of 6 are most likely to be adversely affected by the presence of lead-based paint and/or lead-based paint hazards based on habits (particularly hand-to-mouth activity) and vulnerability due to their physical development. If EPA knows or has reason to believe that a child under the age of 6 is present, then for purposes of proposing a gravity-based penalty, the Major extent category should be used. Where the age of the youngest individual is not known, a Significant extent factor should be used.

56. Respondent has provided no evidence or information to demonstrate the presence or age of the youngest individual at either of the properties in question. Therefore the extent category assessed will be *Significant*.

57. The total penalty for a circumstance level of 6a and an extent level of significant is \$2,040. The total penalty for two counts of the foregoing violation is \$4,080.

58. The total penalty EPA seeks for two counts of a Failure to Retain Records Demonstrating that a Certified Renovator Performed or Directed Workers to Perform Tasks Described in 40 C.F.R. § 745.85(a) and two counts of a Failure to Retain Records Demonstrating that a Certified Renovator Performed Post-Renovation Cleaning Verification Described in 40 C.F.R. § 745.86(b), applying the LBP Consolidated ERPP, is \$8,160.

#### **IX. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22. Any request for a hearing must be included in Respondent's written Answer to this Complaint ("Answer") and filed with the Regional Hearing Clerk at the address listed below **within thirty (30) days of receipt of this Complaint**.

The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments alleged to constitute the grounds of any defense the facts the Respondent disputes; the basis for opposing any proposed penalty; and

whether a hearing is requested. *See* 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III  
1650 Arch Street  
Mail Code: 3RC00  
Philadelphia, Pennsylvania 19103-2029

Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Russell Swan, the attorney assigned to represent Complainant in this matter, and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Russell Swan  
Enforcement Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Mail Code: 3RC50  
Philadelphia, Pennsylvania 19103-2029

**If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default**, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all fact alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

#### **X. SETTLEMENT CONFERENCE**

Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or his designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. To explore the possibility of settlement, Respondent or Respondent's counsel should

contact Russell Swan, Enforcement Counsel, at the address cited above or by calling 215-814-5387. Please note that a request for an informal settlement conference by Respondent does not automatically extend the 30-day time period within which a written Answer must be submitted in order to avoid becoming subject to default.

**XI. SEPARATION OF FUNCTIONS AND *EX PARTE* COMMUNICATIONS**

The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel; the Region III Land and Chemicals Division; the Office of the EPA Assistant Administrator for Pesticides and Toxic Substances; and the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of the issuance of this Complaint until issuance of a final Agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an *ex parte* (unilateral) communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice prohibit any *ex parte* discussion of the merits of a case between either party to this proceeding and the Administrator, members of the Environmental Appeals Board, Presiding Officer, Judicial Officer, Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

9.9.13

Date



John A. Armstead, Director  
Land and Chemicals Division

**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing Administrative Complaint and Notice of Opportunity For a Hearing, Docket No. TSCA-03-2013-0099, has been filed with the EPA Region III Regional Hearing Clerk and that I caused copies to be sent, express mail, return receipt requested to:

Chuckudi Anya d/b/a  
Window Depot USA of  
Frederick, MD, LLC  
5702 Industry Lane, #45-A  
Frederick, MD 21704

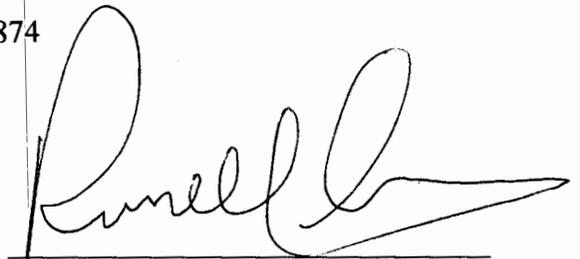
and

Chuckudi Anya  
20213 Shipley Terrace  
Unit #202  
Germantown, MD 20874

2013 SEP 10 AM 9:50  
REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

RECEIVED

9/10/13  
Date



Russell Swan  
Senior Assistant Regional Counsel  
United States  
Environmental Protection Agency  
Region III