

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
SAN FRANCISCO, CALIFORNIA

FILED

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U.S. EPA REGION IX  
REGIONAL HEARING CLERK

IN RE: )  
)  
Rosalva Caro )  
and Ed Chun )  
Architectural Corp. )  
)  
\_\_\_\_\_ )  
RESPONDENTS. )

DOCKET NO. CAA-09-2008-0033  
CONSENT AGREEMENT AND  
FINAL ORDER  
PURSUANT TO SECTION 22.18

**I. CONSENT AGREEMENT**

Complainant, the Director of the Air Division, United States Environmental Protection Agency, Region 9 ("EPA"), and Respondents Rosalva Caro ("Caro"), and Ed Chun Architectural Corporation ("Ed Chun" and together with Caro the "Respondents") have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Complainant and Respondents agree to settle this matter pursuant to the terms of this Consent Agreement and Final Order ("CAFO"), and consent to the entry of this CAFO.

1. EPA initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (the "Act"), as amended, 42 U.S.C. §§ 7401-7671q, and the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, promulgated under Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, at 40 C.F.R. Part 61, Subpart M, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondents on September 9, 2008.

2. The Complaint alleges that Respondents violated the notice requirements of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), by failing to provide the Administrator with written notice of intent to demolish before demolition of the Old La Fuente Restaurant began.

3. In accordance with 40 C.F.R. § 22.18(b)(2), and for the purpose of this proceeding, each of the Respondents (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; **(ii) neither admits nor denies** the specific factual allegations contained in the Complaint; (iii) consents to any and all conditions specified in this CAFO; (iv) agrees to pay, and consents to the assessment of, the civil administrative penalty under this CAFO; (v) waives any right to contest the allegations contained in the Complaint; and (vi) waives the right to appeal the proposed final order contained in this CAFO.

4. Respondents consent to the assessment of a joint and several penalty in the amount of **SIX THOUSAND THREE HUNDRED DOLLARS (\$6,300)** as final settlement and complete satisfaction of the civil claims against Respondents arising from the facts alleged in the Complaint and under the Act. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO.

5. The civil penalty shall be paid by certified or cashier's check, payable to "Treasurer, United States of America," and sent by certified mail, return receipt requested, to:

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

The check should note the case title and docket number, and a transmittal letter, indicating Respondent's name, and this case docket number, must accompany the payment. When payment is mailed to the above address, Respondents shall send a copy of the check and transmittal letter to:

- a) Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

b) Bob Trotter  
Air Division (AIR-5)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

6. Respondents' failure to comply with Paragraph 4 of this CAFO shall increase the penalty to **\$9,000**, which shall be immediately due and payable.

7. Respondents' failure to pay in full the civil administrative penalty by its due date also may lead to any or all of the following actions:

a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

c. EPA may (i) suspend or revoke Respondents' licenses or other privileges; (ii) suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds; (iii) convert the method of payment under a grant or contract from an advanced payment to a reimbursement method; or (iv) revoke a grantee's or contractor's letter-of-credit. 40 C.F.R. §§ 13.17.

8. Issuance of this CAFO does not constitute a waiver by EPA of its right to enforce the terms of this CAFO or to seek other civil or criminal relief for violations, if any, of any provision of federal law not specifically settled by this Consent Agreement. Nothing in this CAFO shall

relieve each Respondent of its duty to comply with all applicable provisions of the Act and other Federal, state or local laws or statutes.

9. The provisions of this CAFO shall be binding on each Respondent and on each Respondent's officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

10. Except as set forth in Paragraph 7 above, each party shall bear its own costs, fees, and disbursements in this action.

11. For the purposes of state and federal income taxation, Respondents shall not claim a deduction for any civil penalty payment made pursuant to this CAFO.

12. This Consent Agreement constitutes the entire agreement between the Respondents and EPA. This Consent Agreement and Final Order is for the purpose of fully and finally settling the civil claims against Respondents arising from the facts alleged in the Complaint. Full payment of the civil penalty and any applicable interest charges or late fees or penalties as set forth in this Consent Agreement and the Final Order shall constitute full settlement and satisfaction of civil penalty liability against Respondents for the violations alleged in the Complaint.

13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CAFO shall be the date on which the accompanying Final Order, having been signed by the Regional Judicial Officer, is filed.

14. The undersigned representatives of each party to this Consent Agreement certify that each is duly authorized by the party whom he or she represents to enter into the terms and bind

that party to it.

**ED CHUN ARCHITECTURAL CORPORATION:**

Date: 9/22/08 By:

  
\_\_\_\_\_  
Ed Chun  
Owner  
Ed Chun Architectural Corporation

**ROSALVA Q. CARO:**

Date: 9/22/08 By:

  
\_\_\_\_\_  
Rosalva Q. Caro  
Property owner of 416 S J Street, Imperial California

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:**

Date: 11/3/08 By:

  
\_\_\_\_\_  
DEBORAH JORDAN  
Director, Air Division  
U.S. Environmental Protection Agency,  
Region IX

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order be entered and that Respondents shall pay a civil administrative penalty in the amount of **SIX THOUSAND THREE HUNDRED DOLLARS (\$6,300)** in accordance with the terms set forth in the Consent Agreement. This penalty is a joint and several liability of Respondents.

Date: November 7, 2008



Steven Jawgiel  
Regional Judicial Officer  
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

I certify that the original copy of the foregoing Consent Agreement and Final Order for Rosalva Q. Caro and Ed Chun Architectural Corporation was filed with the Regional Hearing Clerk, Region IX and that a copy was sent by U.S. Certified Mail, Return Receipt Requested, to:

Eddie M. Chun  
President  
Ed Chun Architectural Corporation  
1265 State Street  
El Centro, CA 92243

Certified Mail No. 7003 3110 0006 1997 3002

Rosalva Q. Caro  
2415 Sandalwood Drive  
El Centro, CA 92243

Certified Mail No. 7003 3110 0006 1997 2999

NOV 7 2008  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
Danielle Carr  
Regional Hearing Clerk