

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Lead Act), 42 U.S.C. § 4852d, requires the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing that is offered for sale or lease.

10. On March 6, 1996, EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d.

11. 40 C.F.R. § 745.103 defines “target housing” as 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.

12. 40 C.F.R. § 745.103 defines “agent” as any party who enters into a contract with a seller, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing.

13. 40 C.F.R. § 745.103 defines “seller” as any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and

nonprofit organizations.

14. 40 C.F.R. § 745.103 defines “purchaser” as any entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.

15. 40 C.F.R. § 745.113(a) requires that each contract to sell target housing include an attachment containing the following elements: a lead warning statement; a statement by the seller disclosing the presence of any known lead-based paint and/or lead-based paint hazards or lack of knowledge of such presence; a list of any records or reports available to the seller that have been provided to the purchaser regarding lead-based paints and/or lead-based paint hazards in target housing or a statement that no such records are available; a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (3) and the Lead Hazard Information Pamphlet; a statement by the purchaser that he or she has received or waived the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a); and, the signatures and dates of signatures of the seller, agent, and purchaser certifying the accuracy of their statements.

16. 40 C.F.R. § 745.115(a) requires the agent to ensure compliance with all requirements of Subpart F by informing the seller of its obligations and by ensuring that the seller performs all activities required under 40 C.F.R. §§ 745.107, 745.110, 745.113, or by personally ensuring compliance with the requirements.

17. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failure to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a),

42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

18. Under 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil administrative penalty of up to \$21,018 for each violation of 42 U.S.C. § 4852d and Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023.

Factual Allegations and Alleged Violations

19. The residential dwelling located at 1275 Sugar Loaf Road, Winona, Minnesota 55987 was constructed prior to 1978, and is “target housing” as defined in 40 C.F.R. § 745.103.

20. On or about March 14, 2022, the Minnesota Department of Health issued a nine-page lead order (“Lead Order”) to the owner of the target housing located at 1275 Sugar Loaf Road, Winona, Minnesota 55987.

21. The Lead Order included a statement that “A child residing at this property has an elevated blood lead level.” The Lead Order contained requirements to eliminate lead hazards identified at the target housing located at 1275 Sugar Loaf Road, Winona, Minnesota 55987. The Lead Order contained additional information including the basis for the determination that lead-based paint and/or lead-based paint hazards existed at the target housing, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces.

22. On or about March 30, 2022, Respondent entered into a contract with the owner of the target housing at 1275 Sugar Loaf Road, Winona, Minnesota 55987 for the purpose of selling target housing located at 1275 Sugar Loaf Road, Winona, Minnesota 55987.

23. The owner of the target housing described in paragraphs 20 and 22, above, is a “seller” as defined in 40 C.F.R. § 745.103.

24. Respondent is an “agent” as defined in 40 C.F.R. § 745.103.

25. On or about April 3, 2022, Respondent acted as the agent for the seller, who entered into a written sales agreement (contract) with an individual for the sale of target housing at 1275 Sugar Loaf Road, Winona, Minnesota 55987.

26. The individual who signed the contract to purchase the target housing referred to in paragraph 25, above, became a “purchaser,” as defined in 40 C.F.R. § 745.103, because the individual entered into an agreement to purchase an interest in target housing.

27. At the time of signing the contract described in paragraph 25, above, the family of the purchaser included a pregnant woman and one or more children under six years of age who were to reside in the target housing.

28. The contract described in paragraph 25, above, included as an attachment a one-page excerpt from the Lead Order described in paragraphs 20 and 21, above. The excerpt did not include the basis for the determination that lead-based paint and/or lead-based paint hazards existed in the target housing, and did not include a description of the painted surfaces in the target housing.

29. The contract described in paragraph 25, above, did not include a list of records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the target housing, and did not list the Lead Order described in paragraphs 20 and 21, above.

30. Respondent failed to ensure that the seller provided, or to personally provide, any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces, as an attachment to the contract to sell target housing at 1275 Sugar Loaf Road, Winona, Minnesota, in violation of 40 C.F.R. §§ 745.113(a)(2), 745.115(a)(2),

15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

31. Respondent failed to ensure that the seller included, or to personally include, a list of records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the purchaser or a statement that no such records or reports are available, as an attachment to the contracts to sell target housing at 1275 Sugar Loaf Road, Winona, Minnesota, in violation of 40 C.F.R. §§ 745.113(a)(3), 745.115(a)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Civil Penalty

32. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$12,812. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, and the degree of culpability. Complainant also considered EPA's Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007.

33. Penalty Payment. Respondent agrees to:

- a. Pay the civil penalty of \$12,812 for the TSCA violations within 30 days after the effective date of this CAFO.
- b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
<p>Automated Clearinghouse (ACH) payments made through the US Treasury</p>	<p>US Treasury REX/Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.</p>
<p>Wire transfers made through Fedwire</p>	<p>Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.</p>
<p>Payments made through Pay.gov</p> <p>Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen. • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
<p>Cashier’s or certified check payable to “Treasurer, United States of America.”</p> <p>Please notate the CAFO docket number on the check</p>	<p>For standard delivery: U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979078 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc): U.S. Environmental Protection Agency Government Lockbox 979078 U.S. EPA Fines and Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, Missouri 63101</p>

34. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following e-mail addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5

R5hearingclerk@epa.gov

Craig Meredith (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5

meredith.craig@epa.gov

and

R5lecab@epa.gov

Matthew Dawson (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5

dawson.matthew@epa.gov

35. This civil penalty is not deductible for federal tax purposes.

36. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

37. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

38. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: dawson.matthew@epa.gov (for Complainant), and wkeeler@crivellocarlson.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

39. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

40. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

41. This CAFO does not affect Respondent's responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state and local laws.

42. Respondent certifies that it is complying with the Lead Act and the Disclosure Rule.

43. The terms of this CAFO bind Respondent, and its successors and assigns.

44. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

45. Each party agrees to bear its own costs and attorney's fees in this action.

46. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
River Valley Realty, LLC, d/b/a Coldwell Banker River Valley, Realtors, Respondent
Docket No. TSCA-05-2023-0009**



Mr. Ryan Olson
President/CEO
River Valley Realty, LLC
d/b/a Coldwell Banker River Valley, Realtors

09-21-2023

Date

**In the Matter of:
River Valley Realty, LLC, d/b/a Coldwell Banker River Valley, Realtors, Respondent
Docket No. TSCA-05-2023-0009**

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**In the Matter of:
River Valley Realty, LLC, d/b/a Coldwell Banker River Valley, Realtors, Respondent
Docket No. TSCA-05-2023-0009**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5