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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:) DOCKET NO. TSCA-10-2018-0333
)
REVE EXTERIORS, LLC,) CONSENT AGREEMENT
)
)
Boise, Idaho,)
)
Respondent,)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

1.2. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Reve Exteriors, LLC ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of TSCA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of TSCA together with the specific provisions of TSCA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Section 409 of TSCA, 15 U.S.C. § 2689, makes it unlawful for any person to fail to comply with, among other things, any rule promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682. Pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, EPA has promulgated rules governing lead-based paint activities, including certification of individuals and firms for renovation and work practice standards for renovations. These rules are codified at 40 C.F.R. Part 745, Subpart E, Residential Property Renovations.

3.2. 40 C.F.R. Part 745, Subpart E applies to all renovations performed for compensation in target housing.

3.3. “Target housing” is defined at Section 401(17) of TSCA, 15 U.S.C. § 2681(17), to mean “any housing constructed prior to 1978, except housing for the elderly or persons disabilities .”

3.4. “Person” is defined at 40 C.F.R. § 745.83 to mean “any natural or judicial person including any individual, corporation, partnership, or association.”

3.5. “Firm” is defined at 40 C.F.R. § 745.83, to mean a “company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity.”

3.6. “Renovation” is defined at 40 C.F.R. § 745.83 to mean “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 this part (40 CFR § 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, planing thresholds to install weather-stripping), and interim controls that disturb painted surfaces.”

3.7. “Renovator” is defined at 40 C.F.R. § 745.83 to mean “an individual who either performs or directs workers to 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.”

3.8. Respondent is a corporation organized in the State of Washington.

3.9. Respondent is therefore a “firm” within the meaning of 40 C.F.R. § 745.83.

3.10. From July 16, 2016 to March 9, 2017, Respondent performed work for compensation at fourteen pre-1978 residential properties in and around Idaho that were determined to be lead-based paint positive.

3.11. The work Respondent performed included, among other things, the installation of windows and doors, which resulted in the disturbance of painted surfaces.

3.12. Therefore, Respondent is a renovator” who performed “renovations” on “target housing” as these terms are defined at 40 C.F.R. §§ 745.83. and 745.103.

COUNT I

3.13. 40 C.F.R. § 745.81(a)(2)(ii) requires that on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82(a) or (c).

3.14. Between July 16, 2016 and March 9, 2017, Respondent performed work for compensation at fourteen pre-1978 residential properties in and around Idaho that were determined to be lead-based paint positive.

3.15. The renovations did not qualify for one of the exceptions identified in 40 C.F.R. § 745.82(a) or (c).

3.16. Respondent did not become firm certified until March 10, 2017.

3.17. Respondent’s failure to first obtain firm certification from EPA under 40 C.F.R. § 745.89 prior to performing, offering to perform, or claiming to perform renovations in target housing is a violation of 40 C.F.R. § 745.81(a)(2)(ii).

3.18. Under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$38,892 for each such violation, each day such a violation continues.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), EPA has taken into account 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 prior such violations, the degree of culpability, and such other matters as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$16,334 (the “Assessed Penalty”).

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

Kim Farnham, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Farnham.kim@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the Assessed Penalty under Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4). In any collection action, the validity, amount, and appropriateness of the Assessed Penalty are not subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of interest on any unpaid portion of the Assessed Penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.9. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.12. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order. Respondent expressly waives the notice requirement and its opportunity to request a hearing on the Final Order pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 2615(a)(2).

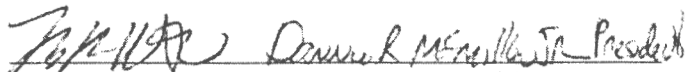
4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

7/30/18

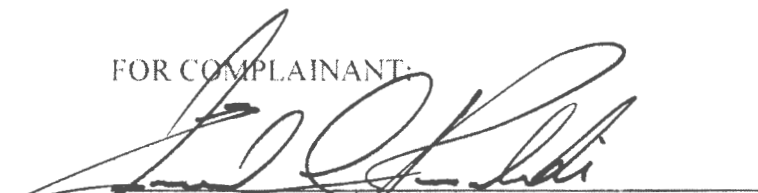
FOR RESPONDENT:


SIGNATORY NAME, Signatory's Position
Reve Exteriors, LLC

DATED:

8/13/2018

FOR COMPLAINANT:


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10



BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. TSCA-10-2018-0333
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REVE EXTERIORS, LLC,)	FINAL ORDER
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Boise, Idaho,)	
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Respondent.)	

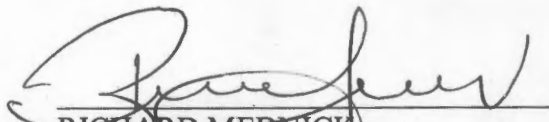
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under TSCA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 15th day of August, 2018.


RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: REVE EXTERIORS, LLC, Docket No.: TSCA-10-2018-0333**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Kevin M. Tierney
Berenson LLP
4495 Military Trail, Suite 203
Jupiter, FL 33458

DATED this 16 day of August, 2018.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10

