



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
SAM NUNN  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA GEORGIA 30303-8960

AUG 11 2010

Certified Mail – Return Receipt Requested

Mr. Jeff Light  
General Manager  
Pine Cove Apartments  
6987 Forest Glenn Court  
Irvington, Alabama 36514

Re: Pine Cove Apartments; Docket No. TSCA-04-2010-2727(b)

Dear Mr. Light:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, with respect to payment of the assessed penalty, the first payment of \$328.67 is due within 30 days from the effective date. Please ensure that the face of Pine Cove Apartments cashier's or certified check includes the name of the company and the docket number of this case. Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should Pine Cove Apartments have any questions about this matter or their compliance status in the future, please call me at (404) 562-8979 or Mr. Kevin L. Woodruff at (404) 562-8828.

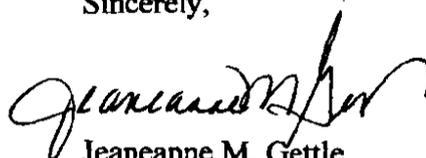
Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document puts your client on notice of their potential duty to disclose to the

Internet Address (URL) • <http://www.epa.gov>

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Securities and Exchange Commission any environmental enforcement actions taken by EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeaneanne M. Gettle", written in a cursive style.

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
Pine Cove Apartments )  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2010-2727(b)

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ENVIRONMENTAL  
PROTECTION AGENCY  
ATLANTA, GEORGIA

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Pine Cove Apartments.
2. Complainant and Respondent 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. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. The Administrator of EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d (Title X). It is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with a provision of Title X or with any rule or order issued under Title X.
4. For purposes of enforcing Title X under TSCA, the penalty for each violation applicable under Section 16 of that Act, 15 U.S.C. § 2615, shall not be more than \$10,000, pursuant to Title X, 42 U.S.C. § 4852d(b)(5) Title X. For each violation occurring after January 31, 1997, a penalty of up to \$11,000 may be assessed pursuant to 40 C.F.R. Part 19.
5. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 12-2-A. Pursuant to the aforementioned delegations, the Director of Air, Pesticides and Toxics Management Division has authority to commence an enforcement action as the Complainant in this matter.
6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Kevin L. Woodruff  
Lead and Children's Health  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8828.

### **III. Specific Allegations**

7. Respondent is a Lessor, as defined at 40 C.F.R. § 745.103, of residential housing located at 286 N. Craft Highway, Chickasaw, Alabama 36611. These residential housings are "target housing," as defined at 40 C.F.R. § 745.103.
8. Based on information obtained by EPA on or about November 17, 2009, relating to Respondent's contracts to lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and 40 C.F.R. Part 745, Subpart F as follows:
  - a. Pursuant to 40 C.F.R. § 745.113(c)(1), a Lessor shall retain a copy of the completed disclosure records for no less than three years from the completion date of the lease. Respondent failed to retain copies of completed disclosure records in at least twenty leases.

### **IV. Consent Agreement**

9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
10. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
11. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.

provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.

14. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of 40 C.F.R. Part 745, Subpart F.

#### V. Final Order

15. Respondent is assessed a civil penalty of **TWO THOUSAND SIX HUNDRED DOLLARS** (\$2,600), which is to be paid in eight quarterly payments, over two years. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments are due in three month intervals thereafter. The total penalty amount to be paid, including interest, is \$2,629.36. Respondent shall make payments in accordance with the following schedule:

<u>Payment Due Date</u>	<u>Payment Due</u>
Within 30 days of filing CAFO	\$328.67
Within 120 days of filing CAFO	\$328.67
Within 210 days of filing CAFO	\$328.67
Within 300 days of filing CAFO	\$328.67
Within 390 days of filing CAFO	\$328.67
Within 480 days of filing CAFO	\$328.67

Within 570 days of filing CAFO	\$328.67
Within 660 days of filing CAFO	\$328.67.

16. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

17. At the time of payment, Respondent shall send a separate copy of the check or wire transfer and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960;

Kevin L. Woodruff  
Lead and Children's  
Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and,

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

19. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
20. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
21. This CAFO shall be binding upon the Respondent, its successors and assigns.
22. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

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**VI. Effective Date**

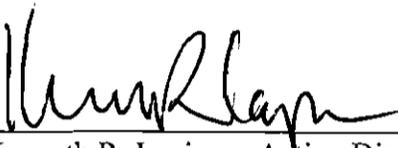
23. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

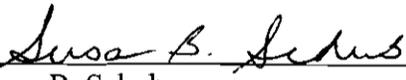
**Respondent:** PINE COVE APARTMENTS  
**Docket No.:** TSCA-04-2010-2727(b)

By:  (Signature) Date: 071510  
Name: JEFF LIGHT (Typed or Printed)  
Title: GEN MGR (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 8/5/2010  
Kenneth R. Lapierre, Acting Director  
Air, Pesticides and Toxics  
Management Division  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 11<sup>th</sup> day of Aug, 2010.

By:   
Susan B. Schub  
Regional Judicial Officer

Number: TSCA-04-2010-2727(b), to the addressees listed below.

Kevin Woodruff (via EPA's internal mail)  
Lead and Children's Health  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Robert Caplan (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

Jeff Light (via Certified Mail, Return Receipt Requested)  
General Manager  
Pine Cove Apartments  
6987 Forest Glenn Court  
Irvington, AL 36514

Date: *August 11, 2010*

*Jo*  
*Claudette A. Haney*  
Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511