



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**AUG 20 2007**

**FEDERAL EXPRESS**

Mr. Barry Bumgarner  
502 W. Jefferson Street  
Tallahassee, FL 32301

SUBJ: Carolina Square Apartments  
Consent Agreement and Final Order  
Docket No.: TSCA-04-2007-2754(b)

Dear Mr. Bumgarner:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 CFR § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CAFO.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

If you have any questions, please contact Kevin Woodruff of the EPA Region 4 staff at (404) 562-8828.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne Benante", written over a horizontal line.

Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

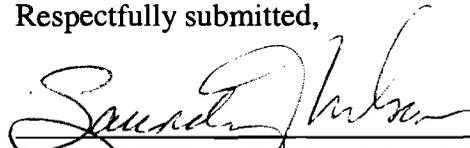
UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
 )  
 Carolina Square Apartments, ) Docket No. TSCA-04-2007-2754(b)  
 )  
 Respondent. )  
\_\_\_\_\_ )

NOTICE OF CORRECTION OF DOCKET NUMBER

Pursuant to 40 C.F.R. 122.5(c), the Presiding Officer and the Respondent are hereby notified of an error in the docket number as shown in the Consent Agreement and Final Order signed by the Respondent on July 17, 2007, and signed by the Complainant on August 1, 2007. The correct docket number for the above referenced matter is TSCA-04-2007-2758(b).

Respectfully submitted,

  
\_\_\_\_\_  
Saundi J. Wilson, Paralegal Specialist  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9504

8-20-07  
date

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Notice of Change of Docket Number, In the Matter of: Carolina Square Apartments, Docket No. TSCA-04-2007-2754(b), on the parties listed below in the manner indicated:

Kevin Woodruff  
Air, Pesticides, and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

Nancy Tommello  
Office of Environmental  
Accountability  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

(Respondent)

(Via Certified Mail - Return Receipt  
Requested)

Ms. Susan M. Groeniger  
Carolina Square Apartments  
700 West Virginia Street  
Tallahassee, FL 32304

Date: 08-20-07

  
Saundi J. Wilson, Paralegal Specialist  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
 )  
 Carolina Square Apartments )  
 )  
 Respondent )  
 \_\_\_\_\_ )

Docket Number: TSCA-04-2007-2754(b)

RECEIVED  
EPA REGION 4  
2007 AUG 20 AM 8:47  
HEMINGWAY CLERK

**CONSENT AGREEMENT 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), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Carolina Square Apartments (hereinafter, "Respondent").

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. Pursuant to 42 U.S.C. § 4852d(b)(5), a violation of any rule in 40 C.F.R. Part 745, is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689. Any person who violates Section 409 of TSCA may be assessed a penalty of up to \$10,000 for each such violation, in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and Section 1018. For a violation occurring after January 31, 1997, a penalty of up to \$11,000 may be assessed pursuant to 40 C.F.R. Part 19, and in accordance with 40 C.F.R. § 745.118(f).

4. 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.

### **III. Specific Allegations**

5. Respondent is a lessor, as defined at 40 C.F.R. § 745.103, of residential housing located at 700 West Virginia Street, Tallahassee, Florida. This residential housing is “target housing,” as defined at 40 C.F.R. § 745.103.

6. Based on information obtained by EPA on or about September 12, 2006, relating to Respondent’s contracts to lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and the requirements noted in the EPA Notice of Violation. The penalty associated with this action is based on the following regulations:

- Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor shall provide the lessee an EPA-approved lead hazard information pamphlet before the lessee is obligated under any contract to lease target housing.

Respondent failed to provide lessees an EPA-approved pamphlet.

- Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing shall include, as an attachment to or within the contract, a “Lead Warning Statement”.

Respondent failed to include the required “Lead Warning Statement”.

- Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing shall include, as an attachment to or within the contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

Respondent failed to include an appropriate statement.

- Pursuant to 40 C.F.R. § 745.113(b)(3), each contract to lease target housing shall include, as an attachment to or within the contract, a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee, or an indication that no such records or reports are available.

Respondent failed to include the appropriate information.

### **IV. Consent Agreement**

7. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

8. Respondent waives its right to a hearing on the allegations contained herein.

9. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

10. Respondent certifies that as of the date of its execution of this CAFO, it is otherwise in compliance with the requirements of 40 C.F.R. Part 745, Subpart F.

11. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or pursue criminal enforcement.

12. 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**

13. Respondent is assessed a civil penalty of *Eleven Thousand Dollars* (\$11,000). The payment is due within thirty (30) days of the effective date of this CAFO.

14. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to the following address:

For payment submittal by U.S. Postal Service:

U.S. Environmental Protection Agency  
Box 371099M  
Pittsburgh, PA 15251

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.)

Mellon Client Service Center  
ATTN: Shift Supervisor, Room 0690  
Lockbox 371099M  
500 Ross Street  
Pittsburgh, PA 15262-0001

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

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

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Kevin Woodruff  
Children's Health, Lead &  
Asbestos Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303.

16. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

17. 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. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of up to six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

18. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

19. This CAFO shall be binding upon the Respondent, its successors and assigns.

20. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Kevin Woodruff  
Children's Health, Lead &  
Asbestos Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-8828

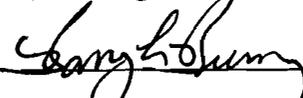
21. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

**VI. Effective Date**

22. 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:**

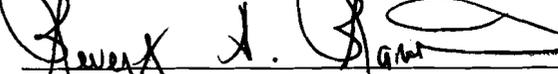
**CAROLINA SQUARE APARTMENTS - TSCA-04-2007-2754(b)**

By:  Date: 7/17/07

Name: BARRY L BISMARCK (Typed or Printed)

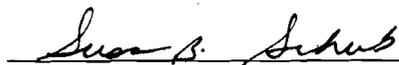
Title: MANAGING MEMBER (Typed or Printed)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

By:  Date: 8/1/07

Beverly H. Banister  
Director  
Air, Pesticides and Toxics  
Management Division  
Region 4

**APPROVED AND SO ORDERED** this 16<sup>th</sup> day of August, 2007

By: 

Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Carolina Square Apartments, Docket Number: TSCA-04-2007-2754(b), to the addressees listed below.

Kevin Woodruff  
Children's Health, Lead &  
Asbestos Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

(via EPA's internal mail)

Nancy Tommelleo  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

(via EPA's internal mail)

Ms. Susan M. Groeniger  
Carolina Square Apartments  
700 West Virginia Street  
Tallahassee, FL 32304

(via Certified Mail, Return Receipt Requested)

Date: 8-20-07



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

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saund' Wilson on 8/9/07  
(Name) (Date)

in the OEK at (404) 562-9504  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Carolina Square Apartments / Borcu Bumpener  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 11,000  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2007 - 2758 (b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|