



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
2890 WOODBRIDGE AVE
EDISON, NEW JERSEY 08837

JUN 17 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David J. Zweig
Redbrick II LP
c/o Redbrick Partners
1616 H Street NW, Suite 600
Washington, DC 20006

Re: In the Matter of **Redbrick II LP**
Docket No. TSCA-02-2008-9169

Dear Mr. Zweig:

Enclosed is the Complaint and Notice of Opportunity for Hearing, and supporting documents in the above-referenced proceeding. This Complaint alleges violations of the Toxic Substances Control Act (TSCA), Section 409, and regulations promulgated pursuant to TSCA set forth at 40 C.F.R. Part 745 Subpart F.


It is the intention of the United States Environmental Protection Agency (USEPA) to seek resolution of this Complaint in an equitable and mutually agreeable manner. As outlined in the Complaint, the Agency encourages the use of an informal conference to provide an opportunity for settlement discussions. You have been given ninety (90) days rather than the customary thirty (30) days to file an Answer to this Complaint. If you wish to attempt informal settlement, please do not file your Answer before a representative of the Division of Enforcement and Compliance Assistance (DECA) has contacted you to discuss the scheduling of an informal conference. Filing an Answer before discussions are held or at any point within these ninety (90) days will result in referral of your case to the Office of Regional Counsel.

I have enclosed copies of the Consolidated Rules of Practice (40 C.F.R. Part 22), as well as a copy of the appropriate Penalty Policy(s) referenced in the Complaint. Also enclosed is a Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings, and a copy of the EPA Supplemental Environmental Projects Policy (SEP Policy) for your consideration. The Agency encourages the use of SEPs, where appropriate, as part of the settlement.

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLERK

A DECA representative will contact you shortly to discuss the possibility of scheduling an informal conference. If you have any questions regarding the Complaint or the settlement process, you or your staff should feel free to contact Joseph Kwiatkowski at (732) 906-6832.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

----- X
In the Matter of :
 :
Redbrick II LP :
 :
 Respondent. :
 :
 Proceeding under Section 16(a) of :
 the Toxic Substances Control Act. :
----- X

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

Docket No.
TSCA-02-2008-9169

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 JUN 23 PM 3:39
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COMPLAINT

This is a civil administrative action instituted pursuant to § 16(a), 15 U.S.C. § 2615(a), of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2601 *et seq.* This Complaint serves notice of Complainant’s preliminary determination that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745 Subpart F, which were promulgated pursuant to § 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, codified at 42 U.S.C. § 4851 *et seq.* (hereinafter “§ 1018”).

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency (“EPA”), Region 2, has been duly delegated the authority to institute this action. Complainant, as and for her Complaint against Respondent, hereby alleges upon information and belief:

1. Respondent is Redbrick II LP (hereinafter “Respondent”).
2. Respondent’s primary place of business is located at 1616 H Street NW, Suite 600, Washington, DC 20006.
3. Respondent is subject to the regulations and requirements pertaining to Lead-Based Paint Disclosure promulgated pursuant to 42 U.S.C. § 4852d, and set forth at 40 C.F.R. Part 745, Subpart F.
4. On or about February 6, 2008 duly designated representatives of EPA conducted a consensual inspection of lease file papers at the offices of Redbrick Partners/ White Tree Group LLC, 901 Chambers Street, Trenton, NJ 08611, hereinafter “the inspection.” The inspection was conducted for the purpose of determining Respondent’s compliance with the EPA regulations and requirements pertaining to Lead-Based Paint Disclosure, 40 C.F.R. Part 745, Subpart F.
5. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 645 Beatty Street, Trenton, NJ (hereinafter the “Beatty Street property”).

6. The Beatty Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1900.
7. The Beatty Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
8. The Beatty Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
9. On or about October 20, 2004, Augusto Escobar entered into a contract to lease 645 Beatty Street, Trenton, NJ, from Respondent.
10. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 8 Hewitt Street, Trenton, NJ (hereinafter the “Hewitt Street property”).
11. The Hewitt Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1887.
12. The Hewitt Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
13. The Hewitt Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
14. On or about February 1, 2007, Spring Patterson entered into a contract to lease 8 Hewitt Street, Apartment 1, Trenton, NJ from Respondent.
15. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 234 Emory Avenue, Trenton, NJ (hereinafter the “Emory Avenue property”).
16. The Emory Avenue property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1909.
17. The Emory Avenue property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
18. The Emory Avenue property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.

19. On or about October 10, 2007, Aida U. Dingui & Ana R. Dingui entered into a contract to lease 234 Emory Avenue, Trenton, NJ, from Respondent.
20. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 224 Wayne Avenue, Trenton, NJ (hereinafter the “Wayne Avenue property”).
21. The Wayne Avenue property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1920.
22. The Wayne Avenue property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
23. The Wayne Avenue property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
24. On or about November 7, 2006, Gloria Myles-Smith & Akilah Mack entered into a contract to lease 224 Wayne Avenue, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
25. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 1152 Hamilton Avenue, Trenton, NJ (hereinafter the “Hamilton Avenue property”).
26. The Hamilton Avenue property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1910.
27. The Hamilton Avenue property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
28. The Hamilton Avenue property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
29. On or about December 14, 2005, Javier Montero & Patricia Valverde Montero entered into a contract to lease 1152 Hamilton Avenue, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
30. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 121 Fulton Street, Trenton, NJ (hereinafter the “Fulton Street property”).

31. The Fulton Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1896.
32. The Fulton Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
33. The Fulton Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
34. On or about August 27, 2007, Tai Taw entered into a contract to lease 121 Fulton Street, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
35. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 842 Roebling Street, Trenton, NJ (hereinafter the “Roebling Street property”).
36. The Roebling Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1907.
37. The Roebling Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
38. The Roebling Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
39. On or about August 30, 2007, Mu Lo entered into a contract to lease 842 Roebling Street, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
40. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 110 Division Street, Trenton, NJ (hereinafter the “Division Street property”).
41. The Division Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1907.
42. The Division Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
43. The Division Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.

44. On or about December 1, 2005, Joseph Leonard entered into a contract to lease 110 Division Street, Trenton, NJ, from Respondent.
45. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 1006 Hudson Street, Trenton, NJ (hereinafter the “Hudson Street property”).
46. The Hudson Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1877.
47. The Hudson Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
48. The Hudson Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
49. On or about September 12, 2007, Han Lin & June Mar entered into a contract to lease 1006 Hudson Street, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
50. Upon information and belief, Respondent is, and at all times relevant to this Complaint was, the “owner” and “lessor”, as those terms are defined in 40 C.F.R. § 745.103, of the property known as 97 Liberty Street, Trenton, NJ (hereinafter the “Liberty Street property”).
51. The Liberty Street property is “residential real property” within the meaning of § 1004(24) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(24), that was constructed in 1910.
52. The Liberty Street property is a “residential dwelling” unit, within the meaning of § 1004(23) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(23), and 40 C.F.R. § 745.103.
53. The Liberty Street property is “target housing” within the meaning of § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.
54. On or about August 6, 2005, Tamara Mann entered into a contract to lease 97 Liberty Street, Trenton, NJ, from Respondent. A minor under 18 years resides in the unit.
55. Each of the persons leasing the apartments in paragraphs 9, 14, 19, 24, 29, 34, 39, 44, 49 and 54, above, is a “lessee” of target housing as that term is defined at 40 C.F.R. § 745.103.
56. None of the real estate transactions listed in paragraph 55, above, constitute an exempt transaction pursuant to 40 C.F.R. § 745.101.

COUNT 1

Statement by the Lessor Disclosing Known Lead-Based Paint

57. Paragraphs 1 through 56 are realleged and incorporated as if fully set forth herein.
58. Under 40 C.F.R. § 745.113(b)(2), the lessor shall include in each contract to lease target housing, as an attachment or within the contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of such presence.
59. Upon information and belief, Respondent leased the target housing apartments listed in paragraphs 9, 14, 19, 24, 29, 34, 39, 44, 49 and 54, above.
60. For the real estate transactions for the rental of the apartments described in paragraph 59, above, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of such presence was not included within nor attached to the contracts to lease, at the time of leasing.
61. Failure to include or attach a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of such presence to the contract to lease is a violation of 40 C.F.R. § 745.113(b)(2).
62. Respondent's failures to perform all activities required under 40 C.F.R. § 745.113(b)(2), constitute failures or refusals to comply with 40 C.F.R. § 745.113(b)(2), which are violations of 42 U.S.C. § 4852d(b)(5) and of § 409 of TSCA, 15 U.S.C. § 2689.

COUNT 2

List of Records or Reports Pertaining to Lead-Based Paint

69. Paragraphs 1 through 56 are realleged and incorporated as if fully set forth herein.
70. Under 40 C.F.R. § 745.113(b)(3), the lessor shall include in each contract to lease target housing, as an attachment 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 that have been provided to the lessee, or an indication that no such records or reports are available.
71. Upon information and belief, Respondent leased the target housing apartments listed in paragraphs 9, 14, 24, 29, 34, 39, 44 and 49, above.
72. For the real estate transactions for the rental of the apartments described in paragraph 71, above, a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards that have been provided to the lessees, or an indication that no such records or reports are available, was not attached to the contracts to lease, at the time of leasing.
73. Failure to attach to the contract to lease a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards that have been provided to the lessee, or to indicate that no such records or reports are available, is a violation of 40 C.F.R. § 745.113(b)(3).

74. Respondent's failures to perform all activities required under 40 C.F.R. § 745.113(b)(3), constitute failures or refusals to comply with 40 C.F.R. § 745.113(b)(3), which are violations of 42 U.S.C. § 4852d(b)(5) and of § 409 of TSCA, 15 U.S.C. § 2689.

COUNT 3

Lessee's Receipt of Information

75. Paragraphs 1 through 56 are realleged and incorporated as if fully set forth herein.
76. Under 40 C.F.R. § 745.113(b)(4), each contract to lease target housing shall include, as an attachment or within the contract, a statement by the lessee affirming the receipt of: (1) the lessor's statement disclosing the presence of known lead-based paint (or indicating no knowledge); (2) the list of any records or reports available to the lessor pertaining to lead-based paint; and (3) the lead hazard information pamphlet "...required by 15 U.S.C. § 2696 (sic)." [misprint, should be § 2686].
77. Upon information and belief, Respondent leased the target housing apartments listed in paragraphs 9, 14, 24, 29, 34, 39, 44 and 49, above.
78. For the real estate transactions for the rental of the apartments described in paragraph 77, above, the contracts did not contain within the contracts nor as an attachment, the statement described in paragraph 76, above, at the time of leasing.
79. Failure of the contract to contain the statement described in paragraph 76, above, is a violation of 40 C.F.R. § 745.113(b)(4).
80. Respondent's failures to perform all activities required under 40 C.F.R. § 745.113(b)(4) constitute failures or refusals to comply with 40 C.F.R. § 745.113(b)(4), which are violations of 42 U.S.C. § 4852d(b)(5) and of § 409 of TSCA, 15 U.S.C. § 2689.

COUNT 4

Lessor, Agent and Lessee Certification Statement

81. Paragraphs 1 through 56 are realleged and incorporated as if fully set forth herein.
82. Under 40 C.F.R. § 745.113(b)(6), each contract to lease target housing shall include, as an attachment or within the contract, the signatures of the lessors, agents, and lessees certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.
83. Upon information and belief, Respondent leased the target housing apartments listed in paragraph 9, 14, 24, 29, 34, 39, 44 and 49, above.
84. For the real estate transactions for the rental of the apartments described in paragraph 83, above, the contracts did not contain signatures of the lessor, agents, or lessees certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature, at the time of leasing.

- 85. Failure of the contracts to include the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of the signature, are violations of 40 C.F.R. § 745.113(b)(6).
- 86. Respondent's failures to perform all activities required under 40 C.F.R. § 745.113(b)(6) constitutes failures or refusals to comply with 40 C.F.R. § 745.113(b)(6), which are violations of 42 U.S.C. § 4852d(b)(5) and of § 409 of TSCA, 15 U.S.C. § 2689.

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with § 1018 and 40 C.F.R. § 745.118(f), which authorize the assessment of a civil penalty under TSCA § 16 in the maximum amount of \$10,000 for each violation of TSCA § 409. This maximum amount has been adjusted to \$11,000 per violation under the Civil Monetary Penalty Inflation Adjustment Rule, 61 Fed. Reg. 69361 (1996), for violations occurring after January 30, 1997. See 62 Fed. Reg. 35038 (1997). Penalties for violations occurring after March 15, 2004 were further adjusted for inflation by the Agency effective October 1, 2004.

For purposes of determining the amount of any penalty to be assessed, § 16 requires EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged. As to the violator, § 16 requires EPA to take into account its ability to pay, the effect of the penalty on its ability to continue to do business, its history of prior such violations, its degree of culpability, as well as such other matters as justice may require.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time, with specific reference to EPA's "Guidelines for Assessment of Civil Penalties Under § 16 of the Toxic Substances Control Act," which was published on September 10, 1980 in the Federal Register (45 Fed. Reg. 59,770), and EPA's December 2007 "§ 1018 Disclosure Rule Enforcement Response and Penalty Policy." These policies provide rational, consistent and equitable calculation methodologies for applying the statutory penalty factors enumerated above to particular cases. Copies of these documents are available on request, or can be found on the web at <http://cfpub.epa.gov/compliance/resources/policies/civil/tsca/>.

Given the facts alleged in this Complaint and the statutory factors enumerated above, as known to Complainant at this time, Complainant proposes, subject to receipt and evaluation of further relevant information that Respondent be assessed the following civil penalties for the violations alleged in the Complaint:

COUNT 1: Statement by Lessor Disclosing Known Lead-Based Paint, or No Knowledge

Circumstance Level: **3**

Total number of violations: **10**

Extent Category: Significant: **6**

Minor: **4**

Penalty Per Violation: Significant (occupant under 18) = \$ 5,160

Minor (occupant over 18) = \$770

6 Significant violations x \$ 5,160 = \$ 30,960
4 Minor violations x \$774 = \$3,080

Total Proposed Assessment for this Count: \$34,040

COUNT 2: List of Records or Reports Pertaining to Lead-Based Paint

Circumstance Level: 5
Total number of violations: 8
Extent Category: Significant: 5
Minor: 3
Penalty Per Violation: Significant (occupant under 18) = \$ 1,680
Minor (occupant over 18) = \$260

5 Significant violations x \$ 1,680 = \$ 8,400
3 Minor violation x \$260 = \$ 780

Total Proposed Assessment for this Count: \$9,180

COUNT 3: Lessee's Receipt of Information

Circumstance Level: 4
Total number of violations: 8
Extent Category: Significant: 5
Minor: 3
Penalty Per Violation: Significant (occupant under 18) = \$ 3,220
Minor (occupant over 18) = \$520

5 Significant violations x \$ 3,220 = \$ 16,100
3 Minor violations x \$520 = \$ 1,560

Total Proposed Assessment for this Count: \$17,660

COUNT 4: Lessor, Agent and Lessee Certification Statement

Circumstance Level: 6
Total number of violations: 8
Extent Category: Significant: 5
Minor: 3
Penalty Per Violation: Significant (occupant under 18) = \$ 640
Minor (occupant over 18) = \$130

5 Significant violations x \$640 = 3,200
3 Minor violations x \$130 = \$390

Total Proposed Assessment for this Count: \$3,590

TOTAL PROPOSED PENALTY **\$64,470**

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "Consolidated Rules of Practice Governing the Administrative Assessments of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," and are codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint and Notice of Opportunity for Hearing" (hereinafter referred to as the "Complaint").

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding) and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). See generally Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c).

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the

applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22. See Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), which states, in part: "A civil penalty for a violation of Section 2614...of this title [15 U.S.C. § 2614] shall be assessed by the Administrator by an order made on the record after opportunity...for a hearing in accordance with Section 554 of Title 5 [5 U.S.C. § 554]."

If Respondent fails to request a hearing, such failure may operate to preclude Respondent from obtaining judicial review of an adverse EPA order. See 15 U.S.C. § 2615(a)(3), which states, in part: "Any person who requested in accordance with paragraph (2)(A) [15 U.S.C. § 2615(a)(2)(A)] a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business."

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for failure to timely file an Answer to the Complaint, any order issued therefor shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court.

D. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so "within thirty (30) days after the initial decision is served." 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "5 days shall be added to the time allowed by these [rules] for the filing of a responsive document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent or any relevant information previously not known to Complainant, or to dismiss any or all of the charges if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Joseph Kwiatkowski
U.S. Environmental Protection Agency
Region 2
2890 Woodbridge Avenue, MS 225
Edison, New Jersey 08837
(732)-906-6832

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in such Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the New York address noted above), a copy of the check or other instrument of payment. 40 C.F.R. § 22.18(a). Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this Complaint to the following addressee:

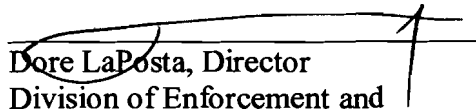
Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 2
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. A copy of the check or other instrument of payment should be provided to the EPA individual identified on the previous page.

Pursuant to 40 C.F.R. § 22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within 30 days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a final order. Issuance of this final order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 C.F.R. § 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said final order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

In the Matter of Redbrick II LP
Docket Number TSCS-02-2008-6169

Dated: JUNE 17, 2008


Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency - Region 2

TO: Mr. David J. Zweig
Redbrick II, LP
c/o Redbrick Partners
1616 H Street NW, Suite 600
Washington, DC 20006

Enclosures

In the Matter of Redbrick II LP
Docket No. TSCA-02-2008-9169

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, bearing docket number TSCA-02-2008-9169, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

Mr. David J. Zweig
Redbrick II LP
C/O Redbrick Partners
1616 H Street NW, Suite 600
Washington, DC 20006

I transmitted the original and a copy of the foregoing Complaint via interoffice mail to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: June 20, 2008
Edison, NJ

Joseph Gimatowski