



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 24 2009

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No.7001 0320 0006 0182 9566

Mr. Neil R. Kennedy
5600 Market Street, Suite #4
Boardman, Ohio 44512

Neil R Kennedy, Boardman, Ohio

Dear Mr. Kennedy:

TSCA-05-2009-0007

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on April 24, 2009, with the Regional Hearing Clerk.

The civil penalty in the amount of \$100.00 is to be paid in the manner described in paragraph 11. Please be certain that the number **BD 2750947X005** and the docket number are written on both the transmittal letter and on the check. Payment is due by May 24, 2009, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Grace".

Pamela Grace
Pesticides and Toxic Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
APR 24 2008

In the Matter of:)	Docket No.	REGIONAL HEARING CLERK
)	TSCA-05-2009-0007	U.S. ENVIRONMENTAL
Neil R. Kennedy)	Proceeding to Assess a Civil Penalty	PROTECTION AGENCY
Boardman, Ohio)	Under Section 16(a) of the Toxic Substances	
)	Control Act, 15 U.S.C. § 2615(a)	
Respondent,)		
_____)		

Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. On July 28, 2008, EPA filed the Complaint in this action against Neil R. Kennedy (Respondent). The Complaint alleges that Respondent violated Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5); Section 409 of TSCA, 15 U.S.C. § 2689; and 40 C.F.R. §§ 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), 745.113(b)(4) and 745.113(b)(6) in one contract to lease target housing. Further the Complaint alleges that Respondent violated 40 C.F.R. § 745.113(a)(5) and 15 U.S.C. § 2689 in one contract to sell target housing. The Complaint proposed a civil penalty of \$23,540 for all six violations.

3. On October 17, 2008, Respondent filed an Answer and requested a hearing in this matter.

4. On or about December 10, 2008, Respondent stated that, due to his extreme financial hardship, he was unable to pay the proposed penalty in the Complaint. Subsequently, Respondent provided EPA with documentation of his inability to pay the civil penalty in this

matter.

5. In light of Respondent's inability to pay the proposed civil penalty, EPA has agreed to settle the matter for a \$100 civil penalty.

Stipulations

6. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint other than those admitted in his Answer.

7. Respondent waives any right to contest the allegations in the Complaint and his right to appeal this Consent Agreement and Final Order (CAFO).

8. Respondent certifies that he is complying fully with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations at 40 C.F.R. Part 745.

9. Respondent consents to the assessment of the civil penalty stated in this CAFO and to the terms of this CAFO.

10. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalties

11. Within 30 days after the effective date of this CAFO, Respondent must pay the \$100.00 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must state Neil R. Kennedy, Respondent, the docket number of this CAFO, and the billing document number. A transmittal letter stating Respondent's name, complete address, the

case docket number, and the billing document number must accompany the payment.

Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Pamela Grace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Leslie Kirby-Miles (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

12. This civil penalty is not deductible for federal tax purposes.
13. If Respondent does not pay the civil penalty timely, or any stipulated penalties due under paragraph 14, below, 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.
14. 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 payment was due at a rate established by the Secretary of the Treasury. 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.
15. Respondent must pay any stipulated penalties within 15 days of receiving EPA's

written demand for the penalties. Respondent will use the method of payment specified in paragraph 11, above, and will pay interest, handling charges, and penalties on any overdue amounts as specified in paragraph 14, above.

General Provisions

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

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

18. This CAFO does not affect Respondent's responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable federal, state, and local laws.

19. The terms of this CAFO bind Respondent, and his successors and assigns.

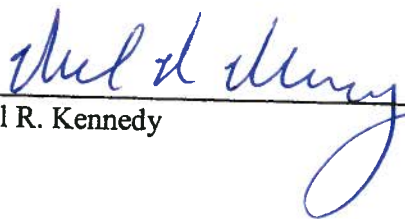
20. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

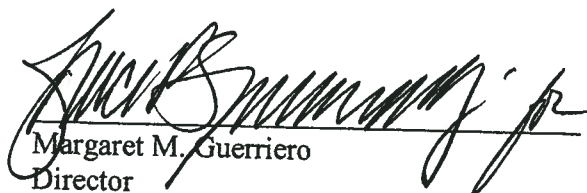
Neil R. Kennedy, Respondent

4-6-09
Date


Neil R. Kennedy

United States Environmental Protection Agency, Complainant

4/21/09
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

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Neil R. Kennedy
Docket No. TSCA-05-2009-0007

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**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY.**

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.

4/21/09
Date

Walter W. Kovalich
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5


CERTIFICATE OF SERVICE

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving Neil R. Kennedy, Boardman, Ohio, was filed on April 24, 2009, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No.7001 0320 0006 0182 9566 to:

Neil R. Kennedy
5600 Market Street, Suite #4
Boardman, Ohio 44512

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Leslie Kirby-Miles, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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