

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

----- X
In the Matter of :
 :
Harold H. Goldberg & Co., Inc. :
 :
 Respondent. :
 :
 Proceeding under Section 16(a) of :
 the Toxic Substances Control Act. :
----- X

**CONSENT AGREEMENT AND
FINAL ORDER**

Docket No.
TSCA-02-2007-9169

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 JUN 20 PM 4:00
REGIONAL HEARING
CLERK

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). On August 14, 2007, Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 ("EPA"), issued a Complaint and Notice of Opportunity for Hearing (the "Complaint") to Harold H. Goldberg & Co., Inc., (hereinafter "Respondent"), with a business address of 1064 Clinton Avenue, Irvington, NJ 07111.

The Complaint alleged that Respondent, acting as an agent, failed to ensure compliance with 40 C.F.R. Sections 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), 745.113(b)(4) and 745.113(b)(6) during the years 2004 and 2006, involving leasing target housing without providing: a lead warning statement, a statement disclosing any knowledge of lead-based paint, a list of any existing records or reports pertaining to lead-based paint, and/or obtaining verification of the receipt of information by the lessees, and signatures of the lessors, agents, or lessees certifying to the accuracy of their statements, which constitute failures or refusals to comply with 40 C.F.R. § 745.115(a)(2), which are violations of 42 U.S.C. Section 4852d(b)(5) and § 409 of

TSCA, 15 U.S.C. § 2689.

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CAFO”), pursuant to 40 C.F.R. § 22.18(b)(2) and (3) of the revised Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent, acting as agent, leased the following target housing units to the following tenants on or about the dates below:

Peter Glabik entered into a contract to lease 200 South Feltus Street, Apartment 24, South Amboy, NJ, on or about March 4, 2004.

Yolanda Arroyo entered into a contract to lease 200 South Feltus Street, Apartment 27, South Amboy, NJ, on or about June 14, 2006.

Fitzgerald Demesier entered into a contract to lease 1 West McFarland Street, Apartment 2B, Dover, NJ, on or about February 1, 2006.

2. Respondent leased target housing apartments described above without providing a lead warning statement; a statement disclosing any knowledge of lead-based paint; a list of any existing records or reports pertaining to lead-based paint; verification of the receipt of information by the lessees; and/or without completing certification statements by the lessor, agent and lessee.

3. Therefore, Respondent in three (3) rental transactions, failed to ensure compliance with one or more of the following 40 C.F.R. Sections: 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), 745.113(b)(4) and/or 745.113(b)(6), which constituted a total of ten (10) failures or refusals to comply with 40 C.F.R. § 745.115(a)(2), which are violations of 42 U.S.C. Section 4852d(b)(5) and Section 409 of TSCA, 15 U.S.C. § 2689.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed, and accepted by Respondent that it shall hereafter the date of execution of this Consent Agreement comply with the following terms:

1. Respondent shall comply with the applicable requirements of TSCA, and its implementing regulations, with respect to all target housing it leases or sells.
2. For the purposes of this proceeding, Respondent: (a) admits the jurisdictional allegations of the Complaint; and (b) neither admits nor denies specific factual allegations in the Complaint; and (c) neither admits nor denies EPA's Findings of Fact and Conclusions of Law in this Consent Agreement.
3. Respondent shall pay a civil penalty in the amount of **Three Thousand One Hundred Fourteen Dollars (\$3,114)** (\$857 attributable to the South Feltus Complex, in South Amboy, New Jersey and \$2,257 attributable to the Northside Apartments, in Dover, New Jersey), payable in three (3) installments. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the **"Treasurer, United States of America"** and shall be mailed to:

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

The checks shall be identified with a notation of the name and docket number of this case as follows: In the Matter of Harold H. Goldberg & Co., Inc., Docket No. TSCA-02-2007-9169.

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

1. Amount of Payment;
2. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045;
3. Account Code for Federal Reserve Bank of New York receiving payment: 68010727;
4. Federal Reserve Bank of New York ABA routing number: 021030004;
5. Field Tag 4200 of the Fedwire should read "D 68010727 Environmental Protection Agency";
6. Name of Respondent: Harold H. Goldberg & Co., Inc.;
7. Case Number: TSCA-02-2007-9169.

Whether payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Joseph Kwiatkowski
U.S. Environmental Protection Agency, Region 2
2890 Woodbridge Avenue
Lead Team, MS 225
Edison, NJ 08837

and

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

The first payment, **One Thousand One Hundred Fourteen Dollars (\$1,114)**, must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order, which is located at the end of this CAFO. The second payment, **One Thousand Dollars (\$1,000)**, must be received six (6) months after the date of the signature of the final order, and the third payment, **One Thousand Dollars (\$1,000)**, must be received one (1) year after the date of signature of the final order. (The date by which payments must be received shall hereinafter be referred to as the "due dates".)

- a. Failure to pay the penalty in full according to the above provisions will result in

referral of this matter to the United States Department of Justice or the United States Department of Treasury for collection.

- b. Furthermore, if payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
- d. The effective date of this CAFO shall be the date of filing with the Regional Hearing Clerk, U.S. E.P.A. Region 2, New York, New York.

4. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

5. This CAFO is being voluntarily and knowingly entered into by the parties to resolve the civil and administrative claims alleged in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

6. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

7. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

8. Full payment of the penalty in a settlement pursuant to 40 C.F.R. § 22.18(b) shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

10. The provisions of this CAFO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussion with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. Each party hereto agrees to bear its own costs and fees in this matter.

13. Respondent consents to service upon Respondent by a copy of this CAFO by an EPA employee other than the Regional Hearing Clerk.

Harold H. Goldberg & Co., Inc.
Docket No. TSCA-02-2007-9169

RESPONDENT:

Harold H. Goldberg & Co., Inc.

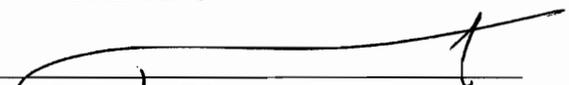
BY: 
(Authorizing Signature)

NAME: MICHAEL BRAMORINO
(PLEASE PRINT)

TITLE: CEO

DATE: 5/12/08

COMPLAINANT:



PATRICK DORSCH
FOR D

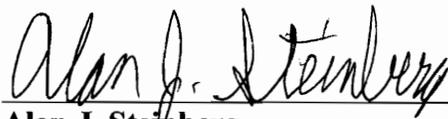
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007

DATE: MAY 30, 2008

Harold H. Goldberg & Co., Inc.
Docket No. TSCA-02-2007-9169

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007

DATE: 6-11-08

Harold H. Goldberg & Co., Inc.
Docket No. TSCA-02-2007-9169

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

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

Copy by Certified Mail,
Return Receipt Requested:

Mr. Michael A. Tramontano
Harold H. Goldberg & Co., Inc.
1064 Clinton Avenue
Irvington, NJ 07111

Dated: June 19, 2008
Edison, NJ

Joseph Kuratowski