

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 N. 5th STREET
KANSAS CITY, KANSAS 66101

09 APR 10 PM 12:30
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

| | | |
|-----------------------|---|------------------------------|
| In the Matter of |) | |
| |) | Docket No. TSCA-07-2009-0011 |
| FIVESTAR REALTY, INC. |) | |
| Saint Louis, Missouri |) | ANSWER AND REQUEST |
| |) | FOR HEARING |
| Respondent |) | |

**RESPONDENT FIVESTAR REALTY, INC.'S ANSWER AND
REQUEST FOR HEARING**

Respondent Fivestar Realty, Inc. ("Respondent"), for its Answer to the United States Environmental Protection Agency's ("EPA") Complaint, states as follows:

1. Respondent states that paragraphs 1 and 2 fail to state facts, but rather state legal conclusions that are not required to be admitted or denied. To the extent that a response is required, Respondent denies each and every allegation of fact and/or conclusion set forth in paragraphs 1 and 2 of the Complaint.
2. Respondent admits the allegations set forth in paragraphs 3 and 4 of the Complaint.
3. Respondent states that paragraphs 5, 6, 7 and 8 fail to state facts, but rather state legal conclusions that are not required to be admitted or denied. To the extent that a response is required, Respondent denies each and every allegation of fact and/or conclusion set forth in paragraphs 5, 6, 7 and 8 of the Complaint.
5. Respondent admits the allegations set forth in paragraph 9 of the Complaint.

6. Respondent states that paragraph 10 fails to state facts, but rather states legal conclusions that are not required to be admitted or denied. To the extent that a response is required, Respondent denies each and every allegation of fact and/or conclusion set forth in paragraph 10 of the Complaint.

7. Respondent admits the allegations set forth in paragraphs 11 and 12 of the Complaint.

8. Respondent denies each and every allegation of fact and/or conclusion of law set forth in paragraph 13 of the Complaint.

9. Respondent states that paragraphs 14, 15 and 16 fail to state facts, but rather state legal conclusions that are not required to be admitted or denied. To the extent that a response is required, Respondent denies each and every allegation of fact and/or conclusion set forth in paragraphs 14, 15 and 16 of the Complaint.

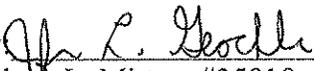
Defenses and Request for Hearing

As for further answer and defense to the claims asserted by the EPA in its Complaint, Respondent states as follows:

1. Respondent denies each and every allegation contained in the Complaint not expressly admitted herein.
2. The EPA fails to state a claim upon which relief can be granted.
3. The EPA is not entitled to the relief requested in that it misapplied the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).
4. Respondent reserves the right to amend its Answer and raise additional defenses that may become available during the course of discovery in this matter.
5. Respondent respectfully requests a hearing on this matter.

WHEREFORE, Respondent Fivestar Realty, Inc. respectfully requests that the Administrator dismiss the Complaint of the United States Environmental Protection Agency, award Respondent its expenses, costs and attorneys' fees incurred herein, and grant such other and further relief as the Administrator deems just and proper.

RIEZMAN BERGER, P.C.

By 
Nelson L. Mitten, #35818
Jennifer L. Geschke, #56623
7700 Bonhomme, 7th Floor
St. Louis, MO 63105
(314) 727-0101
(314) 727-6458 (fax)

Certificate of Service

The undersigned hereby certifies that on the 6th day of April, 2009, Respondent's Answer and Request for Hearing was served via First Class mail, postage prepaid to:

Chris Muehlberger, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 N. 5th Street
Kansas City, Kansas 66101

