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U.S. Environmental Protection Agency, Region IX

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

In the Matter of:

**George E. Masker, Inc.,
Respondent.**

Docket No. TSCA-09-2025-0099

**CONSENT AGREEMENT AND FINAL ORDER
PURSUANT TO 40 C.F.R. §§ 22.13 AND 22.18**

CONSENT AGREEMENT

1 The United States Environmental Protection Agency, Region IX ("EPA"), and George E.
2 Masker, Inc. ("Respondent") agree to settle this matter and consent to the entry of this
3 Consent Agreement and Final Order ("CAFO"), which simultaneously commences and
4 concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

I. AUTHORITY, JURISDICTION, AND PARTIES

6 1. This is a civil administrative penalty action brought against Respondent pursuant to
7 Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), for violation of

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1 Section 409 of TSCA, 15 U.S.C. § 2689, for failing to comply with Sections 402 and 406 of TSCA,
2 15 U.S.C. §§ 2682 and 2686, and their implementing regulations promulgated at
3 40 C.F.R. Part 745, Subpart E ("Subpart E").

4 2. Complainant is the Manager of the Toxics Section of the Enforcement and Compliance
5 Assurance Division, EPA, Region IX, who has been duly delegated the authority to bring this
6 action and to sign a consent agreement settling this action under TSCA.

7 3. Respondent is a California corporation located at 7699 Edgewater Drive in Oakland,
8 California that provides construction services.

9 II. APPLICABLE STATUTORY AND REGULATORY SECTIONS

10 4. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), 40 C.F.R. Part 745, Subpart E
11 requires a person who performs for compensation a renovation of target housing and child-
12 occupied facilities to provide a lead hazard information pamphlet to the owner and occupant
13 before beginning the renovation.

14 5. Pursuant to Section 402(a) and (c) of TSCA, 15 U.S.C. § 2682(a) and (c), 40 C.F.R. Part
15 745, Subpart E sets forth requirements for certification of individuals and firms engaged in lead-
16 based paint activities and work practice standards for renovation, repair, and painting activities
17 in target housing and child-occupied facilities.

18 6. "Firm" means a company, partnership, corporation, sole proprietorship, or individual
19 doing business, association, or other business entity; a Federal, State, Tribal, or local
20 government agency; or a nonprofit organization. 40 C.F.R. § 745.83.

21 7. "Person" means any natural or judicial person including any individual, corporation,

1 partnership, or association; any Indian Tribe, State, or political subdivision thereof; any
2 interstate body; and any department, agency, or instrumentality of the Federal Government.

3 40 C.F.R. § 745.83.

4 8. "Renovation" means the modification of any existing structure, or portion thereof, that
5 results in the disturbance of painted surfaces, unless that activity is part of an abatement as
6 defined by 40 C.F.R. § 745.223. The term "renovation" includes (but is not limited to): the
7 removal, modification or repair of painted surfaces or painted components (e.g., modification
8 of painted doors, surface restoration, window repair, surface preparation activity (such as
9 sanding, scraping, or other such activities that may generate paint dust)); the removal of
10 building components (e.g., walls, ceilings, plumbing windows); weatherization projects (e.g.,
11 cutting holes in painted surfaces to install blown-in insulation or to gain access to attics
12 planning thresholds to install weatherstripping), and interim controls that disturb painted
13 surfaces. The term "renovation" does not include minor repair and maintenance activities.

14 40 C.F.R. § 745.83.

15 9. "Painted surface" means a component surface covered in whole or in part with paint or
16 other surface coatings. 40 C.F.R. § 745.83.

17 10. "Child-occupied facility" means a building, or portion of a building, constructed prior to
18 1978, visited regularly by the same child, under six (6) years of age, on at least two different
19 days within any week (Sunday through Saturday period), provided that each day's visit lasts at
20 least three (3) hours and the combined weekly visits last at least six (6) hours, and the
21 combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not

1 limited to, day care centers, preschools and kindergarten classrooms. 40 C.F.R. § 745.83.

2 11. "Renovator" means any individual who either performs or directs workers who perform
3 renovations. A certified renovator is a renovator who has successfully completed a renovator
4 course accredited by the EPA or an EPA-authorized State or Tribal program. 40 C.F.R. § 745.83.

5 12. "Pamphlet" means the EPA pamphlet titled, "Renovate Right: Important Lead Hazard
6 Information for Families, Child Care Providers and Schools," developed under Section 406(a) of
7 TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet
8 approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. 40
9 C.F.R. § 745.83.

10 13. "Target housing" means any housing constructed prior to 1978, except housing for the
11 elderly or persons with disabilities (unless any child who is less than six year of age resides or is
12 expected to reside in such housing) or any 0-bedroom dwelling. Section 401 of TSCA, 15 U.S.C.
13 § 2681.

14 14. Firms that perform renovations for compensation must apply to the EPA for certification
15 to perform renovations. 40 C.F.R. § 745.89(a).

16 15. On or after April 22, 2010, no firm may perform a renovation without certification from
17 the EPA under 40 C.F.R. § 745.89(a) in target housing and child-occupied facilities, unless the
18 renovation is performed in target housing or a child-occupied facility that has been determined
19 to be lead-free pursuant to 40 C.F.R. § 745.82(a). 40 C.F.R. § 745.81(a)(2)(ii).

20 16. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation
21 Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation

Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to exceed \$49,772 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025.

III. ALLEGATIONS

17. At all times relevant to this CAFO, Respondent was a “person,” as that term is defined at 40 C.F.R. § 745.83.

18. At all times relevant to this CAFO, Respondent was a “firm,” as that term is defined at 40 C.F.R. § 745.83.

19. From on or about March 2021 to on or about April 2021, Respondent performed “renovations” for compensation as that term is defined at 40 C.F.R. § 745.83 at Howard Elementary School located at 8755 Fontaine Street in Oakland, California (“Howard Elementary”) and Sequoia Elementary School located at 3730 Lincoln Avenue in Oakland, California (“Sequoia Elementary”).

20. At all times relevant to this CAFO, Howard Elementary and Sequoia Elementary were each a “Child-Occupied Facility” as that term is defined in 40 C.F.R. § 745.83,

21. At all times relevant to this CAFO, neither Howard Elementary nor Sequoia Elementary had been determined to be lead-free pursuant to 40 C.F.R. § 745.82(a).

22. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing or child-occupied facility, the firm performing the renovation must provide the owner of the building with the “pamphlet,” as that term is defined at 40 C.F.R. § 745.83, and either obtain from the owner a written acknowledgment that the owner has

1 received the "pamphlet" or obtain a certificate of mailing at least seven days prior to the
2 renovation. 40 C.F.R. § 745.84(c)(1).

3 23. Respondent did not provide the owner of Howard Elementary or Sequoia Elementary
4 with the "pamphlet" before beginning renovation activities.

5 24. Respondent's failure to provide the owner of Howard Elementary or Sequoia
6 Elementary with the "pamphlet" constitutes two violations of 40 C.F.R. § 745.84(c)(1) and
7 Section 409 of TSCA, 15 U.S.C. § 2689.

8 25. Firms performing renovations must comply with the work practice standards of §
9 745.85, including the posting of signs clearly defining the work area and warning occupants and
10 other persons not involved in renovation activities to remain outside of the work area. 40
11 C.F.R. § 745.85(a)(1).

12 26. Respondent did not post signs clearly defining the work area and warning occupants and
13 other persons not involved in renovation activities to remain outside of the work area for the
14 renovation performed at Howard Elementary or Sequoia Elementary.

15 27. Respondent's failure to post signs clearly defining the work area and warning occupants
16 and other persons not involved in renovation activities to remain outside of the work area for
17 the renovation performed at Howard Elementary or Sequoia Elementary constitutes two
18 violations of 40 C.F.R. § 745.85(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

19 28. Firms performing renovations must retain and, if requested, make available to EPA all
20 records necessary to demonstrate compliance with 40 C.F.R. Part 745 Subpart E for a period of
21 3 years following completion of the renovation. Records that must be retained include

1 documentation of compliance with the requirements of § 745.85, including documentation that
2 a certified renovator was assigned to the project, that the certified renovator provided on-the-
3 job training for workers used on the project, that the certified renovator performed or directed
4 workers who performed all of the tasks described in § 745.85(a), and that the
5 certified renovator performed the post-renovation cleaning verification described in §
6 745.85(b). 40 C.F.R. § 745.86(b)(6).

7 29. Respondent did not maintain records for the Howard Elementary and Sequoia
8 Elementary projects that a certified renovator was assigned to the projects, that a certified
9 renovator provided on-the-job training for workers used on the projects, that a certified
10 renovator performed or directed workers who performed all of the tasks described in 40 C.F.R.
11 § 745.85(a) or that a certified renovator performed the post-renovation cleaning verification for
12 the projects.

13 30. Respondent's failure to maintain records for the Howard Elementary and Sequoia
14 Elementary projects that a certified renovator was assigned to the projects, that a certified
15 renovator provided on-the-job training for workers used on the projects, that a certified
16 renovator performed or directed workers who performed all of the tasks described in 40 C.F.R.
17 § 745.85(a) or that a certified renovator performed the post-renovation cleaning verification for
18 the projects constitutes eight violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15
19 U.S.C. § 2689.

20 31. Firms performing renovations must ensure that a certified renovator is assigned to each
21 renovation performed by the firm and discharges all of the certified renovator responsibilities

1 identified in 40 C.F.R. § 745.90. 40 C.F.R. § 745.89(d)(2).

2 32. Respondent did not assign a certified renovator to the renovations performed at
3 Howard Elementary or Sequoia Elementary.

4 33. Respondent's failure to assign a certified renovator to the renovations performed at
5 Howard Elementary or Sequoia Elementary constitute two violations of 40 C.F.R. § 745.89(d)(2)
6 and Section 409 of TSCA, 15 U.S.C. § 2689.

7
8 **IV. RESPONDENT'S ADMISSIONS**

9 34. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
10 Respondent:

- 11 a. admits that EPA has jurisdiction over the subject matter of this CAFO and over
12 Respondent;
13 b. neither admits nor denies the specific factual allegations contained in Section III
14 of this CAFO;
15 c. consents to the assessment of the civil administrative penalty contained in
16 Section V of this CAFO and to any conditions specified herein;
17 d. waives any right to contest the allegations contained in Section III of this CAFO;
18 and
19 e. waives the right to appeal the Final Order accompanying this Consent
20 Agreement.

21 In addition, by signing this Consent Agreement, Respondent waives any rights or defenses that

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Respondent has or may have for this matter to be resolved in federal court, including, but not limited to, any right to a jury trial and waives any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement.

V. CIVIL ADMINISTRATIVE PENALTY

35. Respondent agrees to the assessment of a penalty in the amount of TWENTY-SEVEN THOUSAND AND SEVEN HUNDRED SEVENTY-ONE DOLLARS (\$27,771) as final settlement of the civil claims against Respondent arising under TSCA as alleged in Section III of this CAFO.

36. Respondent shall pay the assessed penalty no later than thirty (30) calendar days from the effective date of this CAFO. The assessed penalty shall be paid by certified or cashier's check, including the name and docket number of this matter, payable to "Treasurer, United States of America," or paid by one of the other methods listed below and sent as follows:

Regular Mail:

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

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004

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Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver ABA = 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking
Physical location of US Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX) 1-866-234-5681

Online Payment:

This payment option can be accessed from the information below:
www.pay.gov
Enter "sfo1.1" in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact
the EPA Cincinnati Finance Center at (513) 487-2091.

Concurrently, a copy of each check or notification that the payment has been made by
one of the other methods listed above, including proof of the date payment was made, shall be
sent with a transmittal letter indicating Respondent's name, the case title, and the docket
number to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
R9HearingClerk@epa.gov

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1 Rieko Nishimura
2 Toxics Section
3 Enforcement and Compliance Assurance Division (ENF-2-3)
4 U.S. Environmental Protection Agency, Region IX
5 75 Hawthorne Street
6 San Francisco, CA 94105
7 nishimura.rieko@epa.gov
8

9 37. Payment of the above assessed civil administrative penalty shall not be used by
10 Respondent or any other person as a tax deduction from Respondent's federal, state, or local
11 taxes.

12 38. If Respondent fails to pay the assessed civil administrative penalty specified in
13 Paragraph 35 by the manner and deadlines specified in that Paragraph, then the entire
14 remaining balance of the assessed penalty shall immediately become due and payable.
15 Respondent also shall pay to the EPA a stipulated penalty of \$500 per day for each day that
16 payment is late in addition to the assessed penalty. Stipulated penalties shall accrue until such
17 time as the assessed penalty and all accrued stipulated penalties are paid and shall become due
18 and payable upon written request by the EPA. In addition, failure to pay the civil administrative
19 penalty by the manner and deadlines specified in Paragraph 36 may lead to any or all of the
20 following actions:

- 21 a. The debt being referred to a credit reporting agency, a collection agency, or to
22 the Department of Justice for filing of a collection action in the appropriate
23 United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such
24 collection action, the validity, amount, and appropriateness of the assessed
25 penalty and of this CAFO shall not be subject to review.

- 1 b. The debt being collected by administrative offset (i.e., the withholding of money
2 payable by the United States to, or held by the United States for, a person to
3 satisfy the debt the person owes the Government), which includes, but is not
4 limited to, referral to the Internal Revenue Service for offset against income tax
5 refunds. 40 C.F.R. Part 13, Subparts C and H.
- 6 c. The EPA may (i) suspend or revoke Respondent's licenses or other privileges; or
7 (ii) suspend or disqualify Respondent from doing business with the EPA or
8 engaging in programs the EPA sponsors or funds. 40 C.F.R. § 13.17.
- 9 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13,
10 interest, penalties charges, and administrative costs will be assessed against the
11 outstanding amount that Respondent owes to the EPA for Respondent's failure
12 to pay in full the assessed civil administrative penalty by the deadlines specified
13 in Paragraph 36. Interest will be assessed at an annual rate that is equal to the
14 rate of current value of funds to the United States Treasury (i.e., the Treasury tax
15 and loan account rate) as prescribed and published by the Secretary of the
16 Treasury in the Federal Register and the Treasury Fiscal Requirements Manual
17 Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a
18 rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and
19 collecting Respondent's overdue debt will be based on either actual or average
20 cost incurred and will include both direct and indirect costs. 40 C.F.R. § 13.11(b).
21 In addition, if this matter is referred to another department or agency (e.g., the

1 Department of Justice, the Internal Revenue Service), that department or agency
2 may assess its own administrative costs, in addition to the EPA's administrative
3 costs, for handling and collecting Respondent's overdue debt.

4 VI. RESPONDENT'S CERTIFICATION

5 39. In executing this CAFO, Respondent certifies that it is now fully in compliance with the
6 federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

7 VII. RETENTION OF RIGHTS

8 40. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for
9 federal civil penalties for the violations and facts specifically alleged in Section III of this CAFO.
10 Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for
11 violations of any provision of any federal, state, or local law, statute, regulation, rule,
12 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal
13 liability. The EPA specifically reserves any and all authorities, rights, and remedies available to it
14 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to
15 address any violation of this CAFO or any violation not specifically alleged in Section III of this
16 CAFO.

17 41. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to
18 comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and
19 permits.

20 VIII. ATTORNEYS' FEES AND COSTS

21 42. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this

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1 proceeding.

2 **IX. EFFECTIVE DATE**

3 43. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on
4 the date that the Final Order accompanying this Consent Agreement, having been approved
5 and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

6 **X. BINDING EFFECT**

7 44. The undersigned representative of Complainant and the undersigned representative of
8 Respondent each certifies that he or she is fully authorized to enter into the terms and
9 conditions of this CAFO and to bind the party that he or she represents to this CAFO.

10 45. The provisions of this CAFO shall apply to and be binding upon Respondent and its
11 officers, directors, employees, agents, trustees, servants, authorized representatives,
12 successors, and assigns.

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FOR RESPONDENT, George E. Masker, Inc.:

7/1/25
DATE


Matt Johnson, Sr.
President
George E. Masker, Inc.

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

DATE

KAORU
MORIMOTO

Digitally signed by KAORU
MORIMOTO
Date: 2025.08.08 13:13:25 -07'00'

on behalf of
Matt Salazar, PE
Manager, Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,
IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. TSCA-09-2025-0099) be entered and that Respondent shall pay a civil administrative penalty in the amount of TWENTY-SEVEN THOUSAND AND SEVEN HUNDRED SEVENTY-ONE DOLLARS (\$27,771) and comply with the terms and conditions set forth in the Consent Agreement.
This Consent Agreement and Final Order shall become effective upon filing.

**BEATRICE
WONG**

Digitally signed by
BEATRICE WONG
Date: 2025.08.12
12:48:18 -07'00'

DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order in the matter of George E. Masker, Inc. (Docket No. TSCA-09-2025-0099) was filed with the Regional Hearing Clerk, and that a true and correct copy of the same was sent to the following parties via electronic mail, as indicated below:

RESPONDENT:

Matt Johnson Sr.
President
George E. Masker, Inc.
7699 Edgewater Drive
Oakland, CA 94621
Matt@maskerpainting.com

COMPLAINANTS:

Ivan Lieben
Deputy Regional Counsel
U.S. EPA-Region IX
Immediate Office (ORC-1)
75 Hawthorne Street
San Francisco, CA 94105
Lieben.Ivan@epa.gov

Tu, Ponly

Digitally signed by Tu,
Ponly
Date: 2025.08.12
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Ponly Tu
Regional Hearing Clerk
U.S. EPA - Region IX