

**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

Received by
EPA Region 7
Hearing Clerk

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Window Nation, LLC) **Docket No. TSCA-07-2022-0086**
Respondent.)
)
)
_____)

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Window Nation, LLC (“Respondent”), failed to comply with the regulations governing residential property renovation, in violation of Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689.

2. TSCA § 402(c) requires the Administrator of EPA to promulgate regulations governing renovation and remodeling activities to ensure, among other things, that contractors engaged in such activities are certified by EPA to perform these activities. These regulations are codified at Part 745 of Title 40 of the Code of Federal Regulations.

3. The regulations at 40 C.F.R. § 745.85(a) and § 745.85(b)(6) requires firms performing renovations to retain, and, if requested, make available to EPA all records necessary to demonstrate compliance with the RRP Rule for a period of 3 years following completion of the renovation.

4. On July 7, 2021, pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA conducted a records inspection at Respondent’s place of business located at 15325 W. 100th Terrace in Lenexa, Kansas to evaluate Respondent’s compliance with TSCA and the requirements of the Renovation, Repair, and Painting Rule (“EPA inspection”).

5. The inspection revealed that Respondent had performed renovations for compensation at the following properties (“Properties”), each of which were “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17):

- a. 802 E. Clark Street in Warrensburg, Missouri (constructed in approximately 1960);
- b. 2824 Scott Street in St. Joseph, Missouri (constructed in approximately 1965);

- c. 9809 E. 60th Terrace in Kansas City Missouri (constructed in approximately 1950);
- d. 429 E. Market Street in Warrensburg, Missouri (constructed in approximately 1940); and
- e. 3076 Oakwood Drive in Napoleon, Missouri (constructed in approximately 1975).

6. The inspection revealed that Respondent failed to retain and make available to EPA all records necessary to demonstrate compliance with the RRP Rule for a period of 3 years for the renovation at each of the Properties.

7. Respondent's failure to retain and make available to EPA all records necessary to demonstrate compliance with the RRP Rule for a period of 3 years for the renovation at each of the Properties is a violation of 40 C.F.R. § 745.85(a) and § 745.85(b)(6). Respondent therefore violated Section 409 of TSCA, 15 U.S.C. § 2689.

8. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). After considering these factors, EPA has determined, and Respondent agrees, that settlement of this matter for a civil penalty of \$5,000 (five thousand dollars) is in the public interest.

9. Not more than thirty (30) calendar days after the effective date of the Final Order, Respondent shall deposit the civil penalty amount listed in Paragraph 5 by one of the following methods:

- A. Make electronic payment (Vendor Express, Fedwire, Pay.gov) at <http://www.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).
- B. Send a cashier's or certified check or money order with a notation for Docket No. TSCA-07-2022-0086, payable to the order of the "Treasury of the United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-07-2022-0086
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.
- C. Send a cashier's or certified check or money order by an overnight/common carrier (e.g., FedEx® or United Parcel Service of America, Inc.) with a notation for Docket No. TSCA-07-2022-0086 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101.

10. Concurrently with Paragraph 9, Respondent shall forward a copy of the cashier's or certified check or money order or documentation of a wire transfer to the following addresses:

William Blair
blair.william@epa.gov

and

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov.

By written notice to Respondent, EPA may change the address and/or person listed above.

11. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).

12. In signing this Agreement, Respondent: (a) admits that Respondent is subject to TSCA and its implementing regulations; (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any and all remedies, claims for relief and other available rights to judicial or administrative review Respondent may have with respect to any issue of fact or law set forth in this Agreement and Final Order, including the opportunity for a hearing or appeal pursuant to TSCA and 40 C.F.R. Part 22 and any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 -706.

13. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) is currently in compliance with Section 402 of TSCA, 15 U.S.C. § 2682, and its implementing regulations at 40 C.F.R. Part 745; (b) agrees to provide payment of the civil penalty set forth in Paragraph 8; (c) agrees to submit a true and accurate proof of payment of said civil penalty as set forth in Paragraphs 8 and 9; and (d) agrees to release said payment to EPA upon entry of the Final Order attached hereto.

14. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in Paragraph 8, Respondent shall only be resolved of liability for federal civil penalties for the violations and facts alleged herein.

15. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

16. This Agreement does not affect the rights of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violations of law. EPA reserves its rights to take enforcement action for any other violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.

17. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection of the amount due plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

18. Each party shall bear its own costs and fees, if any.

19. This Agreement, authorized by EPA's execution of the Final Order attached hereto, constitutes a final order under 40 C.F.R. Part 22.

20. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

21. Respondent consents to receiving the filed Agreement electronically at the following e-mail address: mwyatt@wyattgunning.com. Respondent understands that the Expedited Settlement Agreement and Final Order will become publicly available upon filing.

22.

FOR THE RESPONDENT:

Name (print): Fred Cooper

Title (print): CFO

Signature: 

Date: 9/6/2022

FOR THE COMPLAINANT:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division
Date: _____

Angela Stillwagon
Attorney
Office of Regional Counsel
Date: _____

FINAL ORDER

Pursuant to the authority of Section 16 of Toxic Substances Control Act, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of \$5,000 (five thousand dollars); and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via a certified or cashier's check or money order or through a wire transfer as described in the Expedited Settlement Agreement.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

Date: _____

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order, EPA Docket No. TSCA-07-2022-0086, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Angela Stillwagon, Office of Regional Counsel
Stillwagon.Angela@epa.gov

William Blair, Enforcement and Compliance Assurance Division
Blair.William@epa.gov

Milady Peters, Office of Regional Counsel
Peters.Milady@epa.gov

Copy via e-mail to Counsel for Respondent:

Michael Wyatt
Wyatt & Gunning, LLC
100 W. Pennsylvania Ave.
Suite 10
Towson, Maryland 21204
Mwyatt@wyattgunning.com

Dated this _____ day of _____, _____.

Signed