

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

IN THE MATTER OF: )

JUAN HERNANDEZ )  
585 East Main Street )  
Bridgeport, Connecticut 06608 )

Respondent. )

) Docket No. TSCA-01-2012-0029

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**CONSENT AGREEMENT**

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. § 22.18 of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”).

**I. INTRODUCTION**

2. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, initiated this proceeding against Respondent, Juan Hernandez, by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”), pursuant to Section 16(a) of TSCA on March 27, 2012.

3. The complete factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint.

## II. TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on Respondent, his successors and assigns in their capacity as such.

5. Respondent agrees that EPA has jurisdiction over the subject matter alleged in the Complaint, and hereby waives any defenses he may have as to jurisdiction and venue.

6. Respondent acknowledges that he has been informed of his right to request a hearing in this proceeding, and hereby waives his right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

7. Respondent hereby waives his right to appeal the Final Order accompanying this Consent Agreement.

8. Without admitting or denying the facts and violations alleged in the Complaint, Respondent consents to the terms and the issuance of this CAFO, and consents, for the purposes of settlement, to the payment of the civil penalty as set forth in this CAFO.

9. Respondent certifies by the signing of this CAFO that he is presently in compliance with TSCA Section 409; 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. §§ 4851 *et seq.*, and federal regulations promulgated thereunder, entitled *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, set forth in 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule").

Penalty Payment

10. After consideration of the nature of the violations alleged in the Complaint and other relevant factors, Complainant has determined that it is fair and proper that Respondent pay a civil penalty in the amount of \$69,000 (plus interest) in settlement of this matter. Respondent shall pay the civil penalty set forth in this CAFO (plus interest) in accordance with the following schedule:

- a. \$23,000 within 30 days of the effective date of this CAFO but not later than April 1, 2013;
- b. \$15,448 (\$15,333 plus \$115 interest) by not later than May 16, 2013;
- c. \$15,410 (\$15,333 plus \$77 interest) by no later than July 1, 2013;
- d. \$15,372 (\$15,334 plus \$38 interest) by no later than August 14, 2013.

11. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

12. If Respondent fails to pay any installment of the civil penalty by the required date, then the remaining balance of the civil penalty plus interest at the rate specified in 31 C.F.R. § 901.9(b)(2) shall automatically and immediately become due and payable. The method of payment shall be in accordance with the provisions of Paragraph 14 herein.

13. Respondent shall make each penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

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

Respondent shall note the case name ("In the Matter of: Juan Hernandez") and the docket number ("TSCA-01-2012-0029") of this action on each payment check and in an accompanying cover letter, and shall provide copies of each check and letter to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

and:

Steven Schlang  
Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912

14. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid as set forth in Paragraph 10. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). If payment is not made in accordance with the schedule set forth in Paragraph 10, a charge will be assessed to cover the costs of debt collection, including processing and handling costs and

attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after final payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

15. The civil penalty described in Paragraph 10, and any interest, non-payment penalties, and/or other charges as described in Paragraph 14, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

16. Respondent shall bear its own costs and attorney's fees in this proceeding and specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

17. This CAFO constitutes a settlement by EPA of, and resolves Respondent's liability for, civil penalties pursuant to Section 16 of TSCA for the violations alleged in the Complaint.

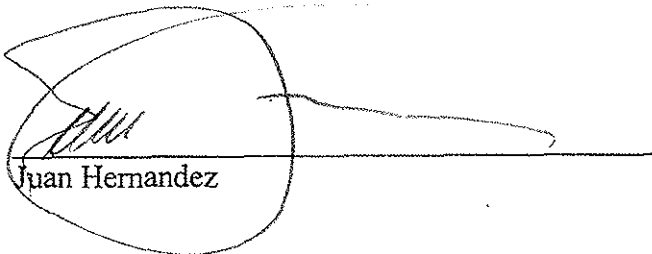
18. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of

EPA to seek any other remedies or sanctions if Respondent is in violation of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in this CAFO are based, or for Respondent's violation of any other applicable provision of federal, state or local law.

19. This CAFO in no way relieves Respondent or its employees of any criminal liability. EPA reserves its authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

20. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

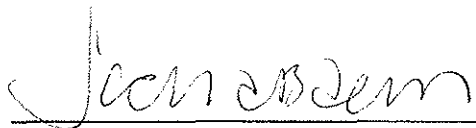
THE UNDERSIGNED PARTIES enter into this CAFO:

  
\_\_\_\_\_  
Juan Hernandez

2/21/13  
\_\_\_\_\_  
Date

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For U.S. EPA, Region 1:



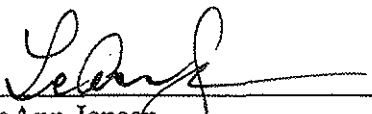
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Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

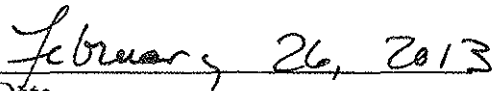
2/26/13  
\_\_\_\_\_  
Date

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**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

  
\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

  
\_\_\_\_\_  
Date



In The Matter of **Juan Hernandez, Respondent**  
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**CERTIFICATE OF SERVICE**

I certify that the foregoing **Consent Agreement and Final Order**, dated March 4, 2013, was sent this day in following manner to the addresses listed below:



Sybil Anderson  
Headquarters Hearing Clerk

Dated: **March 4, 2013**

Copy By Regular Mail and Email To:

Steven Schlang, Esquire  
Senior Enforcement Counsel  
U.S. EPA  
Mail Code ORA18-1  
5 Post Office Square  
Boston, MA 02109-3912

Email: [Schlang.Steven@epa.gov](mailto:Schlang.Steven@epa.gov)

Daniel S. Nagel, Esquire  
Rachel A. Schwartzman, Esquire  
Cohen & Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

Email: [rschwartzman@cohenandwolf.com](mailto:rschwartzman@cohenandwolf.com)