



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

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EPA ORC
OFFICE OF
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BY HAND

January 27, 2014

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square
Suite 100
Boston, MA 02109 - 3912

RE In the Matter of My Van Nguyen and Xem Thi Le
Docket Number TSCA-01-2013-0051

Dear Ms. Rivera:

Enclosed for filing in the above-referenced action, please find the original and one copy of a Complaint and Notice of Opportunity for Hearing and Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter DeCambre".

Peter DeCambre
Senior Enforcement Counsel

cc: My Van Nguyen
Xem Thi Le

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF:)
)

My Van Nguyen)
Xem Thi Le)

70 Meadow Brook Road)
Weston, MA 02393)

Respondents.)
)

Proceeding under Section 16(a) of the)
Toxic Substance Control Act,)
42 U.S.C. § 2615(a).)
_____)

Docket No. TSCA-01-2013-0051

COMPLAINT AND NOTICE
OF OPPORTUNITY FOR
A HEARING

**ADMINISTRATIVE COMPLAINT
AND NOTICE OF OPPORTUNITY FOR A HEARING**

I. STATEMENT OF AUTHORITY

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a); 40 C.F.R. § 745.118, and the 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 (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, U.S. Environmental Protection Agency (“EPA”), Region 1.

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II. NATURE OF THE ACTION

2. Respondents in this action, My Van Nguyen and Xem Thi Le, are hereby notified of Complainant's determination that they have violated Section 409 of TSCA, 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 the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart F ("Disclosure Rule"). Complainant seeks civil penalties in the amount of \$155,520 pursuant to TSCA Section 16, 15 U.S.C. § 2615, which provides that violations of TSCA Section 409, 15 U.S.C. § 2689, are subject to the assessment by Complainant of civil and/or criminal penalties. In support of this Complaint, Complainant alleges the following:

III. STATUTORY AND REGULATORY BACKGROUND

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. Among the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental and sale of homes and apartments. To carry out this purpose, the Act gave the United States Environmental Protection Agency ("EPA") regulatory authority to require the disclosure of information related to lead-based paint and lead-based paint hazards upon the sale or leasing of residential property. 42 U.S.C. § 4852d(a).

4. In 1996, the EPA promulgated regulations to implement the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart F.

5. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the housing stock addressed by the Act's transaction requirements is termed "target housing," and is defined as any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

6. The implementing regulations set forth at 40 C.F.R. Part 745, Subpart F, require lessors and owners of target housing to, among other things, provide to lessees a lead hazard information pamphlet; include as an attachment, or within the contract to lease target housing, a Lead Warning Statement; a statement by the lessor or owner disclosing the presence of known lead-based paint or lead-based paint hazards, or lack of knowledge thereof; and any records or reports available to the lessor or owner that pertain to lead-based paint or lead-based paint hazards in the housing.

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure to comply with the Subpart F disclosure requirements is a violation of TSCA Section 409, 15 U.S.C. § 2689.

8. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of TSCA Section 409, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty.

9. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation applicable under Section 16 occurring on or after January 13, 2009, shall be no more than \$16,000 for each violation, pursuant to the Civil Monetary Penalty Inflation Adjustment Rule (73 Fed. Reg.

75,340).

IV. GENERAL ALLEGATIONS

10. Respondents, My Van Nguyen and Xem Thi Le, are individuals who own and offer for lease three properties located in Dorchester, Massachusetts. Respondents, My Van Nguyen and Xem Thi Le, are husband and wife, respectively. They reside at 70 Meadow Brook Road, Weston, Massachusetts.

11. At the time of the violations alleged in this Complaint, Respondents My Van Nguyen and Xem Thi Le owned and offered for lease the properties listed below and described in Paragraph 12 below. Respondents are thus “owners” and “lessors” as defined in 40 C.F.R. § 745.103.

Address in Dorchester, MA	Owner
Lease Transactions (3)	
47 Savin Hill Ave., Unit #2	My Van Nguyen
114 Sawyer Ave., Unit# 3	My Van Nguyen
39 Neponset Ave., Unit #2	Xem Thi Le

12. At the time of the violations alleged in this Complaint, Respondents My Van Nguyen and Xem Thi Le, as lessors, offered for lease the three rental properties listed below on the dates listed below:

Address in Dorchester, MA	Owner	Lease Date	Children
Lease Transactions (3)			
47 Savin Hill Ave., Unit #2	My Van Nguyen	11/23/2010	Two children resident Ages: one and six
114 Sawyer Ave., Unit# 3	My Van Nguyen	1/1/2010	Two children resident Ages: five and nine
39 Neponset Ave., Unit #2	Xem Thi Le	1/28/2011	Three children resident Ages: Five months, Five, and Nine

13. The properties identified in Paragraph 12 above, are, and at the time of the violations alleged in the Complaint were, “target housing,” as defined in 40 C.F.R. § 745.103, and do not qualify for any of the exemptions to the provisions of the Act or the Disclosure Rule.

14. On September 28, 2011, EPA inspectors conducted an investigation of Respondents’ compliance with the Disclosure Rule during a meeting in the EPA Region 1 Office in Boston, Massachusetts. During the inspection, EPA inspectors met with Respondent Xem Thi Le and her daughter, Van Nguyen. The EPA inspectors reviewed several of Respondents’ lease transactions. Three lease transactions reviewed did not contain the required disclosure form.

15. A search of Massachusetts lead inspection records indicated that the following lead based paint records existed for the three lease transactions at the time of those transactions:

Address in Dorchester, MA	Records Available
Lease Transactions (3)	
47 Savin Hill Ave., Unit #2	Inspection Report and Certification of Maintained Compliance (dated 10/12/10) indicating the presence of lead paint above 1.0 mg/cm ²
114 Sawyer Ave., Unit #3	Letter of Full Deleading Compliance (dated 4/3/06); Lead Inspection Report (dated 3/28/06) indicating the presence of lead paint above 1.0 mg/cm ²
39 Neponset Ave., Unit #2	Letter of Full Compliance (dated 12/23/10); Lead-Based Paint Inspection Report (dated 12/22/10) indicating the presence of lead paint above 1.0 mg/cm ²

16. On October 5, 2012 and February 7, 2012, Respondents submitted to EPA newly signed and corrected disclosure forms. On November 28, 2012, EPA sent Respondents an Information Request Letter requesting any disclosure forms which may have been held by the Boston Housing Authority. A December 11, 2012 email from Van Nguyen acknowledged receipt of this letter. EPA agreed to Respondents' request to extend the time for a response to the Information Request Letter to January 31, 2013.

17. On February 28, 2013, an EPA representative emailed Van Nguyen notifying her that EPA had not received a response to the Information Request Letter.

V. VIOLATIONS

18. Based on the September 28, 2011 inspection, information submitted to Complainant by Respondents, and information gathered by EPA, EPA has identified the following violations of the Act and the Disclosure Rule:

Count I – Failure to provide lessees with an EPA-approved lead hazard information pamphlet.

19. Complainant incorporates by reference Paragraphs 1 through 18.

20. Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor or owner is required to provide a lessee, before the lessee is obligated under any contract to lease target housing, with an EPA-approved lead hazard information pamphlet entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use in particular states by EPA.

21. Respondents My Van Nguyen and Xem Thi Le failed to provide the lessees who

entered into the following lease transactions with an EPA-approved lead hazard information pamphlet before the lessees became obligated under a contract to lease target housing:

Address in Dorchester, MA	Owner	Lease Date	Children
Lease Transactions (3)			
47 Savin Hill Ave., Unit #2	My Van Nguyen	11/23/2010	Two children resident Ages: one and six
114 Sawyer Ave., Unit# 3	My Van Nguyen	1/1/2010	Two children resident Ages: five and nine
39 Neponset Ave., Unit #2	Xem Thi Le	1/28/2011	Three children resident Ages: Five months, Five, and Nine

22. Respondent My Van Nguyen's failure to provide the lessees of the target housing owned by him and listed in Paragraph 21 above with an EPA-approved lead hazard information pamphlet prior to the lessees being obligated to lease target housing constitutes two (2) violations of 40 C.F.R. § 745.107(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

23. Respondent Xem Thi Le's failure to provide the lessee of target housing owned by her and listed in Paragraph 21 above with an EPA-approved lead hazard information pamphlet prior to the lessee being obligated to lease target housing constitutes one (1) violation of 40 C.F.R. § 745.107(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

Count II – Failure to include as an attachment, or within the contract to lease target housing, the Lead Warning Statement.

24. Complainant incorporates by reference Paragraphs 1 through 23.

25. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing must include as an attachment or within the contract, the Lead Warning Statement.

26. Respondents My Van Nguyen and Xem Thi Le failed to include as an attachment, or within the following contracts to lease target housing, the Lead Warning Statement:

Address in Dorchester, MA	Owner	Lease Date	Children
Lease Transactions (3)			
47 Savin Hill Ave., Unit #2	My Van Nguyen	11/23/2010	Two children resident Ages: one and six
114 Sawyer Ave., Unit# 3	My Van Nguyen	1/1/2010	Two children resident Ages: five and nine
39 Neponset Ave., Unit #2	Xem Thi Le	1/28/2011	Three children resident Ages: Five months, Five, and Nine

27. Respondent My Van Nguyen's failure to include the Lead Warning Statement as an attachment or within the contracts to lease the target housing units owned by him and listed in Paragraph 26 above constitutes two (2) violations of 40 C.F.R. § 745.113(b)(1) and TSCA Section 409, 15 U.S.C. § 2689.

28. Respondent Xem Thi Le's failure to include the Lead Warning Statement as an attachment or within the contract to lease the target housing unit owned by her and listed in Paragraph 26 above constitutes one (1) violation of 40 C.F.R. § 745.113(b)(1) and TSCA Section 409, 15 U.S.C. § 2689.

Count III – Failure to include in the lease or as an attachment thereto, a statement by the lessor or owner disclosing the presence of known lead-based paint or lead-based paint hazards, or lack of knowledge thereof.

29. Complainant incorporates by reference Paragraphs 1 through 28.

30. Pursuant to 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include as an attachment or within the lease contract a statement by the lessor or owner

disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

31. Respondents My Van Nguyen and Xem Thi Le failed to include as an attachment or within the following lease contracts, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating the lack of knowledge of the presence of lead-based paint and/or lead-based paint hazards:

Address in Dorchester, MA	Owner	Lease Date	Children
Lease Transactions (3)			
47 Savin Hill Ave., Unit #2	My Van Nguyen	11/23/2010	Two children resident Ages: one and six
114 Sawyer Ave., Unit# 3	My Van Nguyen	1/1/2010	Two children resident Ages: five and nine
39 Neponset Ave., Unit #2	Xem Thi Le	1/28/2011	Three children resident Ages: Five months, Five, and Nine

32. Respondent My Van Nguyen's failure to include as an attachment or within the lease contracts for properties owned by him and listed in Paragraph 31 above, a statement by the lessor or owner disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of lead-based paint and/or lead-based paint hazards constitutes two (2) violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

33. Respondent Xem Thi Le's failure to include as an attachment or within the lease contract for the property owned by her and listed in Paragraph 31 above, a statement by the

lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of lead-based paint and/or lead-based paint hazards constitutes one (1) violation of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

Count IV – Failure to provide lessees any records or reports available pertaining to lead-based paint and/or lead based paint hazards in the target housing being leased.

34. Complainant incorporates by reference Paragraphs 1 through 33.

35. Pursuant to 40 C.F.R. § 745.107(a)(4), lessor of target housing must provide the lessee any records or reports available pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased.

36. Respondents My Van Nguyen and Xem Thi Le failed to provide the lessees records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased. The following table lists the records pertaining to lead-based paint and/or lead-based paint hazards that were available at the time of the lease transactions:

Address in Dorchester, MA	Owner	Lease Date	Children	Records Available
Lease Transactions (3)				
47 Savin Hill Ave., Unit #2	My Van Nguyen	11/23/2010	Two children resident Ages: one and six	Inspection Report and Certification of Maintained Compliance (dated 10/12/10) indicating the presence of lead paint above 1.0 mg/cm ²
114 Sawyer Ave., Unit# 3	My Van Nguyen	1/1/2010	Two children resident Ages: five and nine	Letter of Full Deleading Compliance (dated 4/3/06); Lead Inspection Report (dated 3/28/06) indicating the presence of lead paint above 1.0 mg/cm ²

39 Neponset Ave., Unit #2	Xem Thi Le	1/28/2011	Three children resident Ages: Five months, Five, and Nine	Letter of Full Compliance (dated 12/23/10); Lead-Based Paint Inspection Report (dated 12/22/10) indicating the presence of lead paint above 1.0 mg/cm2
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37. Respondent My Van Nguyen's failure to provide the lessee records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased for properties owned by him and listed in Paragraph 36 above constitutes two (2) violations of 40 C.F.R. § 745.107(a)(4) and TSCA Section 409, 15 U.S.C. § 2689.

38. Respondent Xem Thi Le's failure to provide the lessees records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased for the property owned by her and listed in Paragraph 36 above constitutes one (1) violation of 40 C.F.R. § 745.107(a)(4) and TSCA Section 409, 15 U.S.C. § 2689.

VI. PROPOSED PENALTY

39. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation applicable under Section 16, as of January 13, 2009, shall be no more than \$16,000 pursuant to the Civil Monetary Penalty Inflation Adjustment Rule. 73 Fed. Reg. 75,340 (December 11, 2008).

40. The proposed civil penalties have been determined in accordance with TSCA Section 16, 15 U.S.C. § 2615, which requires the Complainant to consider the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, the effect of the proposed penalty on the ability of the violator to continue to do

business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require. The penalties are also calculated in accordance with the provisions of 40 C.F.R. § 745.118(f). To develop the proposed penalties in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's December 2007 *Section 1018 Disclosure Rule Enforcement Response and Penalty Policy* ("ERPP"), a copy of which is enclosed with this Complaint. This policy provides a rational, consistent, and equitable calculator methodology for applying the statutory penalty factors enumerated above to particular cases.

41. The total proposed penalty for Respondent My Van Nguyen is \$103,680. The penalty proposed for each of the violations alleged in this Complaint is set forth below:

Count	Regulation Violated	Description	Penalty
1	40 C.F.R. § 745.107(a)(1)	Failure to provide lessees with an EPA-approved lead hazard information pamphlet	\$32,000
2	40 C.F.R. § 745.113(b)(1)	Failure to include as an attachment, or within the contract to lease target housing, the Lead Warning Statement	\$22,680
3	40 C.F.R. § 745.113(b)(2)	Failure to include in the lease agreement an attachment thereto a statement by the lessor or owner disclosing the presence of known lead-based paint or lead-based paint hazards, or lack of knowledge thereof	\$17,000
4	40 C.F.R. § 745.107(a)(4)	Failure to provide lessees any records or reports available pertaining to lead-based paint and/or lead based paint hazards in the target housing being leased.	\$32,000
		Total	\$103,680

The summary and breakdown of the provisions violated and the corresponding penalties are further explained in Attachment 1 to the Complaint.

42. The total proposed penalty for Respondent Xem Thi Le is \$51,840. The penalty proposed for each of the violations alleged in this Complaint is set forth below:

Count	Regulation Violated	Description	Penalty
1	40 C.F.R. § 745.107(a)(1)	Failure to provide lessees with an EPA-approved lead hazard information pamphlet	\$16,000
2	40 C.F.R. § 745.113(b)(1)	Failure to include as an attachment, or within the contract to lease target housing, the Lead Warning Statement	\$11,340
3	40 C.F.R. § 745.113(b)(2)	Failure to include in the lease agreement an attachment thereto a statement by the lessor or owner disclosing the presence of known lead-based paint or lead-based paint hazards, or lack of knowledge thereof	\$8,500
4	40 C.F.R. § 745.107(a)(4)	Failure to provide lessees any records or reports available pertaining to lead-based paint and/or lead based paint hazards in the target housing being leased or sold.	\$16,000
		Total	\$51,840

The summary and breakdown of the provisions violated and the corresponding penalties are further explained in Attachment 1 to the Complaint.

43. Respondents shall pay the civil penalty with a cashier's or certified check, payable to the Treasurer, United States of America. Respondents should note on this check the docket number of this Complaint, EPA Docket No. TSCA-01-2013-0051. The check shall be forwarded to:

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

In addition, at time of payment, notice of payment of the civil penalty and copies of the check

should be forwarded to:

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

and

Peter DeCambre
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100 (OES 4-1)
Boston, Massachusetts 02109 – 3912

VII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

44. As provided by Section 16(2)(A) of TSCA, 15 U.S.C. § 2615(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondents have a right to request a hearing on any material fact alleged in this Complaint, or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. **A request for a hearing must be incorporated in a written answer filed with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint.** In its answer, Respondents may contest any material fact contained in the Complaint. The answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts Respondents intend to place at issue; and (3) whether a hearing is requested. Where Respondents have no knowledge as to a particular factual allegation and so state, the allegation is deemed denied. Any failure of Respondents to admit, deny, or explain any material fact contained in the Complaint constitutes

an admission of that allegation.

VIII. DEFAULT ORDER

45. If Respondents fail to file a timely answer to the Complaint, Respondents may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondents constitutes an admission of all facts alleged in the Complaint and a waiver of Respondents' right to contest such factual allegations under Section 16(2)(A) of TSCA, 15 U.S.C. § 2615(2)(A). The penalty assessed in this Complaint shall become due and payable by Respondents without further proceedings thirty (30) days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c).

IX. OPPORTUNITY FOR INFORMAL SETTLEMENT CONFERENCE

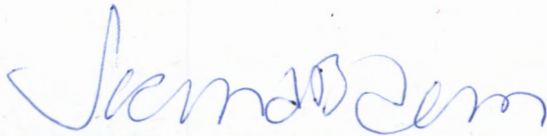
46. Whether or not a hearing is requested upon filing an answer, Respondents may confer informally with the EPA concerning the alleged violations. Such conference provides Respondents with an opportunity to respond informally to the allegations and to provide whatever additional information may be relevant to the disposition of this matter. EPA has the authority to adjust penalties, where appropriate, to reflect any settlement reached in an informal conference. Any settlement shall be made final by the issuance of a written Consent Agreement Final Order by the Regional Judicial Officer, EPA Region 1.

47. Please note that a request for an informal settlement conference does not extend the period within which a written answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondents should contact Peter DeCambre, Senior

Enforcement Counsel, Office of Environmental Stewardship, EPA Region 1, at the address cited above or at (617) 918-1890. Peter DeCambre has been designated to represent Complainant and receive service in this action.

48. The following documents are attachments to this Complaint:

1. Proposed Penalty Summary
2. Section 1018 Disclosure Rule Enforcement Response Policy
3. Consolidated Rules of Practice



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109 – 3912

1/24/14
Date

ATTACHMENT 1

In the Matter of My Van Nguyen and Xem Thi Le Docket Number TSCA-01-2013-0051

PROPOSED PENALTY SUMMARY

Pursuant to EPA's December 2007 *Section 1018 Disclosure Rule Enforcement Response and Penalty Policy* ("ERPP"), EPA proposes a total civil penalty against My Van Nguyen in the amount of one hundred three thousand six hundred eighty dollars (\$103,680) and a total civil penalty against Xem Thi Le in the amount of fifty one thousand eight hundred forty dollars (\$51,840). The rationale for the penalties is explained below.

Count I - Failure to provide lessees with an EPA-approved lead hazard information pamphlet.

Provision Violated: 40 C.F.R. § 745.107(a)(1) requires lessors to provide lessees an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use by EPA.

Circumstance Level: Failure to provide a lessee an EPA-approved lead hazard information pamphlet pursuant to 40 C.F.R. § 745.107(a)(1), results in a high probability of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP Appendix B, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 1* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor. Where the age of the youngest individual is not known, EPA may use a significant extent factor.

Respondent My Van Nguyen failed to provide an EPA-approved lead hazard information pamphlet to the lessees of target housing at the following addresses:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (2)				
47 Savin Hill Ave., Unit #2	11/23/2010	Two children resident Ages: one and six	Major	\$16,000
114 Sawyer Ave., Unit #3	1/1/2010	Two children resident Ages: five and nine	Major	\$16,000
				Total = \$32,000

Respondent Xem Thi Le failed to provide an EPA-approved lead hazard information pamphlet to the lessees of target housing at the following address:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (1)				
39 Neponset Ave., Unit #2	1/28/2011	Three children resident Ages: Five months, Five, and Nine	Major	\$16,000
				Total = \$16,000

Count II - Failure to include as an attachment, or within a contract to lease target housing, the Lead Warning Statement

Provision Violated: 40 C.F.R. § 745.113(b)(1) requires that each contract to lease target housing include as an attachment, or within the contract, the Lead Warning Statement.

Circumstance Level: Failure to include the Lead Warning Statement in the language of the lease, or in an attachment thereto, pursuant to 40 C.F.R. § 745.113(b)(1), results in a high probability of impairing a lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP Appendix B, a violation of 40 C.F.R. § 745.113(b)(1) is a *Level 2* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the

presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor. Where the age of the youngest individual is not known, EPA may use a significant extent factor.

Respondent My Van Nguyen failed to include the Lead Warning Statement in or attached to lease agreements for target housing regarding the following addresses:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (2)				
47 Savin Hill Ave., Unit #2	11/23/2010	Two children resident Ages: one and six	Major	\$11,340
114 Sawyer Ave., Unit #3	1/1/2010	Two children resident Ages: five and nine	Major	\$11,340
				Total = \$22,860

Respondent Xem Thi Le failed to include the Lead Warning Statement in or attached to the lease agreement for target housing regarding the following address:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (1)				
39 Neponset Ave., Unit #2	1/28/2011	Three children resident Ages: Five months, Five, and Nine	Major	\$11,340
				Total = \$11,340

Count III- Failure to include in the lease or as an attachment thereto a statement by the lessor disclosing the presence of known lead-based paint hazards, or lack of knowledge thereof.

Provision Violated: 40 C.F.R. § 745.113(b)(2) requires that each contract to lease housing include, as an attachment or within the contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

Circumstance Level: Failing to include the statement of knowledge of lead-based paint and/or lead-based paint hazards as an attachment, or within the contract to lease target housing, results in a medium probability of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information with regard to leasing the target housing in question. Because the intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in the housing, violation of this provision deprives lessees of their right to make decisions based upon risk. As a result, under the Disclosure Rule ERPP Appendix B, a violation of 40 C.F.R. § 745.113(b)(2) is a *Level 3* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor. Where the age of the youngest individual is not known, EPA may use a significant extent factor.

Respondent My Van Nguyen failed to include in the following leases for target housing, or as an attachment thereto, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards, or lack of knowledge thereof:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (2)				
47 Savin Hill Ave., Unit #2	11/23/2010	Two children resident Ages: one and six	Major	\$8,500
114 Sawyer Ave., Unit #3	1/1/2010	Two children resident Ages: five and nine	Major	\$8,500
				Total = \$17,000

Respondent Xem Thi Le failed to include in the following lease for target housing, or as an attachment thereto, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards, or lack of knowledge thereof:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Extent of Harm	Gravity-Based Penalty
Lease Transactions (1)				
39 Neponset Ave., Unit #2	1/28/2011	Three children resident Ages: Five months, Five, and Nine	Major	\$8,500
				Total = \$8,500

Count IV– Failure to provide lessees any records or reports available pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased.

Provision Violated: 40 C.F.R. § 745.107(a)(4) requires lessors to provide lessees of target housing any records or reports available pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased.

Circumstance Level: Failing to provide lessees of target housing any records or reports available pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased, results in a *high probability* of impairing the lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information with regard to leasing the target housing in question. Because the intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in the housing, violation of this provision deprives lessees of their right to make decisions based upon risk. As a result, under the Disclosure Rule ERP, a violation of 40 C.F.R. § 745.113(b)(3) is a *Level 1* violation.

Extent of Harm: The Disclosure Rule ERP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor. Where the age of the youngest individual is not known, EPA may use a significant extent factor.

Respondent My Van Nguyen failed to provide the following lessees of target housing any records or reports that pertain to lead-based and/or lead-based paint hazards in the target housing being leased:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Records Available	Extent of Harm	Gravity- Based Penalty
Lease Transactions (2)					
47 Savin Hill Ave., Unit #2	11/23/2010	Two children resident Ages: one and six	Inspection Report and Certification of Maintained Compliance (dated 10/12/10) indicating the presence of lead paint above 1.0 mg/cm2	Major	\$16,000
114 Sawyer Ave., Unit #3	1/1/2010	Two children resident Ages: five and nine	Letter of Full Deleading Compliance (dated 4/3/06); Lead Inspection Report (dated 3/28/06) indicating the presence of lead paint above 1.0 mg/cm2	Major	\$16,000
					Total = \$32,000

Respondent Xem Thi Le failed to provide the following lessees of target housing any records or reports that pertain to lead-based and/or lead-based paint hazards in the target housing being leased:

Address in Dorchester, MA	Lease Date	Age of Youngest Occupant	Records Available	Extent of Harm	Gravity-Based Penalty
Lease Transactions (1)					
39 Neponset Ave., Unit #2	1/28/2011	Three children resident Ages: Five months, Five, and Nine	Letter of Full Compliance (dated 12/23/10); Lead- Based Paint Inspection Report (dated 12/22/10) indicating the presence of lead paint above 1.0 mg/cm2	Major	\$16,000
					Total = \$16,000

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint has been sent to the following persons on the date noted below:

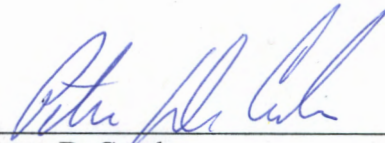
Original and one copy,
hand-delivered:

Wanda Rivera
Regional Hearing Clerk (RAA)
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109 – 3912

Copy by Certified Mail,
Return Receipt Requested

My Van Nguyen
Xem Thi Le
70 Meadow Brook Road
Weston, MA 02393

Dated: 1/27/2014


Peter DeCambre
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100 (OES 4-1)
Boston, Massachusetts 02109 – 3912
Tel (617) 918-1890
Electronic Fax (617) 918-0890