



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

DT-8J

CERTIFIED MAIL

RECEIPT NO. 7001 0320 0005 8910 5676

Neil and Mary Lou Cowen
c/o H. Kim TeKolste, Esq.
12814 Ford Drive
Fishers, Indiana 46038-8798

Re: Complaint and Notice of Opportunity for Hearing
Neil and Mary Lou Cowen

Dear Mr. and Mrs. Cowen:

I have enclosed a Complaint and Notice of Opportunity for Hearing, which replaces the copy sent to you on April 5, 2007. The April 5, 2007 copy was not properly filed with the Regional Hearing Clerk. In the Complaint, the United States Environmental Protection Agency (U.S. EPA), Region 5, alleges that you have committed numerous violations of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq. I recommend that you carefully read and analyze the Complaint and the enclosed Rules of Practice, 40 C.F.R. Part 22, to determine the alternatives available in responding to the alleged violations, proposed penalties and opportunity for a hearing. Please note that each day that a violation continues constitutes a new violation for which additional penalties may be imposed.

If you choose to request a hearing to contest the facts alleged in the Complaint, you are required to request the hearing in your Answer, which you must file with the Regional Hearing Clerk (E-13J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, within the prescribed time limit of 30 days following service of this Complaint. A copy of your Answer and Request for Hearing should be sent to Mark Koller (C-14J), Associate Regional Counsel, Office of Regional Counsel, at the above address. Mr. Koller's telephone number is (312) 353-2591.

Your failure to respond to this Complaint and Notice of Opportunity for Hearing by specific answer within 30 days of your receipt of this Complaint constitutes your admission of the allegations made in the Complaint. Your failure to respond to this Complaint may result in the issuance of a Default Order imposing the proposed penalties. Whether or not you request a hearing, you may request an informal conference to discuss the facts of this case and to arrive at a

settlement. If you wish to request an informal conference for the purpose of settlement, please write to Terence Bonace (DT-8J) at the address above, or telephone him at (312) 886-3387.

Sincerely,

Anthony J. Restarino
Sof Mardi Klevs, Chief
Pesticides and Toxics Branch

Enclosures

children. Key components of the national strategy to reduce and eliminate the threat of childhood lead poisoning are mandatory disclosure and notification requirements that must be made as part of residential rentals and sales. Section 1018 requires the Administrator to promulgate regulations for the disclosure of lead-based paint and/or lead-based paint hazards in target housing that is offered for sale or lease.

5. On March 6, 1996, U.S. EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d. Owners of more than four residential dwellings must comply with the Disclosure Rule by September 6, 1996, pursuant to 40 C.F.R. § 745.102(a).

6. The Disclosure Rule implements the provisions of 42 U.S.C. § 4852d, which impose certain requirements on the sale and lease of target housing.

7. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (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.

8. 40 C.F.R. § 745.103 defines “lessor” as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

9. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

10. 40 C.F.R. § 745.103 defines “seller” as any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

11. 40 C.F.R. § 745.103 defines “purchaser” as any entity that enters into an agreement to purchase an interest in target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

12. 40 C.F.R. § 745.103 defines “owner” as any entity that has legal title to target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

13. 40 C.F.R. § 745.100 requires the seller or lessor of target housing, among other things, to give purchasers a ten day opportunity to conduct a risk assessment or inspection and to attach specific disclosure and warning language to sales or leasing contracts before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

14. 40 C.F.R. § 745.110(a) requires the seller to permit the purchaser a ten day period to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

15. 40 C.F.R. § 745.113(a) requires that each contract to sell target housing include, as an attachment to the contract, among other things, a statement by the purchaser that he/she has

either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity.

16. 40 C.F.R. § 745.113(b) requires each contract to lease target housing to include, among other things, as an attachment or within the contract, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement that no such records exist and a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3).

17. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failing to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to U.S. EPA administrative civil penalties under to Section 16 of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118(f), and 42 U.S.C. § 4852d(b)(5).

General Allegations

18. At all times relevant to this complaint, Respondents owned residential buildings in Indianapolis, Indiana at, but not limited to, the following addresses in Indianapolis, Indiana: 2024 Sugargrove, 3444 East 26th Street, 3433 North College Avenue, 1312 North Dearborn, 1314 North Dearborn, and 3016 Gladstone.

19. At all times relevant to this complaint, Respondents owned more than four residential dwellings, and therefore, were required to comply with the Disclosure Rule.

20. Each residential building was constructed prior to 1978.

21. Each residential building and each rental unit within such building is “target housing” as defined at 40 C.F.R. § 745.103.

22. On August 23, 2004, an authorized representative of U.S. EPA conducted an inspection at Landmark Realty Company, 2556 East 55th Street, Indianapolis, Indiana and

received documents from Respondents' agent, to monitor compliance with Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, and its implementing regulations at 40 C.F.R. Part 745, Subpart F.

23. On the following dates, either directly or through Respondents' authorized agent, Respondents entered into written lease agreements (contracts) with individuals for the lease of houses at the following addresses:

Address	Children	Date of Lease	Term of Lease
3444 East 26 th Street, Indianapolis, IN	N	04/09/2004	12 months
1314 North Dearborn, Indianapolis, IN	N	08/09/2004	12 months
3433 North College Avenue, Indianapolis, IN	Y	07/14/2003	12 months

24. Each of the three contracts, referenced in the table in paragraph 23, above, covered a term of occupancy greater than 100 days.

25. Respondents are "lessors," as defined by 40 C.F.R. § 745.103, because Respondents offered the target housing, referenced in the table in paragraph 23, above, for lease.

26. Each individual who entered into an agreement to lease a unit in the target housing referenced in paragraph 23, above, is a "lessee," as defined by 40 C.F.R. § 745.103.

27. On May 18, 2002, Respondents entered into a written sales agreement (contract) with an individual for the sale of a residential dwelling at 3016 Gladstone, Indianapolis, Indiana.

28. Respondents are "sellers," as defined by 40 C.F.R. § 745.103, because Respondents transferred title to the target housing, referenced in paragraph 27, above.

29. The individual who entered into an agreement to purchase the target housing referenced in paragraph 27, above, is a "purchaser," as defined by 40 C.F.R. § 745.103.

30. On August 21, 2006, U.S. EPA advised Respondents by letter that U.S. EPA was planning to file a civil administrative complaint against Respondents for specific alleged violations of Section 1018 and that the complaint would seek a civil penalty. U.S. EPA asked

Respondents to identify any factors Respondents thought U.S. EPA should consider before issuing the complaint. U.S. EPA asked Respondents to submit specific financial documents, if Respondents believed U.S. EPA should consider information on Respondents' ability to pay a penalty.

31. On August 25, 2006, Respondents received the prefiling letter referenced in paragraph 30, above. Respondents have not claimed an inability to pay a penalty and did not provide facts or other information concerning an ability to pay a penalty.

32. The Chief of the Pesticides and Toxics Branch has determined that the Respondents have violated federal regulations regarding the disclosure of lead-based paint and/or lead-based paint hazards, 40 C.F.R. Part 745, as described below, and therefore violated Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 1-3 Failure to Include a Lead Disclosure Statement in Rental Contracts

33. Paragraphs 1 through 32 of this Complaint are incorporated here by reference.

34. 40 C.F.R. § 745.113(b)(2) and 40 C.F.R. § 745.100 require a lessor to include, within or as an attachment to each contract to lease target housing, a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence, before a lessee is obligated under the contract to lease target housing.

35. Count 1: Respondents failed to include, within or as an attachment to the contract, a statement disclosing the presence of known lead-based paint in the target housing before the lessee at 3444 East 26th Street, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

36. Count 2: Respondents failed to include, within or as an attachment to the contract, a statement disclosing the presence of known lead-based paint in the target housing before the lessee at 3433 North College Avenue, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

37. Count 3: Respondents failed to include, within or as an attachment to the contract, a statement disclosing the presence of known lead-based paint in the target housing before the lessee at 1314 North Dearborn, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

38. Respondents' failure to include, within or as an attachment to each contract, a statement disclosing the presence of known lead-based paint in the target housing before the lessees were obligated under the contracts for each of the leasing transactions referenced in paragraphs 35 through 37, above, constitutes three violations of 40 C.F.R. § 745.113(b)(2), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 4-5: Failure to Include a List of Records in Rental Contracts

39. Paragraphs 1 through 38 of this Complaint are incorporated here by reference.

40. 40 C.F.R. Part § 745.113(b)(3) and 40 C.F.R. § 745.100 require the lessor to include, within or as an attachment to each contract to lease target housing, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement that no such records exist before a lessee is obligated under a contract to lease target housing.

41. Count 4: Respondents failed to include, within or as an attachment to the contract, a list of records or reports available to the lessor regarding lead-based paint and lead-

based paint hazards in the target housing before the lessee at 3444 East 26th Street, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

42. Count 5: Respondents failed to include, within or as an attachment to the contract, a list of records or reports available to the lessor regarding lead-based paint and lead-based paint hazards in the target housing before the lessee at 3433 North College Avenue, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

43. Respondents' failure to include, within or as an attachment to the contract to lease target housing, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement that no such records exist before the lessee was obligated under the contract for the leasing transaction referenced in paragraphs 41 and 42, above, constitutes a violation of 40 C.F.R. § 745.113(b)(3), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 6-7: Failure to Include Statement of Receipt of Lead Hazard Information Pamphlet in Rental Contracts

44. Paragraphs 1 through 43 of this Complaint are incorporated here by reference.

45. 40 C.F.R. § 745.113(b)(4) and 40 C.F.R. § 745.100, require the lessor to include, among other things, within or as an attachment to the contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) before the lessee is obligated under a contract to lease target housing.

46. Count 6: Respondents failed to include, within or as an attachment to the contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3), before the lessee at 3444 East 26th Street, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

47. Count 7: Respondents failed to include, within or as an attachment to the contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3), before the lessee at 3433 North College Avenue, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 24, above.

48. Respondents' failure to include, within or as an attachment to the contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) before the lessees were obligated under the contract for the leasing transaction referenced in paragraph 46 and 47, above, constitutes a violation of 40 C.F.R. § 745.113(b)(4), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 8-9: Failure to Include Certifying Signatures in Rental Contracts

49. Paragraphs 1 through 48 of this Complaint are incorporated here by reference.

50. 40 C.F.R. § 745.113(b)(6) and 40 C.F.R. § 745.100 require the lessor to include, within or as an attachment to the contract, the signatures of the lessor and the lessee certifying to the accuracy of their statements to the best of their knowledge along with the dates of signature before the lessee is obligated under a contract to lease target housing.

51. Count 8: Respondents did not include, within or as an attachment to the contract, the signatures of the lessor and the lessee certifying to the accuracy of their statements along with the dates of such signature before the lessee at 3444 East 26th Street, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above.

52. Count 9: Respondents did not include, within or as an attachment to the contract, the signatures of the lessor and the lessee certifying to the accuracy of their statements along with the dates of such signature before the lessee at 3433 North College Avenue, Indianapolis, Indiana, was obligated under the contract referenced in paragraph 23, above

53. Respondents' failure to include, within or as an attachment to the contract, the signature of the lessor and the lessee certifying to the accuracy of their statement or the date of such signature before the lessee was obligated under the contracts for the leasing transaction referenced in paragraph 51 and 52, above, constitutes a violation of 40 C.F.R. § 745.113(b)(6), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Count 10: Failure to Include Statement Concerning Opportunity for Risk Assessment and/or inspection in Sales Contracts

54. Paragraphs 1 through 53 of this Complaint are incorporated here by reference.

55. 40 C.F.R. § 745.113(a)(5) and 40 C.F.R. § 745.100 require that the seller include, as an attachment to the contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before a purchaser is obligated under a contract to buy target housing.

56. Count 10: Respondents failed to include, as an attachment to the contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before the purchaser became obligated under the contract to purchase 3016 Gladstone, Indianapolis, Indiana, referenced in paragraph 27, above.

57. Respondents' failure to include, as an attachment to each contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before the purchaser was obligated under the contract referenced in paragraph 27, above, constitutes a violation of 40 C.F.R. § 745.113(a)(5), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Proposed Civil Penalty

Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. Part 745, Subpart F, authorize the Administrator of U.S. EPA to assess a civil penalty under Section 16 of TSCA of up to \$10,000 for each violation of TSCA Section 409. Under the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, U.S. EPA increased the maximum penalty to \$11,000 for each violation occurring after July 28, 1997 (62 Fed. Reg. 35,038) (June 27, 1997). In determining the amount of any civil penalty, Section 16 of TSCA requires U.S. EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, affect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require.

The U.S. EPA calculates penalties by applying its Section 1018 - Disclosure Rule Enforcement Response Policy dated February 2000 (Response Policy). This Response Policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases. As discussed in the Response Policy, the severity of each violation alleged in the complaint is based on the extent to which each violation impairs the ability of a lessee to assess information regarding hazards associated with lead-based paint, and precludes the lessee from making a fully informed decision whether to lease the housing or take appropriate measures to protect against lead-based paint hazards. Factors relevant to assessing an appropriate penalty include information pertaining to Respondents' ability to pay a penalty, any evidence showing that no lead-based paint exists in the cited housing, and any evidence that Respondents have taken steps to discover the presence of and/or have taken steps to abate lead-based paint and its hazards in subject housing.

As stated in paragraph 30, above, by letter dated August 21, 2006, the U.S. EPA advised Respondents that U.S. EPA was planning to file a civil administrative complaint against Respondents for alleged violations of Section 1018 and that Section 1018 authorizes the assessment of a civil administrative penalty. The U.S. EPA asked Respondents to identify any factors Respondents thought U.S. EPA should consider before issuing the complaint, and if Respondents believed there were financial factors which bore on Respondents' ability to pay a civil penalty, the U.S. EPA asked Respondents to submit specific financial documents. Respondents did not claim an inability to pay a penalty and have provided no facts or information which would indicate that the penalty should be adjusted for financial or other factors related to the alleged violations.

Based upon an evaluation of the facts alleged in this complaint, the statutory factors enumerated above, and the Response Policy, Complainant proposes that the Administrator assess the following civil penalties against Respondents for the violations alleged in this complaint:

COUNT 1

42 U.S.C. § 4852d	
40 C.F.R. § 745.113(b)(2)	\$660

COUNT 2

42 U.S.C. § 4852d	
40 C.F.R. § 745.113(b)(2).....	\$6,600

COUNT 3

42 U.S.C. § 4852d	
40 C.F.R. § 745.113(b)(2).....	\$660

COUNT 4

42 U.S.C. § 4852d	
40 C.F.R. § 745.113(b)(3).....	\$220

COUNT 5

42 U.S.C. § 4852d
40 C.F.R. § 745.113(b)(3).....\$2,200

COUNT 6

42 U.S.C. § 4852d
40 C.F.R. § 745.113(b)(4).....\$440

COUNT 7

42 U.S.C. § 4852d
40 C.F.R. § 745.113(b)(4).....\$4,400

COUNT 8

42 U.S.C. § 4852d
40 C.F.R. § 745.113(b)(6).....\$110

COUNT 9

42 U.S.C. § 4852d
40 C.F.R. § 745.113(b)(6).....\$1,100

COUNT 10

42 U.S.C. § 4852d
40 C.F.R. § 745.113(a)(5).....\$440

Proposed Gravity-Based Civil Penalty.....\$16,830

Rules Governing This Proceeding

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) at 40 C.F.R. Part 22 govern this civil administrative penalty proceeding. Enclosed with the complaint is a copy of the Consolidated Rules.

Filing and Service of Documents

Respondents must file with the Regional Hearing Clerk the original and one copy of each document Respondents intend to include as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Respondents must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Mark Koller to receive any answer and subsequent legal documents that Respondents serve in this proceeding. You may telephone Mr. Koller at (312) 353-2591. His address is:

Mark Koller (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Penalty Payment

Respondents may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, United States of America" and by delivering the check to:

U.S. EPA, Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

Respondents must include the case name and docket number on the check and in the letter transmitting the check. Respondents simultaneously must send copies of the check and transmittal letter to Mr. Koller and to:

Terence Bonace (DT-8J)
Pesticides and Toxics Enforcement Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Opportunity to Request a Hearing

The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). Respondents have the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondents must specifically make the request in their answer, as described below.

Answer

Respondents must file a written answer to this complaint if Respondents contest any material fact of the complaint; contend that the proposed penalty is inappropriate; or contends that Respondents are entitled to judgment as a matter of law. To file an answer, Respondents must file the original written answer and one copy with the Regional Hearing Clerk at the address specified above, and must serve copies of the written answer on the other parties. If Respondents choose to file a written answer to the complaint, in accordance with Section 22.14(c) of the Consolidated Rules, Respondents must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

Respondents' written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint or must state clearly that Respondents have no knowledge of a particular factual allegation. Where Respondents state that Respondents have no knowledge of

a particular factual allegation, the allegation is deemed denied. Respondents' failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation. Respondents' answer must also state:

- a. the circumstances or arguments which Respondents allege constitute grounds of defense;
- b. the facts that Respondents dispute;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondents request a hearing.

If Respondents do not file a written answer within 30 calendar days after receiving this complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondents constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations.

Respondents must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

Whether or not Respondents request a hearing, Respondents may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondents may contact Mark Koller at the address provided above.

Respondents' request for an informal settlement conference does not extend the 30-calendar-day period for filing a written answer to this complaint. Respondents may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. The U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal

conference. The U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

Neither the assessment nor payment of a civil penalty will affect Respondents' continuing obligation to comply with TSCA and any other applicable federal, state, or local law.

Consent Agreement and Final Order

The U.S. EPA has authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with Respondents in an informal conference. The terms of the settlement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties is binding when the Regional Administrator signs the Final Order.

By: Anthony J. Restaino Date: 4/13/07
fo7 Mardi Klevs, Chief
Pesticides and Toxics Branch
Waste, Pesticides and Toxics Division

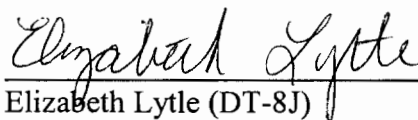
**In the Matter of:
Neil and Mary Lou Cowen
Docket No. TSCA-05-2007-0008**

Certificate of Service

I certify that I filed the original and one copy of this Complaint with the Regional Hearing Clerk (E-13J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I sent to Respondent and Respondent's counsel a true copy of this Complaint by Certified Mail, Receipt No. 7001 0320 0005 8910 5676, along with a copy each of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, and the *Section 1018- Disclosure Rule Enforcement Response Policy*, addressed as follows:

Neil and Mary Lou Cowen
c/o H. Kim TeKolste, Esq.
12814 Ford Drive
Fishers, Indiana 46038-8798

on this 13 day of April 2007.



Elizabeth Lytle (DT-8J)
Pesticides and Toxics Enforcement Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

2007 APR 13 AM 10:17
REGIONAL HEARING CLERK