

U. S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 RENNER BOULEVARD
LENEXA, KANSAS

2017 SEP 25 P.1 1:04

BEFORE THE ADMINISTRATOR

In the Matter of:

DANIKO HOMES, LLC,

Respondent.

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Docket No. TSCA-07-2017-0012

COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

This Complaint and Notice of Opportunity for Hearing ("Complaint") serves as notice that the United States Environmental Protection Agency, Region 7 ("EPA" or "Complainant"), has reason to believe that DaNiko Homes, LLC ("Respondent"), has violated Section 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E, *Residential Property Renovation*, promulgated pursuant to 15 U.S.C. §§ 2682, 2686, and 2687.

COMPLAINT

Jurisdiction

1. This administrative action for the assessment of civil penalties is instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with 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 ("Consolidated Rules of Practice"), a copy of which is enclosed with this Complaint.

Parties

2. Complainant, by delegation from the Administrator of the EPA, is the Chief of the Toxics and Pesticides Branch in the Water, Wetlands, and Pesticides Division, EPA, Region 7.

3. Respondent DaNiko Homes, LLC is a limited liability company operating under the laws of the state of Missouri.

Statutory and Regulatory Background

4. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the "Act"), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based

paint hazards. One of the stated purposes of the Act is to implement a broad program to reduce lead-based paint hazards in the Nation's housing stock. 42 U.S.C. § 4851a(2). The Act amended TSCA by adding *Title IV—Lead Exposure Reduction*, Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.

5. Section 402 of TSCA, 15 U.S.C. § 2682, requires that the Administrator of EPA promulgate regulations governing the training and certification of individuals and contractors engaged in lead-based paint activities, including renovation of residences built prior to 1978.

6. Pursuant to Section 402(a) of TSCA, 15 U.S.C. § 2682(a), the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart L, *Lead-Based Paint Activities*. See *Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities*, 61 Fed. Reg. 45778, 45813 (Aug. 29, 1996). Pursuant to Section 406(b) and Section 407 of TSCA, 15 U.S.C. §§ 2686(b) and 2687, the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart E, *Residential Property Renovation*. See *Lead; Requirements for Hazard Education Before Renovation of Target Housing*, 63 Fed. Reg. 29908, 29919 (June 1, 1998). Finally, pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), the EPA amended and re-codified regulations at 40 C.F.R. Part 745, Subparts E and L, and added additional regulations at 40 C.F.R. Subpart L (“Renovation, Repair, and Painting Rule”). See *Lead; Renovation, Repair, and Painting Program*, 73 Fed. Reg. 21692, 21758 (Mar. 31, 2008).

7. The Renovation, Repair, and Painting (“RRP”) Rule establishes work practice standards for renovations that disturb lead-based paint in target housing and child-occupied facilities and requires firms and individuals performing, offering, or claiming to perform such renovations to obtain EPA certification.

8. The regulations at 40 C.F.R. §§ 745.80 and 745.82(a) provide that the regulations contained in 40 C.F.R. Subpart E, *Residential Property Renovation*, apply to all renovations performed for compensation in target housing and child-occupied facilities.

9. The regulation at 40 C.F.R. § 745.83 defines “renovation” as the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. § 745.223. The term renovation includes, but is not limited to, the removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping); and interim controls that disturb painted surfaces.

10. Section 401(17) of TSCA, 15 U.S.C. § 2681(17), defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than six years of age resides or is expected to reside in such housing).

11. The regulation at 40 C.F.R. § 745.83 defines “firm” as a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

12. The regulation at 40 C.F.R. § 745.83 defines “person” as any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

13. The regulation at 40 C.F.R. § 745.87(a) provides that failure or refusal to comply with any provision of 40 C.F.R. Part 745, Subpart E, is a violation of Section 409 of TSCA, 15 U.S.C. § 2689. Section 409 of TSCA, 15 U.S.C. § 2689, provides that it shall be unlawful for any person to fail to comply with, *inter alia*, any provision of 40 C.F.R. Part 745, Subpart E.

14. The regulation at 40 C.F.R. § 745.87(d) provides that violators may be subject to civil sanctions pursuant to Section 16 of TSCA, 15 U.S.C. § 2615. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), provides that any person who violates Section 409 of TSCA, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty of up to \$25,000 for each such violation. Each day that such a violation continues constitutes a separate violation of Section 409 of TSCA, 15 U.S.C. § 2689. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$38,114 for violations that occur after January 12, 2009.

General Factual Allegations

15. On or about September 14, 2016, and pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA conducted a work practices standards inspection (“WPS Inspection”) at 3330 Lemp Avenue, St. Louis, Missouri, to evaluate Respondent’s compliance with TSCA and the requirements of the RRP Rule. A copy of the WPS Inspection report was mailed to Respondent on February 27, 2017.

16. On or about September 16, 2016, and pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA conducted an inspection of Respondent’s renovation activity records (“Records Inspection”) for two properties: 3330 Lemp Avenue, St. Louis, Missouri (“Lemp Avenue Property”), and 4129-4131 Oregon Avenue, St. Louis, Missouri (“Oregon Avenue Property”) (collectively “the Properties”). The purpose of the Records Inspection was to evaluate Respondent’s compliance with TSCA and the requirements of the RRP Rule. A copy of the Records Inspection was mailed to Respondent on November 9, 2016.

17. Respondent is, and at all times referred to herein was, a limited liability company operating under the laws of the state of Missouri.

18. Respondent, at all times referred to herein, was a “person” and “firm” as defined by 40 C.F.R. § 745.83.

19. Mark Williams is the owner and registered agent of Respondent. This Complaint was served by certified mail, return receipt requested, to Mark Williams at the following registered office: DaNiko Homes, LLC, 237 East 5th Street, #156, Eureka, Missouri 63025.

20. At the time of the WPS Inspection, the Records Inspection, and at all times relevant to this Complaint, Respondent was engaged in a “renovation” of the Oregon Avenue Property as defined by 40 C.F.R. § 745.83. The Records Inspection revealed that renovations commenced at the Oregon Avenue Property on or about August 19, 2016, and included extensive interior renovations associated with converting a vacant 4-plex to a duplex, including replacing windows. The Records Inspection also revealed that renovations of the Lemp Avenue Property occurred between January and July 2016, and included interior renovations associated with converting a vacant duplex to a single family home, including replacing windows.

21. At all times relevant to this Complaint, Respondent’s renovation of the Properties was a “renovation for compensation” per 40 C.F.R. § 745.82(a). The Records Inspection demonstrated that private parties owned the Properties and hired Respondent to perform the renovations described in paragraph 20.

22. At all times relevant to this Complaint, the Properties were “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17). The Records Inspection and subsequent investigation revealed that the Oregon Avenue Property was built in 1907 and the Lemp Avenue Property was built in 1890.

23. At all times relevant to this Complaint, the Properties were unoccupied. Children less than six years of age neither occupied nor were present at the Properties at the time of Respondent’s renovation and the WPS Inspection.

24. As a result of the WPS Inspection, Records Inspection, and additional information obtained by the EPA, Complainant has determined that violations of the RRP Rule and Section 409 of TSCA, 15 U.S.C. § 2689, occurred as a result of Respondent’s renovation activities at the Properties.

Alleged Violations

25. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder as follows:

Count 1

26. Each and every preceding paragraph is incorporated by reference herein.

27. Pursuant to 40 C.F.R. § 745.81(a)(2)(ii), firms performing renovations for compensation on or after April 22, 2010, must be certified by the EPA and have obtained initial certification prior to performance of renovations, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82. The regulation at 40 C.F.R. § 745.89(a)(1) requires

firms that perform renovations for compensation to apply to the EPA for certification to perform renovations or dust sampling.

28. The WPS and Records Inspections revealed that Respondent had not applied for or obtained certification from the EPA to perform renovations or dust sampling prior to performing the renovations on the Properties. Furthermore, the renovations did not qualify for one of the exceptions identified in 40 C.F.R. § 745.82.

29. Respondent's failure to apply to the EPA for certification pursuant to 40 C.F.R. § 745.89(a)(1) prior to performance of the renovations on the Properties is a violation of 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 2 & 3

30. Each and every preceding paragraph is incorporated by reference herein.

31. Pursuant to 40 C.F.R. § 745.89(d)(2), firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

32. The WPS and Records Inspections revealed that Respondent did not assign a certified renovator to the renovations performed on either of the Properties.

33. Respondent's failure to ensure that a certified renovator was assigned to the renovations that the firm performed on each of the Properties are violations of 40 C.F.R. § 745.89(d)(2). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 4 & 5

34. Each and every preceding paragraph is incorporated by reference herein.

35. Pursuant to 40 C.F.R. § 745.84(a)(1), firms performing renovation activities in any residential dwelling unit of target housing must provide the owner of the unit with the EPA pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* ("EPA Pamphlet") no more than 60 days before beginning the renovation.

36. The WPS and Records Inspections revealed that Respondent did not provide the owners of the Properties with the EPA Pamphlet before beginning renovation activities on the Properties.

37. Respondent's failure to provide the owner of each of the Properties with the EPA Pamphlet before beginning renovation activities are violations of 40 C.F.R. § 745.84(a)(1). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 6

38. Each and every preceding paragraph is incorporated by reference herein.

39. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain and, if requested, make available to the EPA all records necessary to demonstrate compliance with the RRP Rule for a period of three years following completion of the renovation.

40. The WPS and Records Inspections revealed that Respondent failed to retain all records necessary to demonstrate compliance with the RRP Rule for a period of three years following completion of renovations at the Lemp Avenue Property, including documentation of lead-safe work practices performed during renovations, documentation of on-the-job training of non-certified workers, and documentation of lead-based paint testing.

41. Respondent's failure to retain all records necessary to demonstrate compliance with the RRP Rule for a period of three years following completion of renovation at the Lemp Avenue Property is a violation of 40 C.F.R. §§ 745.86(a). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Relief Requested

42. Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615, for violations of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and based upon the facts set forth above, it is proposed that a civil penalty be assessed against Respondent.

43. The proposed penalty is based upon the facts alleged in this Complaint and upon the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), including the nature, circumstances, extent, and gravity of the violations, and, with respect to Respondent, the company's ability to pay, the effect on its ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

44. In order to assess a penalty for the violations alleged in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to the EPA's August 2010 Interim Final Policy entitled "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" (the "LBP Consolidated ERPP"), a copy of which is enclosed with this Complaint. The LBP Consolidated ERPP provides a rational, consistent, and equitable calculation methodology for applying to particular cases the statutory penalty factors enumerated above.

45. Complainant proposes that Respondent be assessed a civil penalty in the amount of **Nineteen Thousand Seven Hundred and Eighty Dollars (\$19,780)** for the TSCA violations alleged in this Complaint. Attachment 1 to this Complaint provides documentation of Complainant's basis for the civil penalty proposed in this Complaint.

46. Complainant's civil penalty request is based on the best information available to the EPA at the time of this Complaint's issuance. The proposed penalty may be adjusted in the EPA's discretion if Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriate civil penalty amount.

Payment of Proposed Penalty in Full

47. Respondent may resolve this proceeding at any time by paying the full penalty proposed in the Complaint and filing a copy of the check or other instrument of payment with the Regional Hearing Clerk. Payment of the total civil penalty of Nineteen Thousand Seven Hundred and Eighty Dollars (\$19,780) may be made by certified or cashier's check made payable to "Treasurer, United States of America," and remitted to:

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

Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

A copy of the check or other payment must simultaneously be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and to:

Katherine Reitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Payment should reference the name and docket number of this Complaint.

Payment of Proposed Penalty in Lieu of an Answer

48. Respondent may resolve this proceeding by paying the proposed penalty in full instead of filing an answer to the Complaint within thirty (30) days of receipt of the Complaint, in accordance with the procedures set forth in Rule 22 of the Consolidated Rules of Practice. If Respondent wishes to resolve this proceeding by paying the proposed penalty in full instead of filing an answer but needs additional time to pay the penalty, Respondent may file a written statement with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint, in accordance with Rule 22.18(a)(2) of the Consolidated Rules of Practice. The written statement shall state that Respondent agrees to pay the proposed penalty in full within sixty (60) days of receipt of the Complaint. The written statement need not contain any response to, or admission of, the allegations in the Complaint. Respondent must then pay the full amount of the proposed penalty within sixty (60) days of receipt of the Complaint. Failure to pay the full penalty within sixty (60) days of receipt of the Complaint may subject Respondent to default, as set forth below.

NOTICE OF OPPORTUNITY FOR HEARING

Answer and Request for Hearing

49. Respondent must file a written answer within thirty (30) days of receipt of this Complaint if Respondent: (a) contests any material fact upon which this Complaint is based; (b) contends that the penalty proposed in this Complaint is inappropriate; or (c) contends that it is entitled to judgment as a matter of law. The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the answer shall so state. Failure to admit, deny, or explain any of the factual allegations in the Complaint constitutes an admission of the allegation. The answer shall also state: (d) the circumstances or arguments which are alleged to constitute the grounds of any defense; (e) the facts that Respondent disputes; (f) the basis for opposing the proposed penalty; and (g) whether a hearing is requested.

50. The original and one true copy of the answer shall be filed with the following, in accordance with Section 22.15 of the Consolidated Rules of Practice:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

A copy of the answer shall be sent to:

Katherine Reitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

51. After the filing of Respondent's Answer to the Complaint, the Hearing Clerk at EPA Headquarters will serve as the Regional Hearing Clerk, and all further filings in this matter (except for the filing of a Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18(b)(3)) must be filed with the Hearing Clerk at the following addresses, as appropriate:

If using the U.S. Postal Service:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900R
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

If using UPS/FedEx/DHL:

Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue NW
Washington, D.C. 20460

Default

52. If, within thirty (30) days of receipt of a Complaint, Respondent fails to: (a) submit full payment of the proposed penalty; (b) submit a written statement to the Regional Hearing Clerk that Respondent agrees to pay the penalty within sixty (60) days of receipt of the Complaint; or (c) file a written answer to the Complaint, Respondent may be found in default. Default by Respondent constitutes, for the purposes of this proceeding, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalty proposed in the Complaint shall be assessed unless the Presiding Officer finds that the proposed penalty is clearly inconsistent with the record of the proceeding or TSCA.

Informal Settlement Conference

53. The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of TSCA and the regulations upon which this action is based. Regardless of whether Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request an informal settlement conference please contact:


Katherine Reitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Office: (913) 551-7745

54. Any settlement which may be reached as a result of such a conference shall be recorded in a written consent agreement signed by all parties or their representatives and shall conform with the provisions of Section 22.18(b)(2) of the Consolidated Rules of Practice. No settlement or consent agreement shall dispose of this proceeding without a final order from the Regional Judicial Officer or the Regional Administrator.

55. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer must be filed.

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/20/2017


Jamie Green
Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 9/14/17


Katherine Reitz
Attorney Advisor
Office of Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct electronic copy of the foregoing Complaint and Notice of Opportunity for Hearing were hand-delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, on 9/25/2017.

A true and correct copy of the foregoing Complaint and Notice of Opportunity for Hearing, together with a copy 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 EPA's "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" were sent by certified mail, return receipt requested, on 9/25/2017 to:

Mark Williams
DaNiko Homes, LLC
237 E. 5th Street, #156
Eureka, Missouri 63025.



Milady Peters
Paralegal Specialist
Office of Regional Counsel

Address of Target Housing		Year Built	Children (ages)	Date of Contract	Date Work Performed		Deviations/Deficiencies	
3330 Lemp Avenue, St. Louis, Missouri 63118		1890	None	Unknown	1/2016-7/2016		Failure to comply with Subpart E—Residential Property Renovation	
Violation				Extent	Circumstance	Gravity Based Penalty	Micro-Business Penalty (\$100,001-\$300,000)	Micro-business Penalty (\$100,000 or Less)
1.	40 C.F.R. §§ 745.89(a)(1) & 745.89(a)(2)(ii)—Failure to obtain initial firm certification from EPA.			Minor* *See ERPP, p. A-3, n. 49	Level 3a	4,500	600	450
2.	40 C.F.R. § 745.89(d)(2)—Failure to assign a certified renovator.			Minor	Level 3a	4,500	600	450
3.	40 C.F.R. § 745.84(a)(1)—Failure to provide property owner with the EPA-approved lead hazard information pamphlet.			Minor	Level 1b	2,840	380	280
4.	40 C.F.R. § 745.86—Failure to retain all records necessary to demonstrate compliance with RRP for 3 years following completion of the renovation activity.			Minor	Level 6a	600	130	110
Address of Target Housing		Year Built	Children (ages)	Date of Contract	Date Work Performed		Deviations/Deficiencies	
4129-4131 Oregon Avenue, St. Louis, Missouri 63118		1907	None	Unknown	8/29/2016 - unknown		Failure to comply with Subpart E—Residential Property Renovation	
Violation				Extent	Circumstance	Gravity Based Penalty	Micro-Business Penalty (\$100,001-\$300,000)	Micro-business Penalty (\$100,000 or Less)
1.	40 C.F.R. § 745.89(d)(2)—Failure to assign a certified renovator.			Minor	Level 3a	4,500	600	450
2.	40 C.F.R. § 745.84(a)(1)—Failure to provide property owner with the EPA-approved lead hazard information pamphlet.			Minor	Level 1b	2,840	380	280
TOTAL						\$19,780	\$2,690	\$2,020



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

SEP 25 2017

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article No.: 7014 1200 0000 6127 1163

Mr. Mark Williams
DaNiko Homes, LLC
237 E. 5th Street, #156
Eureka, Missouri 63025

Re: In the Matter of DaNiko Homes, LLC, EPA ID # 3600205872
Docket No. TSCA-07-2017-0012

Dear Mr. Williams:

As you are aware, on February 27, 2017, the U.S. Environmental Protection Agency, Region 7, served upon DaNiko Homes, LLC, a pre-filing letter inviting you to participate in negotiations regarding a proposed administrative penalty action for violations of the Toxics Substance Control Act. These violations occurred as a result of the renovations of residential housing located at 3330 Lemp Avenue and 4129-4131 Oregon Avenue in St. Louis, Missouri. On September 14, 2016, the EPA conducted an on-site inspection of the work site of your subcontractor, Metropolitan Maintenance, LLC, at 4129-4131 Oregon Avenue, and a copy of this inspection report was mailed to you on February 27, 2017. The EPA also conducted an inspection of your records on September 16, 2016, for renovations performed at 3330 Lemp Avenue and 4129-4131 Oregon Avenue. A copy of the records inspection report was mailed to you on November 9, 2016.

As discussed in the February 27th pre-filing letter, the EPA offered you a 60-day period from your receipt of the letter to negotiate a resolution of the proposed penalty before filing a complaint. Because you have not responded to numerous attempts to contact you since you participated in a pre-filing phone call with the EPA on March 28, 2017, the EPA has filed the enclosed Complaint and Notice of Opportunity for Hearing ("Complaint") seeking assessment of a civil penalty for the TSCA violations alleged therein. Please review the enclosed Complaint and 40 C.F.R. Part 22 for information about responding to this Complaint, including information about important deadlines.

Although the EPA has filed this Complaint, you still have the opportunity to negotiate settlement of the alleged violations, including making an ability-to-pay claim to potentially adjust the penalty. Please contact me as soon as possible at (913) 551-7745 or reitz.katherine@epa.gov if you would like to discuss your options in settlement or if you have any questions regarding the enclosed Complaint. Your prompt attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katherine Reitz", is written over a horizontal line.

Katherine Reitz
Attorney Advisor

Enclosures