

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

Docket No. TSCA-05-2007-0002

FRANK J. DAVIS)
INDIANAPOLIS, INDIANA)

RESPONDENT.)

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Status Report

Complainant, Chief of the Chemicals Management Branch, Land and Chemicals Division, Region 5, U.S. EPA ("Complainant" or "U.S.EPA"), through its undersigned attorney, hereby files a status report in this matter.

1. During the week of September 10, 2007 U.S. EPA's civil investigator is attempting to contact former tenants of Mr. Davis in person at their last known addresses in Indianapolis. Complainant has reason to believe that some of the tenants claimed by Mr. Davis to have received disclosures regarding the presence of lead-based paint did not in fact receive such disclosures. Complainant expects that this investigation will be concluded on or before 9/17/07.
2. U.S. EPA's civil investigator will also attempt to identify Respondent's current address. On or before June 25, 2007 Respondent informed the Court that he no longer lived at his former address of 623 Sunridge Court in Indianapolis, Indiana, and promised to inform the Court and Complainant of a new post office box address. U.S. EPA has never received the new post office box address, or any other substitute address. Unless the civil investigator is able to locate Respondent's current address, Complainant will continue to mail materials to the Sunridge Court address (with forwarding requested) and fax materials to the same fax number used by the Court

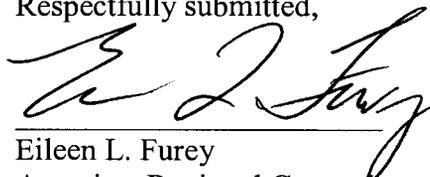
in its 6/25/07 Order Granting Extension of Time.

3. U.S. EPA recently received from the Indianapolis Housing Agency (“IHA”) a complete copy of the lease dated 11/14/03 for the property located at 1838 Brookside Avenue. IHA’s copy of this lease included, as an attachment to the lease, a lead-based paint disclosure form executed by Respondent and the tenant. The copy of this lease provided by Respondent to Complainant in response to the subpoena *duces tecum* dated June 29, 2005 did not contain a copy of this disclosure form. The disclosure form indicated that, for purposes of the lease dated 11/14/03 for the 1838 Brookside Ave property, Respondent had satisfied the requirements of 40 C.F.R. § 745.113(b)(1) (Count 1 of the Complaint); 40 C.F.R. § 745.113(b)(3) (Count 13 of the Complaint); 40 C.F.R. § 745.113(b)(2) (Count 23 of the Complaint); and 40 C.F.R. § 745.113(b)(6) (Count 33 of the Complaint). Accordingly, Complainant will seek in a future motion to withdraw these four counts from the Complaint.

4. IHA also provided a complete copy of the lease dated 8/1/02 for the 725 North Sherman Drive property. IHA’s copy of this lease did not include any lead-based paint disclosure form.

5. Accordingly, on or before Friday, October 12, 2007, Complainant intends to file a Motion to Withdraw Counts 1, 13, 23 and 33 of the Complaint, and for Default or, in the Alternative, Accelerated Decision on all Remaining Counts of the Complaint.

Respectfully submitted,



Eileen L. Furey
Associate Regional Counsel
U.S. EPA
77 West Jackson Blvd.
Chicago, Illinois 60604
312-886-7950

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Docket No.: TSCA-05-2007-0002

CERTIFICATE OF SERVICE

I, Patricia Harwell-Jeffries, certify that I filed the original and one copy of the above Status Report with U.S. EPA Region 5's Regional Hearing Clerk on September 10, 2007. In addition, I delivered, by pouch mail, a true and accurate copy to:

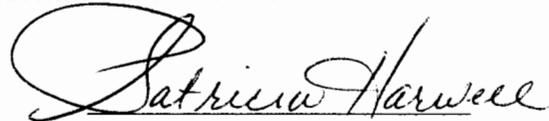
Honorable Spencer T. Nissen
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mail Code 1900L/Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

I also mailed a true and accurate copy, by Federal Express, to:

Frank J. Davis
623 Sunridge Court
Indianapolis, Indiana 46239

I also sent a true and accurate copy to Mr. Davis via facsimile at 317-897-5004.

dated: September 10, 2007



Patricia Harwell
Legal Technician
Office of Regional Counsel
Multi-Media Branch II

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