

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 2

----- X
In the Matter of Precision Consulting, Inc., :
:
:
Respondent. :
:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act. :
----- X

COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

Docket No. TSCA-02-2015-9275

U.S. Environmental Protection Agency-Reg 2
JAN 20 PM 2:36
REGIONAL HEARING CLERK

COMPLAINT

This is a civil administrative action instituted pursuant to § 16(a) of the Toxic Substances Control Act ("TSCA"), codified at 15 U.S.C. § 2615(a). This Complaint serves notice of Complainant's preliminary determination that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of the Lead-Based Paint Activities, Certification, and Training Rule codified at 40 C.F.R. Part 745, Subpart L, which were promulgated pursuant to § 402 of TSCA, hereinafter "Section 402", 15 U.S.C. § 2682.

Complainant in this proceeding, the Director, Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, has been duly delegated the authority to institute this action. Complainant, as and for her Complaint against Respondent, hereby alleges upon information and belief:

- 1. Respondent is Precision Consulting, Inc. (hereinafter "Respondent").
2. Respondent's primary place of business is located at 208-76 Grand Central Parkway, Suite #2A, Queens, NY 11427.
3. Wayne Gladney owns and/or is an officer of Precision Consulting, Inc.
4. Respondent is subject to the regulations and requirements promulgated pursuant to Section 402, and set forth at 40 C.F.R. Part 745, Subpart L.
5. On March 7, 2012, duly designated representatives of EPA conducted an inspection of Respondent's abatement activities at 612 Onderdonk Avenue, Apt. 1L, Ridgewood, Queens, NY 11385 pursuant to § 11 of TSCA, 15 U.S.C. § 2610 (hereinafter "the Inspection").
6. The 612 Onderdonk Avenue property, constructed in 1930, is "target housing" as that term is defined at § 401 of TSCA, 15 U.S.C. § 2681, and 40 C.F.R. § 745.103.
7. Respondent is, and at all times relevant to this Complaint was, the "firm" contracted to conduct an "abatement," as those terms are defined in 40 C.F.R § 745.83 and § 745.223, of the property located at 612 Onderdonk Avenue, Apt. 1L, Ridgewood, Queens, NY 11385.
8. On or about March 7, 2012, the Respondent conducted an abatement at 612 Onderdonk Avenue, Apt. 1L, Ridgewood, Queens, NY 11385.

COUNT 1

Failure of a firm to notify EPA prior to conducting abatement activities

9. Paragraphs 1 through 8 are realleged and incorporated as if fully set forth herein.
10. Under 40 C.F.R. § 745.227(e)(4) after March 1, 2000, firms that perform abatements must be certified by EPA and must notify EPA prior to conducting lead-based paint abatement activities. 40 C.F.R. § 745.227(e)(4)(vi) specifies information that must be included in the notice.
11. Firms which are certified by EPA receive by mail, along with the certificate, a “Firm Notice” document explaining the obligation of a firm to give notice to EPA prior to commencing an abatement.
12. In addition to its original certification, Respondent has renewed its certification twice and therefore received the “Firm Notice” document on three separate occasions.
13. On January 27, 2012, Respondent filed a “Notification of Commencement of Lead Abatement/Remediation” with the New York City Department of Health and Mental Hygiene for the property located at 612 Onderdonk Avenue, Apt. 1L, Ridgewood, Queens, NY 11385.
14. For the abatement conducted on or about March 7, 2012, at 612 Onderdonk Avenue, Apt. 1L, Ridgewood, Queens, NY 11385, Respondent did not notify EPA prior to conducting lead-based paint abatement activities.
15. During the time when the abatement described in paragraph 14 above was being conducted, at least one child under the age of 18 was living on the premises.
16. Failure to make prior notification to EPA is a violation of 40 C.F.R. § 745.227(e)(4).
17. Respondent’s failure or refusal to comply with 40 C.F.R. § 745.227(e)(4) constitutes a violation of § 409 of TSCA, 15 U.S.C. § 2689 for which Respondent is liable pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with section 16 of TSCA, which authorizes the assessment of a civil penalty in the maximum amount of \$37,500 for each violation of TSCA § 409. (73 Fed. Reg. 75340-46, December 11, 2008, increased the maximum penalty to \$37,500 per day.) See also 40 C.F.R. Part 19.

For purposes of determining the amount of any penalty to be assessed, § 16 requires EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged. As to the violator, § 16 requires EPA to take into account its ability to pay, the effect of the penalty on its ability to continue to do business, its history of prior such violations, its degree of culpability, as well as such other matters as justice may require.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time, with specific reference to EPA's “Guidelines for Assessment of Civil Penalties Under § 16 of the Toxic

