

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS

2019 SEP 30 AM 11:42

BEFORE THE ADMINISTRATOR

In the Matter of:

THE ASKINS DEVELOPMENT
GROUP, LLC

Respondent.

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)
) Docket No. TSCA-07-2019-0280
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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 The Askins Development Group, 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 EPA’s Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, a copy of which is enclosed along with this Complaint.

Parties

2. Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA Region 7, is the Director of the Enforcement and Compliance Assurance Division, EPA Region 7.

3. Respondent is The Askins Development Group, LLC, 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. §§ 2681-2692.

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

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 (the “Renovation, Repair, and Painting Rule” or the “RRP Rule”). *See* Lead; Renovation, Repair, and Painting Program, 73 Fed. Reg. 21692, 21758 (Mar. 31, 2008).

7. The RRP Rule establishes work practice standards for renovations that disturb 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. Section 401(17) of TSCA, 15 U.S.C. § 2681(17), defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

10. 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.

11. 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. 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. 40 C.F.R. § 745.81(a)(2)(ii) states that on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under § 745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in § 745.82.

14. 40 C.F.R. § 745.89(a)(1) provides that “firms that perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling.”

15. 40 C.F.R. § 745.89(d)(2) requires firms performing renovations to ensure a certified renovator is assigned to each renovation performed by the firm and that they discharge all the certified renovator responsibilities identified in 40 C.F.R. § 745.90.

16. The RRP Rule sets forth the regulations for “Work Practice Standards” that must be followed by firms performing renovations on target housing. Pursuant to 40 C.F.R. § 745.81 (a)(4)(ii), all renovations must be performed in accordance with the work practice standards outlined in 40 C.F.R. § 745.85.

17. 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. 40 C.F.R. § 745.87(d) provides that violators may be subject to civil and criminal sanctions pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

18. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), as amended, and 40 C.F.R. § 745.87(d), authorizes a civil penalty of not more than \$37,500 per day for violations of Section 409 of TSCA, 15 U.S.C. § 2689. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, 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 \$39,873 for violations that occur after November 2, 2015, and are assessed after February 6, 2019.

General Factual Allegations

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

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

21. Beginning in early March of 2016, following a neighbor complaint, and pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the EPA Region 7 conducted an investigation regarding the renovation activities at [REDACTED] (“the Property”), to evaluate Respondent’s compliance with TSCA and the requirements of the RRP Rule.

22. In early March of 2016, the City of St. Louis Lead Hazard Control Department also commenced an investigation into the renovation activities at the Property. The City of St. Louis lead inspector visited the Property and the surrounding area on multiple occasions between March 3 and March 9, 2016. He took photographs on March 3, 4, 7, and 9, 2019 and took soil and dust samples from a neighboring property on March 7, 2016. The City of St. Louis shared the results of its investigation with the EPA.

23. On March 15, 2016, an EPA inspector visited the Property, took photographs, and also collected statements, photographs, videos, voicemail recordings, and documents from a neighbor of the Property.

24. The EPA and City of St. Louis investigations are collectively referred to as the “EPA investigation.”

25. At all times relevant to this Complaint, Respondent was engaged in a “renovation” of the Property as defined by 40 C.F.R. § 745.83. The EPA investigation revealed that the renovation, which included extensive gutting of the interior and the disturbance of greater than six square feet of interior painted surfaces, commenced at the Property on or before February 28, 2016 and continued until at least March 15, 2016.

26. At all times relevant to this Complaint, Respondent’s renovation of the Property was a “renovation for compensation” per 40 C.F.R. § 745.82(a).

27. At all times relevant to this Complaint, the Property was “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17). The EPA investigation revealed that the Property was built in 1879.

28. At all times relevant to this Complaint, the Property was unoccupied. Children less than six years of age neither occupied nor were present at the Property at the time of Respondent’s renovation and the EPA investigation.

29. As a result of the EPA investigation, and additional information obtained by the EPA, Complainant has identified the following violations of Section 409 of TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and the RRP Rule, as set forth in 40 C.F.R. Part 745, Subpart E.

Alleged Violations

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

Count 1

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

32. 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.

33. The EPA investigation 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 Property. Further, the renovation did not qualify for one of the exceptions identified in 40 C.F.R. § 745.82.

34. 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 renovation on the Property 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.

Count 2

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on February 29, 2016

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

36. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

37. The regulation at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms, before beginning a renovation, to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work area with plastic

sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

38. The EPA investigation revealed that Respondent failed to close windows in the work area on February 29, 2016. Specifically, statements obtained from a neighbor demonstrate open windows in the work area.

39. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

40. The EPA investigation revealed that Respondent, on February 29, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, statements obtained from a neighbor demonstrate releases of dust and debris from Respondent's renovation activities which migrated to an adjacent property, where a child or children resided.

41. Respondent's failure to close windows and contain waste on February 29, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 3

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 3, 2016

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

43. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

44. The regulation at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms, before beginning a renovation, to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work area with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

45. The EPA investigation revealed that Respondent failed to close windows in the work area on March 3, 2016. Specifically, photographs taken by the City of St. Louis lead inspector on March 3, 2016 depict open windows in the work area.

46. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

47. The EPA investigation revealed that Respondent, on March 3, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, the videos taken by a neighbor on March 3, 2016, depict releases of dust and debris from Respondent's renovation activities which migrated to an adjacent property, where a child or children resided.

48. Respondent's failure to close windows and contain waste on March 3, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 4

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 5, 2016

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

50. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

51. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

52. The EPA investigation revealed that Respondent, on March 5, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, the video and photographs taken by a neighbor on March 5, 2016 depict releases of dust and debris from Respondent's renovation activities.

53. Respondent's failure to contain waste on March 5, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 5

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 6, 2016

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

55. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

56. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

57. The EPA investigation revealed that Respondent, on March 6, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, the videos taken by a neighbor on March 6, 2016, depict releases of dust and debris from Respondent's renovation activities which migrated to an adjacent property, where a child or children resided.

58. Respondent's failure to contain waste on March 6, 2016, is violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 6

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 7, 2016

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

60. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

61. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

62. The EPA investigation revealed that Respondent, on March 7, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, photographs taken by the City of St. Louis lead inspector on March 7, 2016 depict uncontained waste from renovation activities. Further, samples of dust from the neighboring property taken by the City of St. Louis lead inspector on March 7, 2016 tested positive for lead.

63. The regulation at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms, before beginning a renovation, to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work area with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

64. The EPA investigation revealed that Respondent failed to close windows in the work area on March 7, 2016. Specifically, photographs taken by the City of St. Louis lead inspector on March 7, 2016 depict open windows in the work area.

65. Respondent's failure to contain waste and close windows on March 7, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 7

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 8, 2016

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

67. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

68. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

69. The EPA investigation revealed that Respondent, on March 8, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, the videos taken by a neighbor on March 8, 2016, depict releases of dust and debris from Respondent's renovation activities which migrated to an adjacent property, where a child or children resided.

70. The regulation at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms, before beginning a renovation, to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work area with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

71. The EPA investigation revealed that Respondent failed to close windows in the work area on March 8, 2016. Specifically, the videos and photographs taken by a neighbor on March 8, 2016 depict open windows in the work area.

72. The regulation at 40 C.F.R. § 745.85(a)(4)(ii) requires firms to collect, at the conclusion of each work day, the waste and store it under containment, in an enclosure, or behind a barrier that prevents the release of dust and debris out of the work area and prevents access to dust and debris.

73. The EPA investigation revealed that Respondent failed to collect, at the

conclusion of the work day on March 8, 2016, the waste and store it under containment, in an enclosure, or behind a barrier that prevented the release of dust and debris out of the work area and prevented access to dust and debris. Specifically, photographs taken by the City of St. Louis lead inspector on the morning of March 9, 2016 depict uncontained waste in an open dumpster in the same location as that depicted in photographs taken by a neighbor on March 8, 2016.

74. Respondent's failure to contain waste, close windows, and properly collect and store waste on March 8, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 8

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 9, 2016

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

76. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

77. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

78. The EPA investigation revealed that Respondent, on March 9, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, photographs taken by the City of St. Louis lead inspector on March 9, 2016 depict uncontained waste from renovation activities.

79. The regulation at 40 C.F.R. § 745.85(a)(2)(i)(C) requires firms, before beginning a renovation, to close windows and doors in the work area, cover doors with plastic sheeting or other impermeable material, and/or cover doors used as an entrance to the work area with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

80. The EPA investigation revealed that Respondent failed to close windows in the work area on March 9, 2016. Specifically, photographs taken by the City of St. Louis lead inspector on March 9, 2016 depict open windows in the work area.

81. Respondent's failure to contain waste and close windows on March 9, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Count 9

Failure to Ensure Renovations Were Performed in Accordance with the Work Practices Standards in 40 C.F.R. § 745.85 on March 15, 2016

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

83. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

84. The regulation at 40 C.F.R. § 745.85(a)(1) requires the posting of signs clearly defining the work area and warning occupants and other persons not involved in the renovation activities to remain outside the work area.

85. The EPA investigation revealed that Respondent, on March 15, 2016, failed to post signs clearly defining the work area and warning occupants and other persons not involved in the renovation activities to remain outside the work area. Specifically, photographs taken by an EPA representative on March 15, 2016 depict the lack of signage.

86. The regulation at 40 C.F.R. § 745.85(a)(4)(i) requires firms to contain waste from renovation activities to prevent releases of dust and debris before waste is removed from the work area for storage or disposal.

87. The EPA investigation revealed that Respondent, on March 15, 2016, failed to contain waste from renovation activities to prevent releases of dust and debris before waste was removed from the work area for storage or disposal. Specifically, photographs taken by an EPA representative on March 15, 2016 depict uncontained waste from renovation activities.

88. Respondent's failure to post signs and contain waste on March 15, 2016, is a violation of 40 C.F.R. § 745.89(d)(3). Respondent, therefore, violated Section 409 of TSCA, 15 U.S.C. § 2689.

Relief Requested

89. 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.

90. 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.

91. 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.

92. Complainant proposes that Respondent be assessed a civil penalty in the amount of **Forty-Two Thousand Three Dollars (\$42,003)** 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.

93. 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

94. 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 **Forty-Two Thousand Three Dollars (\$42,003)** 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

Britt Bieri
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

95. 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

96. 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.

97. 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:

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

98. 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

99. 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

100. 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:

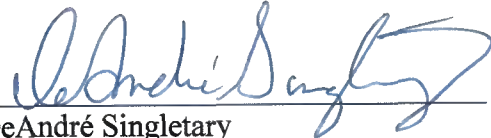
Britt Bieri
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Office: (913) 551-7745

101. 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.

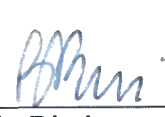
102. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer must be filed.

**COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 9/30/19


DeAndré Singletary
Acting Director
Enforcement and Compliance Assurance Division

Date: 9/30/19

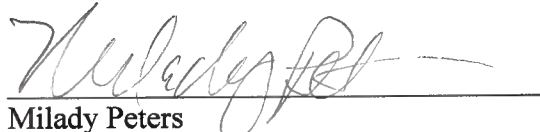

Britt Bieri
Attorney
Office of Regional Counsel

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 Sept. 30, 2019.

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 Sept. 30, 2019 to:

National Registered Agents, Inc.
Registered Agent for The Askins Development Group, LLC
120 S. Central Avenue
Clayton, Missouri 63105



Milady Peters
Paralegal Specialist
Office of Regional Counsel