

Default Judgment and Proposed Order received by Respondent on January 3, 2011. Respondent neither admits nor denies the remaining material allegations as Respondent lacks knowledge of the same.

42. Respondent denies all the material allegations set forth in Complainant's rhetorical paragraph 42.

43. Respondent admits that they have not yet claimed an inability to pay, because Respondent was unaware of the EPA's March 25, 2005 letter. A Respondent's ability to pay may not be presumed, when put at issue by a Respondent. See In the Matter of New Waterbury, Ltd., 5 E.A.D.529, 541. (EAB 1994). Respondent claims it has an inability to pay. Respondent neither admits nor denies any of the remaining allegations in rhetorical paragraph 43 of Complainant's Complaint as Respondent lacks knowledge of the same.

44. Respondent neither admits nor denies all the material allegations in paragraph 44 of Complainant's Complaint, as Respondent lacks knowledge of said allegation. Further, said allegation in part, is a question of law for the trier of fact.

Count 1

45. Respondent incorporates its Answers to rhetorical paragraphs 1 through 44 of this Answer as though set forth fully in this paragraph.

46. Respondent neither admits nor denies the material

allegations in paragraph 46 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, the allegation contained therein is a mixed question of law and/or fact for the fact finder.

47. Respondent denies the material allegations in rhetorical paragraph 47 of Complainant's Complaint, as Respondent lacks knowledge of the same.

48. Respondent denies the material allegations in rhetorical paragraph 48 of Complainant's Complaint.

49. Respondent denies the material allegations in rhetorical paragraph 49 of Complainant's Complaint.

50. Respondent denies the material allegations in rhetorical paragraph 50 of Complainant's Complaint.

51. Respondent denies the material allegations in rhetorical paragraph 51 of Complainant's Complaint.

52. Respondent denies the material allegations in rhetorical paragraph 52 of Complainant's Complaint.

53. Respondent neither admits nor denies the material allegations in rhetorical paragraph 53 of Complainant's Complaint, as Respondent lacks such knowledge. Further, said allegations are mixed questions of law and fact for the fact finder.

COUNT 2

54. Respondent incorporates its Answers to rhetorical paragraphs 1 through 53 of this Answer as though set forth

fully in this paragraph.

55. Respondent neither admits nor denies all the material allegations in paragraph 55 of Complainant's Complaint, as Respondent lacks knowledge of the same and further, said allegation is a question of law for the trier of fact.

56. Respondent denies the material allegations in rhetorical paragraph 56 of Complainant's Complaint.

57. Respondent denies the material allegations in rhetorical paragraph 57 of Complainant's Complaint.

58. Respondent denies the material allegations in rhetorical paragraph 58 of Complainant's Complaint.

59. Respondent denies the material allegations in rhetorical paragraph 59 of Complainant's Complaint.

60. Respondent denies the material allegations in rhetorical paragraph 60 of Complainant's Complaint.

61. Respondent denies the material allegations in rhetorical paragraph 61 of Complainant's Complaint.

62. Respondent denies the material allegations in rhetorical paragraph 62 of Complainant's Complaint, as Respondent lacks knowledge of the same; and further, said allegation is a mixed question of law and/or fact for the fact finder.

COUNT 3

63. Respondent incorporates its Answers to rhetorical

paragraphs 1 through 62 of this Answer as though set forth fully in this paragraph.

64. Respondent neither admits nor denies all the material allegations in paragraph 64 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, said allegation is a question of law for the trier of fact.

65. Respondent denies the material allegations in rhetorical paragraph 65 of Complainant's Complaint.

66. Respondent denies the material allegations in rhetorical paragraph 66 of Complainant's Complaint.

67. Respondent denies the material allegations in rhetorical paragraph 67 of Complainant's Complaint.

68. Respondent denies the material allegations in rhetorical paragraph 68 of Complainant's Complaint.

69. Respondent denies the material allegations in rhetorical paragraph 69 of Complainant's Complaint.

70. Respondent denies the material allegations in rhetorical paragraph 70 of Complainant's Complaint.

71. Respondent neither admits nor denies the material allegations in rhetorical paragraph 71 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, said allegations are mixed questions of law and fact for the fact finder.

Count 4

72. Respondent incorporates its Answers to rhetorical paragraphs 1 through 71 of this Answer as though set forth fully in this paragraph.

73. Respondent neither admits nor denies all the material allegations in paragraph 73 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, said allegation is a question of law for the trier of fact.

74. Respondent denies the material allegations in rhetorical paragraph 74 of Complainant's Complaint.

75. Respondent denies the material allegations in rhetorical paragraph 75 of Complainant's Complaint.

76. Respondent denies the material allegations in rhetorical paragraph 76 of Complainant's Complaint.

77. Respondent denies the material allegations in rhetorical paragraph 77 of Complainant's Complaint.

78. Respondent denies the material allegations in rhetorical paragraph 78 of Complainant's Complaint.

79. Respondent denies the material allegations in rhetorical paragraph 79 of Complainant's Complaint.

80. Respondent neither admits nor denies all the material allegations in paragraph 80 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, said allegation is a question of law for the trier

of fact.

Count 5

81. Respondent incorporates its Answers to rhetorical paragraphs 1 through 80 of this Answer as though set forth fully in this paragraph.

82. Respondent neither admits nor denies all the material allegations in paragraph 82 of Complainant's Complaint, as Respondent lacks knowledge of the same. Further, said allegation is a question of law for the trier of fact.

83. Respondent denies all the material allegations in paragraph 83 of Complainant's Complaint.

84. Respondent denies all the material allegations in paragraph 84 of Complainant's Complaint.

85. Respondent denies all the material allegations in paragraph 85 of Complainant's Complaint.

86. Respondent denies all the material allegations in paragraph 86 of Complainant's Complaint.

87. Respondent denies all the material allegations in paragraph 87 of Complainant's Complaint.

88. Respondent denies all the material allegations in paragraph 88 of Complainant's Complaint.

89. Respondent neither admits nor denies all the material allegations in paragraph 89 of Complainant's Complaint, as Respondent lacks knowledge of the same.

Further, said allegation is a mixed question of law and fact for the fact finder.

Defenses

90. Respondent incorporates its Answers to rhetorical paragraphs 1 through 89 of this Answer as though set forth to both respondents, Willie P. Burrell and The Willie P. Burrell Trust, fully in this paragraph.

91. Willie P. Burrell is not subject to the personal jurisdiction of this fact finder.

92. Willie P. Burrell Trust is not subject to the personal jurisdiction of this fact finder.

93. Service of Process is defective and must be quashed as to, both Respondents, Willie P. Burrell and The Willie P. Burrell Trust.

Therefore, Plaintiff's Complaint should be dismissed.

94. Respondent "substantially" complied with all statutes and regulations alleged to have been violated by Respondent by utilizing factors as outlined by the Respondent.

95. Respondent would have an inability to pay or continue in business, should any civil penalty be imposed.

96. Respondent relied, in part, upon inspections by the Kankakee County Health Department ("KCHD") lead inspectors,

licensed by the State of Illinois. The KCHD certified the units to be a "Lead Safe Home". Moreover, Respondent relied upon the tests and certificates performed and issued by the KCHD.

Expired Civil Penalty

97. The applicable statute of limitation has expired as Respondent incorporated its Answers to rhetorical paragraphs 1 through 13 of this Answer as though set forth fully in this paragraph.

gravity of the violations are taken into account.

Wherefore, Respondent hereby files their Answer to Complainant's Complaint requesting all the material relief sought be denied, and any and all other relief as may be just and proper in the premises.

Respectfully Submitted,

Willie P. Burrell

Willie P. Burrell
300 N. Indiana Avenue
Kankakee, IL 60901
815-933-6087 (Office)
815-933-5114 (Fax)

Willie P. Burrell

Willie P. Burrell, for the
Willie P. Burrell Trust
300 N. Indiana Avenue
Kankakee, IL 60901
815-933-6087 (Office)
815-933-5114 (Fax)

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Willie P. Burrell, for the
Willie P. Burrell Trust
300 N. Indiana Avenue
Kankakee, IL 60901
815-933-6087 (Office)
815-933-5114 (Fax)

CERTIFICATE OF SERVICE

Respondents Willie P. Burrell and The Willie P. Burrell Trust hereby certify that its Answer was served upon the Complainant and other Respondents, by U.S. Mail, postage pre-paid, this 14 day of January 2011 at:

United States Environmental Protection Agency
Region 5
Joana Bezerra (DT-8J)
77 West Jackson Boulevard
Chicago, Illinois 60604

Dudley B. Burrell and
The Dudley B. Burrell Trust
649 North Rosewood
Kankakee, Illinois 60901

Maria Gonzalez
US EPA - Region 5
Associate Regional Counsel
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

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Willie P. Burrell, and Willie P. Burrell for The Willie P. Burrell Trust
300 North Indiana Avenue
Kankakee, Illinois 60901
(815)933-6087 (Office)
(815)933-5114 (Fax)