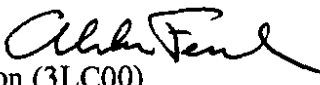


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**SUBJECT:** In the Matter of: *Colonial Property Management, Inc.*  
Docket No. TSCA-03-2010-0036  
Consent Agreement and Final Order

**FROM:** Marcia E. Mulkey *JH [initials] MC [initials]*  
Regional Counsel (3RC00)

and

Abraham Ferdas, Director   
Land and Chemicals Division (3LC00)

**TO:** Renée Sarajian  
Regional Judicial Officer (3RC00)

This Consent Agreement and Final Order (“CAFO”) has been negotiated in settlement of certain violations by Colonial Property Management, Inc., (“Respondent”) of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4852d *et seq.* (“RLBPHRA”), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”), which statutory and regulatory provisions are enforceable pursuant to Section 409 of TSCA, 15 U.S.C. § 2689. Respondent is the “agent”, as this term is defined at 40 C.F.R. § 745.103, of pre-1978 residential rental property (“Target Housing”) located in Charleston, West Virginia during the period of the alleged violations addressed in the CAFO. Please refer to the CAFO for further details concerning the alleged violations.

This CAFO is being entered into pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) without prior issuance of a Complaint. Under the terms of the CAFO, Respondent will pay a civil penalty in the amount of \$6,783.00. The proposed settlement is based upon consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requiring EPA to consider the nature, circumstances, extent, and gravity of the violations, the violator’s ability to pay, ability to continue in business, history of prior violations, degree of culpability and other factors as justice may require, and in accordance with EPA’s *Section 1018 Disclosure Rule Enforcement Response Policy* dated December 2007.

We recommend that you sign the attached Final Order and return it to the Office of Regional Counsel for further processing.

Attachment

cc: Armando Benincasa, Esq.  
Colonial Property Management, Inc.

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:**

**Colonial Property Management, Inc.  
704 Virginia Street, W  
Charleston, WV 25302**

**U.S. EPA Docket No.  
TSCA-03-2010-0036**

**RESPONDENT,**

**1548 Jackson Street  
Charleston, WV 25311**

**1625 ½ Quarrier Street  
Charleston, WV 25311**

**1625 Quarrier Street  
Charleston, WV 25311**

**1551 Lewis Street  
Charleston, WV 25311**

**1508 Lee Street  
Charleston, WV 25311**

**1118 Edgewood Drive  
Charleston, WV 25302**

**5150 Dover Drive  
Cross Lanes, WV 25312**

**708 Chestnut Street  
South Charleston, WV 25309**

**1241 Bridge Road  
Charleston, WV 25314**

**TARGET HOUSING.**

**Preliminary Statement**

1. Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Agency") and Colonial Property Management, Inc. (the "Respondent"), wishing to settle EPA's claims for civil penalties arising from the

violations alleged in this case, have consented to the entry of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), pursuant to Section 16(a) of the Toxic Substances Control Act ("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 ("Consolidated Rules")*, 40 C.F.R. Part 22 including, but not limited to, 40 C.F.R. § 22.18(b)(2) and (3). This Consent Agreement ("CA") and the accompanying Final Order ("FO"), address violations by Respondent of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d *et seq.* ("RLBPHRA"), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"), which statutory and regulatory provisions are enforceable pursuant to Section 409 of TSCA, 15 U.S.C. § 2689.

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA and the accompanying FO, and Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 2, above
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
6. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
7. Respondent shall bear its own costs and attorney's fees, if any.
8. The provisions of this CAFO shall be binding upon Respondent and its successors and assigns.
9. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed herein.
10. Respondent certifies that it is currently in full compliance with the requirements of Section 1018 of the RLBPHRA, 42 U.S.C. § 4852d *et seq.*, and the Disclosure Rule codified at 40 C.F.R. Part 745, Subpart F.
11. Nothing in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

**Notice of Action to the State of West Virginia**

12. EPA has given the State of West Virginia prior notice of the issuance of this CAFO.

**Findings of Fact and Conclusions of Law**

13. The EPA and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the RLBPHRA, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and the Consolidated Rules of Practice, 40 C.F.R. §§ 22.1(a)(5) and 22.4.
14. Respondent is a West Virginia corporation and, at all times relevant to this CAFO, was the "agent", as this term is defined in 40 C.F.R. § 745.103, of the lessor of residential rental property ("Rental Property") and the rental dwelling units therein ("Residential Dwellings" or "Apartments") for the lease transactions concerning 1548 Jackson Street, 1625 ½ Quarrier Street, 1625 Quarrier Street, 1551 Lewis Street, 1508 Lee Street, 1118 Edgewood Drive, and 1241 Bridge Street located in Charleston, West Virginia, 5150 Dover Drive, Cross Lanes, West Virginia, and 708 Chestnut Street, South Charleston, West Virginia, described herein.
15. Pursuant to RLBPHRA Section 1004(27), 42 U.S.C. § 4851b(27), TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.
16. Pursuant to RLBPHRA Section 1004(23), 42 U.S.C. § 4851b(23), TSCA Section 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term "residential dwelling" means either a single family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.
17. Pursuant to RLBPHRA Section 1004(24), 42 U.S.C. § 4851b(24), and TSCA Section 401(15), 15 U.S.C. § 2681(15), the term "residential real property" means real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
18. The properties located at 1548 Jackson Street, 1625 ½ Quarrier Street, 1625 Quarrier Street, 1551 Lewis Street, 1508 Lee Street, 1118 Edgewood Drive, and 1241 Bridge Street located in Charleston, West Virginia, 5150 Dover Drive, Cross Lanes, West Virginia, and 708 Chestnut Street, South Charleston, West Virginia consisted of and, at the time of the violations alleged herein, consisted of residential real properties on each of which is situated one building used as the home or residence for one or more persons.

19. The buildings located at 1548 Jackson Street, 1625 ½ Quarrier Street, 1625 Quarrier Street, 1551 Lewis Street, 1508 Lee Street, 1118 Edgewood Drive, and 1241 Bridge Street located in Charleston, West Virginia, 5150 Dover Drive, Cross Lanes, West Virginia, and 708 Chestnut Street, South Charleston, West Virginia are structures that contain more than one separate residential dwelling unit, and in which each unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.
20. The structures located at 1548 Jackson Street, 1625 ½ Quarrier Street, 1625 Quarrier Street, 1551 Lewis Street, 1508 Lee Street, 1118 Edgewood Drive, and 1241 Bridge Street located in Charleston, West Virginia, 5150 Dover Drive, Cross Lanes, West Virginia, and 708 Chestnut Street, South Charleston, West Virginia, and all residential dwelling units therein, were constructed prior to 1978.
21. The structures located at 1548 Jackson Street, 1625 ½ Quarrier Street, 1625 Quarrier Street, 1551 Lewis Street, 1508 Lee Street, 1118 Edgewood Drive, and 1241 Bridge Street, located in Charleston, West Virginia, 5150 Dover Drive, Cross Lanes, West Virginia, and 708 Chestnut Street, South Charleston, West Virginia, and all residential dwelling units therein, are not and, at the time of the violations alleged herein, were not housing used for the elderly or persons with disabilities, and are not and, at the time of the violations alleged herein, were not "0-bedroom dwellings" as defined by 40 C.F.R. § 745.103.
22. The structures and all residential dwelling units therein, identified above in Paragraphs 18 through 21 (hereinafter collectively referred to as the "Target Housing"), are and, at the time of the violations alleged herein, were "residential dwellings" and "target housing" within the meaning of those terms as provided by RLBPHRA Sections 1004(23) and (27), 42 U.S.C. § 4581b(23) and (27), TSCA Sections 401(14) and (17), 15 U.S.C. § 2681(14) and (17), and 40 C.F.R. § 745.103.
23. Pursuant to 40 C.F.R. § 745.103, the term "lessor" means any entity that offers target housing for lease, rent or sublease, including, but not limited to, individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.
24. Pursuant to 40 C.F.R. § 745.103, the term "lessee" means any entity that enters into an agreement to lease, rent, or sublease target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and non-profit organizations.
25. On August 21, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #1") with a "lessee" ("Lessee #1"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1548 Jackson Street, Charleston, West Virginia for a term commencing on August 21, 2007 and terminating on July 31, 2008 as stated on Lease #1.

26. On July 26, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #2") with a "lessee" ("Lessee #2"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 ½ Quarrier Street, Charleston, West Virginia for a term commencing on July 27, 2007 and terminating on July 31, 2008 as stated on Lease #2.
27. On August 17, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #3") with a "lessee" ("Lessee #3"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #7, Charleston, West Virginia for a term commencing on August 18, 2007 and terminating on July 31, 2008 as stated on Lease #3.
28. On July 28, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #4") with a "lessee" ("Lessee #4"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #6, Charleston, West Virginia for a term commencing on August 1, 2006 and terminating on July 31, 2007 as stated on Lease #4.
29. On August 3, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #5") with a "lessee" ("Lessee #5"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #5, Charleston, West Virginia for a term commencing on August 4, 2007 and terminating on July 31, 2008 as stated on Lease #5.
30. On February 27, 2008, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #6") with a "lessee" ("Lessee #6"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #3, Charleston, West Virginia for a term commencing on March 1, 2008 and terminating on February 28, 2010 as stated on Lease #6.
31. On October 11, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #7") with a "lessee" ("Lessee #7"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #2, Charleston, West Virginia for a term commencing on October 15, 2007 and terminating on September 30, 2008 as stated on Lease #7.
32. On November 1, 2005, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #8") with a "lessee" ("Lessee #8"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1625 Quarrier Street, Apt. #1, Charleston, West Virginia for a term commencing on November 15, 2005 and terminating on October 31, 2006 as stated on Lease #8.
33. On October 23, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #9") with a "lessee" ("Lessee #9"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1551 Lewis Street, Apt. A, Charleston,

West Virginia for a term commencing on November 1, 2007 and terminating on October 31, 2008 as stated on Lease #9.

34. On October 17, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #10") with a "lessee" ("Lessee #10"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1508 Lee Street, Apt. B, Charleston, West Virginia for a term commencing on November 1, 2007 and terminating on October 31, 2008 as stated on Lease #10.
35. On December 1, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #11") with a "lessee" ("Lessee #11"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1118 Edgewood Drive, Apt. C, Charleston, West Virginia for a term commencing on December 1, 2006 and terminating on November 30, 2007 as stated on Lease #11.
36. On June 2, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #12") with a "lessee" ("Lessee #12"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1118 Edgewood Drive, Apt. B, Charleston, West Virginia for a term commencing on June 1, 2006 and terminating on May 31, 2007 as stated on Lease #12.
37. On December 14, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #13") with a "lessee" ("Lessee #13"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 5150 Dover Drive, Cross Lanes, West Virginia for a term commencing on December 15, 2007 and terminating on December 31, 2008 as stated on Lease #13.
38. On September 12, 2007, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #14") with a "lessee" ("Lessee #14"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 708 Chestnut Street, South Charleston, West Virginia for a term commencing on September 15, 2007 and terminating on August 31, 2008 as stated on Lease #14.
39. On April 18, 2008, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #15") with a "lessee" ("Lessee #15"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit at 1241 Bridge Road, Charleston, West Virginia for a term commencing on April 19, 2008 and terminating on March 31, 2009 as stated on Lease #15.
40. 40 C.F.R. § 745.115(a) provides that each agent shall ensure compliance with all the requirements of 40 C.F.R. Part 745. To ensure compliance, the agent shall:

- (1) Inform the seller or lessor of his/her obligations under 40 C.F.R. §§ 745.107, 745.110, and 745.113.



(2) Ensure that the seller or lessor has performed all activities required under 40 C.F.R. §§ 745.107, 745.110, 745.113, or personally ensure compliance with the requirements of 40 C.F.R. §§ 745.107, 745.110, and 745.113.

41. 40 C.F.R. § 745.118(e) provides, in pertinent part, that failure or refusal to comply with 40 C.F.R. §§ 745.107, .110, .113 and/or .115 constitutes a violation of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

### Count 1

42. The allegations contained in Paragraphs 1 through 41 of this CAFO are incorporated by reference herein as though fully set forth at length.
43. Pursuant to 40 C.F.R. § 745.113(b)(1), the lessor is required to include, either as an attachment to or within each contract to lease target housing, a Lead Warning Statement containing the language provided therein.
44. Respondent failed to ensure that the lessor performed, in connection with Lease #12 of the Target Housing identified above in Paragraph 36 of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(1).
45. Respondent failed to personally ensure compliance with the requirements of 40 C.F.R. § 745.113(b)(1) in connection with Lease #12 of the Target Housing identified above in Paragraph 36 of this CA.
46. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(1) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(1) in connection with Lease #12 of the Target Housing identified above in Paragraph 36 of this CA.
47. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(1)) constitutes a violation of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### Counts 2-6

48. The allegations contained in Paragraphs 1 through 47 of this CAFO are incorporated by reference herein as though fully set forth at length.
49. Pursuant to 40 C.F.R. § 745.113(b)(2), a lessor is required to include, either as an attachment to or within each contract to lease target housing, a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the Target Housing or the lessor's lack of knowledge of such presence.

50. Respondent failed to ensure that the lessor performed, in connection with Leases #1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(2).
51. Respondent failed to personally ensure compliance with the requirements of 40 C.F.R. § 745.113(b)(2) in connection with Leases #1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA.
52. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(2) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(2) in connection with Leases #1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA.
53. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(2)) constitutes violations of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### Counts 7-11

54. The allegations contained in Paragraphs 1 through 53 of this CAFO are incorporated by reference herein as though fully set forth at length.
55. Pursuant to 40 C.F.R. § 745.113(b)(3), a lessor is required to include, either as an attachment to or within each contract to lease target housing, a list of any records or reports available to the lessor pertaining to the lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee, or a statement that no such records or reports are available to the lessor.
56. Respondent failed to ensure that the lessor performed, in connection with Leases #1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(3).
57. Respondent failed to personally ensure compliance with the requirements of 40 C.F.R. § 745.113(b)(3) in connection with Leases #1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA.
58. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(3) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(3) in connection with Leases

#1, #8, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 32 through 34, and Paragraph 36, respectively, of this CA.

59. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(3)) constitutes violations of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### **Counts 12-15**

60. The allegations contained in Paragraphs 1 through 59 of this CAFO are incorporated by reference herein as though fully set forth at length.
61. 40 C.F.R. § 745.113(b)(5) provides that, when one or more agents are involved in the transaction to lease target housing on behalf of the lessor, a statement must be included either as an attachment to or within each contract to lease target housing that (i) the agent has informed the lessor of the lessor's obligations under the Lead Based Paint Disclosure Rule, 42 U.S.C. § 4852d, and (ii) the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. § 745.113(b).
62. Respondent failed to include a statement, in connection with Leases #1, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 33 through 34, and Paragraph 36, respectively, of this CA, as required under 40 C.F.R. § 745.113(b)(5).
63. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure compliance with the activities required under 40 C.F.R. § 745.113(b)(5) in connection with Leases #1, #9, #10, and #12 of the Target Housing identified above in Paragraph 25, Paragraphs 33 through 34, and Paragraph 36, respectively, of this CA.
64. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(5)) constitutes violations of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### **Counts 16-30**

65. The allegations contained in Paragraphs 1 through 64 of this CAFO are incorporated by reference herein as though fully set forth at length.
66. 40 C.F.R. § 745.113(b)(6) provides that the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statement, to the best of their knowledge, along with the

dates of signature, must be included either as an attachment to or within each contract to lease target housing.

67. Respondent failed to include, either as an attachment to or within each contract to lease target housing, the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature in connection with Leases #1 through #15 of the Target Housing identified above in Paragraphs 25 through Paragraph 39, respectively, of this CA, as required under 40 C.F.R. § 745.113(b)(5).
68. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure compliance with the activities required under 40 C.F.R. § 745.113(b)(6) in connection with Leases #1 through #15 of the Target Housing identified above in Paragraphs 25 through 39, respectively, of this CA.
69. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(6)) constitutes violations of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### Civil Penalty

70. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of Six Thousand Seven Hundred Eighty-Three Dollars (\$6,783.00), which Respondent agrees to pay in accordance with the terms set forth below.
71. The civil penalty of Six Thousand Seven Hundred Eighty-Three Dollars (\$6,783.00) set forth in Paragraph 70, above, shall be paid in three (3) installments with interest at the rate of three percent (3%) per annum on the outstanding principal balance in accordance with the following schedule:
  - a. 1<sup>st</sup> Payment: The first payment in the amount of Two Thousand Two Hundred Sixty-One Dollars (\$2,261.00), consisting of a principal payment of \$2,261.00 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
  - b. 2<sup>nd</sup> Payment: The second payment in the amount of Two Thousand Two Hundred Eighty-Three Dollars and Thirty Cents (\$2,283.30), consisting of a principal payment of \$2,261.00 and an interest

payment of \$22.30, shall be paid within sixty (60) days on which this CAFO is mailed or hand-delivered to Respondent;

- c. 3<sup>rd</sup> Payment: The third payment in the amount of Two Thousand Two Hundred Seventy-Seven Dollars and Seventy-Three Cents (\$2,277.73), consisting of a principal payment of \$2,261.00 and an interest payment of \$16.73, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

72. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Six Thousand Seven Hundred Eighty-Three Dollars (\$6,783.00) and total interest payments in the amount of Thirty Nine Dollars and Three Cents (\$39.03).
73. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in paragraph 71, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
74. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 71, above, Respondent may pay the entire civil penalty of Six Thousand Seven Hundred Eighty-Three Dollars (\$6,783.00) within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as calculated in Paragraph 71, above, and as described in Paragraph 76. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
75. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
76. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

77. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
78. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
79. The aforesaid settlement amount is based upon Complainant's consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), which include the nature, circumstances, extent, and gravity of the violations and the violator's ability to pay, ability to continue in business, history of prior violations, and degree of culpability, and other matters as justice may require.
80. Respondent shall pay the amount described in Paragraph 70, above, to the "United States Treasury," as follows:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, TSCA-03-2010-0036;
  - B. All checks shall be made payable to "United States Treasury";
  - C. All payments made by check and sent by regular mail shall be addressed to:  
  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
  
Contact: Eric Volck 513-487-2105
  - D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive.  
Cincinnati, OH 45268-0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
D 68010727 Environmental Protection Agency

- G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

I. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103 - 2029, and

Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

**Reservation of Rights**

81. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Effective Date**



82. The effective date of this Consent Agreement and the attached Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III or his designee, is filed with the Regional Hearing Clerk.

**Authority to Bind the Parties**

83. The undersigned certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement.

**Full and Final Satisfaction**

84. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, and Section 1018 of Title X of the RLBPHRA, for the violations alleged in this CAFO.

Respondent: Colonial Property Management, Inc.

Date: 11-30-09

By: Thomas M Michels  
Tom Michels  
President

For the United States Environmental Protection Agency:

Date: 12-15-09

By: [Signature]  
Louis F. Ramalho  
Sr. Assistant Regional Counsel

I recommend that the Regional Administrator, or his designee, issue the Final Order attached hereto.

Date: 12/23/09

By: Abraham Ferdas  
Abraham Ferdas, Director  
Land and Chemicals Division

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

**Colonial Property Management, Inc.  
704 Virginia Street, W  
Charleston, WV 25302**

**U.S. EPA Docket No.  
TSCA-03-2010-0036**

**RESPONDENT,**

**1548 Jackson Street  
Charleston, WV 25311**

**1625 ½ Quarrier Street  
Charleston, WV 25311**

**1625 Quarrier Street  
Charleston, WV 25311**

**1551 Lewis Street  
Charleston, WV 25311**

**1508 Lee Street  
Charleston, WV 25311**

**1118 Edgewood Drive  
Charleston, WV 25302**

**5150 Dover Drive  
Cross Lanes, WV 25312**

**708 Chestnut Street  
South Charleston, WV 25309**

**1241 Bridge Road  
Charleston, WV 25314**

**TARGET HOUSING.**

**FINAL ORDER**

## **FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Colonial Property Management, Inc., have executed a document entitled "Consent Agreement", which I hereby ratify as a Consent Agreement in accordance with *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("*Consolidated Rules of Practice*"), published at 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

**NOW, THEREFORE, PURSUANT TO** Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Lead Paint Disclosure Act"), 42 U.S.C. § 4851, *et seq.* and 40 C.F.R. Part 745, Subpart F, which authorize the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, for violations of the Lead Paint Disclosure Act, and having determined, based on the representations of the parties to the attached Consent Agreement, that the agreed civil penalty of Six Thousand Seven Hundred Eighty Three Dollars (\$6,783.00) required therein was based upon the consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Six Thousand Seven Hundred Eighty Three Dollars (\$6,783.00) in accordance with the payment provisions set forth in the attached Consent Agreement and comply with each of the additional terms and conditions thereof in settlement of the claims contained therein.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 12/29/09

By: Renee Sarajian  
Renee Sarajian  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region III

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. TSCA-03-2010-0036 was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following party:

Armando Benincasa, Esq.  
Steptoe & Johnson PLLC  
Chase Tower  
707 Virginia Street East  
Charleston, WV 25301

12/24/2009  
Date



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Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029