

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)
)
)
RO CHER ENTERPRISES, INC. d/b/a DOOR)
AND WINDOW WAREHOUSE OUTLET,)
INC.; DOOR AND WINDOW WAREHOUSE,)
CO.; and/or DOOR AND WINDOW)
SUPERSTORE)
)
Downers Grove, Illinois,)
)
)
 Respondent.)

Docket No. TSCA-05-2023-0004

**Proceeding to Assess a Civil Penalty
Under Section 16(a) of the Toxic
Substances Control Act,
15 U.S.C. § 2615(a)**

Consent Agreement and Final Order

1. Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking assessment of a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C § 2615(a).
2. On April 21, 2023, EPA filed the Complaint in this action against Ro Cher Enterprises, Inc. d/b/a Door and Window Warehouse Outlet, Inc., Door and Window Warehouse, Co., and/or Door and Window Superstore (collectively “Respondent”). The Complaint alleges that Respondent violated Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. Part 745, Subpart E while performing at least seven renovations in Illinois.
3. On November 22, 2023, Respondent filed an Answer to the Complaint.

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint, solely for the purposes of settling this matter.
5. Respondent neither admits nor denies the specific factual allegations and legal

conclusions set forth in the Complaint, other than those specifically admitted in the Answer.

6. Respondent waives any right to contest the allegations in the Complaint and its right to seek judicial review of this Consent Agreement and Final Order (CAFO and/or Agreement).
7. Respondent certifies that it is complying with TSCA and 40 C.F.R. Part 745.
8. Respondent consents to the assessment of the civil penalty as specified in this CAFO and to the terms of this CAFO.

Civil Penalty

9. In consideration of an analysis of the factors specified in Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the facts alleged in this case, Respondent agrees to pay a civil penalty in the amount of one thousand and five hundred dollars (\$1,500) (“Assessed Penalty”). Based on Respondent’s documented inability to pay claim, and in accordance with applicable laws, EPA conducted an analysis of Respondent’s financial information and determined that the Assessed Penalty is an appropriate amount to settle this action. Respondent consents to pay the Assessed Penalty within thirty (30) calendar days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).
10. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
11. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent’s name and the docket number of this Agreement, TSCA-05-2023-0004,

b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s) by email:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
r5hearingclerk@epa.gov

Michael Todd (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
todd.michael@epa.gov

Nora Wells (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
wells.nora@epa.gov

Andrew Futerman (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Futerman.andrew@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

12. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charged are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate. Any lower rate would fail to provide Respondent adequate incentive for timely payment.

b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's cost of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

13. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other

charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which included, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.17.
14. Allocation of Payments. Pursuant to 30 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
15. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

General Provisions

16. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: wells.nora@epa.gov and futerman.andrew@epa.gov (for Complainant), and mnixon@pacificlegal.org and odunford@pacificlegal.org (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

17. Respondent understands that the CAFO will become publicly available upon filing.
18. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
19. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
20. This CAFO does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, its implementing regulations, and other applicable federal, state, and local laws.
21. This CAFO constitutes a "prior such violation" as that term is used in EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule to determine Respondent's "history of prior such violations" under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).
22. The terms of this CAFO bind Respondent, and its successors and assigns.
23. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
24. Each party agrees to bear its own costs and attorney's fees in this action.
25. This CAFO constitutes the entire agreement between the parties.

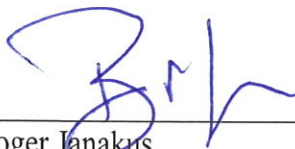
Effective Date

26. The parties agree to the issuance of the attached proposed Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

**Consent Agreement and Final Order
In the Matter of: Ro Cher Enterprises, Inc.**

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JUNE 10, 2024
Date



Roger Janakus
President
Ro Cher Enterprises, Inc.

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United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5