

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

In the Matter of:	)	Docket No.: TSCA-03-2020-0020
)	
European Brothers, Inc.	)	U.S. EPA-REGION 3-RHC
a/d/b/a European Brothers	)	<small>FILED-8NOV2019AM10:28</small>
429 Merle Way	)	Proceeding Under Sections 16(a) and
Feasterville, PA 19053,	)	409 of the Toxic Substances Control
	)	Act, 15 U.S.C. §§ 2615(a) and 2689.
)	
RESPONDENT.		

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and European Brothers, Inc. (hereinafter “Respondent”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA” or the “Act”), 15 U.S.C. §§ 2615(a) and 2689, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).
2. The violations cited herein pertain to the Respondent’s alleged failure, during the performance of a renovation for compensation on certain pre-1978 housing, to comply with the Lead Renovation, Repair, and Painting Program (commonly known as the “RRP Rule”), set forth and codified by EPA at 40 C.F.R. Part 745, Subpart E.
3. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator of the U.S. Environmental Protection Agency, Region III, who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under TSCA for the violations alleged herein.
4. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves this administrative proceeding.

II. JURISDICTION

5. The U.S. Environmental Protection Agency (“EPA” or the “Agency”) has jurisdiction over the above-captioned matter pursuant to Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.

III. GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
7. Except as provided in Paragraph 6., immediately above, Respondent neither admits nor denies the specific factual allegations set forth in this CAFO.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
9. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear his own costs and attorney’s fees in connection with this proceeding.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the “RLBPHRA”), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding *Subchapter IV – Lead Exposure Reduction*, TSCA Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.
14. Section 402(c) of TSCA, 15 U.S.C § 2682, required the Administrator of EPA to promulgate regulations for the certification of individuals engaged in renovation or remodeling activities in target housing, public buildings built before 1978, and commercial buildings.

15. Section 407 of TSCA, 15 U.S.C. § 2687 required that the regulations promulgated by the Administrator include such record keeping and reporting requirements as may be necessary to ensure the effective implementation of TSCA *Subchapter IV*.
16. Under the RRP Rule, each person who performs for compensation a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to conduct renovation, remodeling and/or painting activities in target housing and/or child-occupied facilities or must be employed by an EPA-certified renovation firm.
17. Pursuant to 40 C.F.R. § 745.83, the term “firm” means “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.”
18. Pursuant to 40 C.F.R. § 745.83, the term “renovation” means “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.”
19. Pursuant to Section 401(17) of TSCA, 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.”
20. Respondent, which also does business under the registered fictitious name “European Brothers,” is a Pennsylvania corporation with an office located at 429 Merle Way, Feasterville, PA 19053 that performs residential and light industrial renovation activities for compensation, specializing in interior and exterior renovation, painting and repair work.
21. Respondent is and was, at all times herein relevant, a “person” and a “firm,” that performed “renovation” (as those terms are defined at 40 C.F.R. § 745.83) activities, including “renovations for compensation” (within the 40 C.F.R. § 745.89(a)(1) use and meaning of that term) at “residential dwelling[s]” and “target housing” (as those terms are defined at 40 C.F.R. § 745.103) properties.
22. On May 12, 2017, a duly-authorized EPA inspector conducted an unannounced site inspection at a single-family residence, located at 149 North Main Street, Yardley, PA 19067, where renovation activities were then being performed on the exterior painted surface of the residential dwelling. The EPA inspector observed the presence of a portable yard sign, and a work van with a magnetic sign, each bearing the name “European Brothers, Inc.” that advertised “Painting”, “Wallpapering”, “Hardwood” and “Marble & Tile” work, with an associated telephone number. The EPA inspector also observed that individuals were then performing renovation work on the exterior painted surfaces of the residential dwelling that consisted of paint scraping, sanding, patching and other surface paint preparation activities. He also noticed that: (a) the ground beneath the work areas were covered only by canvas

tarps; (b) no plastic sheets were being used; (c) paint chips were present on the ground, beyond the areas covered by canvas tarps; (d) that no warning signs were posted in or near the work area to warn that a lead-based paint renovation was in progress; and (e), that the square footage of the exterior painted surface of the building that had been disturbed was in excess of 20 square feet. The EPA Inspector took photographs of the work area and of his above described observations during the course of his May 12, 2017 site inspection.

23. On June 13, 2017, the same EPA inspector sent an inspection notification letter (hereinafter, "Inspection Notice") to the Respondent advising that on June 27, 2017, pursuant to Title X, Section 409 of TSCA, EPA planned to conduct an RRP Rule inspection of those records pertaining to any pre-1978 residential properties where the Respondent had performed lead-based paint renovation and repair activities on and after January 1, 2016 and that such inspection would take place at the Respondent's 429 Merle Way, Feasterville, Pennsylvania offices.
24. The proposed RRP Rule inspection, referenced in the preceding paragraph, was rescheduled by mutual consent and on June 28, 2017, duly-authorized EPA representatives (the "EPA Inspectors") met the Respondent's President at a mutually agreed commercial establishment, received Respondent's consent to perform the planned RRP Rule inspection, interviewed the Respondent's President, and proceeded to request records pertaining to: all pre-1978 residential properties where the Respondent had performed lead-based paint renovation and repair activities on and after January 1, 2016; all required lead-based paint documentation for each of these described pre-1978 residential properties where the Respondent had performed renovation, remodeling, or other work activities; a copy of the Respondent's firm certification, if any, along with copies of the individual certifications obtained by any of its employees; and a list of the subcontractors, if any, used by the Company, along with copies of each subcontractor's firm certification and any individual certifications acquired by any of its/their employees.
25. At the time of the June 28, 2017 RRP Rule inspection, Respondent's President did not provide the EPA Inspectors with the requested records of pre-1978 residential properties where the Respondent had performed renovation, remodeling, and other related work activities since January 1, 2016. At that time, the Respondent's President failed to produce: copies of requested renovation contracts (including attachments, modifications/ addendums, receipts and associated permits) that the Respondent had entered into during that time period; any lead-safe work practice documentation or post-renovation cleaning documentation for any pre-1978 residential property renovation, remodeling, and other work activities performed by the Respondent in those years; a copy of initial firm certification that is required of all firms seeking to perform renovations, for compensation, on pre-1978 residential properties; copies of any individual renovator certifications for any employees (including subcontractors) of the Respondent during that time period.

26. At the conclusion of the June 28, 2017 RRP Rule inspection, Respondent's President agreed (in writing) to email the EPA Inspectors, within 10 days thereafter, information regarding Respondent's gross annual sales, the number of contracts that Respondent entered into during the requested time period, with associated estimates of the painted surface areas disturbed (in square feet) and the year that each house was built; and to identify any children between the ages of 1 and 6 years old, and between the ages of 6 and 18 years old, then living in each of the properties for which the Respondent had then contracted to perform renovation activities.
27. Subsequent to the date of the above-referenced June 28, 2017 RRP Rule inspection, the Respondent never provided EPA with: (a) any contract, invoice or receipt for work that the Respondent performed at the latter of the two residential "target housing" Properties identified in the preceding paragraph; (b) any records or documentation indicating that lead-safe work practices and post-renovation cleaning activities were properly performed at either of these two Properties; (c) evidence that the Company ever obtained an initial firm certification that is required of all firms seeking to perform renovations, for compensation, on pre-1978 residential properties prior to the date of the Inspection; (d) evidence that any Company employee ever received an individual renovator certification prior to the date of the Inspection; or (e) evidence that European Brothers properly provided the adult occupant of either of these two Properties with a required EPA-approved lead hazard information pamphlet (*i.e.*, the EPA Pamphlet entitled "*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*") prior the Company's initiation of renovation activities at each of these respective Properties.
28. Respondent did subsequently submit to the EPA Inspectors a list containing the addresses and property owner names associated with each of thirty-five properties where the Respondent performed work on an after January 1, 2016. That list included information identifying two (2) residential properties as pre-1978 constructed residential houses at which the Respondent performed renovation activities, for compensation, during the 2016 and 2017 calendar years. Respondent also submitted an attachment to this list, which consisted of a 1-page "receipt" that briefly described the nature, and the associated cost, of the work performed by the Respondent at one of these two residential "target housing" properties (which are each hereinafter referred to singularly as a "Property" and collectively as the "Properties").
29. The list and associated attachment that the Respondent submitted to the EPA Inspectors, as referenced in the preceding paragraph, and additional information obtained from the Respondent, included information pertaining to renovation projects undertaken by the Respondent, for compensation, at two residential "target housing" Properties between the period of January 1, 2016 and June 30, 2017, which is summarized and described in the Chart, immediately below:

Property & Renovation Project No.	Property Address	Year Housing Built	Estimated Renovation Start Date	Type of Renovation Work Performed for Compensation
1	19 Aquaduct Rd., Washington Crossing, PA	1973	2016	Preparation (sanding/scraping) of Work Area / Fill in Cracks / Paint (>2000 sq. ft. of Paint Disturbed)
2	149 N. Main Street, Yardley, PA	1942	5/2017	Preparation (sanding/scraping) of Work Area / Paint (>20 sq. ft. of Paint Disturbed)

30. Neither of the renovations performed for compensation by the Respondent at the two target housing residential dwelling Properties identified in the Paragraph 29 Chart, immediately above, were “[m]inor repair and maintenance activities,” within the meaning and definition of 40 C.F.R. § 745.83, nor did they involve a renovation in any target housing or in any child-occupied facility in which:

(1) “a written determination ha[d] been made by an inspector or risk assessor ... that the components affected by the renovation [we]re free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter . . . [.]” as provided at 40 C.F.R. § 745.82(a)(1);

(2) “a certified renovator, using an EPA recognized test kit . . . , ha[d] tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter . . . [.]” as provided at 40 C.F.R. § 745.82(a)(2); or

(3) “a certified renovator . . . collected a paint chip sample from each painted component affected by the renovation and a laboratory recognized by EPA . . . has determined that the samples are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter . . . [.]” as provided at 40 C.F.R. § 745.82(a)(3).

V. VIOLATIONS ALLEGED

COUNTS I–2

Firm Certification Violations

40 C.F.R. § 745.81(a)(2)(ii)

Performing Target Housing Renovations for Compensation Without First Obtaining Required Firm Certification

31. The allegations contained in paragraphs 1 through 30, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

32. Pursuant to 40 C.F.R. § 745.81(a)(2)(ii), on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA, under 40 C.F.R. § 745.89, in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82(a) or (c).
33. 40 C.F.R. § 745.89(a) provides, in relevant and applicable part, that firms performing renovations for compensation must apply to, and obtain from, EPA an initial certification to perform renovations or dust sampling.
34. In 2006 and again in May, 2017, Respondent performed renovations for compensation at each of the two target housing Properties identified in the Chart set forth in Paragraph 29, above, which did not qualify for any of the exceptions identified in 40 C.F.R. § 745.82(a) or (c), respectively, without first having obtained initial lead-safe firm certification pursuant to the requirements and provisions set forth at 40 C.F.R. § 745.89.
35. Respondent's performance of each of the two target housing renovations identified above, after April 22, 2010 and without first obtaining the required initial lead-safe firm certification from EPA pursuant to 40 C.F.R. § 745.89 requirements, constitutes two separate failures on the part of the Respondent to comply with an applicable RRP Rule requirement of 40 C.F.R. § 745.81(a)(2)(ii).
36. The Respondent's performance of two target housing Property renovations after April 22, 2010 in target housing facilities that did not qualify for any of the exceptions identified in 40 C.F.R. § 745.82(a) or (c) without first having obtained a required 40 C.F.R. § 745.89 initial lead-safe firm certification from EPA, constitutes two separate failures to comply with an applicable 40 C.F.R. § 745.81(a)(2)(ii) RRP Rule requirement and two separate violations of 40 C.F.R. § 745.87(a) and Section 409 of TSCA, 15 U.S.C. § 2689.

COUNTS 3 – 4

Individual Certification Violations

40 C.F.R. § 745.89(d)(1) and (2)

*Failure to Ensure that Individuals Performing Target Housing Renovations
for Compensation Were Either Certified Renovators or Were Trained by a Certified Renovator*

37. The allegations contained in paragraphs 1 through 36, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
38. Pursuant to the “firm responsibilities” set forth at 40 C.F.R. § 745.89(d)(1), firms performing renovations must ensure that: “[a]ll individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with [40 C.F.R.] § 745.90.”

39. Pursuant to the “firm responsibilities” set forth at 40 C.F.R. § 745.89(d)(2), firms performing renovations must ensure that: “[a] certified renovator is assigned each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in [40 C.F.R.] § 745.90.”
40. The renovation activities performed at the two target housing Properties identified in the Chart set forth in Paragraph 29, above, by workers employed by the Respondent in 2016 and in May of 2017, respectively, were not performed by certified renovators, or by individuals trained by a certified renovator, in accordance with 40 C.F.R. § 745.90, and no certified renovator was assigned to the either of these target housing renovation projects by the Respondent to discharge the certified renovator responsibilities identified in 40 C.F.R. § 745.90.
41. Respondent’s failure to ensure that all individuals who performed each of the two identified target housing Property renovation activities on its behalf were either certified renovators or had been trained by a certified renovator in accordance with 40 C.F.R. § 745.90, and its failure to ensure that a certified renovator was assigned to each of these target housing Property renovation projects to discharge all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90, constitutes two separate failures on the part of the Respondent to comply with applicable RRP Rule requirements of 40 C.F.R. § 745.89(d)(1) and (2) and two separate violations of 40 C.F.R. §745.87(a) and of Section 409 of TSCA, 15 U.S.C. § 2689.

COUNTS 5 – 6

Information Distribution Violations

40 C.F.R. § 745.84(a)(i)

*Failing to Obtain Timely Written Acknowledgment of Target Housing Owner’s
Receipt of EPA-Approved Lead Hazard Information Pamphlet*

42. The allegations contained in paragraphs 1 through 41, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
43. Pursuant to 40 C.F.R. § 745.84(a)(1), a firm performing a renovation in any residential dwelling unit of target housing must provide the owner of the unit with the EPA-approved lead hazard information pamphlet entitled “*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*” within 60 days before beginning renovation activities and either: (i) obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.
44. On June 29, 2017, EPA Inspectors conducted a records review of the respective business records maintained by the Respondent with respect to the target housing renovation activities performed by the Respondent, for compensation, in the years 2016 and 2017.

45. The Respondent could not provide to EPA, at the time of the June 28, 2017 EPA records review inspection of its business records, or at any time thereafter, any written documentation which acknowledged that either of the owners of the two residential target housing Properties identified in the Chart set forth in Paragraph 29, above, had received the required EPA-approved lead hazard information pamphlet entitled “*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*” from Respondent at any time before, during or after the Respondent performed those target housing Property renovations in 2016 and in May, 2017, respectively.
46. Respondent’s failure to obtain from either target housing Property owner a written acknowledgment that either of them timely received the required EPA-approved lead hazard information pamphlet entitled “*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*” constitutes two separate failures on the part of the Respondent to comply with an applicable RRP Rule requirement of 40 C.F.R. § 745.84(a)(i) and two separate violations of 40 C.F.R. §745.87(a) and of Section 409 of TSCA, 15 U.S.C. § 2689.

COUNTS 7 - 8

Recordkeeping Violations

40 C.F.R. § 745.86(b)(6)

Failing to Make Available to EPA

*Required Documentation of Respondent’s Compliance With
the Requirements of Each Applicable Work Practice Standard*

47. The allegations contained in paragraphs 1 through 46 above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
48. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with this subpart, 40 C.F.R. § 745, Subpart E, for a period of 3 years following completion of the renovation.
49. Pursuant to 40 C.F.R. §745.86(b)(6), firms performing renovations must retain all records documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed, or directed workers to perform, tasks described by 40 C.F.R. § 745.85(a), and followed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b).
50. Respondent has failed to make available to EPA, at the time of the June 28, 2017 EPA records review or at any time thereafter, any records that document whether a certified renovator performed, or directed workers to perform, the tasks required by 40 C.F.R. § 745.85(a), or to document whether Respondent followed the post-renovation cleaning verification standards described in 40 C.F.R. § 745.85(b), during either of the two target housing Property renovations performed in 2016 and May of 2017, as identified in the Chart

set forth in Paragraph 29, above.

51. Respondent's failure to retain and provide to EPA, upon request, records that Respondent is required to maintain in order to document its compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed, or directed workers to perform, tasks described by 40 C.F.R. § 745.85(a) and followed the post-renovation cleaning verification standards described in 40 C.F.R. § 745.85(b), during the course of the two target housing Property renovations performed by the Respondent in 2016 and in May, 2017, constitutes two separate failures on the part of the Respondent to comply with an applicable RRP Rule requirement of 40 C.F.R. § 745.86(b)(6) and two separate violations of 40 C.F.R. §745.87(a) and of Section 409 of TSCA, 15 U.S.C. § 2689.

COUNT 9
Work Practice Violation
40 C.F.R. § 745.85(a)(1)
Failing to Post Required Warning Signs

52. The allegations contained in paragraphs 1 through 51, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
53. 40 C.F.R. § 745.85(a)(1) provides that “[f]irms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed. If warning signs have been posted in accordance with 24 CFR 35.1345(b)(2) or 29 CFR 1926.62(m), additional signs are not required by this section.”
54. At the time of the May 12, 2017 unannounced site inspection performed at the single-family residential target housing Property located at 149 North Main Street, Yardley, PA, an EPA Inspector observed that the Respondent had not posted required lead work warning signs to warn occupants and other persons not involved in renovation activities to remain outside of the work area during the time that target housing Property renovation work was in progress.
55. Respondent's failure to post required lead work warning signs, to warn occupants and other persons not involved in renovation activities to remain outside of the work area during the entire course of the renovation and post-renovation cleaning verification activities conducted by Respondent at the residential target housing Property located at 149 North Main Street, Yardley, PA, constitutes a failure on the part of the Respondent to comply with an applicable RRP Rule requirement of 40 C.F.R. § 745.85(a)(1) and a violation of 40 C.F.R. §745.87(a) and of Section 409 of TSCA, 15 U.S.C. § 2689.

COUNT 10
Work Practice Violations
40 C.F.R. § 745.85(a)(2)(ii)(C).
Failing to Cover the Ground

56. The allegations contained in paragraphs 1 through 55, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
57. 40 C.F.R. § 745.85(a)(2)(ii)(C), which pertains to “[e]xterior renovations,” provides that a firm must “[c]over the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering. Ground containment measures may stop at the edge of the vertical barrier when using a vertical containment system.”
58. At the time of the May 12, 2017 unannounced site inspection performed at the single-family residential target housing Property located at 149 North Main Street, Yardley, PA, an EPA Inspector observed that the Respondent was then engaged in the performance of exterior renovation activities at the Property and that: the ground beneath the work areas were covered only by canvas tarps; no plastic sheets were being used; and that paint chips were present on the ground, beyond the areas covered by canvas tarps.
59. Respondent’s May 12, 2017 failure to cover the ground around the single-family residential target housing Property located at 149 North Main Street, Yardley, PA with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces then undergoing renovation by the Respondent, or a sufficient distance to collect falling paint debris, constitutes a failure on the part of the Respondent to then comply with an applicable RRP Rule requirement of 40 C.F.R. § 745.85(a)(2)(ii)(C) and a violation of 40 C.F.R. §745.87(a) and of Section 409 of TSCA, 15 U.S.C. § 2689.

VI. CIVIL PENALTY

60. In settlement of EPA’s claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Five Thousand Five Hundred and Forty-Five Dollars (\$5,545.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
61. The Parties represent that the settlement terms are reasonable and are based upon EPA’s consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent’s ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to 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 (“LBP Consolidated ERPP”), dated August 2010 and updated April 5, 2013. Complainant has also considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, the January 11, 2018 and the subsequent March 4, 2019 Memoranda by EPA Assistant Administrator Susan Parker Bodine, respectively entitled *Amendments to the EPA’s Civil Penalty Policies to Account for Inflation (Effective January 15, 2018)* and *Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*, and *Transmittal of the 2019 Civil Monetary Penalty Inflation Adjustment Rule*. The Parties further acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis in which Complainant has concluded that the Respondent meets the eligibility criteria and methodology to qualify for reduced penalties pursuant to the *LBP Consolidated ERPP’s* September 20, 2019 addendum, entitled *Lead-based Paint Graduated Penalty Approach Policy for Small-Scale Businesses (“GPA Policy”)*. This analysis was based upon financial information submitted to Complainant by Respondent and upon which Complainant has herein relied.

62. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2020-0020**;
- b. All checks shall be made payable to the “**United States Treasury**”;
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent’s check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

A.J. D'Angelo, Esq.
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029
e-mail: dangelo.aj@epa.gov

63. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest 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. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
64. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
65. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties 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).
66. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.
67. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

68. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

VII. GENERAL SETTLEMENT CONDITIONS

69. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
70. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent is aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

VIII. CERTIFICATION OF COMPLIANCE

71. Respondent certifies to EPA, upon personal investigation and to the best of his knowledge and belief, that he currently is in compliance with regard to the violations alleged in this Consent Agreement.

IX. OTHER APPLICABLE LAWS

72. Nothing in this CAFO shall relieve Respondent of his obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of TSCA, or any regulations promulgated thereunder.

X. RESERVATION OF RIGHTS

73. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. 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. 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*, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

XI. EXECUTION /PARTIES BOUND

74. This CAFO shall apply to and be binding upon the EPA, the Respondent and his employees, successors, agents and assigns. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

XII. EFFECTIVE DATE

75. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the *Consolidated Rules of Practice*.

XIII. ENTIRE AGREEMENT

76. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

For Respondent, European Brothers, Inc.:

Date: 10/22/19

By: Alex Yudenko
Alexander Yudenko
President


In the Matter of:
European Brothers, Inc.

Consent Agreement
Docket No. TSCA-03-2020-0020

For the Complainant:


After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: NOV 4 2019

By: 
Karen Melvin
Director Enforcement and Compliance Assurance Division
U.S. EPA - Region III

Attorney for Complainant:

Date: 10/29/2019

By: 
A.J. D'Angelo
Sr. Assistant Regional Counsel
U.S. EPA - Region III

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

In the Matter of:	)	Docket No.: TSCA-03-2020-0020
)	
European Brothers, Inc.	)	<small>U.S. EPA-REGION 3-RHC FILED-6NOV2019AM10:29</small>
a/d/b/a European Brothers	)	Proceeding Under Sections 16(a) and
429 Merle Way	)	409 of the Toxic Substances Control
Feasterville, PA 19053,	)	Act, 15 U.S.C. §§ 2615(a) and 2689.
)	
RESPONDENT.)	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, European Brothers, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement 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 of Practice*"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

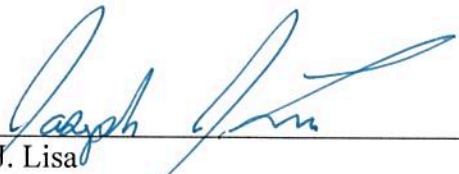
Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), together with EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2010; updated April 5, 2013) and its September 20, 2019 *Lead-based Paint Graduated Penalty Approach Policy for Small-Scale Businesses* addendum, as well as the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the related January 11, 2018 and March 4, 2019 Memoranda by EPA Assistant Administrator Susan Parker Bodine.

NOW, THEREFORE, PURSUANT TO Sections 16(a) and 409 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615(a) and 2689, with respect to violations of with respect to violations of the Residential Property Renovation requirements of 40 C.F.R. Part 745, Subpart E, and Section 22.18(b)(3) of the *Consolidated Rules of Practice*, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of *Five Thousand Five Hundred and Forty-Five Dollars (\$5,545.00)*, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the RLBPHRA, TSCA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Nov. 6, 2019
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

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

In the Matter of:) Docket No.: TSCA-03-2020-0020
)
European Brothers, Inc.)
a/d/b/a European Brothers) Proceeding Under Sections 16(a) and
429 Merle Way) 409 of the Toxic Substances Control
Feasterville, PA 19053,) Act, 15 U.S.C. §§ 2615(a) and 2689.
)
RESPONDENT.)

CERTIFICATE OF SERVICE

I certify that on NOV 06 2019, the original and one (1) copy of foregoing *Consent Agreement* and of the associated *Final Order*, each were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served true and correct copies of the same to each of the following persons, in the manner specified below, at the following addresses:

Copies served via **Certified Mail, Return Receipt Requested, Postage Prepaid, (Article No. 7001 2510 0001 1042 9474)**, to the following person at the following address:

Mr. Alexander Granovsky, Esq.
Granovsky Law Offices
9831 Bustleton Ave., Suite #2
Philadelphia, PA 19115
(Counsel for Respondent)

Copies served via **Hand Delivery or Inter-Office Mail** to:

A.J. D'Angelo, Esq.
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
5th Floor, Office #110
Philadelphia, Pennsylvania 19103-2029
(Attorney for Complainant)

NOV 06 2019

Date

Beverly Esposito
Regional Hearing Clerk (3RC00)
Office of Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029