

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Philip Yeany 11/XX/11
Name of Contact person *Date*

in the Office of Regional Counsel, Region III, 215-814-2495

- | | |
|---|---|
| <input type="checkbox"/> Non-SF Jud. Order/Consent Decree. DOJ COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement FMD COLLECTS PAYMENT |
| <input type="checkbox"/> SF Jud. Order/Consent Decree. FMD COLLECTS | |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> This is a modification |

Name of Company making payment: Wyomissing Park Apartments

The Total Dollar Amount of Receivable: \$ 26,880.00
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number: TSCA-03-2012-0020

The Site-Specific Superfund Acct. Number _____
The Designated Regional/HQ Program Office Region III Land and Chemicals Division, Toxics Program Branch /

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____
Name of Contact *Date*

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|---|
| 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005 | 2. Originating Office (ORC)
3. Designated Program Office |
|--|---|

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|--|------------------------------|
| 1. Originating Office
3. Regional Hearing Clerk | 2. Designated Program Office |
|--|------------------------------|



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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jestyn G. Payne, Esquire
Kozloff Stoudt
Professional Corporation
2640 Westview Drive
Wyomissing, PA 19610

December 22, 2011

Re: In The Matter of
Wyomissing Park Apartments

Dear Jestyn:

I have enclosed a copy of the executed Administrative Order on Consent and the Consent Agreement and Final Order (CAFO) as well as the cover memorandum to the Regional Judicial Officer. Note that under the terms of the CAFO, the CAFO becomes effective on the filing date, which was today. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue.

If you have questions about this matter, please contact me at (215) 814-2495

Sincerely,

A handwritten signature in cursive script that reads "Philip Yeany".

Philip Yeany
Senior Assistant
Regional Council

Enclosures

cc: Craig Yussen, EPA (w/o enclosures)



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

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Attn: Heather Russell

December 22, 2011

Re: In The Matter of
Wyomissing Park Apartments
EPA Docket No. TSCA-03-2012-0020

Dear Mr. Lehman:

I have enclosed a copy of the Consent Agreement and Final Order as well as the Enforcement Accounts Receivable Control Number Form for the above-cited case. If you have any questions about this matter, my number is 215-814-2495.

Sincerely yours,

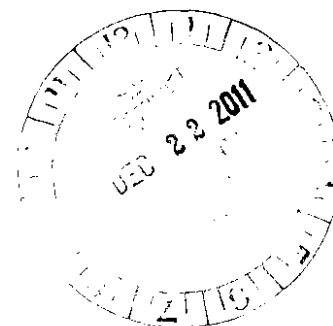
A handwritten signature in cursive script, appearing to read "Philip Yeany".

Philip Yeany
Senior Assistant
Regional Counsel

Enclosures

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

In the Matter of:	:	Consent Agreement and
	:	Final Order
Wyomissing Park Apartments	:	
1401 Pershing Boulevard	:	U.S. EPA Docket No.
Reading, PA 14607-1485,	:	
	:	TSCA-03-2012-0020
Respondent,	:	
	:	
Wyomissing Park Apartments	:	
1401 Pershing Boulevard	:	
Reading, PA 14607-1485,	:	
	:	
Target Housing.	:	



CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA” or “Agency”) and Wyomissing Park Apartments (“Respondent”), pursuant to Sections 409 and 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2689 and 2615(a), the federal regulations set forth at 40 C.F.R. Part 745, 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), 22.18(b)(2), and (3)).

2. The violations cited herein pertain to the Respondent’s alleged failure, as owner and lessor of certain housing, to comply with the requirements of 40 C.F.R. Part 745, Subpart F; Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act (“RLBPHRA”), 42 U.S.C. § 4852d(b)(5); and Section 409 of TSCA, 15 U.S.C. § 2689.

3. In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA’s civil claims alleged in Section IV (“Findings of Fact and Conclusions of Law”) of this Consent Agreement.

II. JURISDICTION

4. The U.S. Environmental Protection Agency and EPA, Region III's Regional Judicial Officer 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 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.

III. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the "CAFO."

6. Except as provided in Paragraph 5 of this Consent Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement.

7. 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.

8. 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.

9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

10. Each Party to this Consent Agreement shall bear its own costs and attorney's fees in connection with this proceeding.

11. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b), 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. 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.”

14. 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.

15. The Respondent is and, at all times relevant to the violations alleged in this Consent Agreement, was the “owner” and “lessor” of the following “residential dwelling[s],” as those terms are defined at 40 C.F.R. § 745.103, located at 1401 Pershing Boulevard, Reading, Pennsylvania, and listed below:

Counts	Lease Transaction Number and Property Address	Contract to Lease Date
1, 14, 27, 40, 53	Lease Transaction Number 1 - Apartment Number 309, 1400 Ridge Avenue, Reading, PA 14607-1485	10/15/08
2, 15, 28, 41, 54	Lease Transaction Number 2 - Apartment Number 113, 1401 Pershing Boulevard, Reading, PA 14607-1485	06/17/09
3, 16, 29, 42, 55	Lease Transaction Number 3 - Apartment Number 307, 1400 Ridge Avenue, Reading, PA 14607-1485	07/15/09
4, 17, 30, 43, 56	Lease Transaction Number 4 - Apartment Number 315, 1400 Ridge Avenue, Reading, PA 14607-1485	06/24/08
5, 18, 31, 44, 57	Lease Transaction Number 5 - Apartment Number 405, 1401 Pershing Boulevard, Reading, PA 14607-1485	05/17/07
6, 19, 32, 45, 58	Lease Transaction Number 6 - Apartment Number 314, 1400 Ridge Avenue, Reading, PA 14607-1485	07/10/09
7, 20, 33, 46, 59	Lease Transaction Number 7 - Apartment Number 313, 1400 Ridge Avenue, Reading, PA 14607-1485	06/05/07
8, 21, 34, 47, 60	Lease Transaction Number 8 - Apartment Number 405, 1400 Ridge Avenue, Reading, PA 14607-1485	04/29/08
9, 22, 35, 48, 61	Lease Transaction Number 9 - Apartment Number 410, 1400 Ridge Avenue, Reading, PA 14607-1485	05/09/07
10, 23, 36, 49, 62	Lease Transaction Number 10 - Apartment Number 404, 1401 Pershing Boulevard, Reading, PA 14607-1485	05/11/09
11, 24, 37, 50, 63	Lease Transaction Number 11 - Apartment Number 409, 1400 Ridge Avenue, Reading, PA 14607-1485	11/28/06
12, 25, 38, 51, 64	Lease Transaction Number 12 - Apartment Number 209, 1401 Pershing Boulevard, Reading, PA 14607-1485	12/29/08
13, 26, 39, 52, 65	Lease Transaction Number 13 - Apartment Number 415, 1401 Pershing Boulevard, Reading, PA 14607-1485	03/13/09

16. The residential dwellings referred to in Paragraph 15, above, were constructed prior to 1978 and are "target housing" as that term is defined at 40 C.F.R. § 745.103. Said residential dwellings are hereinafter referred to as the "Target Housing."

17. Pursuant to 40 C.F.R. § 745.103, the term "lead-based paint" means "paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter [mg/cm²] or 0.5 percent by weight."

18. Each contract to lease the Target Housing did not involve:

(1) a "[s]ale[] of target housing at foreclosure," as provided at 40 C.F.R. § 745.101(a);

(2) a "[l]ease[] of target housing . . . found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program," as provided at 40 C.F.R. § 745.101(b);

(3) a "[s]hort-term lease[] of 100 days or less, where no lease renewal or extension can occur," as provided at 40 C.F.R. § 745.101 (c); or

(4) a "[r]enewal[] of [an] existing lease[] . . . in which the lessor has previously disclosed all information required under § 745.107 and where no new information described in § 745.107 has come into the possession of the lessor," as provided at 40 C.F.R. § 745.101(d).

19. Lessees moved into, and resided at, the Target Housing units during the terms of the contracts to lease said Target Housing.

20. At the time that the relevant contracts to lease said Target Housing were executed, and at all times relevant to the violations alleged herein, the lessees of such Target Housing unit(s) were "lessees" of the Target Housing, as that term is defined in 40 C.F.R. § 745.103.

COUNTS 1-13

21. All previous paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

22. Pursuant to 40 C.F.R. § 745.113(b)(1), the lessor is required to include, either as an attachment or within the contract to lease Target Housing, a Lead Warning Statement in strict accordance with the language provided therein.

23. The contracts for Lease Transactions Nos. 1 through 13 cited in Paragraph 15, above, did not include, as an attachment or within such contract a Lead Warning Statement containing, verbatim, language set forth in and required by 40 C.F.R. § 745.113(b)(1).

24. Respondent's failure to comply with 40 C.F.R. § 745.113(b)(1) by not including, either as an attachment or within the contracts for Lease Transactions Nos. 1 through 13, a Lead Warning Statement, constitutes thirteen separate violations of 40 C.F.R. § 745.113(b)(1); RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5); and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 14-26

25. All previous paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

26. Pursuant to 40 C.F.R. § 745.113(b)(2), the lessor is required to include, either as an attachment to or within the contract for lease, a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or lessor's lack of knowledge of such presence.

27. The contracts for Lease Transactions Nos. 1 through 13 cited in Paragraph 15, above, did not include, as an attachment to or within such contracts, a statement disclosing the presence of known lead based paint and/or lead based paint hazards in the Target Housing or a statement indicating no knowledge of the presence of lead based paint and/or lead based paint hazards in the Target Housing.

28. Respondent's failure to comply with 40 C.F.R. § 745.113(b)(2) by not including, either as an attachment to or within the contracts for Lease Transactions Nos. 1 through 13, a statement disclosing the presence of lead-based paint and/or lead-based paint hazards in the Target Housing that was the subject of such contracts, or the Respondent's lack of knowledge of such presence, constitutes thirteen separate violations of 40 C.F.R. § 745.113(b)(2); RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5); and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 27-39

29. All previous paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

30. Pursuant to 40 C.F.R. § 745.113(b)(3), the lessor is required to include, either as an attachment or within the contract to lease the Target Housing, a list of records or reports which were available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or to indicate that no such records or reports were available.

31. The contracts for Lease Transactions Nos. 1 through 13 cited in Paragraph 15, above, did not include, as an attachment or within each such contract, a list of records or reports which were available to the lessor pertaining to lead-based paint or lead-based

paint hazards in the Target Housing that was provided to the lessees or did not indicate that no such records or reports were available.

32. Respondent's failure to comply with 40 C.F.R. § 745.113(b)(3) by not including, either as an attachment or within the contracts for Lease Transactions Nos. 1 through 13, a list of records or reports which were available to the lessor pertaining to lead-based paint or lead-based paint hazards in the Target Housing that were provided to the lessees or not indicating that no such records or reports were available, constitutes thirteen separate violations of 40 C.F.R. § 745.113(b)(3); RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5); and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 40-52

33. All previous paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

34. Pursuant to 40 C.F.R. § 745.113(b)(4), the lessor is required to include, either as an attachment or within the contract to lease Target Housing, a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686.

35. The contracts for Lease Transactions Nos. 1 through 13 cited in Paragraph 15, above, did not include, as an attachment or within each such contract, a statement by the lessees affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686.

36. Respondent's failure to include either as an attachment or within the contracts for Lease Transactions Nos. 1 through 13, a statement by the lessees affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686 constitutes thirteen separate violations of 40 C.F.R. § 745.113(b)(4); RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5); and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 53-65

37. All previous paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

38. Pursuant to 40 C.F.R. § 745.113(b)(6), the lessor is required to include, either as an attachment or within the contract to lease the Target Housing, the signatures of the lessor, agent and lessee certifying to the accuracy of their statements, as well as dates of signature.

39. The contracts for Lease Transactions Nos. 1 through 13 cited in Paragraph 15, above, did not include, either as an attachment to or within such contracts, the signatures of the lessor, agent and lessee certifying to the accuracy of his/her statements, as well as date of signature.

40. Respondent's failure to include either as an attachment to or within the contracts for Lease Transactions Nos. 1 through 13, the signatures of the lessor, agent, and lessee certifying to the accuracy of their statements, as well as dates of signature, constitutes thirteen separate violations of 40 C.F.R. § 745.113(b)(6); RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5); and TSCA Section 409, 15 U.S.C. § 2689.

V. CIVIL PENALTY

41. Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), authorize the Administrator of EPA to assess a penalty not to exceed \$ 10,000 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, as amended, and its implementing regulation, the *Adjustment of Civil Monetary Penalties for Inflation* Rule, codified at 40 C.F.R. Part 19, EPA has subsequently raised the maximum civil penalty to \$ 16,000 per violation.

42. In this matter, 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 twenty-six thousand eight hundred eighty dollars (\$26,880.00) which Respondent shall be liable to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.

43. 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. EPA applied these factors to the particular facts and circumstances of this case with specific reference to EPA's *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy* ("December 2007 ERPP"). In applying these factors, EPA took into account that the last amendment to 40 C.F.R. Part 19 (See 73 Fed. Reg. 75340 (2008)) and the December 29, 2008, memorandum by EPA Assistant Administrator Granta Y. Nakayama entitled, *Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule*, modified the *December 2007 ERPP* and authorized EPA to assess penalties larger than those stated in the *December 2007 ERPP*'s appended matrices.

44. Payment of the civil penalty amount assessed in Paragraph 42, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, i.e., TSCA-03-2012- 0020;

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 for delivery 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 or
Craig Steffen 513-487-2091

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:

In Re: Wyomissing Park
Apartments
TSCA-03-2012-0020

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 the following internet address:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm

J. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Philip Yeany
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

45. 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 or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

46. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of the 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).

47. The costs of EPA's administrative handling of overdue debts is charged and assessed monthly throughout the period the 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 fifteen dollars (\$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 fifteen dollars (\$15.00) for each subsequent thirty (30) days the penalty remains unpaid.

48. A penalty charge of six (6) 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).

49. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

VI. EFFECT OF SETTLEMENT

50. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties that Complainant may have under TSCA and/or the RLBPHRA for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law"), above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VII. OTHER APPLICABLE LAWS

51. Nothing in this CAFO shall relieve the Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VIII. CERTIFICATION OF COMPLIANCE

52. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that such Respondent, as an "owner" and "lessor" of the aforementioned Target

Housing, is currently in compliance with the provisions of TSCA, the RLBPHRA and 40 C.F.R. Part 745, Subpart F, that are referenced in this Consent Agreement.

IX. RESERVATION OF RIGHTS

53. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law") herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition that 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 TSCA, the RLBPHRA, 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 EPA Regional Hearing Clerk.

X. PARTIES BOUND

54. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA and the Respondent. By his signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

XI. EFFECTIVE DATE

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

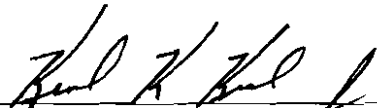
XII. ENTIRE AGREEMENT

56. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims 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.

In Re: Wyomissing Park
Apartments
TSCA-03-2012-0020

For Respondent:

Date: _____



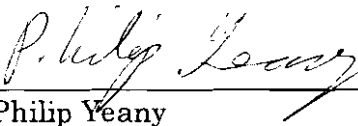
Kermit K. Krick, Jr.
General Manager

[name of contact]
Wyomissing Park Apartments

In Re: Wyomissing Park
Apartments
TSCA-03-2012-0020

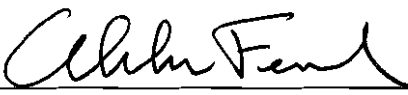
For Complainant:

Date: 11/30/11


Philip Yeany
Senior Assistant
Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12/7/11


Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA Region III

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

<u>In the Matter of:</u>	:	Consent Agreement and
	:	Final Order
Wyomissing Park Apartments	:	
1401 Pershing Boulevard	:	U.S. EPA Docket No.
Reading, PA 14607-1485,	:	
	:	TSCA-03-2012-0020
Respondent,	:	
	:	
Wyomissing Park Apartments	:	
1401 Pershing Boulevard	:	
Reading, PA 14607-1485,	:	
	:	
<u>Target Housing.</u>	:	

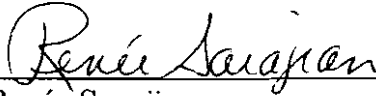
FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned Respondent 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*, 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

WHEREFORE, Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, and 40 C.F.R. Part 745, Subpart F, authorize the assessment of a civil penalty under Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of the RLBPHRA, and having determined, based on the representations of the parties to the attached Consent Agreement, that the agreed-upon twenty-six thousand eight hundred eighty dollar (\$26,880.00) civil penalty was based upon 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 twenty-six thousand eight hundred eighty dollars (\$26,880.00) in accordance with the payment provisions set forth in the attached Consent Agreement. The effective date of the foregoing

Consent Agreement and this FINAL ORDER is the date on which this FINAL ORDER is filed with the EPA Regional Hearing Clerk.

Date: 12/20/11



Renée Sarajian
Regional Judicial Officer
U.S. EPA - Region III

Signed after all the parties signed

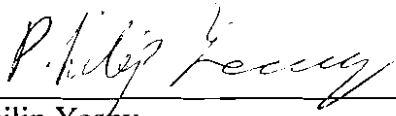
CERTIFICATE OF SERVICE

I hereby certify that on this day, I filed with the Regional Hearing Clerk, EPA Region III, the original Consent Agreement and Final Order. I sent a copy of these documents to the following individual in the manner described below:

By certified mail, return receipt requested:

Jestyn G. Payne, Esq.
Kozloff Stoudt Attorneys
2640 Westview Drive
Wyomissing, PA 19610

Date: 12/22/11



Philip Yeany
Senior Assistant Regional Counsel
US EPA Region III



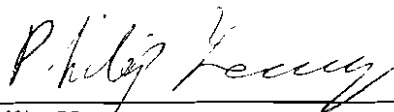
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Kozloff Stoudt Attorneys
2640 Westview Drive
Wyomissing, PA 19610

Date: 12/22/11



Philip Yeany
Senior Assistant Regional Counsel
US EPA Region III

