

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for William D. Chin 6/10/09  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number TSCA-01-2008-0107

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

NRT New England LLC and  
Coldwell Banker Real Estate Services, Inc.

Total Dollar Amount of Receivable \$ 66,700 Due Date: 7/10/09

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number



RECEIVED

2009 JUN 10 A 9:14

June 10, 2009

REGIONAL  
OFFICE OF  
HEARING CLERK

**Via Hand Delivery**

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, MA 02114-2023

RE: In the Matter of: NRT New England LLC and Coldwell Banker Real Estate  
Services, Inc,  
Docket No. TSCA-01-2008-0107

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

William D. Chin  
Enforcement Counsel

Enclosures

cc: Judge William B. Moran  
Richard J. Shea, Esq.  
Alexandra R. Power, Esq.

In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, Inc.,  
Docket No. TSCA-01-2008-0107

**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following persons on the date noted below.

Original and one copy, by hand-delivery, to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, MA 02114-2023

One copy by fax and pouch mail to:

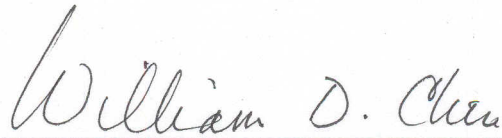
Judge William B. Moran  
U.S. EPA  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.,  
Mail Code: 1900L  
Washington, D.C. 20460

Two originals by Certified Mail,  
Return Receipt Requested, to:

Richard J. Shea, Esq.  
Alexandra Power, Esq.  
Melick, Porter & Shea, LLP  
28 State Street  
Boston, MA 02109

Dated: \_\_\_\_\_

6/10/08



William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, MA 02114-2023



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

June 10, 2009

2009 JUN 10 A 9:14

Via Fax and Pouch Mail

Judge William B. Moran  
U.S. EPA  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
Mail Code: 1900L  
Washington, D.C. 20460

U.S. EPA  
OFFICE OF  
REGIONAL HEARING CLERK

RE: In the Matter of NRT New England LLC and Coldwell Banker Real Estate  
Services, Inc.  
Docket No. TSCA-01-2008-0107

Dear Judge Moran:

Per your request during the May 13, 2009 ADR conference call for the above-referenced matter, please find enclosed a copy of the fully-executed Consent Agreement and Final Order ("CAFO") resolving this matter that was filed today with the Regional Hearing Clerk.

If you have any further questions on this matter, please feel free to contact me at 617-918-1728.

Sincerely,

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1

cc: Richard J. Shea, Esq.  
Alexandra Power, Esq.  
Wanda Santiago, Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

2009 JUN 10 A 9:14

In the Matter of: )  
)  
NRT New England LLC )  
(f/k/a NRT New England Incorporated) )  
d/b/a Coldwell Banker Real Estate Brokerage )  
)  
and )  
)  
Coldwell Banker Real Estate Services, Inc. )  
d/b/a Coldwell Banker Real Estate Brokerage )  
)  
Respondents. )  
)  
Proceeding under Section 16(a) of the )  
Toxic Substances Control Act, )  
42 U.S.C. § 2615(a). )

Docket No. )  
TSCA-01-2008-0107 )  
CLERK

**CONSENT AGREEMENT  
AND FINAL ORDER**

**CONSENT AGREEMENT**

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. § 22.18 of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”).

**I. INTRODUCTION**

2. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, initiated this proceeding against Respondents, NRT New England LLC (“NRT NE”) and Coldwell Banker Real Estate Services, Inc. (“CBRES”), by issuing a

Complaint and Notice of Opportunity for Hearing (“Complaint”), pursuant to Section 16(a) of TSCA, on September 25, 2008.

3. The complete factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint.

## II. TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on Respondents, their officers, directors, successors and assigns.

5. Respondents agree that EPA has jurisdiction over the subject matter alleged in the Complaint, and hereby waive any defenses they might have as to jurisdiction and venue.

6. Respondents acknowledge that they have been informed of their right to request a hearing in this proceeding, and hereby waive their right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

7. Respondents hereby waive their right to appeal the Final Order accompanying this Consent Agreement.

8. Without admitting or denying the facts and violations alleged in the Complaint, Respondents consent to the terms and the issuance of this CAFO, and consent, for the purposes of settlement, to the payment of the civil penalty as set forth in this CAFO.

9. Respondents certify that they are presently in compliance with Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled “Disclosure of Known Lead-Based Paint and/or Lead-Based Paint

Hazards Upon Sale or Lease of Residential Property,” as set forth at 40 C.F.R. Part 745, Subpart F.

10. After consideration of the nature of the violations alleged in the Complaint and other relevant factors, Complainant has determined that it is fair and proper that Respondents pay a civil penalty in the amount of \$66,700 in settlement of this matter.

Penalty Payment

11. Respondents shall pay the civil penalty set forth in this CAFO in full by no later than thirty (30) days after the effective date of this CAFO.

12. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

13. Respondents shall make the penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

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

Respondents shall note the case name (“In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, Inc.”) and the docket number (“TSCA-01-2008-0107”) of this action on the payment check and in an accompanying cover letter, and shall provide copies of the check and letter to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (RAA)  
Boston, MA 02114-2023

and to:

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (SEL)  
Boston, MA 02114-2023

14. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid within 30 calendar days of the effective date of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

15. The civil penalty described in Paragraph 10, and any interest, non-payment penalties, and/or other charges as described in Paragraph 14, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

Additional Provisions

16. Compliance with this CAFO, including payment of any penalties, interest, and/or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive,



suspend, or modify the responsibility of Respondents to comply with such laws and regulations.

17. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA for the specific violations alleged in this CAFO.

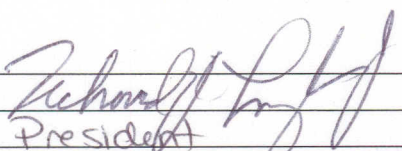
Nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondents' facility/facilities that may present an imminent and substantial endangerment to public health or the environment. Nor shall this CAFO be construed to, nor is it intended to operate in any way to, resolve any criminal liability or any other civil liability of Respondents.

18. Except as described in Paragraph 14, each party shall bear its own costs and fees in this proceeding.

19. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

THE UNDERSIGNED PARTY enters into this CAFO for *In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, Inc.*, Docket No. TSCA-01-2008-0107.

For NRT New England LLC:

Name:   
Title: President  
Company: NRT New England LLC  
→ Richard J. Loughlin, Jr.

Date 5/21/08

THE UNDERSIGNED PARTY enters into this CAFO for *In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, Inc.*, Docket No. TSCA-01-2008-0107.

For Coldwell Banker Real Estate Services, Inc.:

Robert J. McCawley      5/26/09  
Name: ROBERT J. MCCAWLEY      Date  
Title: V.P., REGIONAL COUNSEL  
Company: COLDWELL BANKER REAL ESTATE SERVICES, INC.

THE UNDERSIGNED PARTY enters into this CAFO for *In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, Inc.*, Docket No. TSCA-01-2008-0107.

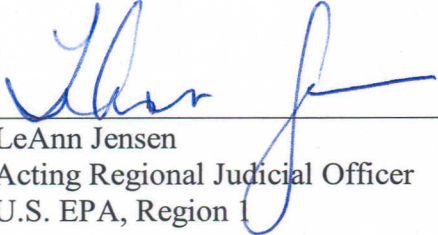
For U.S. EPA, Region 1:

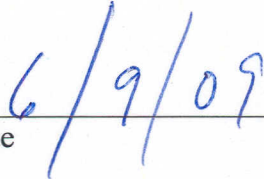
Sam Silverman, acting for  
Susan Studien  
Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

6-8-09  
Date

### III. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

  
\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

  
\_\_\_\_\_  
Date