



MAY 18 2011

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL PROTECTION AGENCY  
2011 MAY 19 P 2 25  
REGIONAL HEARINGS  
CLERK

CERTIFIED MAIL --  
RETURN RECEIPT REQUESTED

Paul Dalmazio, Manager  
Dal Realty Management Corporation  
2269 65<sup>th</sup> Street  
Brooklyn, NY 11204

Re: Dal Realty Management Corporation, Docket No. TSCA-02-2010-9271

Dear Mr. Dalmazio,

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the United States Environmental Protection Agency.

Please note that payment is due within forty-five (45) days of the date on which the Regional Judicial Officer signed the enclosed Consent Agreement and Final Order. Please arrange for payment of this penalty according to the schedule and instructions given in the Order.

Sincerely yours,

Stuart N. Keith  
Assistant Regional Counsel  
Waste & Toxic Substances Branch  
Office of Regional Counsel

Enclosures

cc: Karen Maples  
Regional Hearing Clerk

Hon. Susan L. Biro  
Chief Administrative Law Judge

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

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In the Matter of	:
	:
<b>Dal Realty Management Corporation,</b>	:
	:
	:
	:
	:
Respondent.	:
	:
	:
Proceeding under Section 16(a) of	:
the Toxic Substances Control Act.	:
----- X	

**CONSENT AGREEMENT AND  
FINAL ORDER**

Docket No.  
TSCA-02-2010-9271

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
2011 MAY 19 P 2:25  
REGIONAL HEARINGS  
SECTION

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a). On September 29, 2010, Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (“EPA”), issued a Complaint and Notice of Opportunity for Hearing to Dal Realty Management Corporation (“Respondent”), with a primary place of business located at 2269 65<sup>th</sup> Street, Brooklyn, New York 11204.

The Complaint alleged that Respondent, acting as an agent, failed to ensure compliance with 40 C.F.R. Sections 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), 745.113(b)(4) and 745.113(b)(6) in 2007 and 2008, by leasing target housing without providing: a lead warning statement; a statement disclosing any knowledge of lead-based paint; a list of any existing records or reports pertaining to lead-based paint; a statement by the lessee affirming receipt of the above information; and obtaining signatures and the dates of signature of the lessors, agents, or

lessees certifying to the accuracy of their statements. These failures or refusals, by an agent, to ensure compliance with the regulations cited constitute failures or refusals to comply with 40 C.F.R. § 745.115(a)(2), which are violations of 42 U.S.C. Section 4852d(b)(5) and § 409 of TSCA, 15 U.S.C. § 2689.

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. Section 22.18(b)(2) and (3) of the revised Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. EPA alleges that Respondent, acting as an agent, leased target housing apartments to numerous tenants between 2007 and 2008 as set forth in the Complaint described above.

2. EPA alleges that Respondent leased target housing without providing or ensuring the provision of a lead warning statement, a statement disclosing any knowledge of lead-based paint, a list of any existing records or reports pertaining to lead-based paint, a statement by the lessee affirming receipt of the above information, and without completing certification statements by the lessor, agent or lessee.

3. EPA alleges that based on the failures described above, Respondent committed violations of 40 C.F.R. Section 745.115(a), which are violations of 42 U.S.C. Section 4852d(b)(5) and Section 409 of TSCA, 15 U.S.C. § 2689.

## CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed, and accepted by Respondent that it shall hereafter the effective date of the Final Order incorporating this Consent Agreement comply with the following terms:

1. Respondent shall comply with the applicable requirements of TSCA, and its implementing regulations set forth at 40 C.F.R. Part 745, Subpart F, with respect to all target housing it leases, sells, or acts as an agent in a lease or sale.

2. For the purposes of this proceeding, Respondent: (a) admits the jurisdictional allegations of the Complaint; and (b) neither admits nor denies the specific factual allegations in the Complaint; and (c) neither admits nor denies the Findings of Fact and Conclusions of Law in this Consent Agreement.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Fifteen Thousand Seventy-Five Dollars (\$ 15,075.00)**, payable to the "**Treasurer, United States of America**". The check shall be identified with a notation of the name and docket number of this case as follows:

In the Matter of Dal Realty Management Corporation, Docket No. TSCA-02-2010-9271

The check shall be mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center

P.O. Box 979077  
St. Louis, MO 63197-9000

Respondent shall also send copies of the payment to each of the following:

Stuart N. Keith, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Payment must be received at the above address on or before forty five (45) calendar days after the date of signature of the Final Order, which is located at the end of this CA/FO and shall hereafter be referred to as “due date”. Payment which is untimely or not made is subject to the following penalties:

- a. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- b. Furthermore, if payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of

fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.

- c. A 6% per annum penalty also will be applied on any principal amount not paid within ninety (90) days of the due date.
- d. The effective date of this Consent Agreement and Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. E.P.A. Region 2, New York, New York.

4. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, nor shall it be construed to constitute EPA approval of any equipment, technology or structure installed or constructed by Respondent under the terms of this Agreement.

5. This Consent Agreement and Final Order is being voluntarily and knowingly entered into by the parties to resolve (conditional on full payment of the civil penalty herein and upon the accuracy of Respondent's representations to EPA) the civil and administrative claims in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

6. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

7. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

9. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussion with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, the Deputy Regional Administrator, or the Regional Judicial Officer, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

11. Each party hereto agrees to bear its own costs and fees in this matter.

12. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

**In the Matter of Dal Realty Management Corporation, Docket No. TSCA-02-2010-9271**

RESPONDENT:

**Dal Realty Management Corporation**

BY: Paul Dalmazio  
(Authorized Signature)

NAME: PAUL DALMAZIO  
(PLEASE PRINT)

TITLE: CEO

DATE: 5/9/11

COMPLAINANT:

Dore LaPosta

**Dore LaPosta, Director**  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, NY 10007

DATE: MAY 13 2011



**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 16(a) of the Toxic Substances Control Act and 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Helen S. Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, NY 10007

DATE: May 17, 2011

**In the Matter of Dal Realty Management Corporation, Docket No. TSCA-02-2010-9271**

**CERTIFICATE OF SERVICE**

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk.  
U.S. EPA- Region II  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

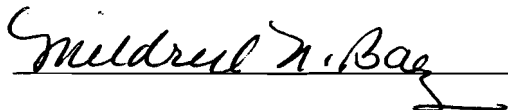
Copy by Pouch Mail:

The Honorable Susan L. Biro, Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., Mail Code 1900L  
Washington, DC 20460

Copy by Certified Mail Return Receipt Requested:

Paul Dalmazio, Manager  
Dal Realty Management Corporation  
2269 65<sup>th</sup> Street  
Brooklyn, NY 11204

Dated: **MAY 18 2011**  
New York, New York

  
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