

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency Region 2  
2016 JUL 20 AM 6:10  
REGIONAL HEARING  
COURT

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In the Matter of :  
 :  
Chelsea Road Realty, LLC :  
and :  
Associated Environmental Services, Ltd., :  
 :  
Respondents. :  
 :  
Proceeding under Section 16(a) of :  
the Toxic Substances Control Act. :  
-----X

CONSENT AGREEMENT  
AND  
FINAL ORDER

Docket No.  
TSCA-02-2016-9202

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). 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 (July 1, 2000) (hereinafter "Consolidated Rules"), provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA" or "Complainant"), alleges that Chelsea Road Realty, LLC ("Chelsea Road") and Associated Environmental Services, Ltd. ("Associated Environmental") (collectively referred to as "Respondents") violated Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), and the regulations

6. PCB remediation waste from the facility was disposed in a manner not authorized under 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii).

7. On February 3, 2016 the parties met for an informal settlement conference.

#### CONCLUSIONS OF LAW

1. Each Respondent is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.

2. Each Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.

3. Failure to notify EPA 30 days to the initiation of a PCB remediation is a violation of 40 C.F.R. § 761.61(a)(3), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C), respectively.

4. Failure to identify PCB waste submitted for off-site disposal on EPA Manifest Form 8700-22 is a violation of 40 C.F.R. § 761.207(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).

5. Disposal of PCB remediation waste in a manner not authorized under 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii) is a violation of 40 C.F.R. § 761.60(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e) and 2614(1)(C).

6. Chelsea Road and/or Associated Environmental is/are liable to the United States pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1) for the violation(s) described in paragraphs 3 through 5, above.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondents, that each Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Each Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.
2. For the purposes of this Consent Agreement, each Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations alleged in the "Conclusions of Law" section above; (b) neither admits nor denies the specific factual allegations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "Conclusions of Law" section, above.
3. In accordance with paragraph 4 in the "Conclusions of Law" section, above, Respondents shall collectively pay, by cashier's or certified check, a civil penalty in the amount of **THIRTY FOUR THOUSAND EIGHTY FIVE DOLLARS (\$34,085)** to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, Missouri 63197-9000



Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondents shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date"). Promptly after payment has been made, Respondents shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

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

and

Ann Finnegan, Life Scientist  
 Pesticides and Toxic Substances Branch  
 2890 Woodbridge Avenue, MS-105  
 Edison, New Jersey 08837

- a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, 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 \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. In addition to payment of the penalty described in paragraph 3, above, Respondent Chelsea Road, as owner of the facility, agrees to timely address existing PCB contamination on the facility, which the parties agree is intended to secure environmental or public health protection and improvements.

(a) Within six (6) months of the date this Agreement is signed by the EPA Regional Judicial Officer, Respondent Chelsea Road shall submit to EPA a plan for remediation of all existing PCB contamination on the facility (hereinafter "the PCB Remediation Plan"). This work must be conducted in compliance with the specifications and requirements at 40 C.F.R. § 761.61.

(b) Respondent Chelsea Road agrees that failure to timely submit the PCB Remediation Plan required by subparagraph (a), above, shall be deemed a violation of this Consent Agreement and Final Order, and Respondent Chelsea Road shall become liable for stipulated penalties. Respondent Chelsea Road shall pay a stipulated penalty in the amount of \$ 50.00 for each day after the date the PCB Remediation Plan was due, and continuing until the PCB Remediation

Plan is submitted. Failure to remediate the existing PCB contamination shall be deemed a violation of the PCB regulations at 40 C.F.R. Part 761.

(c) Stipulated penalties for subparagraph (b), above, shall begin to accrue on the day after performance is due, and shall continue to accrue until the plan is submitted to EPA.

(d) Respondent Chelsea Road shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 3, above. Interest and late charges shall be paid as stated in subparagraph 3(b), above.

5. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder 40 C.F.R. Part 761, that attach or might have attached as a result of the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above. Each Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Each Respondent consents to the issuance of the accompanying Final Order. Each Respondent agrees that all terms of settlement are set forth herein.

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



7. Each Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above, or on any allegations arising thereunder. Each Respondent further waives its right otherwise to contest all such assertions and/or allegations.

8. Each Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions 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.

9. This Consent Agreement does not waive, extinguish, or otherwise affect each Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

10. 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 terms and conditions set forth in this Consent Agreement.

11. Each party shall bear its own costs and attorney fees in this matter.

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

RESPONDENT #1:

BY:   
Chelsea Road Realty, LLC

NAME: LUCIANO RUSSO  
(PLEASE PRINT)

TITLE: MEMBER, SOLE

DATE: 6/23/11



RESPONDENT #2:

BY:  \_\_\_\_\_  
Associated Environmental Services, Ltd.

NAME: JOHN SCHRETZMAYER  
(PLEASE PRINT)

TITLE: President

DATE: 7/6/16

COMPLAINANT:

*for Kaitlin Mahoney-Bogusz*

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

DATE: 7/12/2016

In the Matter of Chelsea Road Realty, LLC, and  
Associated Environmental Services, Ltd.  
Docket Number TSCA-02-2016-9202

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Chelsea Road Realty, LLC and Associated Environmental Services, Ltd. bearing Docket Number TSCA-02-2016-9202.

Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 6 of the Toxic Substances Control Act, 15 U.S.C. § 2605 for purposes of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

DATE: July 14, 2016

Helen Ferrara

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



In the Matter of Chelsea Road Realty, LLC, and  
Associated Environmental Services, Ltd.  
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CERTIFICATE OF SERVICE

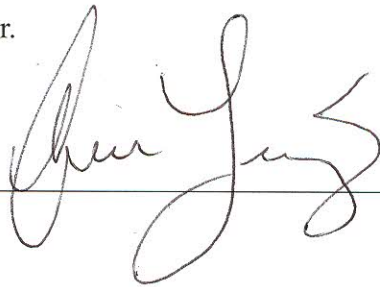
This is to certify that on the 18<sup>th</sup> day of July 2016, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2016-9202, by certified mail, return receipt requested, to:

Mr Luciano Russo, President  
Chelsea Road Realty, LLC  
237 Holdridge Avenue  
Staten Island, NY 10312

and

Mr. John Schretzmayer, President  
Associated Environmental Services Ltd.  
25 Central Avenue  
Hauppauge, NY 11788

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.



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