



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2008 JUL 17 5:10:36

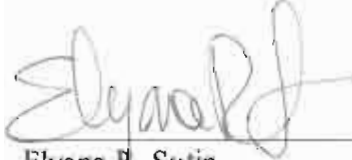
1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

DOCKET NO.: TSCA-08-2007-0010

IN THE MATTER OF:	)	
	)	
<b>CHERRY HILLS APARTMENTS</b>	)	<b>FINAL ORDER</b>
<b>BUSINESS TRUST</b>	)	
	)	
RESPONDENT	)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 17<sup>th</sup> DAY OF July, 2008




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Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 JUL 17 10:33

Docket No. TSCA-08-2007-0010

In the Matter of: )  
)  
Cherry Hills Apartments Business Trust, ) **CONSENT AGREEMENT**  
)  
Respondent. )  
)  
)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Cherry Hills Apartments Business Trust, by their undersigned representatives, hereby consent and agree as follows:

1. On September 25, 2007, Complainant issued a Complaint alleging certain violations of the Residential Lead-Based Paint Hazard Reduction Act ("Residential Lead Hazard Act") and the Toxic Substances Control Act ("TSCA") The Complaint proposed a civil penalty for the violation alleged therein.

2. After the Complaint was filed, Respondent conducted a lead based paint study of the housing subject to the Complaint. Respondent's certified lead inspector found the housing free of lead based paint.

3. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or this Consent Agreement.

5. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

6. Respondent consents and agrees to pay a civil penalty in the amount of **THREE HUNDRED AND NINE dollars (\$309.00)** in the manner described below in this paragraph:

a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due

date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case (**Cherry Hills Apartments Business Trust; Docket No. TSCA-08-2007-0010**), for the above-described amount, payable to "Treasurer, United States of America" to:

(via REGULAR MAIL):

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

(via WIRE TRANSFERS):

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 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"

(via OVERNIGHT MAIL):

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Ms. Natalie Pearson (Tel.: 314-418-4087)

(via ACH (also known as REX or remittance express)):

Automated Clearinghouse (ACH) for receiving US currency:

PNC Bank  
ABA: 051036706  
Account Number: 310006

CTX Format Transaction Code 22 - checking  
Environmental Protection Agency  
808 17<sup>th</sup> Street NW  
Washington DC 20074  
Contact: Jesse White, 301-887-6548

(via ON LINE PAYMENT):

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:  
[WWW.PAY.GOV](http://WWW.PAY.GOV).

Enter 'sfo 1.1' in the search field. Open form and complete required fields.

A copy of the check shall be sent simultaneously to:

Ms. Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).
  - d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31<sup>st</sup> day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.
7. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.
  8. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

10. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

12. Each party shall bear its own costs and attorney fees in connection with this matter.

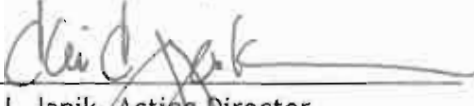
13. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

14. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.


In the Matter of: Cherry Hills Apartments Business Trust  
Docket No.: TSCA-08-2007-0010

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,


Date: 17 July 2008

By:   
David J. Janik, Acting Director  
Matthew Cohn, Acting Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 7/17/08

By:   
Cindy Reynolds, Director  
Technical Enforcement Program

Date: 7/16/2008

By:   
Eduardo Quintana  
Senior Enforcement Attorney  
Legal Enforcement Program

In the Matter of: Cherry Hills Apartments Business Trust  
Docket No.: TSCA-08-2007-0010

Cherry Hills Apartments Business Trust,  
Respondent.

Date: 7-10-08

By: D. Kendall Perkins  
Name: attorney in fact

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **CHERRY HILLS APARTMENTS BUSINESS TRUST, DOCKET NO.: TSCA-08-2007-0010**. These documents were filed with the Regional Hearing Clerk on July 17, 2008.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Eduardo Quintana, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on July 17, 2008, to:

D. Kendall Perkins, Esq.  
2417 E. 9110 South  
Sandy, UT 84093

E-mailed to:

Honorable William B. Moran  
Administrative Law Judge  
U. S. Environmental Protection Agency  
Office of Administrative Law Judges (1900L)  
1200 Pennsylvania Street, NW  
Washington, DC 20460-2001

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

July 17, 2008



Tina Artemis  
Paralegal/Regional Hearing Clerk

