

FILED

2008 MAR -7 PM 3:42

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

1 Lance E. Armo, No. 176561
2 MARDEROSIAN, RUNYON, CERCONE,
3 LEHMAN & ARMO
4 1260 Fulton Mall
5 Fresno, California 93721
6 Telephone: (559) 441-7991
7 Facsimile: (559) 441-8170

8 Attorneys for: Respondent, RALPH HOVANNISIAN

9 UNITED STATES
10 ENVIRONMENTAL PROTECTION AGENCY
11 REGION IX

12 In the matter of
13 Ralph Hovannisian,
14 Respondent.

U.S. EPA Docket No.
TSCA-09-2008-0001

ANSWER TO COMPLAINT

15
16 COMES NOW, respondent RALPH HOVANNISIAN (hereinafter "this answering
17 respondent") and answers complainant Director of the Communities and Ecosystems Division,
18 EPA Region IX's (hereinafter "complainant") Complaint as follows:

19 This answering respondent hereby demands an administrative hearing..

20 1. In answering Paragraph 1 of the Complaint, respondent is without sufficient
21 knowledge or information to form a belief as to the truth of the allegations contained in said
22 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
23 therein.

24 2. This answering respondent admits the allegations contained in Paragraph 2 of
25 complainant's complaint.

26 3. This answering respondent admits the allegations contained in Paragraph 3 of
27 complainant's complaint.

28 ///

1 4. This answering respondent admits the allegations contained in Paragraph 4 of
2 complainant's complaint.

3 5. In answering Paragraph 5 of the Complaint, respondent is without sufficient
4 knowledge or information to form a belief as to the truth of the allegations contained in said
5 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
6 therein.

7 6. In answering Paragraph 6 of the Complaint, respondent is without sufficient
8 knowledge or information to form a belief as to the truth of the allegations contained in said
9 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
10 therein.

11 7. In answering Paragraph 7 of the Complaint, respondent is without sufficient
12 knowledge or information to form a belief as to the truth of the allegations contained in said
13 paragraph, and on that basis, defendant is unable to admit or deny as to the allegations contained
14 therein.

15 8. In answering Paragraph 8 of the Complaint, respondent is without sufficient
16 knowledge or information to form a belief as to the truth of the allegations contained in said
17 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
18 therein.

19 9. In answering Paragraph 9 of the Complaint, respondent is without sufficient
20 knowledge or information to form a belief as to the truth of the allegations contained in said
21 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
22 therein.

23 10. In answering Paragraph 10 of the Complaint, respondent is without sufficient
24 knowledge or information to form a belief as to the truth of the allegations contained in said
25 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
26 therein.

27 11. In answering Paragraph 11 of the Complaint, respondent is without sufficient
28 knowledge or information to form a belief as to the truth of the allegations contained in said

1 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
2 therein.

3 12. This answering respondent admits the allegations contained in Paragraph 12 of
4 complainant's complaint.

5 13. This answering respondent denies the allegations contained in Paragraph 13 of
6 complainant's complaint.

7 14. This answering respondent admits the allegations contained in Paragraph 14 of
8 complainant's complaint.

9 15. This answering respondent admits the allegations contained in Paragraph 15 of
10 complainant's complaint.

11 16. This answering respondent lack sufficient information and belief upon which to
12 admit or deny the allegations contained in Paragraph 16 of complainant's complaint and therefore
13 denies the allegations.

14 17. This answering respondent lacks sufficient information and belief upon which to
15 admit or deny the allegations contained in Paragraph 17 of complainant's complaint and therefore
16 denies the allegations.

17 18. This answering respondent denies the allegations contained in Paragraph 18 of
18 complainant's complaint as no lease agreement was ever executed and date of rental agreement for
19 2132 East Floradora is December 2, year unknown.

20 19. This answering respondent denies the allegations contained in Paragraph 19 of
21 complainant's complaint as no lease agreement was ever executed.

22 20. This answering respondent denies the allegations contained in Paragraph 20 of
23 complainant's complaint as agreements were month to month.

24 21. In answering Paragraph 21 of the Complaint, respondent is without sufficient
25 knowledge or information to form a belief as to the truth of the allegations contained in said
26 paragraph, and on that basis, respondent is unable to admit or deny as to the allegations contained
27 therein.

28 ///

1 22. This answering respondent admits the allegations contained in Paragraph 22 of
2 complainant's complaint.

3 23. This answering respondent denies the allegations contained in Paragraph 23 of
4 complainant's complaint as the June 18, 2001 letter simply states "lead contaminated dust on the
5 interior window sill of southwest bedroom" was confirmed.

6 24. This answering respondent admits the allegations contained in Paragraph 24 of the
7 complainant's complaint.

8 25. This answering respondent denies the allegations contained in Paragraph 25 of the
9 complainant's complaint as there are no leases.

10 26. This answering respondent denies the allegations contained in Paragraph 26 of the
11 complainant's complaint as there are no leases.

12 27. This answering respondent lack sufficient information and belief upon which to
13 admit or deny the allegations contained in Paragraph 27 of complainant's complaint and therefore
14 denies the allegations.

15 28. This answering respondent denies the allegations contained in Paragraph 28 of the
16 complainant's complaint as no lease was executed , no lessees existed and respondent believed any
17 presence of lead had been remediated.

18 29. This answering respondent denies the allegations contained in Paragraph 29 of the
19 complainant's complaint.

20 30. This answering respondent admits the allegations contained in Paragraph 30 of the
21 complainant's complaint

22 31. This answering respondent denies the allegations contained in Paragraph 31 of the
23 complainant's complaint as no lease existed and can neither admit nor deny that any failure to
24 disclose was a violation.

25 32. This answering respondent denies the allegations contained in Paragraph 32 of the
26 complainant's complaint

27 33. This answering respondent denies the allegations contained in Paragraph 33 of the
28 complainant's complaint as no leases existed.

1 34. This answering respondent denies the allegations contained in Paragraph 34 of the
2 complainant's complaint as no leases existed.

3 35. This answering respondent denies the allegations contained in Paragraph 35 of the
4 complainant's complaint as no leases existed and can neither admit nor deny that any failure to
5 disclose constitutes any violation.

6 36. This answering respondent denies the allegations contained in Paragraph 36 of the
7 complainant's complaint as no leases existed.

8 37. This answering respondent denies the allegations contained in Paragraph 37 of the
9 complainant's complaint as no leases existed and can neither admit nor deny that any failure to
10 disclose constitutes any violation.

11 38. This answering respondent denies the allegations contained in Paragraph 38 of the
12 complainant's complaint as no leases existed and can neither admit nor deny that any failure to
13 disclose constitutes any violation.

14 39. This answering respondent denies the allegations contained in Paragraph 39 of the
15 complainant's complaint as no leases existed.

16 40. This answering respondent denies the allegations contained in Paragraph 40 of the
17 complainant's complaint as no leases existed.

18 41. This answering respondent denies the allegations contained in Paragraph 41 of the
19 complainant's complaint as no leases existed and can neither admit nor deny that any failure to
20 disclose constitutes any violation.

21 42. This answering respondent denies the allegations contained in Paragraph 42 of the
22 complainant's complaint as no leases existed.

23 43. This answering respondent denies the allegations contained in Paragraph 43 of the
24 complainant's complaint as no leases existed.

25 44. This answering respondent denies the allegations contained in Paragraph 44 of the
26 complainant's complaint as no lease existed and can neither admit nor deny that any failure to
27 disclose was a violation.

28 ///

1 45. This answering respondent denies the allegations contained in Paragraph 45 of the
2 complainant's complaint as no leases existed.

3 46. This answering respondent denies the allegations contained in Paragraph 46 of the
4 complainant's complaint as no lease existed and can neither admit nor deny that any failure to
5 disclose was a violation.

6 47. This answering respondent denies the allegations contained in Paragraph 47 of the
7 complainant's complaint as no lease existed and can neither admit nor deny that any failure to
8 disclose was a violation.

9 48. This answering respondent denies the allegations contained in Paragraph 48 of the
10 complainant's complaint as no leases existed.

11 49. This answering respondent denies the allegations contained in Paragraph 49 of the
12 complainant's complaint as no leases existed.

13 50. This answering respondent denies the allegations contained in Paragraph 50 of the
14 complainant's complaint as no leases existed and can neither admit nor deny that any violation
15 occurred.

16
17 This answering respondent denies that complainant is entitled to the relief sought in the
18 Proposed Civil Penalty Paragraphs of complainant's complaint, or to any relief at all.

19 **An administrative hearing is hereby requested by respondent.**

20 **AFFIRMATIVE DEFENSES**

21 AS AND FOR A FIRST AFFIRMATIVE DEFENSE to complainant's complaint on file
22 herein, and each and every cause of action thereof, these answering respondents allege that the
23 complaint on file herein fails to state a cause of action against these answering respondents.

24 AS AND FOR A SECOND AFFIRMATIVE DEFENSE to complainant's complaint on file
25 herein, and each and every cause of action thereof, these answering respondents allege that the
26 damages alleged therein, if any there were, are, and/or shall be, the sole and proximate
27 responsibility and liability of persons and/or entities other than these answering respondents, and
28 that neither the liability nor responsibility of these answering respondents.

1 AS AND FOR A THIRD AFFIRMATIVE DEFENSE to complainant's complaint on file
2 herein, and each and every cause of action thereof, these answering respondents allege that some
3 or all of the purported claims for damages therein are barred by the applicable statutes of
4 limitations in the California Code of Civil Procedure.

5 AS AND FOR A FOURTH AFFIRMATIVE DEFENSE to complainant's complaint on file
6 herein, and each and every cause of action thereof, these answering respondents allege that some
7 or all or the purported claims for damages therein are barred due to laches by the complainant.

8 AS AND FOR A FIFTH AFFIRMATIVE DEFENSE, to complainant's complaint on file
9 herein, and each and every cause of action thereof, these answering respondents allege that some
10 or all of the purported claims for damages therein are barred as a result of unclean hands by
11 complainant.

12 AS AND FOR A SIXTH AFFIRMATIVE DEFENSE to complainant's complaint on file
13 herein, and each and every cause of action thereof, these answering respondents allege that some
14 or all of the purported claims for damages therein are barred because these answering respondents
15 acted reasonably, and in good faith, concerning the matters and claims as set forth in
16 complainant's complaint on file herein.

17 AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE, to complainant's complaint on
18 file herein, and each and every cause of action thereof, these answering respondents allege that
19 complaint has waived and therefore is estopped by their own conduct from asserting the
20 allegations of the complaint on file herein.

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, these answering respondents pray for judgment as follows:

1. That complainant take nothing by way of the Complaint;
2. That respondents be awarded their costs of suit incurred herein; and
3. For such other and further relief as the court may deem just and proper.

Dated: March __, 2008.

MARDEROSIAN, RUNYON, CERCONE,
LEHMAN & ARMO

By: 

LANCE E. ARMO,
Attorney for Respondent
RALPH HOVANNISIAN

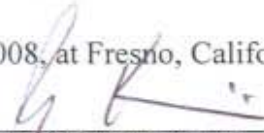
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I have read the foregoing Answer To Complaint and know the contents thereof. I am informed and believe that the matters therein are true and on that ground allege they are true.

I declare under penalty of perjury, under the laws of the state of California, that the foregoing is true and correct and, if sworn as a witness, I can competently testify to the foregoing of my own knowledge.

Executed on this 3rd day of March, 2008, at Fresno, California.



RALPH HOVANNISIAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

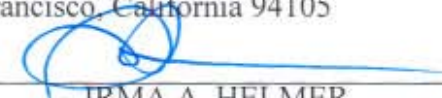
CERTIFICATE OF SERVICE

I certify that the original and a copy of the attached **ANSWER TO COMPLAINT** was placed in the United States Mail by **certified mail, return receipt requested**, on March 4, 2008, addressed to the following:

Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, California 94105

and that a true and correct copy of the **ANSWER TO COMPLAINT** was placed in the United States Mail by **certified mail, return receipt requested**, on March 4, 2008, addressed to the following serving as counsel for Petitioner:

Ivan Lieben, Esq.
United States Environment Protection Agency
75 Hawthorne Street
San Francisco, California 94105



IRMA A. HELMER