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HEARINGS CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. TSCA-10-2015-0015
Superior Inspection Services, Inc.,	)	
Portland, Oregon,	)	<b>CONSENT AGREEMENT</b>
	)	
Respondent.	)	

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**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

1.2. Pursuant to Section 404(a) of TSCA, 15 U.S.C. §26849(a), EPA granted the State of Oregon authorization to administer and enforce a lead renovation, repair and painting program and to carry out that program in lieu of the federal program.

1.3. Pursuant to TSCA Section 16(a), 15 U.S.C. § 2615(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Superior Inspection Services, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Air, Waste and Toxics, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of Section 409 of TSCA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of TSCA together with the specific provisions of TSCA and the implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

3.1. The State of Oregon is authorized under section 404(a) of TSCA, 15 U.S.C. § 2684(a), and 40 C.F.R. 40 C.F.R. § 745.324(d) to administer and enforce requirements for a renovation, repair and painting program in accordance with Section 402(c)(3) of TSCA, 15 U.S.C. 2682(c)(3), and a lead-based paint pre-renovation education program in accordance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b).

3.2. Oregon Administrative Rules (OAR) Division 70 applies to renovations performed for compensation in target housing as specified in OAR 333-070-0075(3).

3.3. “Target housing” is defined at OAR 333-070-0085(65) to mean “any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.”

3.4. “Firm” is defined at Oregon Revised Statutes (ORS) 431.918(2) to have “the meaning given that term in 40 C.F.R. § 745.83 and as further defined pursuant to the authorities described in ORS 431.917.”

3.5. “Certified Renovation Firm” is defined at OAR 333-070-0085(9) to mean “a company, partnership, corporation, sole proprietorship association, or other entity that has been certified by the Authority to conduct renovation under OAR 431.920 or licensed by the CCB under ORS 701-515.”

3.6. “Renovation” is defined at OAR 333-070-0085(58) to mean “the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces . . . . The term renovation includes, but is not limited to, the removal, modification or repair of painted surfaces or painted components. . . .”

3.7. “Certified Renovator” is defined at OAR 333-070-0085(10) to mean “a renovator who has successfully completed a renovator course accredited by the Authority, EPA, or an EPA-authorized state or tribal program.”

3.8 Respondent is a corporation organized in the State of Oregon.

3.9 Respondent is therefore a “firm” within the meaning of 40 C.F.R. § 745.83.

3.10. On April 21, 2011, Respondent performed work for compensation at a house located at 2624 NE 19<sup>th</sup> Avenue, Portland, Oregon, which was built in approximately 1910 (“April 2011 Renovation”).

3.11. The work Respondent conducted included scraping paint, which resulted in the disturbance of painted surfaces.

3.12 Therefore, Respondent performed a “renovation” on “target housing,” as these terms are as defined at OAR 333-070-0085(58) and OAR 333-070-0085(65).

## COUNT I

3.13. OAR 333-070-0090(1)(a) requires that “Renovations must be performed by certified renovations firms using certified renovators as directed in OAR 333-070-0100.”

3.14. The April 2011 Renovation does not qualify for the exceptions identified in OAR 333-070-0075(3)(a).

3.15. Respondent did not obtain firm certification to perform renovations prior to performing the April 2011 Renovation.

3.16. Respondent’s failure to obtain firm certification to perform renovations prior to performing the April 2011 Renovation is a violation of OAR 333-070-00090(1)(a).

### ENFORCEMENT AUTHORITY

3.17. Under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per violation per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689.

## IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 16(a)(2)(b) of TSCA, 15 U.S.C. § 2615(a)(2)(b), EPA has taken into account the nature, circumstances, extent, and gravity of the violations and with respect to Respondent’s ability to pay, effect on ability to continue to do business, any history of prior such violations, degree of culpability, and such other matter as justice may require. After

considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$450.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101  
Smith.candace@epa.gov

Kim Farnham, TSCA Compliance Officer  
U.S. Environmental Protection Agency  
Region 10, Mail Stop AWT-128  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101  
Farnham.kim@epa.gov

4.7. If Respondent fails to pay the penalty assessed by this Consent Agreement and Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the assessed penalty under Section 16(a)(4) of TSCA, 15 U.S.C.

§ 2615(a)(4). In any collection action, the validity, amount, and appropriateness of the penalty are not subject to review.

4.8. If Respondent fails to pay the penalty assessed by this Consent Agreement and Final Order in full by its due date, Respondent shall be responsible for payment of interest on any unpaid portion of the assessed penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.9. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.8, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.13. Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order. Respondent also expressly waives the notice requirement and its opportunity to request a hearing on the Final Order pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 2615(a)(2).

4.14. The provisions of this Consent Agreement shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated penalty action.

4.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

3/19/15

FOR RESPONDENT:

Roland Holtz  
Signature

Print Name: Roland Holtz

Title: owner

SUPERIOR INSPECTION SERVICES, INC.

DATED:

3/24/15

FOR COMPLAINANT:

K Kelly  
KATE KELLY, Director,  
Office of Air, Waste and Toxics  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. TSCA-10-2015-0017
	)	
Superior Inspection Services, Inc.,	)	
Portland, Oregon,	)	<b>FINAL ORDER</b>
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Respondent.	)	

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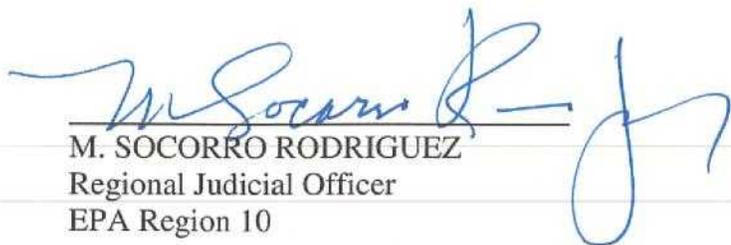
5.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

5.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

5.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under TSCA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and regulations promulgated or permits issued thereunder.

5.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 31<sup>st</sup> day of March, 2015.

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Superior Inspection Services, Inc., Docket No.: TSCA-10-2015-0015**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Roland Holtz  
Superior Inspection Services, Inc.  
1611 NE 126<sup>th</sup> Avenue  
Portland, Oregon 97230

DATED this 1<sup>st</sup> day of April 2015

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10