

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105

FILED

2008 JAN 14 AM 10:47

U.S. EPA REGION IX
REGIONAL HEARING CLERK

IN THE MATTER OF:
RALPH HOVANNISIAN

Respondent

) Docket No. TSCA-09-2008-0001

) MOTION FOR EXTENSION
) OF TIME TO FILE ANSWER

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. § 22.16(a), the U.S. Environmental Protection Agency, Region 9 ("Complainant") and Respondent, Mr. Ralph Hovannisian, jointly file this Motion for Extension of Time to File Answer from on or about January 21, 2008, until March 6, 2008, for the reasons stated herein.

BACKGROUND

On December 12, 2007, Complainant filed a Civil Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent, which initiated the above-captioned matter under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a) and Section 1018 of Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, for alleged lead-based paint

disclosure violations. See 40 C.F.R. Part 745, Subpart F. Respondent accepted service of the Complaint on or about December 22, 2007. Under the Consolidated Rules of Practice, Respondent's answer is currently due on or about January 21, 2008, which is 30-days after receipt of the complaint pursuant to 40 C.F.R. § 22.7(c).

ARGUMENT

The Regional Judicial Officer may grant an extension of time to file an answer upon filing of a timely motion, a showing of good cause, and after consideration of prejudice to other parties to the action. 40 C.F.R. §§ 22.7(b) and 22.16. This motion satisfies these criteria.

This motion is timely, having been filed well prior to the January 21, 2008, date for Respondent's answer to the Complaint.

This motion complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is EPA's policy to encourage settlement and avoid litigation when consistent with the provisions and objectives of the law at issue. See 40 C.F.R. § 22.18(b). The parties are in active negotiations to resolve the violations alleged in the Complaint. Moreover, Respondent has claimed a limited ability to pay a penalty. Pursuant to this claim, Respondent is providing financial documents to the Complainant to support his claim and Complainant will require a few weeks to review those

documents. Until this process completes itself, the parties do not believe it is in their best interest to be expending resources on litigation. Therefore, the parties believe that "good cause" exists for an extension of time until March 6, 2008, a 45-day extension, for Respondent to file his answer in order to avoid the unnecessary use of resources by this forum and the parties on litigation when those resources would be better spent for the moment on efforts to resolve the matter.

Finally, granting this motion will not result in prejudice, as both parties are jointly seeking the extension. The parties believe that the requested extension allows sufficient time for the completion of the financial analysis, negotiations and hopefully the filing of an executed consent agreement and final order ("CAFO").

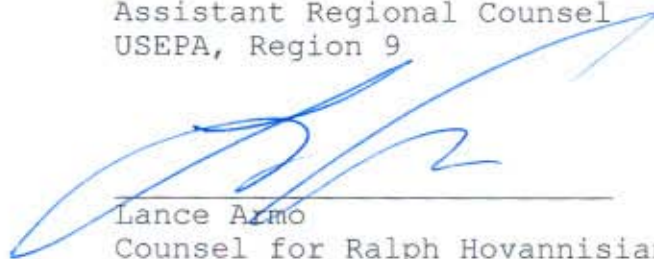
Respectfully submitted,

DATE: 1/14/08



Ivan Lieben
Assistant Regional Counsel
USEPA, Region 9

DATE: 1-9-08



Lance Armo
Counsel for Ralph Hovannisian

CERTIFICATE OF SERVICE


I certify that the original and a copy of the attached Motion for Extension of Time to Respond to Complaint was hand delivered to:

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

and that a true and correct copy of the Motion was placed in the United States Mail, addressed to the following serving as counsel for Respondent:

Lance Armo, Esq.
Marderosian, Runyon, Cercone, Lehman & Armo
Attorneys at Law
1260 Fulton Mall
Fresno, CA 93721-1916

Dated: 1/14/2008

By: 
Corazon Tolentino
Office of Regional Counsel
USEPA, Region 9