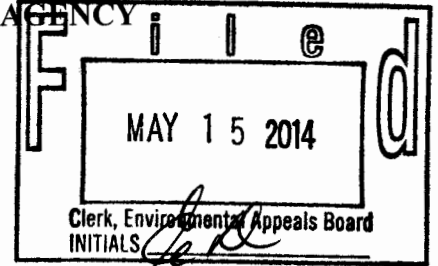


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



)
In re:)
)
James Ikegwu and Martha Ikegwu)
)
6409 Maple Ave.)
)
Baltimore)
)
)
)
Docket No. TSCA-03-2011-0217)

TSCA Appeal No. 14-01

ORDER ELECTING TO EXERCISE SUA SPONTE REVIEW

On April 3, 2014, the Regional Judicial Officer (“RJO”) for U.S. EPA Region 3 (the “Region”) issued an Initial Decision and Default Order (“Default Order”) in the above-captioned matter. The Default Order assesses a penalty of \$6,450 against Respondents -- James Ikegwu and Martha Ikegwu -- for alleged violations of section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act (“RLBPHRA”), 42 U.S.C. § 4852d(b)(5), and its implementing regulations at 40 C.F.R. §§ 745.107(a)(2), (a)(4).

For the reasons that follow, the Environmental Appeals Board (“Board”) has decided to exercise *sua sponte* review, pursuant to 40 C.F.R. §§ 22.27(c)(4), .30(b).¹

¹ Under the regulations governing the administrative assessment of civil penalties, 40 C.F.R. pt. 22, the Board has 45 days after service of an initial decision to elect to exercise *sua sponte* review. 40 C.F.R. § 22.27(c). Since the Default Order was served on April 3, 2014, the Board has until May 18, 2014, to so decide.

During the week of May 5th, the Board received a verbal request from the Regional Hearing Clerk requesting that the Board return the administrative record of this case for further service of the Default Order. The Clerk of the Board informed the Regional Hearing Clerk that a formal written request was required in order to send the administrative record back to the Region. Such written request was not filed with the Board. The Board, therefore, proceeded with its examination of the Default Order to determine whether *sua sponte* review is warranted.

Examination of the record before the Board did not reveal a problem with service of the Default Order. The Default Order was served in accordance with 40 C.F.R. part 22, which requires that all orders, rulings, and decisions be served “personally, by first class mail (including by certified mail or return receipt requested, Overnight Express and Priority Mail) * * * or any reliable commercial delivery service.” 40 C.F.R. § 22.6. In this case, the Default Order was served via certified mail-return receipt requested to the same address where the complaint was filed. The record does not reflect a change of address initiated by Respondents. The record, however, shows two additional addresses for Respondents that the Region had been using to serve its motions. While service was proper under the rules, the fact that the Regional Hearing Clerk had expressed concerns about service and that this is a Default Order have prompted the Board to decide to give the Regional Hearing Clerk an opportunity to serve the Respondents at the other addresses as a courtesy.

The Region is now required to advise the Board of those efforts within 30 days of issuance of this order. The Board will then decide whether to review the Default Order *sua*

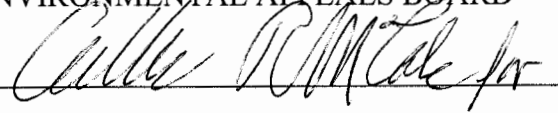
sponte on the merits or vacate the order electing *sua sponte* review.²

So ordered.³

Dated: 5/15/2014

ENVIRONMENTAL APPEALS BOARD

By: _____



Kathie A. Stein

² This order constitutes notice, required under 40 C.F.R. § 22.30(b), of the Board's intent to review the Default Order. The Board does not require a briefing from the parties at this time. If the Board decides further briefing is appropriate, it will issue a subsequent order.

³ The three-member panel deciding this matter is comprised of Environmental Appeals Judges Randolph L. Hill, Catherine R. McCabe, and Kathie A. Stein. See 40 C.F.R. § 1.25(e)(1).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Electing to Exercise Sua Sponte Review, in the matter of James Ikegwu and Martha Ikegwu, TSCA Appeal No. 14-01, were sent to the following persons in the manner indicated:

By First Class Mail:

James Ikegwu and Martha Ikegwu
6409 Maple Avenue
Gwynn Oak,
Baltimore, Maryland 21207

Dr. James Ikegwu LPC
650 Pennsylvania Ave.
Suite C-120
Washington DC 20003

James Ikegwu and Martha Ikegwu
601 Dumbarton Ave.
Baltimore, MD 21218-1229

By Pouch Mail:

Rodney Travis Carter
Senior Assistant Regional Counsel
U.S. EPA Region 3 (MC 3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029

Lydia Guy
Regional Hearing Clerk
U.S. EPA Region 3 (MC 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

Dated: MAY 15 2014



Annette Duncan
Secretary