

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Transmitted Via Electronic and Inter-Office Mail

July 2, 2014

Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, DC 20460-0001

**Re: COMPLAINANT'S STATUS REPORT  
REGARDING SERVICE OF DEFAULT ORDER**

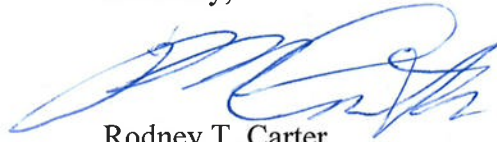
Dear Clerk of the Board:

Enclosed please find COMPLAINANT'S Status Report regarding SERVICE OF  
DEFAULT ORDER (the "Status Report"), TSCA Appeal No. 14-01, for the enforcement matter  
**In the Matter of: James Ikegwu and Martha Ikegwu, U.S. EPA Docket No. TSCA-03-2011-  
0217**, filed this date in response to the Environmental Appeals Board's June 3, 2014 ORDER.

The Status Report has been filed with the Regional Hearing Clerk for Region III. A true and correct hard copy of the Motion, as well as an Electronic copy, has been sent to the Secretary for the U.S. Environmental Protection Agency, Environmental Appeals Board.

If you have any questions please contact me, Rodney T. Carter at (215) 814-2478.

Sincerely,



Rodney T. Carter  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III

Enclosures: COMPLAINANT'S STATUS REPORT  
REGARDING SERVICE OF DEFAULT ORDER

cc: **Annette Duncan**, Secretary  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
WJC East, Room 3334  
Washington, DC 20004

James Ikegwu and Martha Ikegwu

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:**

<b>U.S. EPA Docket No. TSCA-03-2011-0217</b>	:	
	:	
<b>James Ikegwu and Martha Ikegwu</b>	:	<b>TSCA Appeal Number 14-01</b>
6409 Maple Ave	:	
Baltimore, Maryland 21207	:	
	:	<b>COMPLAINANT'S</b>
<b>RESPONDENTS</b>	:	<b>STATUS REPORT REGARDING</b>
	:	<b>SERVICE OF DEFAULT ORDER</b>
	:	
	:	<b>Proceeding under Sections 409 and 16(a)</b>
1700 North Castle Street	:	<b>of the Toxic Substances Control Act,</b>
Baltimore, Maryland 21213	:	<b>15 U.S.C. §§ 2689 and 2615(a)</b>
	:	
<b>TARGET HOUSING</b>	:	

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**COMPLAINANT'S STATUS REPORT REGARDUNG  
SERVICE OF DEFAULT ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (hereinafter the "Consolidated Rules"), the United States Environmental Protection Agency, Region III ("EPA" or "Complainant"), files this Status Report regarding the above-captioned matter. This Status Report sets forth Complainant's efforts to serve James Ikegwu and Martha Ikegwu ("Respondents") with the Default Order for failure to file a timely Answer, issued on April 3, 2014.

Complainant avers as follows:

1. *An Administrative Complaint and Notice of Opportunity for Hearing* ("Complaint") was issued to the Respondents by Complainant and filed with the Regional Hearing Clerk for

- EPA Region III ("RHC") on September 28, 2011.
2. The Complaint was issued under the authority vested in the Administrator of EPA under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615 ("TSCA").
  3. Complainant issued the Complaint to Respondents for violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.* ("Lead Paint Disclosure Act"). A true and correct copy of the Complaint was sent by express overnight mail, return receipt requested, to Respondents.
  4. The Respondents received the Complaint on September 29, 2011, as evidenced by the date on which the express overnight mail return receipt was signed by Respondent Martha Ikegwu or her representative.
  5. Pursuant to the Consolidated Rules, Respondents were required to file their Answer no later than October 29, 2011. Respondents failed to file a timely Answer under Consolidated Rules.
  6. On or about September 26, 2012, EPA submitted to the Regional Judicial Officer ("RJO"), for review and signature, a *Motion for a Default Order* (the "September 26, 2012 Default Motion") for failure to file a timely Answer. The September 26, 2012 Default Motion requested the imposition of the penalty proposed in the Complaint without further proceedings.
  7. A true and correct copy of the September 26, 2012 Default Motion was sent to the Respondents via express mail return receipt requested. However, delivery of the Default Motion could not be confirmed because no signature for delivery of the September 26, 2012 Default Motion was obtained by the express mail delivery service. The September 26, 2012 Default Motion was returned undelivered.
  8. On October 22, 2012 the RJO issued an *Order* requiring Complainant to supplement the record and provide proof of compliance with 40 C.F.R. § 22.5 regarding service on Respondents of the September 26, 2012 Default Motion.
  9. *Complainant's Motion to Withdraw* the September 26, 2012 Default Motion ("Motion to Withdraw") was filed with the RHC on November 21, 2012 and submitted to the RJO.
  10. *Complainant's Second Motion for a Default Order* (Second Motion") was also filed with the RHC on November 21, 2012. The Second Motion set forth the same supporting

pleadings as the September 26, 2012 Default Motion.

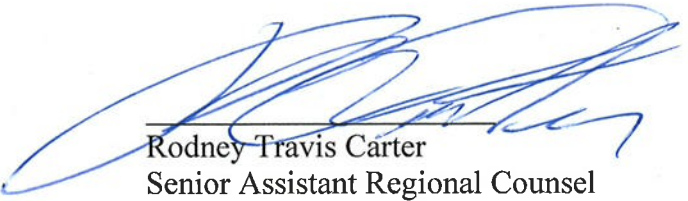
11. Complainant served the Second Motion upon Respondents by express mail, return receipt requested, on November 21, 2012, in accordance with 40 C.F.R 22.5(b)(2) and .7 (c). The Second Motion was returned undelivered.
12. On April 3, 2014 the RJO signed an *Initial Decision and Default Order* (the “April 3, 2014 Default Order”) against Respondents as requested in the Second Motion, ruling that 40 C.F.R 22.5 had been complied with. The RJO ordered the April 3, 2014 Default Order to be served on Respondents via the RHC.
13. The RHC filed the original April 3, 2014 Default Order and mailed a copy to Respondents via certified mail.
14. After the mailing, the RHC sent her complete file for this matter to the EAB.
15. On May 15, 2014 the EAB issued an *Order Electing to Exercise Sua Sponte Review*.
16. The April, 3, 2014 Default Order was returned to the RHC undelivered.
17. On May 29, 2014 Complainant filed *Complainant’s Motion to Return the Case File to Perfect Service of Default Order* (“Motion to Return the File”).
18. On June 3, 2014 the EAB granted the Motion to Return the File.
19. UPS attempted delivery of the April 3, 2014 Default Order at four addresses associated with Respondents, including the Respondents’ last known residence. Several attempts by UPS to deliver were made at the four addresses. Notice of the delivery attempts and instructions regarding how to obtain the mailings were left at the addresses after each attempt. Respondents did not contact UPS to obtain the mailings. The mailings were eventually returned to EPA Region III.
20. As of the date of the issuance of this Status Report, in spite of delivery attempt notices, the Respondents have not accepted delivery of the April 3, 2014 Default Order

As stated above, pursuant to the Consolidated Rule, 40 C.F.R. § 22.27(c)(4), the Initial Decision of a Presiding Officer becomes a Final Order 45 day after its service upon the parties, with exceptions not relative to this matter. Notices were left at addresses associated with Respondents, including the Respondents’ last known residence.

WHEREFORE, Complainant requests that the EAB let the April, 3, 2914 Default Order regarding *In the Matter of: James and Martha Ikegwu U.S. EPA Docket No. TSCA-03-2011-0217* stand.

Respectfully submitted,

Date



Rodney Travis Carter  
Senior Assistant Regional Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing **Complainant's Status Report, TSCA Appeal No. 14-01, USEPA Docket No. TSCA-03-2011-0217**, has been filed with the EPA Region III Regional Hearing Clerk and that a copy was sent, express mail, return receipt requested, to:

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

James Ikegwu and Martha Ikegwu  
c/o 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

James Ikegwu and Martha Ikegwu  
5800 Greenhill Ave  
Baltimore, MD 21216

Date

7/2/14

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Rodney Travis Carter  
Senior Assistant Regional Counsel  
U.S. Environmental Protection  
Agency, Region III