

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	)	<b>Docket No.: TSCA-03-2018-0111</b>
	)	
<b>Sean and Marcy McCann</b>	)	
	)	<b>Proceeding Under Sections 16(a) and</b>
<b>RESPONDENTS.</b>	)	<b>409 of the Toxic Substances Control</b>
	)	<b>Act, 15 U.S.C. §§ 2615(a) and 2689.</b>
	)	
	)	<b>U.S. EPA-REGION 3-RHC</b>
		<small>FILED-2AUG2018AM10:54</small>

**CONSENT AGREEMENT**

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Sean and Marcy McCann. (hereinafter “Respondents”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).

**I. PRELIMINARY STATEMENT**

1. The violations cited herein pertain to the Respondents’ alleged failure to comply with requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“RLBPHRA”), 42 U.S.C. §§ 4851 *et seq.*, and regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F, and entitled “Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property” (commonly known as the “Disclosure Rule”), which statutory and regulatory provisions are enforceable pursuant to RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.
2. In accordance with 40 C.F.R. §§ 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, the claims identified in Section IV (“Findings of Fact and Conclusions of Law”) and V (“Violations Alleged”) of this Consent Agreement.

**II. JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA” or the “Agency”) has jurisdiction over the above-captioned matter pursuant to Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, Section 1018 of Title X of the RLBPHRA, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.

**III. GENERAL PROVISIONS**

4. For purposes of this proceeding, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the "CAFO".
5. Except as provided in Paragraph 4., immediately above, for the purposes of this proceeding only, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement and the attached Final Order.
6. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
7. For purposes of this proceeding only, Respondents hereby expressly waive any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
8. Respondents consent to the issuance of this CAFO and agree to comply with its terms and conditions.
9. Each Party to this Consent Agreement shall bear its own costs and attorney's fees.

**IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

10. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
11. Pursuant to RLBPHRA Section 1004(27), 42 U.S.C. § 4851b(27), TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term "target housing" means "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) or any 0-bedroom dwelling."
12. Pursuant to RLBPHRA Section 1004(23), 42 U.S.C. § 4851b(23), TSCA Section 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term "residential dwelling" means either a single family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

13. Pursuant to RLBPHRA Section 1004(24), 42 U.S.C. § 4851b(24), and TSCA Section 401(15), 15 U.S.C. § 2681(15), the term “residential real property” means real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
14. Pursuant to 40 C.F.R. § 745.103, the term “owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.
15. Pursuant to 40 C.F.R. § 745.103, the term “lessor” means any entity that offers target housing for lease, rent or sublease, including, but not limited to, individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.
16. Pursuant to 40 C.F.R. § 745.103, the term “lessee” means any entity that enters into an agreement to lease, rent, or sublease target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and non-profit organizations.
17. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint” means “paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter [mg/cm<sup>2</sup>] or 0.5 percent by weight.”
18. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint hazards” means “any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.”
19. The certification and acknowledgment of disclosure requirements applicable to lessors are set forth at 40 C.F.R. § 745.113 and provide, in pertinent part, as follows:

(b) *Lessor requirements.* Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

- (1) A Lead Warning Statement with the following language:

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed

properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

\* \* \*

(4) A statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of this [40 C.F.R.] section [745.113] and the lead hazard information pamphlet required under 15 U.S.C. [§ 2686].

\* \* \*

(6) The signatures of the lessors, agents and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

20. The enforcement provisions of 40 C.F.R. § 745.118(e) state that:

(e) Failure or refusal to comply with [40 C.F.R.] § 745.107 (disclosure requirements for sellers and lessors), [40 C.F.R.] § 745.110 (opportunity to conduct an evaluation), [40 C.F.R.] § 745.113 (certification and acknowledgment of disclosure) or [40 C.F.R.] § 745.115 (agent responsibilities) is a violation of [RLBPHRA Section 1018(b)(5),] 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).

21. Respondents are individuals, husband and wife, who own and lease residential property at 955 and 957 Market Street, Williamsport, Pennsylvania.

22. EPA became aware of Respondents as a result of an April 24, 2014 tip/complaint from a former lessee, at 957 Market Street, Williamsport, Pennsylvania, who alleged that Respondents had not provided her with certain disclosures under the Disclosure Rule.

23. On June 23, 2014, EPA sent an Inspection Confirmation Letter to Respondents scheduling a compliance inspection under the Real Estate Notification and Disclosure

- Rule for July 1, 2014 and requesting that they make available a list of leases for pre-1978 properties which had been rented between July 1, 2011 to June 23, 2014, including all documents for 957 Market Street, Williamsport, PA.
24. On July 1, 2014, a duly authorized EPA representatives conducted a records review inspection and reviewed a selection of residential dwelling target housing lease contracts maintained by the Respondents.
  25. During the inspection, Respondents clarified that they only own one (1) rental property which is a duplex with the following addresses: 955 Market Street and 957 Market Street, in Williamsport, PA.
  26. The property located at 957 Market Street, Williamsport, Pennsylvania consists of and, at all times relevant to the violations alleged herein, consisted of real property on which there is situated a residential building used or occupied, or intended to be used or occupied, in whole or in part, as a single-family residence of one or more persons.
  27. The residential dwelling or dwelling unit situated on the residential real property located at 957 Market Street, Williamsport, Pennsylvania is housing constructed prior to 1978.
  28. The residential dwelling or dwelling unit situated on the residential real property located at 957 Market Street, Williamsport, Pennsylvania consists of housing that presently is not, and at the time of the violations alleged herein was not, housing used for the elderly or persons with disabilities or a 0-bedroom dwelling as defined by 40 C.F.R. § 745.103.
  29. The residential dwelling or dwelling unit situated on the residential real property located at 957 Market Street, Williamsport, Pennsylvania, is "target housing" within the meaning of RLBPHRA Section 1004(27), 42 U.S.C. § 4581b(27), TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103.
  30. On November 8, 2013, Respondents entered into a contract with a lessee to lease the 957 Market Street, Williamsport, Pennsylvania property (hereinafter, Lease Transaction #1).

## **V. VIOLATIONS ALLEGED**

### COUNT 1

31. The allegations contained in paragraphs 1 through 30, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
32. Pursuant to the "*Lessor requirements*" of 40 C.F.R. § 745.113(b)(1), which requirements are recited fully in paragraph 19, above, each contract to lease target housing shall include, as an attachment or within the contract, a Lead Warning Statement with the

language set forth in 40 C.F.R. § 745.113(b)(1), which language also is reprinted and set forth in paragraph 19, above.

33. Lease Transaction #1 did not include, as an attachment or within such contract, a Lead Warning Statement containing the language set forth in, and required by, 40 C.F.R. § 745.113(b)(1), on or before the identified lease date, when the lessee became obligated to lease such target housing.
34. Respondents failed to include a Lead Warning Statement containing the language set forth in, and required by, 40 C.F.R. § 745.113(b)(1) as an attachment to, or within, Lease Transaction #1.
35. Respondent's failure to ensure that a *Lead Warning Statement* containing the language set forth in 40 C.F.R. § 745.113(b)(1) was included either within, or as an attachment to, Lease Transaction #1 on or before the lease date, constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689, and RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5).

## COUNT 2

36. The allegations contained in paragraphs 1 through 35, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
37. Pursuant to the "*Lessor requirements*" of 40 C.F.R. § 745.113(b)(2), which requirements are recited fully in paragraph 19, above, each contract to lease target housing shall include, as an attachment or within the contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.
38. Lease Transaction #1 did not include, as an attachment or within each such contract, a statement disclosing the presence of known lead-based paint in the respective target housing or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards on or before the lease date, when the lessee became obligated to lease such target housing.
39. Respondents failed to include a statement disclosing the presence of known lead-based paint or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in the target housing was included as an attachment to, or within, Lease Transaction #1 as required by § 745.113(b)(2).
40. Respondents' failure to include an appropriate statement disclosing the presence of known lead-based paint, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, in the target housing was included as an attachment to,

or within, Lease Transaction #1 on or before the lease date, constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689, and RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5).

**COUNT 3**

41. The allegations contained in paragraphs 1 through 40, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
42. Pursuant to the "*Lessor requirements*" of 40 C.F.R. § 745.113(b)(4), which requirements are recited fully in paragraph 19, above, each contract to lease target housing shall include, as an attachment or within the contract, a statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of 40 C.F.R. § 745.113 and the lead hazard information pamphlet required under 15 U.S.C. § 2686.
43. Lease Transaction #1 did not include, as an attachment or within such contract, a statement by the lessee(s) affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3), or of the lead hazard information pamphlet required under 15 U.S.C. § 2686 on or before the identified lease date, when said lessee became obligated to lease such target housing.
44. Respondents failed to include in Lease Transaction #1, as an attachment or within such contract, a statement by the lessee(s) affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3), or of the lead hazard information pamphlet required under 15 U.S.C. § 2686, as required by 40 C.F.R. § 745.113(b)(4).
45. Respondents' failure to include in Lease Transaction #1, as an attachment or within such contract, a statement by the lessee(s) affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3), or of the lead hazard information pamphlet required under 15 U.S.C. § 2686, on or before the lease date, constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689, and RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5).

**COUNT 4**

46. The allegations contained in paragraphs 1 through 45, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
47. Pursuant to the "*Lessor requirements*" of 40 C.F.R. § 745.113(b)(6), which requirements are recited fully in paragraph 19, above, each contract to lease target housing shall include, as an attachment or within the contract, the signatures of the lessors, agents and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

48. Lease Transaction #1, did not include as an attachment, or within such contract, the signatures of the lessors, agents and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature on or before the lease date, when the lessee became obligated to lease such target housing.
49. Respondents' failed to include as an attachment, or within such contract, the signatures of the lessors, agents and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature on or before the lease date, as required by 40 C.F.R. § 745.113(b)(6).
50. Respondents' failure to ensure that Lease Transaction #1 included the signatures of the lessors, agents and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature, as an attachment to, or within, said lease, on or before the lease date, constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689, and RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5).

## **VI. CIVIL PENALTY**

51. Respondents agree to pay the amount of **Two Thousand Three Hundred Three Dollars (\$2,303.00)**, in satisfaction of all civil claims for penalties which Complainant may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged in this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondents' receipt of a true and correct copy of the CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondents must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondents.
52. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondents, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy*, (December 2007). Complainant has also considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the January 11, 2018 Memoranda by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation (Effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*.



53. Payment of the civil penalty amount in Paragraph 52, above (including applicable accrued interest and late penalty payments, if any), shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondents' name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2018-0111**;
  - b. All checks shall be made payable to "**United States Treasury**";
  - c. All payments made by check and sent by regular mail shall be addressed and mailed to:
    - U.S. Environmental Protection Agency
    - Cincinnati Finance Center
    - P.O. Box 979077
    - St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, 513-487-2091  
Secondary Contact: Molly Williams, (513) 487-2076
  - d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:
    - U.S. Environmental Protection Agency
    - Cincinnati Finance Center
    - P.O. Box 979077
    - 1005 Convention Plaza SL-MO-C2-GL
    - St. Louis, MO 63101

Contact: (314) 418-1028
  - e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:
    - Cincinnati Finance
    - US EPA, MS-NWD
    - 26 W. M.L. King Drive
    - Cincinnati, OH 45268-0001
54. Respondents may also pay the civil penalty amount in Paragraph 52, above (including applicable accrued interest and late penalty payments, if any), electronically or on-line as follows:

- a. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
(Field Tag 4200 of the wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

- b. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026, or  
Remittance Express (REX): 1-866-234-5681

- c. On-Line Payment Option:

[WWW.PAY.GOV/PAYGOV](http://WWW.PAY.GOV/PAYGOV)

Enter sfo 1.1 in the search field. Open and complete the form.

- d. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

55. A copy of each check issued by, and/or of each electronic transfer payment made by, the Respondents shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street

Philadelphia, Pennsylvania 19103-2029;

and

Donzetta Thomas  
Senior Assistant Regional Counsel (3RC50)  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

56. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment or to comply with the conditions in this Consent Agreement and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
57. The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
58. A late penalty payment of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
59. The Respondents agree not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

## **VII. EFFECT OF SETTLEMENT**

60. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have against Respondents under Section 16 of TSCA, 15 U.S.C. § 2615, for the specific violations alleged in Section V ("Violations Alleged"), above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**VIII. OTHER APPLICABLE LAWS**

61. Nothing in this CAFO shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations.

**IX. CERTIFICATION OF COMPLIANCE**

62. Respondents certify to Complainant that they are currently complying with the provisions of TSCA, and the regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart F, that are referenced in this Consent Agreement.

**X. RESERVATION OF RIGHTS**

63. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged against the Respondents in this CAFO. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under TSCA, the RLBPHRA, the regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart F, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the EPA Regional Hearing Clerk.
64. Nothing in this CAFO shall constitute or be construed as a release of Respondents from any claim, cause of action, or demand in law or equity by any person, firm, partnership, or corporation not bound by this CAFO for any liability relating in any way to the presence of lead-based paint and/or lead-based paint hazards at or in any target housing which is the subject of this CAFO.

**XI. PARTIES BOUND**

65. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondents and its officers, directors, employees, successors, agents and assigns.

**XII. EFFECTIVE DATE**

66. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing

Clerk pursuant to the *Consolidated Rules of Practice*.

**XIII. ENTIRE AGREEMENT**

67. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**XIV. EXECUTION**

68. The person signing this Consent Agreement on behalf of the Respondents acknowledge and certify by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondents to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**For Respondents:**

Date: 6/1/18

By: Sean McCann  
Mr. Sean McCann, owner

Date: 6/1/18

By: Marcy McCann  
Mrs. Marcy McCann, owner

**For Complainant:**

Date: 7/26/18

By: Donzetta Thomas  
Donzetta Thomas, Esquire  
UST, Asbestos, Lead & Pesticides Branch  
Office of Regional Counsel

U.S. Environmental Protection Agency, Region III

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 8.1.18

By: 

John A. Armstead, Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III

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

In the Matter of: )

U.S. EPA-REGION 3-RHC  
FILED-2AUG2018AM10:55

Sean and Marcy McCann, )  
145 W. Hills Drive )  
Williamsport, PA 17701 )

Docket No.: TSCA-03- 2018-0111

RESPONDENTS )

Proceeding Under Section 16(a) of the  
Toxic Substances Control Act, 15 U.S.C.  
Section 2615(a)

**FINAL ORDER**


The Complainant, the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondents, Sean and Marcy McCann have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties to the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007 ("ERP")* and the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).

**NOW, THEREFORE PURSUANT TO**, Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of Section 1018 of the Residential lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, 40 C.F.R. Part 745, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **Two Thousand Three Hundred Three Dollars (\$2,303.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the EPA Regional Hearing Clerk.

Date: Aug. 2, 2018

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA, Region III





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

In the Matter of: )

Sean and Marcy McCann, )  
145 W. Hills Drive )  
Williamsport, PA 17701 )

RESPONDENTS )

) Docket No.: TSCA-03- 2018-0111

) U.S. EPA-REGION 3-RHC  
) FILED-2AUG2018AM10:55

) Proceeding Under Section 16(a) of the  
) Toxic Substances Control Act, 15 U.S.C.  
) Section 2615(a)  
)

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2018 the original and one (1) copy of the foregoing **Consent Agreement and Final Order**, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **United Parcel Service - Overnight** to the following:

Sean & Marcy McCann  
145 W. Hills Drive  
Williamsport, PA 17701  
(570) 320-0914

Copy served via **Hand Delivery or Inter-Office Mail** to:

Donzetta Thomas  
Office of Regional Counsel (3RC50)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)

Dated: August 2, 2018

Bettina L. Durn

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

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