

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson 2/23/17
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-D1-2016-0054

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Brady Sullivan Millworks II, LLC
and Brady Sullivan Millworks IV, LLC
670 North Commercial Street, Suite 303
Manchester, NH 03101

Total Dollar Amount of Receivable \$ 90,461 Due Date: 3/24/17

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:
1st \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912**

RECEIVED

FEB 23 2017

EPA ORC US
Office of Regional Hearing Clerk

February 22, 2017

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square
Boston, Massachusetts 02109

Re: Brady Sullivan Millworks II, LLC and Brady Sullivan Millworks IV, LLC;
Docket No. TSCA-01-2016-0054

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Andrea Simpson".

Andrea Simpson
Senior Enforcement Counsel

cc: Marc Pinard, Esq.

Enclosure

Docket No. TSCA-01-2016-0054

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, the original and one copy of the Consent Agreement and Final Order in the matter of Brady Sullivan Millworks II, LLC and Brady Sullivan Millworks IV, LLC, Docket No. TSCA-01-2016-0054, were hand-delivered to the Regional Hearing Clerk and a copy was sent to counsel for Respondents, as set forth below:

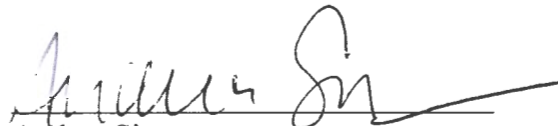
Original and one copy
by hand delivery to:

Wanda Santiago
Regional hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109

Copy by certified mail to:

Marc Pinard, Esq.
Brady Sullivan Properties
670 North Commercial Street, Suite 303
Manchester, New Hampshire 03101

Dated: 2/22/17


Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100
Boston, MA 02109
(617) 918-1738

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
BEFORE THE ADMINISTRATOR**

In the Matter of:)

Brady Sullivan Millworks II, LLC and)
Brady Sullivan Millworks IV, LLC)
670 North Commercial Street, Suite 303)
Manchester, New Hampshire 03101)

Respondents)
_____)

Docket No. TSCA-01-2016-0054

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency (“EPA”), and Respondents, Brady Sullivan Millworks II, LLC (“Millworks II”) and Brady Sullivan Millworks IV, LLC (“Millworks IV”) (together, “Respondents”), have agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Respondents pursuant to Section 16 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615, by filing an Administrative Complaint.

2. The Complaint alleges that Respondents violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 *et seq.*, and federal regulations promulgated under TSCA and/or

In the Matter of Brady Sullivan Millworks II, LLC and Brady Sullivan Millworks IV, LLC; TSCA-01-2016-0054

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EPA ORC
Office of Regional Hearing Clerk

the Act, including 40 C.F.R. Part 745, Subpart F (*Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, 40 C.F.R. §§ 745.100-745.119), 40 C.F.R. Part 745, Subpart E (*Residential Property Renovation*, 40 C.F.R. §§ 745.80-745.92) and 40 C.F.R. Part 745, Subpart L (*Lead-Based Paint Activities*, 40 C.F.R. §§ 745.220-745.239).

3. The provisions of this CAFO shall apply to and be binding on Respondents, their successors and assigns.

4. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondents. Respondents waive any defenses they might have as to jurisdiction and venue and, without admitting or denying the factual allegations contained in the Complaint, consent to the terms of this CAFO.

5. Respondents hereby waive their right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waive their right to appeal the Final Order.

II. TERMS OF SETTLEMENT

6. Respondents hereby certify that they are currently operating and will operate their business in compliance with Section 406 of TSCA, 15 U.S.C. § 2686, the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, the Disclosure Rule set forth at 40 C.F.R. Part 745, Subpart F, and the Renovation, Repair and Painting Rule set forth at 40 C.F.R. Part 745, Subpart E and 40 C.F.R. Part 745, Subpart L. Within thirty (30) days of the

effective date of this CAFO, Respondents shall submit to EPA for review and approval, a revised Lead Disclosure Form that includes information pertaining to lead-based paint and lead-based paint hazards for each individual residential unit at the Mill West property and a summary of information pertaining to lead-based paint and lead-based paint hazards in common areas of the Mill West property. This information shall be sent to Andrea Simpson at the address listed in paragraph 9 below or to simpson.andrea@epa.gov. After the revised Lead Disclosure Form is sent to EPA, Respondents shall immediately incorporate into the Lead Disclosure Form any comments that EPA provides to Respondents.

7. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and taking into account the nature, circumstances, extent, and gravity of the violations, EPA has determined that an appropriate civil penalty to settle this action is in the amount of ninety thousand four hundred sixty-one dollars (\$90,461).

8. Respondents consent to the issuance of this CAFO and consent to the payment of a civil penalty of \$90,461, which shall be due within 30 calendar days of the effective date of this CAFO.

9. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In the Matter of Brady Sullivan Millworks II, LLC and Brady Sullivan Millworks IV, LLC*; TSCA-01-2016-0054), be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

In the Matter of Brady Sullivan Millworks II, LLC and Brady Sullivan Millworks IV, LLC; TSCA-01-2016-0054

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101
Include the phrase "Government Lockbox 979077" on the shipping label.

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Respondents shall provide copies of the check (or documentation of other type of payment) to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

10. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that the civil penalty is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

11. All penalties, interest, and charges payable pursuant to this CAFO shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

12. Respondents shall bear their own costs and attorneys' fees in connection with the action resolved by this CAFO.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, for the violations alleged in the Complaint, contingent on Respondents' full compliance with the terms of this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations.

14. Nothing in the CAFO shall be construed to limit the authority of the United States to undertake any action against Respondents in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. This CAFO in no way relieves Respondents or their employees of any criminal liability. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or Respondents' violation of the statutes and regulations upon which this agreement is based, or for Respondents' violation of applicable provision of law.

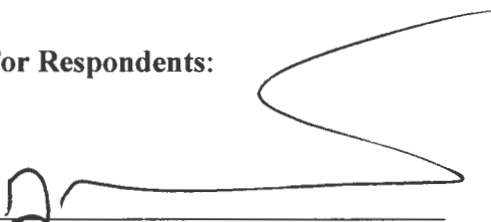
15. The parties shall bear their own costs and fees in this action, including attorneys' fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

16. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

17. This CAFO does not constitute a waiver, suspension, or modification of the requirements of TSCA, 15 U.S.C. § 2601 *et seq.*, or any regulations promulgated thereunder.

18. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

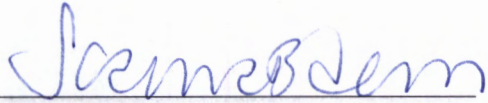
For Respondents:



Arthur W. Sullivan, Principal
Brady Sullivan Millworks II, LLC
Brady Sullivan Millworks IV, LLC

2/14/17

For Complainant:



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I

2/21/2017
Date

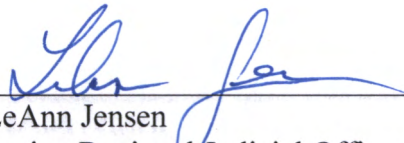
II. FINAL ORDER

Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), authorizes EPA to compromise with or without conditions the maximum civil penalties which may be imposed under that Section. EPA has made such a compromise by applying the penalty factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), to the facts and circumstance of this case, including the circumstances of the violations and the culpability of the violator. Pursuant to those provisions, EPA has modified the maximum civil penalties and imposed the conditions described in paragraph 6 of the Consent Agreement. Respondent has consented to the terms of the Consent Agreement.

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA’s Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondents are ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Date: 2/21/17



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I