

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

IN THE MATTER OF:

Robert C. Durst d/b/a Magiclean  
110 Smith Street  
Salisbury, PA 15558,

Respondent.

Magiclean  
110 Smith Street  
Salisbury, PA 15558,

Facility.

U.S. EPA-REGION 3-RHC  
FILED-29AUG2019PM12:13

EPA Docket No. EPCRA-03-2019-0031

Proceeding under Sections 311, 312 and  
325 of the Emergency Planning and  
Community Right-to-Know Act, 42 U.S.C.  
§§ 11021, 11022 and 11045

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Robert C. Durst d/b/a Magiclean (“Respondent”) (collectively the “Parties”), pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (or the “Act”), 42 U.S.C. § 11045, 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. Section 325 of EPCRA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under Section 325 of the Act for the violations alleged herein.
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 this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(8).

### **GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees 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.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11. 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.
12. Respondent is an individual doing business as the sole proprietor of Magiclean, a mobile cleaning, power-washing and restoration business, which is located at 110 Smith Street in Salisbury, PA 15558.
13. Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and 40 C.F.R. § 370.66.
14. Respondent is the operator of Magiclean's facility at 110 Smith Street in Salisbury, PA 15558 ("the Facility"). Respondent and his brother Keith Durst own, as tenants in common, the building and property on which Magiclean operates.
15. The Facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66.

16. At all times relevant to this CAFO, Respondent has been the “owner or operator” of the Facility within the meaning of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 & 11022, and 40 C.F.R. § 370.2.
17. Respondent is engaged in a business at the Facility where chemicals are either used, distributed, or are produced for use or distribution.
18. Respondent is an “employer” at the Facility as that term is defined at 29 C.F.R. § 1910.1200(c).
19. The State Emergency Response Commission (“SERC”) for the Facility is, and at all times relevant to this CAFO has been, the Pennsylvania Department of Labor and Industry, Bureau of Occupational & Industrial Safety, Pennsafe Program, located at 651 Boas Street, in Harrisburg, Pennsylvania 17121.
20. The Local Emergency Planning Committee (“LEPC”) for the Facility is, and at all times relevant to this CAFO has been, the Somerset County Department of Emergency Services, 100 East Union Street, Somerset, Pennsylvania 15501.
21. The local fire department with jurisdiction over the Facility (“Local Fire Department”) is, and at all times relevant to this CAFO has been, the Salisbury Volunteer Fire Department, 385 Ord Street, Salisbury, Pennsylvania 15558.
22. According to information supplied to EPA by Respondent, during each of the calendar years 2014, 2015 and 2016, the maximum amount of hydrofluoric acid present at the Facility was approximately 540 pounds and the maximum amount of sulfuric acid present at the Facility was approximately 725 pounds.
23. On December 18, 2016, a fire occurred at the Facility. Firefighters from the Local Fire Department and Meyersdale, Pennsylvania, put out the fire.
24. As alleged in more detail in Counts I through IV below, Respondent failed to provide information to the SERC, LEPC and Local Fire Department about chemicals stored at the Facility, specifically hydrofluoric acid and sulfuric acid, as required by EPCRA Sections 311 & 312, 42 U.S.C. §§ 11021 & 11022.
25. As a result, before arriving at the fire, the SERC, LEPC and Local Fire Department were unaware that drums of hydrofluoric and sulfuric acid were stored at the Facility. One firefighter found the drums, partially melted, during the “mop up” phase, after the fire had been put out.
26. Six firefighters were sent to the emergency room after the fire and treated for inhaling fumes. One had chemical burns on his eyes, face, throat and lungs. He coughed up blood in the emergency room.
27. During an interview in May 2018, this firefighter said that his throat and lungs had gotten better. He said his eye specialist said that he should not have any major problems but could not rule out problems in the future. His eyes still itch and burn when he gets hot



water near them; when hot water gets on his face and skin, it gets very red and itches until the water dries.

28. Due to chemical damage during the fire, the Local Fire Department and Meyersdale Fire Department lost 26 full firefighting ensembles (estimated \$3,500 each) and several breathing apparatuses (estimated \$5,000 each). Insurance paid to replace the Local Fire Department's equipment.
29. On April 18, 2017, EPA conducted an inspection of the Facility to ascertain Respondent's compliance with the emergency planning and community right-to-know requirements of Sections 302, 303, 311 and 312 of EPCRA, 42 U.S.C. §§ 11002, 11003, 11021, 11022 ("the Inspection"). During and after the Inspection, Respondent submitted information to EPA regarding the Facility and its compliance with EPCRA.

**Count I**  
**Failure to Comply with Section 311 of EPCRA**

30. The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.
31. Section 311 of EPCRA, 42 U.S.C. § 11021, as implemented by 40 C.F.R. Part 370, requires an owner or operator of a facility required to prepare or have available a Material Safety Data Sheet/Safety Data Sheet ("MSDS" or "SDS") for a hazardous chemical in accordance with the Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility is present at any one time a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous substance ("EHS")) in a quantity equal to or greater than its applicable minimum threshold level for reporting ("MTL") or threshold planning quantity ("TPQ") established by 40 C.F.R. § 370.10, to submit either MSDSs for, or a list identifying, those hazardous chemicals to the appropriate state emergency response commission ("SERC"), local emergency planning committee ("LEPC"), and local fire department with jurisdiction over the facility, on or before October 17, 1990, or within three months after meeting the MTL or TPQ.
32. Respondent is the owner of a facility that is required to prepare or have available MSDSs or SDSs for any hazardous chemicals present at the Facility under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.
33. Hydrofluoric acid and sulfuric acid are "hazardous chemicals" as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 40 C.F.R. § 370.66, and EHSs as defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), and 40 C.F.R. § 370.66.
34. Pursuant to 40 C.F.R. § 370.10(a)(1), the TPQ for hydrofluoric acid is 100 pounds and the TPQ for sulfuric acid is 500 pounds.

35. Respondent had present at the Facility during calendar years 2014, 2015 and 2016 hydrofluoric acid and sulfuric acid in amounts exceeding each chemical's respective TPQ.
36. Respondent was required to submit to the SERC, LEPC and Local Fire Department an MSDS or SDS for hydrofluoric acid and sulfuric acid, or a list identifying hydrofluoric acid and sulfuric acid as present at the Facility, no later than three (3) months after the hazardous chemicals were present at the Facility in a quantity equal to or exceeding their respective MTL or TPQ.
37. Respondent failed to provide the SERC, LEPC and Local Fire Department with an MSDS or SDS for hydrofluoric acid and sulfuric acid, or a list of hazardous chemicals present at the Facility, including hydrofluoric acid and sulfuric acid.
38. Respondent violated Section 311 of EPCRA, 42 U.S.C. § 11021, by failing to submit to the SERC, LEPC and Local Fire Department an MSDS or SDS, or list, of each hazardous chemical present at the Facility in a quantity equal to or exceeding its respective MTL or TPQ, no later than three (3) months after the chemical was present at the Facility in an amount equal to or greater than its respective MTL or TPQ.
39. In failing to comply with Section 311 of EPCRA, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**Count II**  
**Failure to Comply with Section 312 of EPCRA for 2014**

40. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
41. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370, requires the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet ("MSDS") or Safety Data Sheet ("SDS") for a hazardous chemical in accordance with Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous substance ("EHS")) is present at any one time during a calendar year in a quantity equal to or greater than its applicable minimum threshold level for reporting ("MTL") or threshold planning quantity ("TPQ") established by 40 C.F.R. § 370.10, to submit on or before March 1, 1988, and by March 1<sup>st</sup> of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form ("Chemical Inventory Form") for the previous calendar year identifying the hazardous chemical and providing the information described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), to the State Emergency Response Commission ("SERC"), the Local Emergency Planning Committee ("LEPC"), and local fire department with jurisdiction over the facility.

42. Respondent had present at the Facility during calendar year 2014 hydrofluoric acid and sulfuric acid in amounts exceeding each chemical's respective TPQ.
43. Respondent failed to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for calendar year 2014 by March 1, 2015, identifying hydrofluoric acid and sulfuric acid as present at the Facility in a quantity equal to or greater than their respective MTL or TPQ, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).
44. Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, by failing to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for the Facility for calendar year 2014.
45. In failing to comply with Section 312 of EPCRA, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**Count III**  
**Failure to Comply with Section 312 of EPCRA for 2015**

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.
47. Respondent had present at the Facility during calendar year 2015 hydrofluoric acid and sulfuric acid in amounts exceeding each chemical's respective TPQ.
48. Respondent failed to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for the Facility for calendar year 2015 by March 1, 2016, identifying hydrofluoric acid and sulfuric acid as present at the Facility in a quantity equal to or greater than their respective MTL or TPQ, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).
49. Respondent violated Section 312 of EPCRA by failing to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for the Facility for calendar year 2015.
50. In failing to comply with Section 312 of EPCRA, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**Count IV**  
**Failure to Comply with Section 312 of EPCRA for 2016**

51. The allegations of Paragraphs 1 through 50 of this Consent Agreement are incorporated herein by reference.
52. Respondent had present at the Facility during calendar year 2016 hydrofluoric acid and sulfuric acid in amounts exceeding each chemical's respective TPQ.

53. Respondent failed to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for the Facility for calendar year 2016 by March 1, 2017, identifying hydrofluoric acid and sulfuric acid as present at the Facility in a quantity equal to or greater than their respective MTL or TPQ, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).
54. Respondent violated Section 312 of EPCRA by failing to submit to the SERC, LEPC and Local Fire Department a Chemical Inventory Form for the Facility for calendar year 2016.
55. In failing to comply with Section 312 of EPCRA, Respondent is subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

### CIVIL PENALTY

56. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of TWO THOUSAND Dollars (\$2,000), which Respondent shall be liable to pay in accordance with the terms set forth below.
57. The civil penalty is based upon EPA's consideration of a number of factors, including the particular facts and circumstances of this case as applied to the nature, extent, gravity, circumstances and adjustment factors of EPA's *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999); the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19; and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
58. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent.
59. Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 56, above, in settlement of the above-captioned action.

### PAYMENT TERMS

60. The civil penalty of TWO THOUSAND DOLLARS (\$2,000) set forth in Paragraph 56 may be paid in four (4) installments with interest at a rate of one per cent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
  - a. 1st Payment: The first payment in the amount of FIVE HUNDRED DOLLARS (\$500.00) consisting of a principal payment of \$500.00 and an interest payment of \$0.00, shall be paid **within thirty (30) days** of the date on which this CAFO is mailed or hand-delivered to Respondent;



- b. 2nd Payment: The second payment in the amount of FIVE HUNDRED AND THREE DOLLARS AND SEVENTY-FIVE CENTS (\$503.75) consisting of a principal payment of \$500.00 and an interest payment of \$3.75, shall be paid **within ninety (90) days** of the date on which this CAFO is mailed or hand-delivered to Respondent;
  - c. 3rd Payment: The third payment in the amount of FIVE HUNDRED AND TWO DOLLARS AND FIFTY CENTS (\$502.50) consisting of a principal payment of \$500.00 and an interest payment of \$2.50, shall be paid **within one hundred eighty (180) days** of the date on which this CAFO is mailed or hand-delivered to Respondent; and
  - d. 4th Payment: The fourth payment in the amount of FIVE HUNDRED AND ONE DOLLAR AND TWENTY-FIVE CENTS (\$501.25) consisting of a principal payment of \$500.00 and an interest payment of \$1.25, shall be paid **within two hundred seventy (270) days** of the date on which this CAFO is mailed or hand-delivered to Respondent.
61. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of two thousand dollars (**\$2,000**) and total interest payments in the amount of seven dollars and fifty cents (**\$7.50**). Respondent consents, for purposes of settlement, to the payment of interest specified in this and the foregoing paragraph.
62. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **EPCRA-03-2019-0031**;
  - b. All checks shall be made payable to the "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
  - d. For additional information concerning other acceptable methods of payment of the civil penalty, see:  
  

<https://www.epa.gov/financial/makepayment>



- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Suzanne M. Parent  
Associate Regional Counsel  
U.S. EPA, Region III (3RC20)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
parent.suzanne@epa.gov

63. 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, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
64. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
65. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Accordingly, interest payments on each outstanding installment of the civil penalty assessed herein are set forth in Paragraph 60 of this CAFO.
66. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case 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.
67. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that 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).

68. Failure by the Respondent to pay the EPCRA civil penalty assessed by the Final Order in accordance with the terms of this CAFO may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
69. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

#### **GENERAL SETTLEMENT CONDITIONS**

70. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
71. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

#### **CERTIFICATION OF COMPLIANCE**

72. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

#### **OTHER APPLICABLE LAWS**

73. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of EPCRA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

74. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. EPA reserves the right to commence action

against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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). EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

#### **EXECUTION/PARTIES BOUND**

75. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

#### **EFFECTIVE DATE**

76. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

#### **ENTIRE AGREEMENT**

77. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties 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.

In Re: Robert C. Durst d/b/a Magiclean  
EPA Docket No. EPCRA-03-2019-0031

For Respondent: ROBERT C. DURST D/B/A MAGICLEAN

Date: 7-29-19

By:   
Robert C. Durst



In Re: Robert C. Durst d/b/a Magiclean  
EPA Docket No. EPCRA-03-2019-0031


For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the U.S. Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: AUG 28 2019

By:   
Karen Melvin, Director  
Enforcement & Compliance Assurance Division

Date: 8/8/19

By:   
Suzanne M. Parent  
Associate Regional Counsel

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

U.S. EPA-REGION 3-RHC  
FILED-29AUG2019PM12:13

**IN THE MATTER OF:**

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110 Smith Street  
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**Respondent.**

**Magiclean  
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**Facility.**

**EPA Docket No. EPCRA-03-2019-0031**

**FINAL ORDER**

**Proceeding under Sections 311, 312 and  
325 of the Emergency Planning and  
Community Right-to-Know Act, 42  
U.S.C. §§ 11021, 11022 and 11045**

**FINAL ORDER**

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Robert C. Durst d/b/a Magiclean, 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 (with specific reference to Sections 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 in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999).

**NOW, THEREFORE, PURSUANT TO** Section 325 of EPCRA, 42 U.S.C. § 11045, 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 DOLLARS (\$2,000)**, and interest in the amount of **SEVEN DOLLARS AND FIFTY CENTS (\$7.50)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

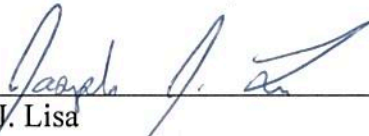
This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive,

In Re: Robert C. Durst d/b/a Magiclean  
EPA Docket No. EPCRA-03-2019-0031

extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of EPCRA and the regulations promulgated thereunder.

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

Aug. 29, 2019  
Date

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

**IN THE MATTER OF:**

**Robert C. Durst d/b/a Magiclean  
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§§ 11021, 11022 and 11045**

**CERTIFICATE OF SERVICE**

I certify that on AUG 29 2019, 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 caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via UPS Next Day Delivery, to:

Marc T. Valentine  
Marc T. Valentine and Associates, P.C.  
PO Box 192  
118 North Center Avenue  
Somerset, PA 15501

Copies served via Hand Delivery or Inter-Office Mail to:

Suzanne M. Parent  
Associate Regional Counsel  
ORC – 3RC20  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

Perry Pandya  
EPCRA Coordinator  
Enforcement & Compliance Assurance  
Division-3ED12  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

Dated: AUG 29 2019

*Bevin Esposito*  
Regional Hearing Clerk

U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS: 7008 0500 0001 5752 8552