

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	DOCKET NO. TSCA-10-2022-0020
)	
KUSTOM US, INC.)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
Pasco, Washington,)	
)	
Respondent.)	
)	

EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Kustom US, Inc. (“Respondent”) failed to comply with Section 402(c) of the U.S. Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. (“TSCA”).

2. The State of Washington is authorized under Section 404(a) of TSCA, 15 U.S.C. § 2684(a), and 40 C.F.R. § 745.324(d) to administer and enforce requirements for a renovation, repair, and painting (RRP) program in accordance with Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), and a lead-based paint pre-renovation education program in accordance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b).

3. Section 404(b) of TSCA, 15 U.S.C. § 2684(b), makes it unlawful for any person to violate or fail or refuse to comply with any requirement of a state program authorized under Section 404 of TSCA, 15 U.S.C. § 2684.

4. The Washington Administrative Code (“WAC”) Title 365 applies to renovations performed for compensation in target housing as specified in the WAC, Chapter 365-230.

5. WAC 365-230-340(1) requires the Respondent to retain all records necessary to demonstrate compliance with WAC 365-230-340 for a period of three years following completion of renovation activities.

6. EPA conducted a RRP recordkeeping inspection with Respondent on August 12, 2021. Respondent failed to make available RRP records necessary to demonstrate compliance with WAC 365-230-340.

7. Respondent failed to retain all RRP records specified in WAC-365-230-340(2) for a period of three years as required in WAC 365-230-340(1) after performing renovation for compensation on housing constructed prior to 1978 at 2156 Cascade Park, Richland, Washington 99354.

8. According to records collected by EPA, 2156 Cascade Park, Richland, Washington 99354 was built in 1973, and is *target housing* within the meaning of WAC 365-230-020(78).

9. Respondent’s failure to retain records as specified in WAC 365-230-340(2) for the renovation activities at 2156 Cascade Park, Richland, Washington 99354 constitutes a single violation of WAC-365-230-340(1).

10. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). After considering these factors, EPA has determined, and Respondent agrees that an appropriate penalty to settle this action is **\$1,000**.

11. Upon signing this Expedited Settlement Agreement (“Agreement”), Respondent shall deposit the civil penalty amount listed in paragraph 10 by one of the following methods:

11.1 Send a cashier’s or certified check or money order with a notation for TSCA-10-2022-0020 payable to the order of the “Treasury of the United States of America” to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-10-2022-0020
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

11.2 Send a cashier’s or certified check or money order by an overnight/common carrier (*e.g.*, FedEx or United Parcel Service of America, Inc.) with a notation for TSCA-10-2022-0020 payable to the order of the “Treasury of the United States of America” to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

11.3 Make an electronic deposit for payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).

12. Concurrently with the deposit under paragraph 11, Respondent shall forward a scanned, ink signed PDF copy of the Agreement, and a copy of the cashier’s or certified check or money order or documentation of a wire transfer via email to Kim Farnham, Lead-Based Paint

Compliance Officer at the following email address, farnham.kim@epa.gov. By written notice to Respondent, EPA may change the address and/or person listed above.

13. EPA is authorized to enter into this Agreement and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.13(b).

14. In signing this Agreement, for purposes of this proceeding, Respondent: (a) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (b) neither admits nor denies the factual allegations in this Agreement; (c) consents to the assessment of this penalty; and (d) waives any right to contest the allegations contained in this Agreement, and its right to appeal the attached Final Order.

15. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) is currently in compliance with the recordkeeping and reporting requirements as stated in WAC 365-230-340; (b) agrees to provide a deposit for payment of the civil penalty as set forth in paragraph 11; (c) agrees to submit a true and accurate proof of deposit for payment of the civil penalty as set forth in paragraph 12; and (d) agrees to release said deposit for payment to EPA upon entry of the Final Order attached hereto.

16. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in paragraph 11, Respondent shall be resolved of liability for Federal civil penalties for the violation(s) and facts alleged herein.

17. The penalty, including interest, paid by Respondent pursuant to the requirements of this Agreement, represents civil penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local income taxes.

18. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.

19. Failure of Respondent to remit the civil penalties provided herein will result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

20. Each party shall bear its own costs and fees, if any.

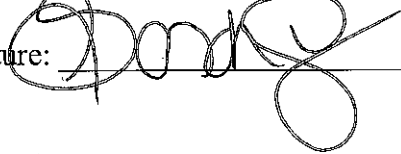
21. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

22. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

Respondent Name (print): SARAH TRAY

Respondent Title (print): EXEC. VP

Respondent Signature: 

Date: 1-12-2022

APPROVED BY EPA:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
EPA Region 10

Date: _____

FINAL ORDER

Pursuant to the authority of Section 16 of TSCA, 15 U.S.C. § 2615, and according to the terms of the Expedited Settlement Agreement, IT IS HEREBY ORDERED THAT:

This agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 10. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

SO ORDERED this _____ day of _____, 2022.

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Kustom US, Inc.**, Docket No. TSCA-10-2022-0020 was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered electronically to:

Kim Farnham
Lead-Based Paint Compliance Officer
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155, 20-C04
Seattle, Washington 98101
farnham.kim @epa.gov

Further, the undersigned certifies that a true and correct copy of the aforementioned document was delivered electronically to:

Mr. Paul Little
Store Manager
Kustom US, Inc.
1320 North Oregon Avenue
Pasco, Washington 99301
Paul.little@kustom.us

DATED this _____ day of _____, 2022.

Regional Hearing Clerk
EPA Region 10