



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 18 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Grace Tyson
Grace Tyson Real Estate, Inc
514 LeMoyne Drive
Dauphin Island, Alabama 36528

Re: Grace Tyson Real Estate, Inc
Docket No.: TSCA-04-2011-2520(b)

Dear Ms. Tyson:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO with respect to payment of the assessed penalty of \$2,968, the first payment of \$375.19 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at the U.S. Environmental Protection Agency's (EPA's) Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or their compliance status in the future, please call me at (404) 562-8979 or Mr. Curtis Richardson at (404) 562-8987.

Also enclosed is a copy of the October 2001 Enforcement Alert titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure

Requirements.” This document puts your client on notice of their potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne M. Gettle", written in a cursive style.

Jeanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA**

IN THE MATTER OF:)
)
Grace Tyson Real Estate, Inc.,)
)
)
Respondent.)
_____)

Docket No.: TSCA-04-2011-2520(b)

2011 SEP 19 10:41 AM
EPA REGION 4
ATLANTA, GA

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, U. S. Environmental Protection Agency, Region 4. Respondent is Grace Tyson Real Estate, Inc.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852(d), also known as Title X of the Housing and Community Development Act of 1992. Pursuant to Title X, it is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with a provision of Title X or any rule or order issued under Title X.
4. For purposes of enforcing Title X under TSCA, the penalty for each violation applicable under Section 16 of TSCA, 15 U.S.C. § 2615, shall not be more than \$10,000. The Debt Collection Improvement Act of 1996 requires EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through January 12, 2009, is \$11,000 and for each violation occurring after January 12, 2009, the maximum penalty for each violation is \$16,000.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Mr. W. Curtis Richardson
Lead and Children's Health Section
U.S. EPA, Region 4
61 Forsyth Street,
Atlanta, Georgia 30303-8960
(404) 562-8828.

III. Specific Allegations

6. Respondent is a Agent, as defined at 40 C.F.R. § 745.103, of residential housing located at 51 Forney Johnston Drive, Dauphin Island, Alabama. This residential housing is “target housing,” as defined at 40 C.F.R. § 745.103.
7. Based on information obtained by EPA on or about January 20, 2010, relating to Respondent’s contracts to sell the target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and 40 C.F.R. Part 745, Subpart F as follows:
 - a. Pursuant to 40 C.F.R. § 745.107(a)(1), a Agent shall provide the Purchaser an EPA-approved lead hazard information pamphlet before the Purchaser is obligated under any contract to purchase target housing. Respondent failed to provide Purchaser an EPA- approved pamphlet.
 - b. Pursuant to 40 C.F.R. §745.113(a)(2), (3) and (4), an Agent shall include in the contract a statement by the Purchaser affirming receipt of the information as required and the lead hazard pamphlet.
 - c. Pursuant to 40 C.F.R. §745.113(a)(6)(i) and (ii) a Seller and Agent shall include in the contract as an attachment, a statement by the one or more Agents involved in the transaction to sell target housing that the Agent(s) has informed the Seller of the Seller’s obligations and that the Agent(s) is aware of his duty to ensure compliance.

IV. Consent Agreement

8. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the allegations set forth above.
9. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.

10. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
11. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart F.
12. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
13. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

14. Respondent is assessed a civil penalty of **TWO THOUSAND NINE HUNDRED AND SIXTY EIGHT DOLLARS (\$2,968)**. Eight payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments will be due in ninety (90) day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **THREE THOUSAND DOLLARS AND FIFTY-EIGHT CENTS (\$3,000.58)**. Respondent shall make payments in accordance with the following schedule:

<u>Payment No.</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of date CAFO filed	\$375.19
2	within 120 days of date CAFO filed	\$375.19
3	within 210 days of date CAFO filed	\$375.19
4	within 300 days of date CAFO filed	\$375.19
5	within 390 days of date CAFO filed	\$375.19
6	within 480 days of date CAFO filed	\$375.19
7	within 570 days of date CAFO filed	\$375.19
8	within 660 days of date CAFO filed	\$374.25

15. Respondent shall remit each penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

The Respondent shall note on the face of each check the Respondent's name and the Docket Number associated with this CAFO.

16. Each penalty payment shall be sent by one of the following methods to the address identified for the method chosen:

Address for payment submittal using the United States Postal Service:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Address for payment submittal using other mail service (e.g., Federal Express, United Parcel Service (UPS), DHL, etc.):

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101
Contact Person: Natalie Pearson (314) 418-4087.

17. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

W. Curtis Richardson
Lead and Children's Health Section
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

18. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
19. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
20. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty

of **TWO THOUSAND NINE HUNDRED AND SIXTY EIGHT DOLLARS (\$2,968.00)** within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.

21. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, 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 accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty 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). A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
22. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
23. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

24. This CAFO shall be binding upon the Respondent, its successors and assigns.
25. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and to legally bind that party to this CAFO.

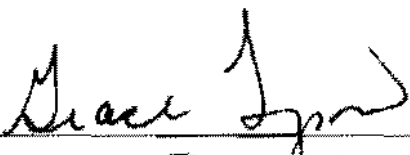
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VI. Effective Date

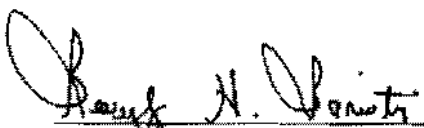
26. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Grace Tyson Real Estate, Inc.
Docket No.: TSCA-04-2011-2520(b)

By:  Date: 2-17-2011
Name: GRACE TYSON
Title: OWNER, Broker

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 3-15-11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 17th day of March, 2011.

By:  Date: 3/17/11
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Grace Tyson Real Estate, Inc, Docket Number: TSCA-04-2011-2520b), to the addressees listed below.

Ms. Grace Tyson (via Certified Mail, Return Receipt Requested)
Owner, Broker
Grace Tyson Real Estate, Inc
514 Lemoyne Drive
Dauphin Island, Alabama 36508

CDO W. Curtis Richardson (via EPA's internal mail)
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan (or assigned attorney) (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

By: 

Date: 3-18-11

Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 3/16/11 (Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9904 (Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree USAO COLLECTS

Administrative Order/Consent Agreement FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree DOJ COLLECTS

Oversight Billing - Cost Package required: Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Grace Tyson Real Estate (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 2968- (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2011 2520(b)

The Site Specific Superfund Account Number:

The Designated Regional/Headquarters Program Office:

The IFMS Accounts Receivable Control Number is: Date

If you have any questions, please call: of the Financial Management Section at:

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- 1. Debt Tracking Officer Environmental Enforcement Section Department of Justice RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044
2. Originating Office (EAD)
3. Designated Program Office

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- 1. Originating Office
2. Regional Hearing Clerk
3. Designated Program Office
4. Regional Counsel (EAD)