

4. For the purposes of this proceeding only, Respondent hereby expressly waives his right to a hearing on any issue of law or fact set forth in the Complaint or herein and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
6. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
7. Respondent shall bear his own costs and attorney's fees, if any.
8. The provisions of this CAFO shall be binding upon Respondent. By his signature below, the person signing this CA on behalf of the Respondent is acknowledging that he or she is fully authorized by Respondent to execute this CA, and to legally bind Respondent to the terms and conditions of the CA and accompanying FO.
9. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed herein.
10. Respondent certifies that he is currently in full compliance with RLBPHRA, 42 U.S.C. §§ 4851 *et seq.*, and the Disclosure Rule codified at 40 C.F.R. Part 745.
11. Nothing in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

Notice of Action to the Commonwealth of Pennsylvania

12. EPA has given the Commonwealth of Pennsylvania prior notice of the issuance of this CAFO.

V. CIVIL PENALTY

13. Respondent agrees to pay the amount of Three Thousand Dollars (\$3,000.00), 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 the Complaint. Such civil penalty shall become due and payable immediately upon Respondent's 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, Respondent must pay such civil penalty in accordance with the following schedule:
 - a. No later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent, Respondent shall pay \$1,500.

- b. No later than three hundred sixty-five (365) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent, Respondent shall pay \$1,500 plus interest, totaling \$1,561.21.
14. 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 Respondent, 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 Policy* (December 2007), and the *Adjustment of Civil Monetary Penalties for Inflation Rule*, set forth at 40 C.F.R. Part 19. The Parties further acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis of Respondent's ability to pay a civil penalty, performed with consideration of EPA's *Guidance on Determining a Violator's Ability to Pay a Civil Penalty* (1986). This analysis was based upon information submitted by Respondent to Complainant.
15. In reliance upon the aforesaid financial information, Complainant has concluded that Respondent has established that it is unable to pay the full amount of the civil penalty proposed by the Complainant, and that Respondent is able to pay a civil penalty in the amount of Three Thousand Dollars (\$3,000.00), in settlement of the above-captioned action.
16. By his signature below, Respondent certifies that the information submitted to EPA regarding Respondent's ability to pay and regarding any other matter at issue in this proceeding, is accurate and not misleading. Respondent is 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. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any of other matter herein at issue, are false or, in any material respect, inaccurate.
17. Payment of the civil penalty amount set forth in paragraph 13, above, 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-03-2010-0249;
 - 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 to:

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

Contact: Eric Volck 513-487-2105

D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station 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

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

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 68010727 Environmental Protection Agency

G. 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 No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

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

I. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

J. A copy of Respondents check or a copy of Respondents electronic fund transfer shall be sent simultaneously to:

Natalie L. Katz
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

18. 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 CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

19. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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).
20. The costs of the Agency'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 - 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.
21. A late payment penalty of six percent (6%) 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). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
22. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

VI. EFFECT OF SETTLEMENT

23. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under TSCA for the specific violations alleged in the Complaint. 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.

VII. OTHER APPLICABLE LAWS

24. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VIII. CERTIFICATION OF COMPLIANCE

25. Respondent certifies to Complainant that, to the best of his knowledge and belief, Respondent presently is complying with the requirements of 40 C.F.R. Part 745, Subpart F.

IX. RESERVATION OF RIGHTS

26. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged in the Complaint. 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. 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. 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.
27. Nothing in this CAFO shall constitute or be construed as a release of Respondent 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.
28. Except as may otherwise be provided by the Consolidated Rules of Practice at 40 C.F.R. Part 22, nothing in this CAFO shall constitute or be construed as a release of any person, firm, partnership, or corporation not bound by this CAFO from any claim, cause of action, or demand in law or equity by Respondent or Complainant for any liability relating to the presence of lead-based paint and/or lead-based paint hazards at or in the target housing which is the subject of this CAFO.

X. PARTIES BOUND

29. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon EPA and the Respondent.

XI. EFFECTIVE DATE

30. 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.

XII. ENTIRE AGREEMENT

31. 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.

For Respondent, William R. Oates, Jr.:

Date: 9/7/2010

By: Richard L. Sieg
Richard L. Sieg, Esq.

For Complainant:

Date: 9/7/10

By: Natalie L. Katz
Natalie L. Katz
Senior Assistant Regional Counsel

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

Date: 9/8/2010

By: Harvey L. Daw for AF
Abraham Ferdas, Director
Land and Chemicals Division

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

In the Matter of:	:	
	:	
William R. Oates, Jr.	:	U.S. EPA Docket No.
4111 Johnny Knoll	:	TSCA-03-2010-0249
Winston-Salem, NC 27107,	:	
	:	
	:	
Respondent.	:	
1202 Isabella Street	:	Proceeding under Sections 409
Williamsport, PA 17701,	:	and 16(a) of the Toxic Substances
	:	Control Act, 15 U.S.C. §§ 2689
	:	and 2615(a)
Target Housing.	:	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency ("U.S. EPA"), Region III, and counsel for Respondent, William R. Oates, Jr., 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*, published at 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

WHEREFORE, Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the "RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, and 40 C.F.R. Part 745, Subpart F, authorize the assessment of a civil penalty under Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, for violations of the RLBPHRA, and having determined, based on the representations of the parties to the attached Consent Agreement, that the agreed Three Thousand Dollars (\$3,000.00) civil penalty payment is based upon a consideration of the factors set forth in TSCA Section 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Three Thousand Dollars (\$3,000.00), in accordance with the provisions set forth in the accompanying Consent Agreement and comply with each of the additional terms and provisions thereof, in settlement of the civil claims contained in the accompanying Consent Agreement.

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

Date:

9/15/10

BY:

Renee Sarajian

Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

