



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
2890 WOODBRIDGE AVENUE  
EDISON, NEW JERSEY 08837-3679

APR 26 2012

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Article Number: 7011 0470 0002 3731 8930

Dr. Steven M. Safyer, CEO  
Montefiore Medical Center  
111 East 210<sup>th</sup> Street  
Bronx, New York 10467

**Re: In the Matter of Montefiore Medical Center  
Docket No. TSCA-02-2012-9203**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 APR 26 P 2:27  
REGIONAL HEARING  
CLERK

Dear Dr. Safyer:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2.

Please note that the forty-five (45) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Judicial Officer. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement". Furthermore, please ensure that a copy of your payment check or documentation of electronic payment is provided to the EPA staff member listed in that section of the Agreement.

Please contact Vickie Pane of my staff at (732) 321-6798 or by electronic mail at [pane.vickie@epa.gov](mailto:pane.vickie@epa.gov), should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief  
Pesticides and Toxic Substances Branch

Enclosure

cc: S. Aveno

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

-----X  
:  
In the Matter of :  
:  
**MONTEFIORE MEDICAL CENTER,** :  
:  
Respondent. :  
:  
Proceeding under Section 16(a) of :  
the Toxic Substances Control Act. :  
:  
-----X

**CONSENT AGREEMENT**  
**AND**  
**FINAL ORDER**

**Docket No.**  
TSCA-02-2012-9203

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2012 APR 26 P 2:21  
REGIONAL HEARING  
CLERK

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a Complaint and Notice of Opportunity for Hearing to Respondent, Montefiore Medical Center ("Respondent"), on January, 4, 2012.

The Complaint charged Respondent with one violation of Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

The EPA and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order, ("CAFO"), pursuant to 40 C.F.R. § 22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation.

**FINDINGS OF FACT**

1. Respondent is Montefiore Medical Center.
2. Respondent owns, operates, and/or controls the facility in and around 111 East 210<sup>th</sup> Street, Bronx, New York 10467 (hereinafter "Respondent's facility").

3. On or about December 7, 2010, duly designated representatives of the EPA conducted an inspection of and at Respondent's facility.

4. As a result of the inspection, EPA determined that Respondent had failed to dispose of PCB Items within one year of removal from service in accordance with the specifications and requirements of 40 C.F.R. § 761.65(a)(1).

5. Respondent asserts that on December 10, 2010, the PCB Items were properly disposed through its vendor Triumvirate Environmental, Inc. A copy of the Certificate of Disposal was provided to EPA on March 5, 2012.

6. On March 5, 2012, the parties met for an informal settlement conference.

### **CONCLUSIONS OF LAW**

1. Respondent, as the owner and/or operator of the facility which is the subject of the above referenced Complaint, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.

2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.

3. Failure to dispose of PCB Items within one year of removal from service is a violation of 40 C.F.R. § 761.65(a)(1), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C).

### **TERMS OF CONSENT AGREEMENT**

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.

2. For the purposes of this Consent Agreement, Respondent (a) admits the jurisdictional allegations of the Complaint, and (b) neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **ONE THOUSAND ONE HUNDRED NINETY DOLLARS (\$1,190)** to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, payment may be made by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Payment must be received at the above address (or account of EPA) on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date"). Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

and

Vickie Pane  
Pesticides and Toxic Substances Branch  
2890 Woodbridge Avenue, MS-105  
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, that attach or might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or the accompanying Final Order.

7. Respondent waives any right it may have pursuant to 40 C.F.R. 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, the Deputy Regional Administrator, or the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

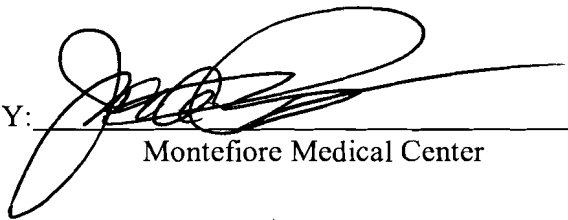
8. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

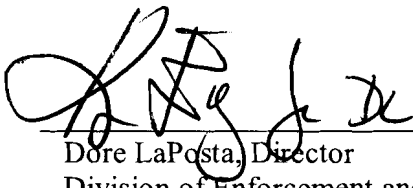
BY:   
Montefiore Medical Center

NAME: Joel A. Perman  
(PLEASE PRINT)

TITLE: Executive Vice President, Finance

DATE: 4/5/12

COMPLAINANT:

  
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance  
U.S. Environmental Protection Agency,  
Region 2  
290 Broadway  
New York, New York 10007

DATE: 4/13/12

In the Matter of Montefiore Medical Center  
Docket Number TSCA-02-2012-9203

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Montefiore Medical Center, bearing Docket Number TSCA-02-2012-9203. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 6 of the Toxic Substances Control Act, 15 U.S.C. § 2605 for purposes of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

DATE: April 17, 2012

Helen S. Ferrara

Helen S. Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency, Region 2  
290 Broadway  
New York, New York 10007

In the Matter of Montefiore Medical Center  
Docket Number TSCA-02-2012- 9203

**CERTIFICATE OF SERVICE**

This is to certify that on the *25* day of *April* 2012, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2012-9203, by certified mail, return receipt requested, to:

Dr. Steven M. Safyer, CEO  
Montefiore Medical Center  
111 East 210<sup>th</sup> Street  
Bronx, New York 10467

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

  
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