



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 19 2013

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

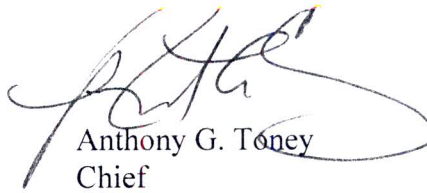
Mr. Martin A. Shelton  
Attorney at Law  
Scoggins & Goodman, P.C.  
2800 Marquis One Tower  
245 Peachtree Center Avenue, N.E.  
Atlanta, Georgia 30303-1227

Re: CHA Carriage House Apartments, LLC d/b/a Carriage House Apartments  
Ratified Consent Agreement and Final Order  
Docket No. TSCA-04-2012-2623(b)

Dear Mr. Shelton:

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. Please inform your client that payment is required in accordance with Section V of the CAFO and the penalty information along with payment instructions are listed there.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

A handwritten signature in black ink, appearing to read 'Anthony G. Toney', is written over the typed name.

Anthony G. Toney  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: CHA Carriage House Apartments, LLC

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION IV  
2013 JUN 19 AM 7:06  
HEARING CLERK

In the Matter of:

CHA Carriage House, LLC  
d/b/a Carriage House Apartments

Respondent.

Docket No.: TSCA-04-2012-2635(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**1. 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. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) is vested in the Administrator of the United States Environmental Protection Agency. The Administrator of the EPA has delegated this authority under TSCA to the Regional Administrator of the EPA Region 4 by the EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator of the EPA Region 4 has re-delegated this authority under TSCA to the Director of the Air, Pesticides, and Toxics Management Division, by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. In accordance with 40 C.F.R. § 22.3(a), the Complainant in this matter is the Director of the Air, Pesticides, and Toxics Management Division. Respondent is CHA Carriage House, LLC d/b/a Carriage House

Apartments, a limited liability company doing business in the State of Georgia.

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 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. The Administrator of the 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. § 4852d, 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. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, the penalty for each violation of Title X of TSCA shall not exceed \$10,000. The Debt Collection Improvement Act of 1996 requires the 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 of Title X occurring after January 30, 1997, through January 12, 2009, is \$11,000 and for each violation occurring after January 12, 2009, the maximum penalty is \$16,000.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Brenda Pressley-Little  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8231.

### **III. Specific Allegations**

6. Respondent is a Lessor, as defined at 40 C.F.R. § 745.103, of residential housing located at 810 Windy Hill Road, Smyrna, Georgia. These residential units are "target housing," as defined at 40 C.F.R. § 745.103.
7. Based on information obtained by the EPA on or about April 8, 2010, relating to Respondent's contracts to lease its target housing described above, the 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 Lessor shall provide the Lessee(s) an EPA-approved lead hazard information pamphlet before the Lessee(s) is obligated under any contract to lease target housing. Respondent failed to provide Lessee(s) an EPA-approved lead hazard information pamphlet for residential housing units 17C (lease date September 2, 2009) and 21D (lease date October 30, 2008).
  - b. Pursuant to 40 C.F.R. § 745.107(a)(2), a Lessor shall disclose to the Lessee(s) the presence of any known lead-based paint and/or lead-based paint hazards in the target housing. Respondent failed to disclose to the Lessee(s) the presence of any known lead-based paint at its residential housing units 18F (lease date August 1, 2008); 21D (lease date October 30, 2008); 17C (lease date September 2, 2009); and 18B (lease date January 22, 2010).
  - c. Pursuant to 40 C.F.R. § 745.107(a)(4), a Lessor shall provide to the Lessee(s) any records or reports available to the Lessor pertaining to lead-based paint and/or lead-

based paint hazards in the target housing. Respondent failed to provide to the Lessee(s) any records or reports for its residential housing units 21D (lease date October 30, 2008) and 17C (lease date September 2, 2009).

- d. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing shall include, as an attachment to or within the contract, the Lead Warning Statement. Respondent failed to include an appropriate statement in the leases or as an attachment for its residential housing units 21D (lease date October 30, 2008) and 17C (lease date September 2, 2009).
- e. Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing shall include, as an attachment to or within the contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. Respondent failed to include the required statement in the leases or as an attachment thereto for its residential housing units 18B (lease date January 22, 2010); 18F (lease date August 1, 2008); 21D (lease date October 30, 2008); and 17C (lease date September 2, 2009).
- f. Pursuant to 40 C.F.R. § 745.113(b)(3), each contract to lease target housing shall include, as an attachment to or within the contract, a list of any records or reports available to the Lessor that pertain to lead hazard information, or an indication that no such list exists. Respondent failed to include the appropriate information in the leases for its residential housing units 18B (lease date January 22, 2010); 18F (lease date August 1, 2008); 21D (lease date October 30, 2008); 30C (lease date September 25, 2009); and 17C (lease date September 2, 2009).

- g. Pursuant to 40 C.F.R. § 745.113(b)(4), each contract to lease target housing shall include in the contract for lease a statement by the Lessee(s) affirming receipt of the information. Respondent failed to include in the leases for its residential housing units 21D (lease date October 30, 2008); 8H (lease date October 13, 2009); and 17C (lease date September 2, 2009) a statement by the Lessee affirming receipt of the required information.
- h. Pursuant to 40 C.F.R. § 745.113(b)(6), each contract to lease target housing shall include in the contract for lease signatures of the Lessor, Agent, and Lessee(s) certifying to the accuracy of their statements, as well as dates. Respondent failed to include the appropriate information in its leases for residential housing units 12B (lease date July 30, 2009); 18E (lease date September 10, 2008); 8D (lease date December 3, 2009); 3H (lease date January 16, 2010); 20B (lease date January 28, 2010); 28C (lease date February 23, 2010); 1F (lease date August 29, 2009); and 17C (lease date September 2, 2009).
8. Based on the fact that the EPA discovered violations in 13 of the 20 leases it reviewed during its April 8, 2010, inspection of Respondent's Carriage House Apartment complex at 810 Windy Hill Road in Smyrna, Georgia, and that there are a total of 228 apartment units at the complex, the EPA believes that a further review of additional leases would likely reveal more widespread TSCA Section 409 and 40 C.F.R. Part 745, Subpart F, violations in other leases at this location.

#### **IV. Consent Agreement**

9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.

10. 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.
11. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
12. 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.
13. 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 the 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.
14. 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**

15. Respondent is assessed a civil penalty of **ONE THOUSAND NINE HUNDRED EIGHTY-NINE DOLLARS (\$1,989)** which shall be paid within thirty (30) days of the effective date.
16. Respondent shall remit the 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 the check the Respondent's Name and the Docket Number associated with this CAFO.**



The penalty payment shall be sent by one of the methods below.

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.

Other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.)  
using the following address:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101  
Contact Number: (314) 418-1028.

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;

Brenda Pressley-Little  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

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

18. 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 pursuant to

this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

19. Pursuant to 31 U.S.C. § 3717, the 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. 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.
20. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
21. This CAFO shall be binding upon the Respondent, its successors and assigns.
22. 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 legally binds that party to this CAFO.

**The remainder of this page intentionally left blank.**

**VI. Effective Date**

23. 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:** CHA Carriage House Apartments, LLC d/b/a/ Carriage House Apartments

**Docket No.:** TSCA-04-2012-2623(b)

By: M. E. Keappler Date: 5/29/2013

Name: M. E. Keappler

Title: General Partner Kepeco Crestwood Partners  
Manager, CHA Carriage House Apartments, LLC

**Complainant:** U.S. ENVIRONMENTAL PROTECTION AGENCY

By: Beverly H. Banister Date: 6.10.13  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 18 day of June, 2013.

By: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

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 CHA Carriage House, LLC d/b/a Carriage House Apartments, Docket Number: TSCA-04-2012-2623(b), to the addressees listed below:

Martin A. Shelton, Esq. (via Certified Mail, Return Receipt Requested)  
Attorney  
Soggins & Goodman  
2800 Marquis One Tower  
245 Peachtree Center Avenue, N.E.  
Atlanta, Georgia 30303-1227

Brenda Pressley-Little (via EPA's internal mail)  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Adam Dilts, Attorney (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

  
Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9511

Date: 6-19-13