



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
OCT 15 2010

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7662 0055

Mr. Kenneth J. Kosmoski
1711 East Marion Street
Shorewood, Wisconsin 53211

Receipt No.7009 1680 0000 7662 0062

Ms. Kristin Gillan
4848 North Lydell Avenue, Apt. 108
Milwaukee, Wisconsin 53217

Kenneth Kosmoski and Kristin Gillan, Docket No. TSCA -05-2010-0006

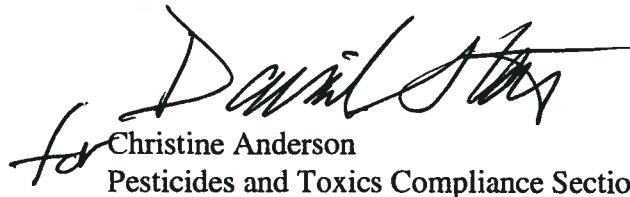
Dear Mr. Kosmoski and Mrs. Gillan:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on October 15, 2010, with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,000 is to be paid in the manner described in paragraphs 10 thru 13. Please be certain that the number **BD 2751147X001** and the docket number are written on both the transmittal letter and on the check. Payment is due by November 14, 2010, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,


for Christine Anderson
Pesticides and Toxics Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**Kenneth Kosmoski and Kristin Gillan
Shorewood, Wisconsin**

Respondents.

Docket No. TSCA-05-2010-0006

**Proceeding to Assess a Civil Penalty
Under Section 16(a) of the Toxic Substances
Control Act, 15 U.S.C. § 2615(a)**

RECEIVED
OCT 15 2010

Consent Agreement and Final Order

Preliminary Statement

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

1. Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. On February 3, 2010, EPA filed the Complaint in this action against Respondents Kenneth Kosmoski and Kristin Gillan. The Complaint alleges that Respondents violated Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5); Section 409 of TSCA, 15 U.S.C. § 2689; and 40 C.F.R. § 745.113(b)(1)-(4), (b)(6) in one contract to lease target housing.
3. Both Respondents filed Answers and requested a hearing in this matter.

Stipulations

4. Respondents admit the jurisdictional allegations in the Complaint and neither admit nor deny the factual allegations in the Complaint, other than those admitted in their Answers, related to their compliance with Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5); Section 409 of TSCA, 15 U.S.C. § 2689; and 40 C.F.R. § 745.113(b)(1)-(b)(4), (b)(6) in one contract to lease target housing.

5. Respondents waive any right to contest the allegations in the Complaint and their right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondents certify that they are complying fully with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations at 40 C.F.R. Part 745.

7. Respondents consent to the assessment of the civil penalty stated in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalties

9. In consideration of Respondents' inability to pay the proposed penalty, EPA agrees to mitigate the proposed penalty of \$27,090 to \$3,000.

10. Respondents agree to each pay half of the \$3,000 civil penalty; Respondent Kosmoski must pay a \$1,500 civil penalty and Respondent Gillan must pay a \$1,500 civil penalty.

11. Within 30 days after the effective date of this CAFO, each Respondent must pay its \$1,500 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

Each check must include the case name, the docket number of this CAFO, and the billing document number.

12. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany each payment. Respondents must send copies of the checks and transmittal letters to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Christine Anderson (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Ann Coyle (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

13. Respondents may pay the penalty online using an ACH debit or credit card within 30 days of the effective date of this CAFO. To pay on line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

14. This civil penalty is not deductible for federal tax purposes.

15. If Respondents do not pay the civil penalty timely, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

16. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15

16. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

17. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in the Complaint.

18. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

19. Nothing in this CAFO shall be construed to create rights in, or grant a cause of action to, any person not a party to this CAFO. The preceding sentence shall not be construed to waive or nullify rights that a person not a signatory to this CAFO may have under applicable law. Each of the parties reserves all rights, defenses, claims, demands and causes of action that each party may have with respect to any matter, transaction or occurrence relating to the residential property at 1709-1711 East Marion Street, Shorewood, Wisconsin against any person not a party to this CAFO.

20. This CAFO does not affect Respondents' responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable federal, state and local laws.

21. The terms of this CAFO bind Respondents, and their successors and assigns.

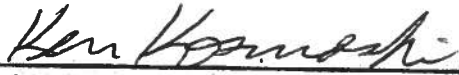
22. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

23. Each party agrees to bear its own costs and attorney's fees in this action.

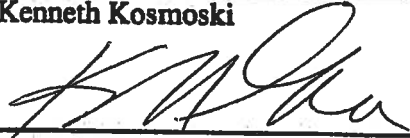
24. This CAFO constitutes the entire agreement between the parties.

Kenneth Kosmoski and Kristin Gillan, Respondents

9-23-10
Date



Kenneth Kosmoski

9/23/10
Date


Kristin Gillan

United States Environmental Protection Agency, Complainant

10/12/10
Date


Bruce F. Sypniewski
Acting Director
Land and Chemicals Division

**In the Matter of: Kenneth Kosmoski and Kristin Gillan
Docket No. TSCA-05-2010-0006**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. **IT IS SO ORDERED.**

10-13-10

Date



**Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5**

RECEIVED
OCT 15 2010

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

CERTIFICATE OF SERVICE

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving Kenneth Kosmoski and Kristin Gillan, was filed on October 15, 2010, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipts No.7009 1680 0000 7662 0055, and 7009 1680 0000 7662 0062 to:

Ms. Kristin Gillan
4848 North Lydell Avenue, Apt. 108
Milwaukee, Wisconsin 53217

Mr. Kenneth J. Kosmoski
1711 East Marion Street
Shorewood, Wisconsin 53211

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Ann Coyle, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2010-0006

RECEIVED
OCT 15 2010
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY