



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 14 2018

UNITED PARCEL SERVICE

Mr. Kenneth Bakari
Training Program Manager
Phase One Consultants, LLC
2522 Alameda Street, Suite 1
Nashville, Tennessee 37208

Re: Phase One Consultants, LLC
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2018-2508(b)

Dear Mr. Bakari:

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 refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty. Should you have any questions about this matter or your compliance status in the future, please contact Mr. Elmore Johnson of the U. S. Environmental Protection Agency's staff at (404) 562-9787 or email johnson.elmore@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief
Chemical Safety & Enforcement Branch

Enclosure

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA**

RECEIVED
MAY 14 2018
REGIONAL OFFICE
ATLANTA, GEORGIA

In the Matter of:)
)
Phase One Consultants, LLC)
)
Respondent.)
_____)

Docket No.: TSCA-04-2018-2508(b)

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. 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 Phase One Consultants, LLC, a limited liability company doing business in the State of Tennessee.

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. Pursuant to Sections 402 and 406 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2682 and 2686, the Administrator of the EPA promulgated Residential Property Renovation Rules at 40 C.F.R. Part 745, Subpart L including the Pre-Renovation Education Rule, the Renovation, Repair and Painting Rule, and the Lead-Based Paint Activities Rule. 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 any of the rules issued under 40 C.F.R. Part 745, Subpart L.

III. Specific Allegations

4. Respondent operates a "training program" that has been accredited by the EPA pursuant to 40 C.F.R. § 745.225 to provide training for individuals engaged in lead-based paint activities. Respondent performed lead-based paint activities student training at 2522 Alameda Street, Suite 1, Nashville, Tennessee 37208, between September 23, 2009, and September 25, 2017, during which time Respondent held active accreditation with the EPA to conduct lead-based paint training.
5. Based on information provided by Respondent to the EPA dated September 5, 2017, the EPA alleges that Respondent violated Sections 402 and 406 of TSCA and 40 C.F.R. Part 745, Subpart L, by failing to timely provide required training course notifications to the EPA as follows:

Twelve (12) Original Pre-Training Notifications for Renovator Initial or Refresher Courses

starting between August 3, 2016 and September 22, 2017:

Respondent's training manager failed to provide the EPA with notification of these lead-based paint activities course at least 7 business days prior to the start date of the course, as required by 40 C.F.R. § 745.225(c)(13)(i);

Nineteen (19) Training Cancellation Notifications for Renovator Initial or Refresher Courses

starting between August 3, 2016 and September 22, 2017:

Respondent's training manager failed to provide the EPA with notification of this lead-based paint activities course cancellations at least 2 business days prior to the start date of the course, as required by 40 C.F.R. § 745.225(c)(13)(iv).

Six (6) Training Update Notifications for Renovator Initial or Refresher Courses starting

between August 3, 2016 and September 22, 2017:

Respondent's training manager failed to provide the EPA with notification of this lead-based paint activities course update to change location at least 7 business days prior to the start date of the course, as required by 40 C.F.R. § 745.225(c)(13)(iii).

IV. Consent Agreement

6. 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.
7. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the Final Order accompanying the Consent Agreement.
8. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in the Final Order section of this CAFO.
9. 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 L.

10. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations of violation in Section III of this CAFO. 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.

V. Final Order

11. Based on an evaluation of all the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), including the Respondent's ability to pay a penalty, and the effect of any penalty on the Respondent's ability to continue to do business, Respondent is assessed a civil penalty of **ONE HUNDRED DOLLARS (\$100)** which shall be paid within thirty (30) days after the effective date of this CAFO.
12. 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 TSCA-04-2018-2508(b).

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

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

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

[Remainder of page Intentionally Left blank]

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

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Phone Number: (314) 425-1819

13. 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, S.W.
Atlanta, Georgia 30303-8960

Elmore Johnson
Lead and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

14. 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.
15. 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 30 days of the due date.


16. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
17. This CAFO shall be binding upon the Respondent, its successors and assigns.
18. 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.

VI. Effective Date

19. 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:

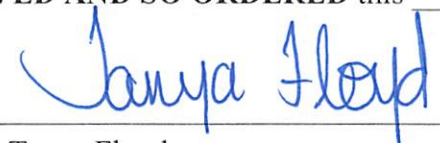
Respondent: Phase One Consultants, LLC
Docket No.: TSCA-04-2018-2508(b)

By:  (Signed) Date: July 5, 2018
Name: Kenneth Bakari (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 8/9/18
Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 14th day of August, 2018.

By: 
Tanya Floyd
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 Phase One Consultants, LLC, TSCA-04-2018-2508(b), to the addressees listed below:

Mr. Kenneth Bakari
Training Program Manager
2522 Alameda Street, Suite 1
Nashville, Tennessee 37208

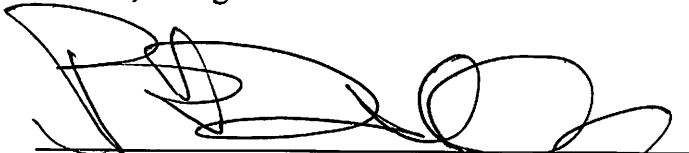
(via Certified Mail, Return Receipt Requested)

Elmore Johnson
Lead and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via EPA's internal mail)

Robert Caplan, Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(via EPA's internal mail)



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

Date: 8-14-18