



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 16 2018

**CERTIFIED MAIL/RETURN RECEIPT**  
**Article Number: 7017 1450 0000 0133 6617**

Carol A. Gross, Esq.  
Law Office of Carol A. Gross  
79 Davenport Street  
Somerville, New Jersey 08876

In the Matter of Donald Bucciarelli  
Docket No. TSCA-02-2018-9169

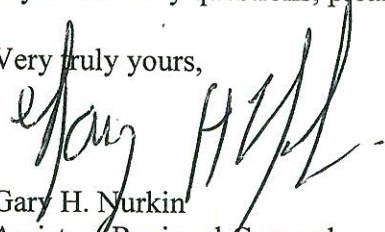
Dear Ms. Gross:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2.

Please note that payment is due within thirty (30) days of signature of the Final Order by the Regional Judicial Officer. Please arrange for payment of this penalty according to the instructions given in that Order.

If you have any questions, please contact the undersigned at 212-637-3195.

Very truly yours,

  
Gary H. Nurkin  
Assistant Regional Counsel  
Waste & Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

-----X  
In the Matter of :  
: CONSENT AGREEMENT  
**DONALD BUCCIARELLI** : AND  
: FINAL ORDER  
:   
Respondent :   
: Docket No.  
: TSCA-02-2018-9169  
:   
Proceeding under Section 16(a) of :  
the Toxic Substances Control Act :  
-----X

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 Code of Federal Regulations ("C.F.R.") Part 22. Pursuant to 40 C.F.R. § 22.13(b), where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3), is an appropriate means of resolving this matter without further litigation.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Donald Bucciarelli (“Respondent”).
2. Respondent, at all times relevant herein, was a “person” as that term is defined at 40 C.F.R. § 745.83.
3. Respondent, at all times relevant herein, was the “owner” of rental property situated at 8 Second Avenue, Garwood, New Jersey 07027 (“Garwood Property”).
4. The Garwood Property at all times relevant herein, was “target housing” as that phrase is defined by Section 401 of TSCA, 15 U.S.C. § 2681 and 40 C.F.R. § 745.103.
5. On or about July 2016, Respondent personally replaced windows in a rental unit at the Garwood Property in which a child under the age of 6 resided.
6. Respondent’s window replacement activity at the Garwood Property was a “renovation,” as that term is defined by 40 C.F.R. § 745.83.
7. On or about November 2, 2016, a representative of the United States Environmental Protection Agency, Region 2 (“EPA”) initiated an investigation of the “do-it-yourself” renovation activities that had been performed by Respondent at the Garwood Property.
8. Based on the EPA investigation and information obtained from Westfield Regional Health Department (“WRHD”) in relation to an inspection and lead sampling the WRHD performed at the Garwood Property in July 2016, EPA determined that the renovation work that had been performed by Respondent at the Garwood Property was subject to the requirements set forth at 40 C.F.R. Part 745, Subpart E (the “Renovation, Repair and Painting (RRP) Rule”).
9. EPA also determined that Respondent failed to provide an adult occupant of the unit with the Renovate Right pamphlet, as required by 40 C.F.R. § 745.84(a)(1), although Respondent informed EPA that he did notify an adult occupant of the unit that window replacement would occur and that the occupants were not present in the unit during the replacement activity.

10. EPA further determined that Respondent had failed to obtain a lead safe firm certification as required by 40 C.F.R. §§ 745.89(a) and 745.81(a)(2)(ii).

11. EPA further determined that Respondent had failed to assign a certified renovator to oversee the renovations that were being conducted at the Garwood Property as required by 40 C.F.R. § 745.89(d).

12. EPA further determined that Respondent had failed to establish and maintain records, as required by 40 C.F.R. § 745.87(b).

13. Respondent's failures to comply with the RRP Rule constitute violations of TSCA § 409, 15 U.S.C. § 2689, for which penalties may be assessed under TSCA § 16(a), 15 U.S.C. § 2615(a).

14. On January 3, 2018, Respondent's attorney called EPA to discuss EPA's findings with regard to Respondent's failures to comply with TSCA and the RRP Rule during the renovation at the Garwood Property.

15. On January 16, 2018, Respondent submitted financial information and documentation of his gross annual revenue from the rental of the Garwood Property, to which Respondents has asserted a claim of confidentiality.

#### 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 at 40 C.F.R. Part 22, 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 certifies that he is no longer the owner of the Garwood Property.
2. Respondent further certifies that:

The financial information and documentation he submitted to EPA on January 16, 2018, is accurate, complete, and not misleading. EPA has relied on the accuracy of the financial information and documentation submitted by Respondent during the negotiation of the

settlement. Respondent is aware that the submission of false or misleading information or documentation to the United States government may subject a person to separate civil and/or criminal liability. EPA retains the right to seek and obtain appropriate relief if EPA obtains evidence that the information or documentation and/or representations made to EPA regarding Respondent's current financial condition is false or, in any material respect, inaccurate.

3. Respondent shall hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.

4. For the purposes of this Consent Agreement, Respondent: (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations described in the "Findings of Fact and Conclusions of Law" section, above; (b) neither admits nor denies the specific factual allegations and conclusions of law contained in the "Findings of Fact and Conclusions of Law" section, above, and enters into this Consent Agreement without any admission of fault or liability.

5. Respondent shall pay, by cashier's or certified check or electronic payment via Fedwire, a civil penalty in the amount of **ONE THOUSAND, ONE HUNDRED DOLLARS (\$1,100)**. Such payment shall be made by cashier's checks or certified check or by Electronic Fund (EFT). If the payment is made by check, then the check shall be made payable to the **Treasurer, United States of America**, and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: ***IN THE MATTER OF DONALD BUCCIARELLI***, and shall bear thereon the **Docket No. TSCA-02-2018-9169**. If Respondent chooses to make the payment by EFT, then 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 Code for Federal Reserve Bank of New York receiving payment:  
**68010727.**
- 4) Federal Reserve Bank of New York ABA routing number: **021030004.**
- 5) Field Tag 4200 of the Fedwire message should read **D**  
**68010727** Environmental Protection Agency.
- 6) Name of Respondent: **DONALD BUCCIARELLI**
- 7) Number: **RCRA 02-2018-9169.**

6. The payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO. (The date by which the payment must be received shall hereinafter be referred to as the "due date")

- a. Failure to pay the requisite civil penalty amount in full according to the above provisions may result in the referral of this matter to the United States Department of Justice or Department of the Treasury for collection or other appropriate action.
- b. Furthermore, if payment is not made on or before the date specified in this document, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the date said payment was required to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears.
- c. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the deadline for payment. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.
- d. The civil penalty provided for herein constitutes "penalt[ies]" within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.

7. Any responses, documentation, and other communication submitted in connection with this Consent Agreement shall be sent to:

Mr. Demian Ellis  
Lead Enforcement Coordinator  
Pesticides and Toxic Substances Branch – Lead Team  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2  
2890 Woodbridge Avenue – MS 225  
Edison, New Jersey 08837

A copy of the cover page or other transmittal sent to the above also shall be sent via e-mail to:

Gary H. Nurkin  
Assistant Regional Counsel  
[nurkin.gary@epa.gov](mailto:nurkin.gary@epa.gov)

Unless the above-named EPA contacts are later advised otherwise in writing, EPA will address any written future correspondence (including any correspondence related to payment of the penalty) to

Respondent at the following address:

Mr. Donald Bucciarelli  
1053 Shadowlawn Drive  
Greenbrook, New Jersey 08812

8. Full payment of the penalty described in paragraph “5” of this Section, above, shall only resolve Respondent’s liability for federal civil penalties for the violations described in paragraphs “9” through “12”, above, in the above Findings of Fact and Conclusions of Law. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

9. Nothing herein shall be read to preclude EPA or the United States from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law.

10. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms.

11. Respondent consents to the issuance of the accompanying Final Order.

12. Respondent agrees that all terms of settlement are set forth herein.

13. 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.

14. Respondent hereby waives its right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein or on the accompanying Final Order.

15. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.

16. Respondent waives any rights it may have to appeal this Consent Agreement and the accompanying Final Order.

17. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

18. The signatory for Respondent certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

19. Each party hereto agrees to bear its own costs and fees in this matter.

20. Respondent consents to service upon them of a copy of this Consent Agreement and final order by an EPA employee other than the Regional Hearing Clerk.



RESPONDENT:

BY:

Donald Bucciarelli

(SIGNATURE)

NAME:

Donald Bucciarelli

(PLEASE PRINT)

TITLE:

Property Owner

DATE:

3/6/2018

COMPLAINANT:

Dore LaPosta

Dore LaPosta, Director

Division of Enforcement and Compliance Assistance

U.S. Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007-1866

DATE:

3/12/18

In the Matter of Donald Bucciarelli  
Docket Number TSCA-02-2018-9169

**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement resolving In the Matter of Donald Bucciarelli, bearing Docket Number TSCA-02-2018-9169. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into, and issued as this Final Order. The Effective Date of this Order shall be the date of filing 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 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.



---

Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency –  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

Date: March 15, 2018

In the Matter of Donald Bucciarelli  
Docket Number TSCA-02-2018-9169

**CERTIFICATE OF SERVICE**

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

Copy by Certified Mail Return Receipt Requested:

Mr. Donald Bucciarelli  
1053 Shadowlawn Drive  
Greenbrook, New Jersey 08812

Dated: March 16, 2018 Yolanda Majette  
New York, New York Yolanda Majette,  
WTS Branch Secretary