



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 24 2018

REPLY TO THE ATTENTION OF:

LC-17J

Mr. Karl Wyant
Manager
Darford LLC
420 North 2nd Avenue West
Duluth, Minnesota 55806

Consent Agreement and Final Order In the Matter of: **TSCA-05-2018-0005**
Karl Wyant Darford LLC

Dear Mr. Wyant:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in Resolution of the above case. This document was filed on May 24, 2018 with the Regional Hearing Clerk.

The civil penalty in the amount of \$500.00 is to be paid in the manner described in paragraphs 30 and 31. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Grace".

Pamela Grace
Pesticides and Toxic Compliance Section
Land and Chemicals Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Karl Wyant and
Darford LLC

Duluth, Minnesota

Respondents.



TSCA-05-2018-0005

Docket No.

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

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent Karl Wyant is an individual with a place of business at or about 420 North 2nd Avenue West, Duluth, Minnesota.
4. Respondent Darford LLC is a corporation with a place of business at or about 420 North 2nd Avenue West, Duluth, Minnesota.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

14. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.

15. 40 C.F.R. § 745.113(b) requires that each contract to lease target housing include, as an attachment or within the contract, a lead warning statement; a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence; a list of any records or reports available to the lessor regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet; and the signatures and dates of signature of the lessor.

16. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failure to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

17. The Administrator of EPA may assess a civil penalty of up to \$16,773 for each violation of Section 409 of TSCA that occurred after January 12, 2009, pursuant to 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Between September 7, 2015 and April 11, 2016, Respondents owned a residential dwelling at or about 315 North 2nd Avenue, Duluth, Minnesota (Respondents’ property).

19. Respondents’ property is “target housing” as defined in 40 C.F.R. § 745.103.

contract, in violation of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

28. Respondents failed to include the signatures of the lessors and the lessees certifying to the accuracy of their statements and the dates of such signatures, either within the contract or as an attachment to the contract, in violation of 40 C.F.R. § 745.113(b)(6), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Civil Penalty

29. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$500. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations and, with respect to Respondents, the ability to pay, the effect on ability to continue to do business, any history of such prior violations and the degree of culpability. Complainant also considered EPA's Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007.

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

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

The check must state Karl Wyant and Darford LLC and the docket number of this CAFO.

31. Respondents must send a notice of payment that states Respondents' names and the case docket number to EPA at the following addresses when they pay the penalty:

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

37. This CAFO does not affect Respondents' responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state and local laws.

38. Respondents certify that they are complying with the Lead Act and the Disclosure Rule.

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

40. 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.

41. Each party agrees to bear its own costs and attorneys' fees in this action.

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

Karl Wyant, Respondent
Darford LLC, Respondent

5-1-18
Date



Karl Wyant

5-1-18
Date


Karl Wyant, Manager
Darford, LLC

United States Environmental Protection Agency, Complainant

5/17/2018
Date


Michael D. Harris
Acting Director
Land and Chemicals Division

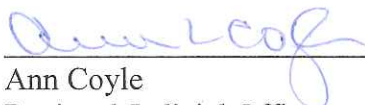
In the Matter of:
Karl Wyant
Darford LLC
Docket No. TSCA-05-2018-0005

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.

May 23, 2018

Date



Ann Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the matter of: Karl Wyant, Manager
Darford LLC

Docket Number: TSCA-05-2018-0005

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on May 24, 2018, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Karl Wyant, Manager
Darford LLC
420 North 2nd Avenue West
Duluth, Minnesota 55806

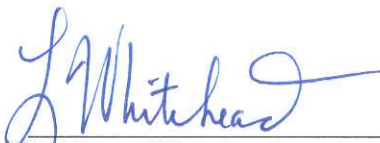
Copy by E-mail to
Attorney for Complainant:

Kris Vezner
vezner.kris@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: May 24, 2018



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7662 7450