



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

AUG 02 2011

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7665 8584

Mr. Melvin Gains
4102 Garrison Road
Toledo, Ohio 43613

Melvin Gains, Consent Agreement and Final Order, Docket No. *TSCA-05-2011-006*

Dear Mr. Gains:

TSCA-05-2011-0009 JW

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 August 2, 2011, with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,832.50 is to be paid in the manner described in paragraphs 10 and 11. Please be certain that the number **BD 2751147X012** and the docket number are written on both the transmittal letter and on the check. Payment is due by September 1, 2011 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

David Blake
for Leslie Blake
Pesticides and Toxics Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)
J. Matthew Moore, Counsel for Complainant/C-14J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. TSCA-05-2011-0009
)
Melvin Gaines) Proceeding to Assess a Civil Penalty
Toledo, Ohio,) Under Section 16(a) of the Toxic Substances
Control Act, 15 U.S.C. § 2615(a)
Respondent.)
_____)

Consent Agreement and Final Order

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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 June 2, 2011, EPA filed the Complaint in this action against Respondent Melvin Gaines. The Complaint alleges that Respondent 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. §§ 745.107(a)(1), 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), 745.113(b)(4) and 745.113(b)(6) in 12 contracts to lease target housing.
3. Respondent filed an Answer in this matter.

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those admitted in his Answer.
5. Respondent waives any right to contest the allegations in the Complaint and his right to appeal this Consent Agreement and Final Order (CAFO).
6. Respondent certifies that he is complying fully with the Residential Lead-Based

Paint Hazard Reduction Act of 1992 and the regulations at 40 C.F.R. Part 745.

7. Respondent consents 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 Respondent's inability to pay and attitude, EPA agrees to mitigate the proposed penalty of \$97,700 to \$3,832.50.

10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$3,832.50 civil penalty 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 the case title ("Melvin Gaines"), the docket number of this CAFO, and the billing document number.

11. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

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

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

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

12. This civil penalty is not deductible for federal tax purposes.
13. If Respondent does 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.
14. Pursuant to 31 C.F.R. § 901.9, Respondent 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
16. 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.
17. This CAFO does not affect Respondent's responsibility to comply with the

Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable federal, state, and local laws.

18. The terms of this CAFO bind Respondent, and his successors and assigns.

19. 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.

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

21. This CAFO constitutes and entire agreement between the parties.

Melvin Gaines, Respondent

7-20-2011
Date

Melvin Gaines
Melvin Gaines

United States Environmental Protection Agency, Complainant

7/29/11
Date


Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Melvin Gaines
Docket No. TSCA-05-2011-0009

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.

7-29-11
Date


Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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PROTECTION AGENCY

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PROTECTION AGENCY
JUL 28 2011
OFFICE OF REGIONAL
COUNSEL

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 Melvin Gaines, was filed on August 2, 2011, 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, Receipt No. 7009 1680 0000 7665 8584 to:

Mr. Melvin Gains
4102 Garrison Road
Toledo, Ohio 43613

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
J. Matthew Moore, 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-05-2011-0009

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