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**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD, LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR**

In the Matter of:

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Docket No. TSCA-07-2013-0019

Prudent Technologies, Inc.
8080 Ward Parkway
Suite 201
Kansas City, Missouri 64114

Respondent

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and Prudent Technologies, Inc. (Respondent) have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Renovation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Section I
Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by

failing to comply with the lead-based paint renovation requirements of 40 C.F.R. Part 745, Subpart E (Renovation Repair and Painting Rule a/k/a “RRP” Rule), which were authorized for promulgation by Section 402 of TSCA, 15 U.S.C. § 2682.

Section II
Parties

3. The Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.

4. The Respondent is Prudent Technologies, Inc., a corporation in good standing under the laws of the state of Kansas and is authorized to do business in the state of Nebraska. The Respondent meets the definition of a “Firm” and of a “Person”, as those terms are set forth in 40 C.F.R. § 745.83.

Section III
Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding *Title IV - Lead Exposure Reduction*, TSCA Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.

6. 15 U.S.C. § 2681(17) defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

7. Section 402 of TSCA, 15 U.S.C. § 2682, requires that the Administrator of EPA promulgate regulations regarding the activities of individuals and contractors engaged in lead-

based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of such individuals and contractors.

8. EPA has promulgated regulations regarding lead-based paint activities, including renovation of residences built prior to 1978, and regulations for the certification of individuals and firms who are involved in these activities. These regulations are found within 40 C.F.R. Part 745, Subpart E (RRP Rule), and were promulgated pursuant to 15 U.S.C. § 2682.

9. 40 C.F.R. § 745.83 defines *renovation* to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an “abatement” as defined by 40 C.F.R. § 745.223. The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping), and interim controls that disturb painted surfaces.

10. 40 C.F.R. § 745.85 sets forth the regulations for “Work Practice Standards” that must be followed by firms performing renovations on *target housing*. Among these are:

(a) 40 C.F.R. § 745.85(a)(1) Occupant Protection. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation

and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed.

(b) 40 C.F.R. § 745.85(a)(2)(ii)(A) Exterior Renovations. The firm must, before beginning the renovation, close all doors and windows within 20 feet of the renovation, close all doors and windows within 20 feet of the renovation on the same floor as the renovation on multi-story buildings, and/or close all doors and windows on all floors below that are the same horizontal distance from the renovation.

(c) 40 C.F.R. § 745.85(a)(2)(ii)(C) Exterior Renovations. The firm must, before beginning the renovation, cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering.

(d) 40 C.F.R. § 745.85(a)(5) Cleaning the work area. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains.

11. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E (RRP Rule) violates Section of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

12. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. §

3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred after January 12, 2009.

Section IV
General Factual Allegations

13. Respondent is and at all times referred to herein was a “person” and a “firm” within the meaning of 40 C.F.R. § 745.83.

14. On September 13, 2011, pursuant to its authority under Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the United States Environmental Protection Agency, Region 7 conducted an inspection of a residence located at 3023 Franklin, Omaha, Nebraska. At this location, Respondent had conducted “renovations”, as defined by C.F.R. § 745.83, for compensation, during the week of September 4th through 9th, 2011.

15. The building located at 3023 Franklin, Omaha, Nebraska, which was the subject of the EPA Inspection, is residential housing built in 1900 and meets the definition of *target housing* under 15 U.S.C. § 2681(17).

16. During the EPA inspection of the building located at 3023 Franklin, Omaha, Nebraska, and EPA’s ensuing investigation concerning the renovation at this property, EPA representatives discovered that, in the course of its renovation of this building, the Respondent failed to do the following:

(a) Post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area, as required by 40 C.F.R. § 745.85(a)(1).

(b) Before beginning the renovation, the firm failed to close all doors and windows within 20 feet of the renovation, close all doors and windows within 20 feet of the renovation on the same floor as the renovation on multi-story buildings, and/or close all doors

and windows on all floors below that are the same horizontal distance from the renovation, as required by 40 C.F.R. § 745.85(a)(2)(ii)(A).

(c) Before beginning the renovation, the firm failed to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater (and the property line did not prevent 10 feet of such ground covering) as required by 40 C.F.R. § 745.85(a)(2)(ii)(C).

(d) After the renovation was completed, the firm failed to clean the work area. The firm must clean the work area until no dust, debris or residue remains as required by 40 C.F.R. § 745.85(a)(5).

17. On September 13, 2011, pursuant to its authority under Section 11 of TSCA, 15 U.S.C. § 2610, representatives of the United States Environmental Protection Agency, Region 7 conducted an inspection of a residence located at 1708 North 32nd Street, Omaha, Nebraska, where Respondent was in the process of conducting “renovations”, as defined by C.F.R. § 745.83, for compensation.

18. The building located at, 1708 North 32nd Street, Omaha, Nebraska, which was the subject of the EPA inspection, is residential housing built before 1978 and meets the definition of *target housing* under 15 U.S.C. § 2681(17).

19. During the EPA inspection the building located at 1708 North 32nd Street, Omaha, Nebraska, EPA representatives observed that, in the course of its renovation of this building, the Respondent failed to do the following:

(a) Post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area, as required by 40 C.F.R. § 745.85(a)(1).

(b) Before beginning the renovation, the firm failed to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater (and the property line did not prevent 10 feet of such ground covering) as required by 40 C.F.R. § 745.85(a)(2)(ii)(C).

Section V
Violations

The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

Count I

20. Concerning its renovation performed at 3023 Franklin, Omaha, Nebraska during the week of September 4th through 9th, 2011, the Respondent failed to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area, as required by 40 C.F.R. § 745.85(a)(1).

21. Respondent's failure to perform this act indicated above is in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count II

22. Concerning its renovation performed at 3023 Franklin, Omaha, Nebraska during the week of September 4th through 9th, 2011, before beginning the renovation, Respondent failed to close all doors and windows within 20 feet of the renovation, close all doors and windows

within 20 feet of the renovation on the same floor as the renovation on multi-story buildings, and/or close all doors and windows on all floors below that are the same horizontal distance from the renovation, as required by 40 C.F.R. § 745.85(a)(2)(ii)(A).

23. Respondent's failure to perform the act indicated in above is in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count III

24. Concerning its renovation performed at 3023 Franklin, Omaha, Nebraska during the week of September 4th through 9th, 2011, before beginning the renovation, the Respondent failed to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater (and the property line did not prevent 10 feet of such ground covering) as required by 40 C.F.R. § 745.85(a)(2)(ii)(C).

25. Respondent's failure to perform the acts indicated above are in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count IV

26. Concerning its renovation performed at 3023 Franklin, Omaha, Nebraska during the week of September 4th through 9th, 2011, after completing the renovation, the Respondent failed to clean the work area, as required by 40 C.F.R. § 745.85(a)(5).

27. Respondent's failure to perform the acts indicated above are in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under

Section 16 of TSCA, 15 U.S.C. § 2615.

Count V

28. Concerning its renovation performed at 1708 North 32nd Street, Omaha, Nebraska, the Respondent failed to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area, as required by 40 C.F.R. § 745.85(a)(1).

29. Respondent's failure to perform the acts indicated above are in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count VI

30. Concerning its renovation performed at 1708 North 32nd Street, Omaha, Nebraska, at the time of the EPA Inspection, the Respondent failed to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater (and the property line did not prevent 10 feet of such ground covering) as required by 40 C.F.R. § 745.85(a)(2)(ii)(C).

31. Respondent's failure to perform the acts indicated above are in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Section VI
Consent Agreement

32. For purposes of this proceeding, Respondent admits the jurisdictional allegations

set forth above.

33. Respondent neither admits nor denies the factual allegations set forth above.

34. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

35. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

36. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of 40 C.F.R. Part 745. Respondent agrees that the effect of this settlement is conditioned upon the accuracy of this representation of Respondent to EPA.

37. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty, as specified in the Final Order.

38. Payment of the civil penalty as set forth in the Final Order shall resolve all civil and administrative claims for all violations of Section 409 of TSCA, 15 U.S.C. 2689 and 40 C.F.R. Part 745 alleged in this document.

39. Respondent understands that his failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order of this Consent Agreement and Final Order may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty

(30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Section VII
Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a civil penalty of Sixty-Five Thousand Four Hundred Fifty Dollars (\$65,450). The payment shall be made at the address below. The payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

2. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219;

and

Raymond C. Bosch, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

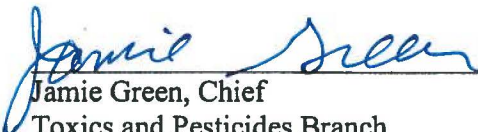
RESPONDENT
PRUDENT TECHNOLOGIES, INC.

Date: 7/12/2013

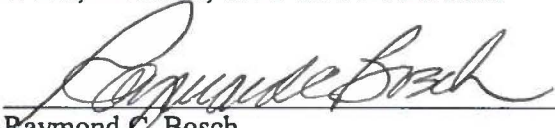
by MP 1 - SAMUEL P. MUDUMALA
PRESIDENT, PRUDENT TECHNOLOGIES
TITLE Inc.

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 7/16/2013

By: 
Jamie Green, Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: July 23, 2013

By: 
Raymond C. Bosch
Attorney Advisor
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: 7-24-13

Karina Borromeo

KARINA BORROMEEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Prudent Technologies, Inc., Respondent
Docket No. TSCA-07-2013-0019

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

bosch.raymond@epa.gov

Copy by First Class Mail to Respondent:

Samuel P. Mudumala, President
Prudent Technologies, Inc.
8080 Ward Parkway, Suite 201
Kansas City, Missouri 64114

Dated: 7/24/13



Kathy Robinson
Hearing Clerk, Region 7