

Lydia - FBI - + FBI to Lori W
Version rec'd 5/9/07 9/28/09
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EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: JANET SMARIC 9/24/09
Name of Contact person Date

in the ORC Office at 215-814-2689
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
 Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
COLQUITT - CARPENTERS HOLDINGS, LLC
The Total Dollar Amount of Receivable 79,233
(If in installments, attach schedule of amounts and respective due dates)
The Case Docket Number TSCA-03-2009-02916
The Site-Specific Superfund Acct. Number _____
The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____
Name of Contact Date
in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|---|---|
| 1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268

Attn: Lori Weidner | 2. Originating Office (ORC)
3. Designated Program Office |
|---|---|

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel |

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:	:	
	:	
Colquitt-Carruthers Holdings, LLC	:	
d/b/a Prudential Carruthers Realtors	:	Docket No. TSCA-03-2009-0296
565 Benfield Road, Suite 400	:	
Severna Park, MD 21146	:	CONSENT AGREEMENT
Respondent	:	
	:	

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and Colquitt-Carruthers Holdings, LLC d/b/a Prudential Carruthers Realtors (“Respondent”) pursuant to Sections 409 and 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2689 and 2615(a), the federal regulations set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)).
2. The violations cited herein pertain to Respondent’s alleged failure to comply with requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“Act”), 42 U.S.C. §§ 4851 *et seq.*, and regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F, which statutory and regulatory provisions are enforceable pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.
3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, the claims identified in Section IV (“Findings of Fact and Conclusions of Law”) of this Consent Agreement.

II. JURISDICTION

4. The U.S. Environmental Protection Agency (“EPA”) and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the Act, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.
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III. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order (collectively, "CAFO").
6. Except as provided in paragraph 5, above, for the purposes of this proceeding only, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement and the attached Final Order.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
10. Each party to this Consent Agreement shall bear its own costs and attorney's fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Respondent is a Virginia limited liability company that, at all times relevant to this CAFO, was doing business in the state of Maryland as Prudential Carruthers Realtors from an office located at 1997 Annapolis Exchange Parkway, Suite 101, Annapolis, Maryland 21401.
13. Pursuant to Section 1004(27) of the Act, 42 U.S.C. § 4851b(27), TSCA § 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term "target housing" means "any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling."
14. Pursuant to Section 1004(23) of the Act, 42 U.S.C. § 4851b(23), TSCA § 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term "residential dwelling" means either a single-family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

15. Pursuant to Section 1004(24) of the Act, 42 U.S.C. § 4851b(24), and TSCA § 401(15), 15 U.S.C. § 2681(15), the term “residential real property” means real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
16. Each of the properties located at the following addresses that currently consists of, and at all times relevant to the violations alleged herein, consisted of, real property on which there is situated a residential dwelling in the form of a either a single-family dwelling, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons:
 - a. 220 St. Ives Drive, Severna Park, MD 21146 (“St. Ives Drive”)(1/16/06);
 - b. 8 Chain O’Hills Road, Glen Burnie, MD 21061 (“Chain O’Hills Road”)(4/10/06);
 - c. 102 Otis Drive, Severna, MD 21144 (“Otis Drive”)(6/23/06);
 - d. 791 Harmony Avenue, Arnold, MD 21012 (“Harmony Avenue.”)(2/21/06);
 - e. 1 Poplar Point Road, Edgewater, MD 21037 (“Poplar Point Road”)(3/9/06);
 - f. 734 Cottonwood Drive, Severna Park, MD 21146 (“Cottonwood Drive”)(1/16/06);
 - g. 1204 Leonard Drive, Glen Burnie, MD 21060 (“Leonard Drive”)(1/26/06);
 - h. 2126 Bay Front Terrace, Annapolis, MD 21409 (“Bay Front Terrace”)(7/23/07);
 - i. 1141 Hampton Road West, Annapolis, MD 21409 (“Hampton Road West”)(10/29/07);
 - j. 1505 Gordon Cove Drive, Annapolis, MD 21409 (“Gordon Cove Drive”)(6/14/07);
 - k. 1163 and 1165 Claire Road, Crownsville, MD 21032 (“Claire Road”)(8/8/07);
 - l. 400 Hila Road, Millersville, MD, 21108 (“Hila Road”)(4/6/08);
 - m. 737 Cottage Drive, Arnold, MD 21012 (“Cottage Road”)(5/9/08);
 - n. 1407 Poplar Avenue, Annapolis, MD 21401 (“Poplar Avenue”)(3/12/08);
 - o. 107 Riggs Avenue, Severna Park, MD 21146 (“Riggs Avenue”)(4/20/08);
 - p. 9266 Windsor Drive, La Plata, MD 20646 (“Windsor Drive”)(10/31/07);
 - q. 7889 Bastille Place, Severna, MD 21144 (“Bastille Place”)(11/19/07).
17. Each of the residential dwellings situated on the residential real properties identified in paragraph 16 herein is housing constructed prior to 1978.
18. Each of the residential dwellings situated on the residential real properties identified in paragraph 16 herein consists of housing that currently is not, and at the time of the violations alleged herein was not, housing used for the elderly or persons with disabilities or a 0-bedroom dwelling as defined by 40 C.F.R. § 745.103.
19. Each of the residential dwellings situated on the residential real properties identified in paragraph 16 herein is “target housing” within the meaning of Section 1004(27) of the Act, 42 U.S.C. § 4581b(27), TSCA § 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103.

20. Pursuant to 40 C.F.R. § 745.103, the term “purchaser” means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.
21. Pursuant to 40 C.F.R. § 745.103, the term “seller” means, *inter alia*, any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.
22. Pursuant to 40 C.F.R. § 745.103, the term “agent” means “any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser’s representative who receives all compensation from the purchaser.”
23. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint” means “paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter [mg/cm^2] or 0.5 percent by weight.”
24. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint hazards” means “any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.”
25. The certification and acknowledgment of disclosure requirements applicable to sellers and agents are set forth at 40 C.F.R. § 745.113 and provide, in pertinent part, as follows:
 - (a) *Seller requirements.* Each contract to sell target housing shall include, as an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

- (1) A Lead Warning Statement consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was build prior to 1978 is notified that such property may present an exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or lead-based paint hazards from risk assessments or inspections in the seller’s possession and notify the buyer of any known lead-based paint hazards.

A risk assessment or inspection is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this [40 C.F.R.] section [745.113] and the lead hazard information pamphlet required under 15 U.S.C. [§ 2686].

(5) A statement by the purchaser that he/she has either:

(i) Received the opportunity to conduct the risk assessment or inspection required by [40 C.F.R.] § 745.110(a); or

(ii) Waived the opportunity.

(6) When one or more agents are involved in the transaction to sell target housing on behalf of the seller, a statement that:

(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. [§] 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(7) The signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

26. Pursuant to 40 C.F.R. § 745.115(a), “[e]ach agent shall ensure compliance with all requirements of this subpart. To ensure compliance, the agent shall . . . (2) Ensure that the seller or lessor has performed all activities required under [40 C.F.R.] §§ 745.107, 745.110, and 745.113, or personally ensure compliance with the requirements of [40 C.F.R.] §§ 745.107, 745.110, and 745.113.”

27. The enforcement provisions of 40 C.F.R. § 745.118(e) and (f) state that:

* * *

(e) Failure or refusal to comply with [40 C.F.R.] § 745.107 (disclosure requirements for sellers and lessors), [40 C.F.R.] § 745.110 (opportunity to conduct an evaluation), [40 C.F.R.] § 745.113 (certification and acknowledgment of disclosure) or [40 C.F.R.] § 745.115 (agent responsibilities) is a violation of [Section 1018(b)(5) of the Act,] 42 U.S.C. § 4852d(b)(5) and of TSCA section 409 (15 U.S.C. § 2689).

(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. § 2615) for each violation. For purposes of enforcing this subpart [40 C.F.R. Part 745, Subpart F], the penalty for each violation applicable under 15 U.S.C. § 2615 shall not be more than \$11,000 for all violations occurring after July 28, 1997; all violations occurring on or prior to that date are subject to a penalty of not more than \$10,000.

28. At all times relevant to the violations alleged herein, Respondent was an “agent” of each respective “seller” of the “target housing,” as those terms are defined at 40 C.F.R. § 745.103, located at each of the residential dwelling units identified in Paragraph 16 herein.

COUNT I

29. The allegations contained in paragraphs 1 through 28, above, of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

30. Pursuant to 40 C.F.R. § 745.113(a)(1), each contract to sell target housing shall include an attachment containing the Lead Warning Statement as set forth in 40 C.F.R. § 745.113(a)(1).

31. The contract to sell the Windsor Drive Target Housing on the date specified in paragraph 16 herein did not include an attachment containing the Lead Warning Statement as set forth in, and required by, 40 C.F.R. § 745.113(a)(1).

32. Respondent failed to ensure that the seller of the Windsor Drive Target Housing performed all the activities required under 40 C.F.R. § 745.113(a)(1) and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).

33. Respondent’s failure to ensure that the seller of the Windsor Drive Target Housing performed all the activities required under 40 C.F.R. § 745.113(a)(1) and failure to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2), constitutes a violation of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNTS 2-7

34. The allegations contained in paragraphs 1 through 33, above, are incorporated by reference herein as though fully set forth at length.
35. Pursuant to 40 C.F.R. § 745.113(a)(2), each contract to sell target housing shall include, *inter alia*, an attachment containing a statement by the seller disclosing known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.
36. Each contract to sell the Chain O'Hills Road, Otis Drive, Poplar Point Road, Gordon Cove Drive, Claire Road, and Windsor Drive Target Housing, respectively, on the dates specified in paragraph 16 herein, did not include an attachment containing a statement by each seller disclosing known lead-based paint and/or lead-based paint hazards in such Target Housing or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards as required by 40 C.F.R. § 745.113(a)(2).
37. Respondent failed to ensure that each seller of the Target Housing identified in paragraph 36 herein performed all the activities required under 40 C.F.R. § 745.113(a)(2) and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. §§ 745.115(a)(2).
38. Respondent's failure to ensure that the sellers of the Target Housing identified in paragraph 36 herein performed all the activities required under 40 C.F.R. § 745.113(a)(2) and failure to personally ensure compliance with such requirement constitutes six violations of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNTS 8-15

39. The allegations contained in paragraphs 1 through 38, above, are incorporated by reference herein as though fully set forth at length.
40. Pursuant to 40 C.F.R. § 745.113(a)(3), each contract to sell target housing shall include an attachment containing a list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser, or if no such records or reports are available, the seller shall so indicate.
41. The sellers of the Target Housing located at Otis Drive, Poplar Point Road, Cottonwood Drive, Hampton Road, Claire Road, Poplar Avenue, Windsor Drive, and Bastille Place on the dates specified in paragraph 16 herein did not include an attachment to the contract for each such sale a list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in such housing that had been provided to the purchaser, or if no such records or reports were available, the seller had failed to so indicate as required by 40 C.F.R. § 745.113(a)(3).

42. Respondent failed to ensure that the sellers of the Target Housing identified in paragraph 41 herein performed all the activities required under 40 C.F.R. § 745.113(a)(3), and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).
43. Respondent's failure to ensure that sellers of the Target Housing identified in paragraph 41 herein performed all the activities required under 40 C.F.R. § 745.113(a)(3), and failure to personally ensure compliance with such requirement constitutes eight violations of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNT 16

44. The allegations contained in paragraphs 1 through 43, above, are incorporated by reference herein as though fully set forth at length.
45. Pursuant to 40 C.F.R. § 745.113(a)(4), each contract to sell target housing shall include an attachment containing a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (3) and the lead hazard information pamphlet required by 15 U.S.C. § 2696.
46. The contract to sell the Riggs Avenue Target Housing on the date specified in paragraph 16 herein did not include an attachment containing a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (3) and the lead hazard information pamphlet required by 15 U.S.C. § 2696, as required by 40 C.F.R. § 745.113(a)(4).
47. Respondent failed to ensure that the seller of the Target Housing identified in paragraph 46 herein performed all the activities required under 40 C.F.R. § 745.113(a)(4), and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).
48. Respondent's failure to ensure that the seller of the Target Housing identified in paragraph 46 herein performed all the activities required under 40 C.F.R. § 745.113(a)(4), and failure to personally ensure compliance with such requirement constitutes a violation of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNTS 17-21

49. The allegations contained in paragraphs 1 through 48, above, are incorporated by reference herein as though fully set forth at length.
50. Pursuant 40 C.F.R. § 745.113(a)(5), each contract to sell target housing shall include an attachment to the contract containing a statement by the purchaser(s) that he/she/they has either: received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity.
51. Each contract to sell the Hampton Road, Hila Road, Poplar Avenue, Riggs Avenue, and Windsor Drive Target Housing on the dates specified in paragraph 16 herein failed to include an attachment to the contract for each such sale that contained a statement meeting the requirements of 40 C.F.R. § 745.113(a)(5)(i) and (ii).
52. Respondent failed to ensure that the sellers of the Target Housing identified in paragraph 51 herein performed all the activities required under 40 C.F.R. § 745.113(a)(5), and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).
53. Respondent's failure to ensure that the sellers of the Target Housing identified in paragraph 51 herein performed all the activities required under 40 C.F.R. § 745.113(a)(5), and failure to personally ensure compliance with such requirement, constitutes five violations of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNTS 22-26

54. The allegations contained in paragraphs 1 through 53 above, are incorporated by reference herein as though fully set forth at length.
55. Pursuant to 40 C.F.R. § 745.113(a)(6)(i) and (ii), when one or more agents are involved in the transaction to sell target housing on behalf of the seller, the contract to sell target housing shall include as an attachment to the contract a statement that the agent has informed the seller of the seller's obligations under 42 U.S.C. § 4852d and that the agent is aware of his/her duty to ensure compliance with the requirements of the Disclosure Rule.
56. Each contract to sell the Leonard Drive, Bay Front Terrace, Hampton Road, Claire Road, and Riggs Avenue Target Housing on the dates specified in paragraph 16 herein failed to include as an attachment to the contract for each such sale a statement that: (i) the Respondent had informed each respective seller of such Target Housing of each such seller's obligations under 42 U.S.C. § 4852d; and (ii) the Respondent was aware of its duty, as an agent of each respective seller, to ensure compliance with the requirements of the Disclosure Rule, as required by 40 C.F.R. § 745.113(a)(6).

57. Respondent failed to ensure that the sellers of the Target Housing identified in paragraph 56 herein performed all the activities required under 40 C.F.R. § 745.113(a)(6), and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).
58. Respondent's failure to ensure that the sellers of the Target Housing identified in paragraph 56 herein performed all the activities required under 40 C.F.R. § 745.113(a)(6), and failure to personally ensure compliance with such requirement, constitutes five violations of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

COUNTS 27-30

59. The allegations contained in paragraphs 1 through 58, above, are incorporated by reference herein as though fully set forth at length.
60. Pursuant to 40 C.F.R. § 745.113(a)(7), each contract to sell target housing shall include, as an attachment to the contract, the signatures of the sellers, agents and purchasers certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.
61. Each contract to sell the St. Ives Drive, Harmony Avenue, Cottage Drive, and Windsor Drive Target Housing on the dates specified in paragraph 16 herein did not include an attachment that included all of the information required by 40 C.F.R. § 745.113(a)(7).
62. Respondent failed to ensure that the sellers of the Target Housing identified in paragraph 61 herein performed all the activities required under 40 C.F.R. § 745.113(a)(7), and failed to personally ensure compliance with such requirement, as required by 40 C.F.R. § 745.115(a)(2).
63. Respondent's failure to ensure that the sellers of the Target Housing identified in paragraph 61 herein performed all the activities required under 40 C.F.R. § 745.113(a)(7), and failure to personally ensure compliance with such requirement, constitutes four violations of 40 C.F.R. § 745.115(a)(2), TSCA § 409, 15 U.S.C. § 2689, and Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5).

V. CIVIL PENALTY

64. Respondent agrees to pay the amount of Nine Thousand Two Hundred Thirty-Three Dollars (\$9,233.00), in satisfaction of all civil claims for penalties which Complainant may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged in this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
65. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors provided in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy* (December 2007) ("*ERP*"). Complainant also considered Respondent's attitude, including its cooperation, immediate steps taken to comply with the Disclosure Rule, and early settlement, consistent with the *ERP*.
66. Payment of the civil penalty amount required under the terms of Paragraph 64, above, and any administrative fees or late payment penalties, in accordance with paragraphs 69 through 71, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference its name and address and the docket number of this action (Docket No. TSCA-03-2009-0296);
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Erick Volck, 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox
U.S. EPA, Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: 314-418-4087

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
U.S. EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

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"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

U.S. Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account No.: 3100006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White 301-877-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment

67. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty described in Paragraph 64 shall be sent simultaneously to:

Janet E. Sharke
Senior Assistant Regional Counsel
U.S. EPA, Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

68. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

69. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

70. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
71. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
72. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

VI. EFFECT OF SETTLEMENT

73. The settlement set forth in this Consent Agreement shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under TSCA for the specific violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VII. OTHER APPLICABLE LAWS

74. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VIII. CERTIFICATION OF COMPLIANCE

75. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that Respondent, in its capacity as an "agent" for target housing lessors and sellers, currently is complying with the provisions of TSCA, and the regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart F.

IX. RESERVATION OF RIGHTS

76. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under TSCA, the Act, the regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart F, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the EPA Regional Hearing Clerk.
77. Nothing in this CAFO shall constitute or be construed as a release of Respondent from any claim, cause of action, or demand in law or equity by any person, firm, partnership, or corporation not bound by this CAFO for any liability relating in any way to the presence of lead-based paint and/or lead-based paint hazards at or in any target housing which is the subject of this CAFO.

X. PARTIES BOUND

78. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon EPA, Respondent and its officers, directors, employees, successors, agents and assigns.

XI. EFFECTIVE DATE

79. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his/her designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XII. ENTIRE AGREEMENT

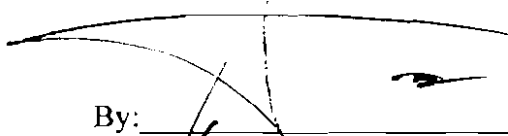
80. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

XIII. EXECUTION

81. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his signature that he is fully authorized to enter into this Consent Agreement and to legally bind Colquitt-Carruthers Holdings, LLC d/b/a/ Prudential Carruthers Realtors to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For Respondent

Date: 9/24/09



By: _____
J. Thomas Carruthers, III
President
Colquitt-Carruthers Holdings, LLC
d/b/a Prudential Carruthers Realtors

For Complainant:

Date: _____

By: _____
Janet E. Sharke
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____
Abraham Ferdas, Director
Land and Chemicals Division

XIII. EXECUTION

81. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his signature that he is fully authorized to enter into this Consent Agreement and to legally bind Colquitt-Carruthers Holdings, LLC d/b/a/ Prudential Carruthers Realtors to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For Respondent

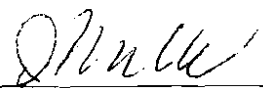
Date: _____

By: _____

J. Thomas Carruthers, III
President
Colquitt-Carruthers Holdings, LLC
d/b/a Prudential Carruthers Realtors

For Complainant:

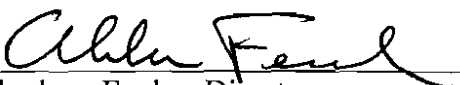
Date: 9/24/09

By: 

Janet E. Sharke
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/25/09

By: 

Abraham Ferdas, Director
Land and Chemicals Division

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Colquitt-Carruthers Holdings, LLC
d/b/a Prudential Carruthers Realtors
565 Benfield Road, Suite 400
Severna Park, MD 21146**

Respondent

Docket No. TSCA-03-2009-0296

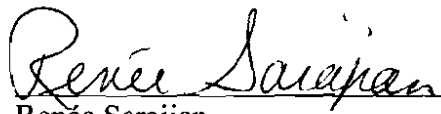
Final Order

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Colquitt-Carruthers Holdings, LLC d/b/a Prudential Carruthers Realtors, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Act"), 42 U.S.C. §§ 4851 *et seq.*, and 40 C.F.R. Part 745, Subpart F, which authorizes the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, for violations of the Act, and the *Consolidated Rules of Practice*, and having determined, based on the representations in the attached Consent Agreement, that the civil penalty agreed therein was based upon the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of NINE THOUSAND TWO HUNDRED AND THIRTY-THREE DOLLARS (\$9,233.00), and comply with the terms and conditions of the attached Consent Agreement.

The effective date of the Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

Date: 9/28/09


Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

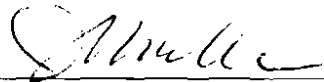
CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order, EPA Docket No. TSCA-03-2009-0296, were filed today with the Regional Hearing Clerk, EPA, Region III, and that one copy of the Consent Agreement and Final Order was sent via fax and certified mail, return-receipt requested, to:

Rachel T. McGuckian, Esq.
Miles & Stockbridge PC
11 N. Washington Street, Suite 700
Rockville, MD 20850

7/22/09

Date



Janet E. Sharke (3RC30)
Counsel for Complainant
U.S. Environmental Protection Agency, Region III
(215) 814-2689