

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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HEARINGS CLERK  
EPA -- REGION 10

In the Matter of:

Mr. Mark Farnes  
MD Restoration and Construction, Inc.  
148 Abraham Street  
Chubbuck, Idaho 83202

Respondent.

)  
) DOCKET NO. TSCA-10-2017-0060  
)  
)

)  
) **EXPEDITED SETTLEMENT**  
) **AGREEMENT AND**  
) **FINAL ORDER**  
)  
)  
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**EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER**

1. The U.S. Environmental Protections Agency ("EPA") alleges that MD Restoration and Construction, Inc. ("Respondent") failed to comply with Section 402(c) of the U.S. Toxic Substances Control Act, 42 U.S.C. § 2601 et seq. (TSCA).

2. Under Section 402(c) of TSCA, Respondent was required to: (1) obtain initial firm certification from the EPA to perform, offer, or claims to perform renovations for compensation under 40 C.F.R. § 745.89(a), pursuant to 40 C.F.R. § 745.81(a)(2)(ii).

3. The EPA and Respondent agree that settlement of this matter for a civil penalty of \$200 is in the public interest.

4. Not more than thirty (30) calendar days after the effective date of the Final Order, respondent shall deposit the civil penalty amount listed in paragraph 3 by one of the following methods.

A. Dispatch a cashier's or certified check or money order with a notation for TSCA-10-2017-0060 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Docket No. TSCA-10-2017-0060  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

B. Dispatch a cashier's or certified check or money order by an overnight/common carrier (e.g., FedEx or United Parcel Service of America, Inc.) with a notation for TSCA-10-2017-0060 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

C. Make an electronic deposit for payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).

5. Concurrently with paragraph 4, Respondent shall forward the signed original ESA with a copy of the cashier's or certified check or money order or documentation of a wire transfer to the following address with a certification that regarding the violations alleged herein, Respondent is in compliance with Section 402(c) of TSCA.

6. The EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).

Maria Tartaglia, Compliance Officer  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-101  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

By written notice to Respondent, the EPA may change the address and/or person listed above.

7. If Respondent fails to make the payment in a timely manner as required by Paragraph 4, then Respondent shall pay a stipulated penalty of \$37,500 (thirty-seven thousand five hundred dollars and 00 cents) per calendar day for every day the civil penalty payment is late, unless the EPA in writing excuses or mitigates the stipulated penalty if the EPA determines that the failure to comply occurred despite Respondent's exercise of good faith and due diligence.

8. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirement(s) in Paragraph 2 (above); (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.

9. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violation(s), (b) agrees to provide a deposit for payment of the civil

penalty set forth in Paragraph 4; (c) agrees to submit a true and accurate proof of deposit for payment of said civil penalty to the EPA upon entry of the Final Order attached hereto.

10. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in paragraph 4, Respondent shall be resolved of liability for Federal civil penalties for the violation and facts only alleged herein.

11. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

12. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of Section 402(c) of TSCA, any other federal statute or regulation, or this Agreement.

13. Upon signing and returning this Agreement to the EPA, Respondent waives the opportunity for a hearing or appeal pursuant to TSCA.

14. The penalty, including any stipulated penalties, specified above represents civil penalties assessed by the EPA, and shall not be deductible for purposes of federal, state, or local income taxes.

15. Failure of Respondent to remit the civil penalties provided herein will result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

16. Each party shall bear its own costs and fees, if any.


17. The Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

IT IS SO AGREED,

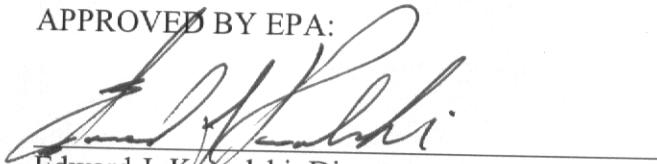
Name (print): Mark Farnes

Title (print): President/owner

Signature: 

Date: 2.24.2017

APPROVED BY EPA:



Edward J. Kowalski, Director  
Office of Compliance and Enforcement  
EPA Region 10

Date: 3/15/2017

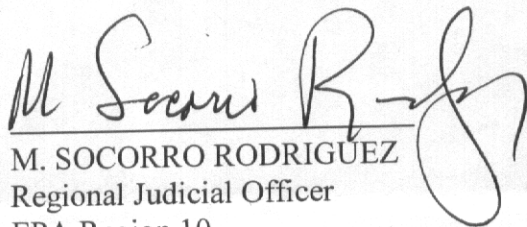
**FINAL ORDER**

Pursuant to the authority of Section 16 of TSCA, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. MD Restoration and Construction, Inc. ("Respondent") shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of (\$200) two hundred dollars and 00 cents; and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via certified or cashier's check, money order, or through a wire transfer as described in the Expedited Settlement Agreement.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 10. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED:

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Date 3-15-17

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Mark Farnes, MD Restoration and Construction, Inc., Docket No. TSCA-10-2017-0060, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Maria Tartaglia  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-100  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mark Farnes  
MD Restoration and Construction, Inc.  
148 Abraham Street  
Chubbuck, Idaho 83202

DATED this 16 day of March, 2017

  
\_\_\_\_\_  
Signature

Teresa Young  
Regional Hearing Clerk  
EPA Region 10

16 - 10/10/1911  
M. J. [unclear]