



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PENNSYLVANIA 19103-2029

In Reply Refer To Mail Code: 3RC50

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

MAY 24 2018

Charles B. Haws, Esquire  
Barley Snyder  
50 North Fifth Street, 2nd Floor  
P.O. Box 942  
Reading, PA 19603

Re: Consent Agreement and Final Order  
EPA Docket No.: TSCA-03-2018-0102

Dear Mr. Haws:

Enclosed is a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above with respect to your client Distinct Construction, Inc. For your file, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066.

U.S. EPA-REGION 3-RHC  
FILED 24 MAY 2018 PM 3:10

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Abramson".

Jennifer M. Abramson  
Senior Assistant Regional Counsel

Enclosures

cc: Noelle Watanabe, EPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:	)	DOCKET NO.: TSCA-03-2018-0102
	)	
Distinct Construction, Inc.	)	Proceeding Under Section 16(a) of the
815 N. George Street, Suite A	)	Toxic Substances Control Act, 15 U.S.C.
York, Pennsylvania 17404	)	Section 2615(a)
	)	
Respondent,	)	
	)	
15-21 North Walnut Street	)	
Dallastown, Pennsylvania	)	
	)	
1 E. Main Street	)	
Dallastown, Pennsylvania	)	
	)	
Target housing.	)	

**U.S. EPA-REGION 3-RHC**  
FILED-24MAY2018pm3:10

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**CONSENT AGREEMENT**

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Preliminary Statement

This Consent Agreement is entered into by the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Distinct Construction, Inc. (“Respondent”) pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, 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)). This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant's civil penalty claims against Respondent under TSCA arising from alleged violations of the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
4. For the 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.

5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
6. Respondent shall bear its own costs and attorney's fees.
7. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

Complainant's Findings of Fact and Conclusions of Law

8. In accordance with 40 C.F.R. §§ 22.13(b) and .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.
9. Pursuant to 40 C.F.R. § 745.83, the term "firm" means "a company, partnership, corporation, sole proprietorship or individual doing business, association or other business entity; a Federal, State, Tribal or local government agency; or a nonprofit organization."
10. Pursuant to 40 C.F.R. § 745.83, the term "renovation" means "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."
11. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), 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."
12. In 2015, Respondent performed renovation work involving the disturbance of painted surfaces at housing located at 15-21 North Walnut Street in Dallastown, Pennsylvania.
13. In 2015, Respondent performed renovation work involving the disturbance of painted surfaces at housing located at 1 E. Main Street in Dallastown, Pennsylvania.
14. Respondent, at all times relevant to the violations alleged in this Consent Agreement, was a "firm" who performed "renovation[s]," as those terms are defined at 40 C.F.R. § 745.83, at 15-21 North Walnut Street in Dallastown, Pennsylvania and at 1 E. Main Street in Dallastown, Pennsylvania.
15. The housing located at 15-21 North Walnut Street in Dallastown, Pennsylvania and at 1 E. Main Street in Dallastown, Pennsylvania were constructed prior to 1978 and are each "target housing" as that term is defined in Section 401(17) of TSCA, 15 U.S.C. § 2681(17).
16. Respondent's conduct described in paragraph 12 constituted a renovation for compensation under 40 C.F.R. § 745.82(a) and was subject to the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

17. Respondent's conduct described in paragraph 13 constituted a renovation for compensation under 40 C.F.R. § 745.82(a) and was subject to the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

Alleged Violations

**Count 1 – Failure to Obtain Initial Firm Certification**

18. The allegations contained in paragraphs 1 through 17 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

19. Pursuant to 40 C.F.R. § 745.81(a)(2), firms are required to be EPA certified under § 745.89 prior to performing renovations at target housing.

20. Respondent was not an EPA certified firm at the time it performed the 2015 renovations at 15-21 North Walnut Street in Dallastown, Pennsylvania and at 1 E. Main Street in Dallastown, Pennsylvania.

21. Respondent's acts or omissions described in paragraph 20 immediately above constitute a violation of 40 C.F.R. § 745.81(a)(2) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

**Counts 2 and 3 – Failure to Obtain Acknowledgement of Receipt Lead Hazard Pamphlet**

22. The allegations contained in paragraphs 1 through 21 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

23. Pursuant to 40 C.F.R. § 745.84(a)(2), firms are required to obtain from owners of dwelling units a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet before beginning renovation activities.

24. Respondent failed to obtain from the adult occupant of the housing located at 15-21 North Walnut Street in Dallastown, Pennsylvania a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* prior to beginning renovation activities in 2015.

25. Respondent failed to obtain from the adult occupant of the housing located at 1 E. Main Street in Dallastown, Pennsylvania a written acknowledgement of receipt of EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* prior to beginning renovation activities in 2015.

26. Respondent's acts or omissions described in paragraphs 24 and 25 constitute violations of 40 C.F.R. § 745.84(a)(1)(i) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

**Counts 4 and 5 – Failure to Retain Records Demonstrating Compliance with Work Practices**

27. The allegations contained in paragraphs 1 through 26 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
28. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations are required to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E, for a period of 3 years following completion of the renovation.
29. Section 40 C.F.R. §745.86(b) specifies the types of records required to be retained pursuant to 40 C.F.R. § 745.86(a) and includes, but is not limited to, records documenting compliance with the work practice standards of 40 C.F.R. § 745.85(a) and post renovation cleaning verification requirements of 40 C.F.R. § 745.85(b).
30. Respondent failed to retain records documenting compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E, including records documenting compliance with the work practice standards of 40 C.F.R. § 745.85(a) or post renovation cleaning verification requirements of 40 C.F.R. § 745.85(b) as required by 40 C.F.R. §745.86(b)(6) for the renovation performed at 15-21 North Walnut Street in Dallastown, Pennsylvania in 2015.
31. Respondent failed to retain records documenting compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E, including records documenting compliance with the work practice standards of 40 C.F.R. § 745.85(a) or post renovation cleaning verification requirements of 40 C.F.R. § 745.85(b) as required by 40 C.F.R. §745.86(b)(6) for the renovation performed at 1 E. Main Street in Dallastown, Pennsylvania in 2015.
32. Respondent's acts or omissions described in paragraphs 30 and 31 constitute violations of 40 C.F.R. § 745.86(a) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

**Count 6 – Failure to Post Warning Signs**

33. The allegations contained in paragraphs 1 through 32 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.
34. Pursuant to 40 C.F.R. § 745.85(a)(1), firms are required 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.
35. Respondent failed to post signs clearly defining the work area during the renovation it performed at 1 E. Main Street in Dallastown, Pennsylvania in 2015.
36. Respondent's acts or omissions described in paragraph 35 above constitutes a violation of 40 C.F.R. § 745.85(a)(1) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

### **Count 7 – Failure to Cover Ground**

37. The allegations contained in paragraphs 1 through 36 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

38. Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(C), firms are required to cover the ground with plastic sheeting or other disposable impermeable material extending a sufficient distance to collect falling paint debris.

39. Respondent failed to cover the ground a sufficient distance to collect falling paint debris during the renovation it performed at 1 E. Main Street in Dallastown, Pennsylvania in 2015.

40. Respondent's acts or omissions described in paragraph 39 above constitutes a violation of 40 C.F.R. § 745.85(a)(2)(ii)(C) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

### **Count 8 – Failure to Contain Waste**

41. The allegations contained in paragraphs 1 through 40 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

42. Pursuant to 40 C.F.R. § 745.85(a)(4)(i), firms are required to contain waste from renovation activities to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal.

43. Respondent failed to contain waste from the renovation it performed at 1 E. Main Street in Dallastown, Pennsylvania in 2015 before the waste was removed from the work area for storage or disposal.

44. Respondent's acts or omissions described in paragraph 43 above constitutes a violation of 40 C.F.R. § 745.85(a)(4)(i) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

### **Count 9 – Failure to Take Extra Precautions**

45. The allegations contained in paragraphs 1 through 44 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

46. Pursuant to 40 C.F.R. § 745.85(a)(2)(ii)(D), firms are required, in certain situations, to take extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate other buildings or other areas of the property or migrate to adjacent properties.

47. Respondent failed to take extra precautions in containing the work area to ensure that dust and debris from the renovation it performed at 1 E. Main Street in Dallastown, Pennsylvania in 2015 did not contaminate other buildings or other areas of the property or migrate to adjacent properties.

48. Respondent's acts or omissions described in paragraph 47 above constitutes a violation of 40 C.F.R. § 745.85(a)(2)(ii)(D) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### Civil Penalty

49. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of two thousand four hundred and ninety-seven dollars (\$2,497). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty of two thousand four hundred and ninety-seven dollars (\$2,497) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

50. The Parties represent that the settlement terms are based upon EPA's consideration of a number of factors, including the penalty criteria set forth 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's 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 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013) and *Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements* (March 5, 2017).

51. 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.

52. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the fully endorsed and filed CAFO 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).

53. 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.

54. A late payment penalty of six percent 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).

55. Respondent shall pay the amount described in paragraph 49 by sending a certified or cashier's check payable to the "United States Treasury," as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO, 63197-9000.  
Contact: Craig Steffen 513-487-2091  
Jessica Henderson 513-487-2718

b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone contact: 314-418-1028

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

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

d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York  
ABA 021030004  
Account No. 68010727  
SWIFT Address FRNYUS33  
33 Liberty Street  
NY, NY 10045

(Field tag 4200 of Fedwire message should read "D 68010727  
Environmental Protection Agency")

e. By automatic clearinghouse ("ACH") to the following account:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA 051036706



Account No. 310006  
Environmental Protection Agency  
CTX Format  
Transaction Code 22 – checking

Contact: John Schmid 202-874-7026  
REX 866-234-5681

f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

g. Additional payment guidance is available at:  
<http://www2.epa.gov/financial/makepayment>

All payments shall also reference the above case caption and docket number (Docket No. TSCA-03-2018-0102). At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

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

Jennifer M. Abramson (3RC50)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### Certification

56. Respondent certifies that it is currently in compliance with all applicable requirements of TSCA, 15 U.S.C. §§ 2601 *et seq.*

#### Other Applicable Laws

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

#### Reservation of Rights

58. This CAFO resolves only EPA’s civil claims for penalties for the specific violations of TSCA alleged in this Consent Agreement. 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 regulations promulgated thereunder, and any other Federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Full and Final Satisfaction

59. This settlement shall constitute full and final satisfaction of all claims for civil penalties which Complainant may have under Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, 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.

Parties Bound

60. This CAFO shall apply to and be binding upon Complainant, Respondent, and Respondent's officers, directors, successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

Effective Date


61. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

62. This CAFO constitutes the entire agreement and understanding of the Complainant and Respondent concerning settlement of the action referenced in the caption above, and there are no representations, warranties, covenants, terms, or conditions agreed upon between Complainant and Respondent other than those expressed herein.

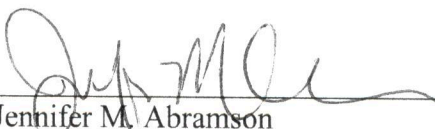
For Respondent:

5/3/18  
Date

  
Seth Predix  
Distinct Construction, Inc.

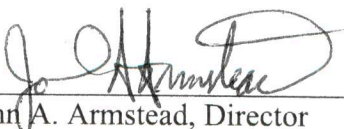
For Complainant:

05/07/18  
Date

  
Jennifer M. Abramson  
Counsel for Complainant

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

5.22.18  
Date

  
John A. Armstead, Director  
Land and Chemicals Division  
U.S. EPA, Region III

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

**In the Matter of:**

Distinct Construction, Inc.  
815 N. George Street, Suite A  
York, Pennsylvania 17404

Respondent,

15-21 North Walnut Street  
Dallastown, Pennsylvania

1 E. Main Street  
Dallastown, Pennsylvania

Target housing.

**EPA Docket No.** TSCA-03-2018-0102

**FINAL ORDER**

**Proceeding under** Section 16(a) of the  
Toxic Substances Control Act,  
15 U.S.C. § 2615(a).

**U.S. EPA-REGION 3-RHC**  
FILED-24MAY2018PM3:11

**FINAL ORDER**


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Distinct Construction, Inc., 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 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013), *Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements* (March 5, 2017) and statutory factors set forth in Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

**NOW, THEREFORE, PURSUANT TO** Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TWO THOUSAND FOUR HUNDRED AND NINETY-SEVEN (\$2,497)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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

May 24, 2018  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order  
Docket No: TSCA-03-2018-0102

FROM: Mary B. Coe  
Regional Counsel (3RC00)

John A. Armstead, Director  
Land and Chemicals Division (3LC00)

TO: Joseph J. Lisa  
Regional Judicial Officer (3RC00)

U.S. EPA-REGION 3-RHC  
FILED-24MAY2018pm3:11

The attached Consent Agreement and Final Order ("CAFO") have been negotiated with Distinct Construction, Inc. ("Respondent") in settlement of actionable Toxic Substances Control Act ("TSCA") violations. The compliance issues addressed in the CAFO involve the failure to comply with requirements of the Residential Property Renovation regulations at 40 C.F.R. Part 745, Subpart E in connection with renovations for compensation at pre-1978 housing, which subjects Respondent to civil penalties under Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689.

The litigation team calculated a civil penalty of two thousand four hundred and ninety-seven dollars (\$2,497) in consideration of the statutory factors set forth 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 the Respondent's, 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; EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, revised April 2013, and 40 C.F.R. Part 9.

We recommend that you sign the attached Final Order assessing two thousand four hundred and ninety-seven dollars (\$2,497) in civil penalties against Respondent.

Attachments

cc: Charles B. Haws, Esquire  
Barley Snyder  
50 North Fifth Street, 2nd Floor  
P.O. Box 942  
Reading, PA 19603  
Phone: 610-898-7162, ext. 2222  
E-mail: [chaws@barley.com](mailto:chaws@barley.com)

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:	)	
	)	DOCKET NO.: TSCA-03-2018-0102
Distinct Construction, Inc.	)	
815 N. George Street, Suite A	)	
York, Pennsylvania 17404	)	
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Respondent,	)	
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15-21 North Walnut Street	)	
Dallastown, Pennsylvania	)	
	)	
1 E. Main Street	)	
Dallastown, Pennsylvania	)	
	)	
Target housing.	)	

**U.S. EPA-REGION 3-RHC**  
FILED-24MAY2018PM3:11

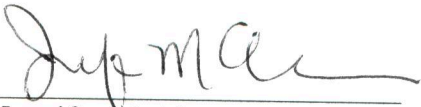
CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

**Original and one copy by hand-delivery:** Regional Hearing Clerk

**Copy by Certified Mail:** Charles B. Haws, Esquire  
Barley Snyder  
50 North Fifth Street, 2nd Floor  
P.O. Box 942  
Reading, PA 19603

MAY 24 2018  
Date

  
\_\_\_\_\_  
Jennifer M. Abramson (3RC50)  
Senior Assistant Regional Counsel  
U.S. EPA, Region III

