



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

April 8, 2021  
2:38 PM

Received by  
EPA Region VIII  
Hearing Clerk

DOCKET NO.: TSCA-08-2021-0004

IN THE MATTER OF: )  
 )  
Frank C. Ciccone ) FINAL ORDER  
 )  
 )  
 )  
 )  
RESPONDENT )

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Settlement Agreement, effective immediately upon filing this Expedited Settlement Agreement and Final Order.

SO ORDERED THIS 8th DAY OF April, 2021.

KATHERIN  
HALL

Digitally signed by  
KATHERIN HALL  
Date: 2021.04.08 14:36:45  
-06'00'

Katherin E. Hall  
Regional Judicial Officer

April 8, 2021

2:38 PM

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

Received by  
EPA Region VIII

Docket No.: TSCA-08-2021-0004

Hearing Clerk

\_\_\_\_\_  
IN THE MATTER OF: )  
)  
Frank C. Ciccone )  
2732 West 26<sup>th</sup> Avenue, Unit 101 )  
Denver, Colorado 80211 )  
)  
Respondent. )  
\_\_\_\_\_ )

**EXPEDITED SETTLEMENT AGREEMENT**

Complainant, the authorized representative of the United States Environmental Protection Agency (EPA), and Respondent, Frank C. Ciccone, by their undersigned representatives, hereby consent and agree as follows:

I. AUTHORITY

1. This Expedited Settlement Agreement (the Agreement) is being entered into by the EPA, by its duly delegated officials, and by Respondent for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA has jurisdiction over this matter pursuant to sections 16 and 409 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2615 and 2689, and the regulations promulgated under TSCA Subchapter IV, as set forth at 40 C.F.R. part 745.

II. STATUTORY AND REGULATORY BACKGROUND

3. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known Title X (Title X), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. Title X amended TSCA by adding sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. Section 1018 of Title X required the EPA and the Department of Housing and Urban Development (HUD) to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978 (the Disclosure Rule), as codified at 40 C.F.R. part 745, subpart F.
4. The Disclosure Rule requires that sellers and lessors of most residential housing built before 1978: (a) disclose the presence of any known lead-based paint and lead-based paint hazards in the target housing; (b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; (c) provide purchasers and lessees with a federally approved lead hazard information pamphlet; (d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or

lead-based paint hazards before the purchaser is obligated under any purchase contract; and (e) include certain disclosure and acknowledgement language in the sales or leasing contract.

5. "Target housing" means any housing constructed prior to 1978, except for housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing). 15 U.S.C. § 2681(17).
6. "Lessor" means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. 40 C.F.R. § 745.103.
7. Failure to comply with any provision of the Disclosure Rule, 40 C.F.R. part 745, subpart F, constitutes a violation of section 409 of TSCA, 15 U.S.C. § 2689. Section 16 of TSCA, 15 U.S.C. § 2615, as modified by 40 C.F.R. part 19, authorizes the EPA to assess a civil penalty of up to \$18,364 for each violation of section 409. 85 Fed. Reg. 83820 (Dec. 23, 2020).

### III. RESPONDENT

8. Respondent is a "person" for purposes of sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.
9. Respondent is a "lessor" as that term is defined in 40 C.F.R. § 745.103.

### IV. ALLEGED VIOLATIONS

10. On November 30, 2020, the EPA sent an information request letter regarding leased property at 1331 Lamplighter Drive, Longmont, Colorado (Property) to Respondent to determine compliance with the Disclosure Rule, 40 C.F.R. part 745, subpart E.
11. The Property is a single family home constructed prior to 1978 and is "target housing" as that term is defined in section 401 of TSCA, 15 U.S.C. § 2681.
12. Respondent entered into a contract to lease the property at 1331 Lamplighter Drive, Longmont, Colorado on or about October 12, 2018.
13. Sellers and Lessors shall provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet pursuant to 40 C.F.R. § 745.107(a)(1).
14. Respondent failed to provide the lessee of 1331 Lamplighter Drive, Longmont, Colorado, with an EPA-approved lead hazard information pamphlet before lessee was obligated under contract to lease the target housing, as required by 40 C.F.R. § 745.107(a)(1).
15. Respondent's failure to provide lessee with an EPA-approved lead hazard information pamphlet constitutes a violation of 40 C.F.R. § 745.107 and, in accordance with 40 C.F.R. § 745.118(e), violations of section 1018 of Title X, 42 U.S.C. § 4852d, and section 409 of TSCA, 15 U.S.C. § 2689.

## V. SETTLEMENT

16. The EPA and Respondent agree that settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this Agreement and issuance of a final order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.
17. Pursuant to section 16 of TSCA, 15 U.S.C. § 2615, and based in part on the size of Respondent's business, the nature, circumstances, extent and gravity of the violations alleged, and other relevant factors, the EPA agrees that an appropriate civil penalty to settle this matter is one thousand dollars (\$1,000).
18. By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Agreement have been corrected, and Respondent has submitted true and accurate documentation of such correction; (2) Respondent has provided payment of the civil penalty; and (3) Respondent releases that penalty to the EPA upon incorporation of the Agreement into a final order.

Within thirty (30) days of Respondent's receipt of this Agreement, Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of one thousand dollars (\$1,000) in payment of the full penalty amount to the following address:

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

**The following Payment Number for this Agreement must be included on the check:  
ESA-R8-TSCA.**

**The signed Agreement and a copy of the check must be sent by certified mail or via email to:**

Britta Copt (8ENF-AT-P)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
copt.britta@epa.gov

19. Respondent agrees that the penalty specified in this Agreement and any interest paid shall not be deductible for purposes of local, state, or federal taxes.
20. This settlement is subject to the following terms and conditions with respect to the violations alleged:
  - a. Respondent, by signing below, admits the jurisdictional allegations of the Agreement, neither admits nor denies the specific factual allegations contained in the Agreement and consents to the assessment of the penalty as stated above.

- b. Each party to this action shall bear its own costs and attorney fees, if any.
  - c. Payment by Respondent shall constitute a waiver of any and all available rights to judicial or administrative review or other remedies that the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Agreement, including any right to appeal the final order.
21. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the Parties, shall only resolve Respondent's liability for Federal civil penalties for the violations alleged in this Agreement.
22. This Agreement does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including but not limited to, the following:
- a. Claims based on a failure by Respondent to meet a requirement of this Agreement, including any claims for costs which are caused by Respondent's failure to comply with this Agreement;
  - b. Claims based on criminal liability; and,
  - c. Claims based on any other violations of TSCA or federal or state law.
23. If the signed original Agreement with an attached copy of the check is not returned to the EPA at the above address in correct form by Respondent within thirty (30) days of the date of Respondent's receipt of this Agreement, the Agreement may be withdrawn without prejudice to the EPA's ability to file an enforcement action for the violations alleged in the Agreement.
24. This Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent and Respondent's successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement. This Agreement contains all terms of the settlement agreed to by the Parties.
25. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of the Agreement and to bind Respondent to the terms and conditions of this Agreement.
26. Nothing in this Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.
27. The Parties agree to submit this Agreement to the Regional Judicial Officer with a request that it be incorporated into a final order.
28. The Parties consent to service of this Agreement and any final order approving it by e-mail at the following valid e-mail addresses: [copt.britta@epa.gov](mailto:copt.britta@epa.gov) (for Complainant), and [frnkccn@gmail.com](mailto:frnkccn@gmail.com) (for Respondent).

The foregoing Expedited Settlement Agreement In the Matter of Frank C. Ciccone, is hereby stipulated, agreed, and approved for entry.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,**

**Date:** \_\_\_\_\_

**DAVID COBB** Digitally signed by DAVID  
COBB  
Date: 2021.04.01 08:38:40  
-06'00'  
**By:** \_\_\_\_\_  
David Cobb, Section Chief  
Toxics and Pesticides Enforcement Section  
Enforcement and Compliance Assurance Division  
For the Complainant.

**FRANK C. CICCONE,**

**Respondent.**

**Date:** 3/25/2021

**By:**   
Printed Name: Frank C. Ciccone

## CERTIFICATE OF SERVICE

The undersigned certifies that the attached **EXPEDITED SETTLEMENT AGREEMENT** and the **FINAL ORDER** in the matter of **FRANK C. CICCONE; DOCKET NO.: TSCA-08-2021-0004** was filed with the Regional Hearing Clerk on April 8, 2021.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Shaula Eakins, Enforcement Attorney, and sent via certified receipt email on April 9, 2021, to:

Respondent

Frank C. Ciccone  
frnkccn@gmail.com

EPA Financial Center

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
Chalifoux.Jessica@epa.gov

April 9, 2021

Tribbett,  
Katherine

Digitally signed by  
Tribbett, Katherine  
Date: 2021.04.09  
14:19:37 -06'00'

---

Kate Tribbett  
Regional Hearing Clerk