

RECEIVED

11 APR 26 PM 2:28

HEARINGS CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:	)	
	)	
Cha Special Painting, LLC	)	Docket No. TSCA-10-2011-0050
	)	
Milwaukie, Oregon	)	CONSENT AGREEMENT AND FINAL
	)	ORDER
	)	
Respondent.	)	
	)	
	)	
	)	
	)	
	)	

I. AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 16(a) of TSCA, and in accordance with of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,”

40 C.F.R. Part 22, EPA hereby issues and Cha Special Painting, LLC (“Respondent”) hereby agrees to issuance of the Final Order contained in Part V of this CAFO.

## II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), this proceeding is simultaneously commenced and concluded by the issuance of this CAFO and the Final Order contained in Part V of this CAFO.

2.2. The Administrator has delegated the authority to negotiate and sign Consent Agreements for TSCA violations to the Regional Administrator of EPA Region 10, who in turn had redelegated this authority to the Director of the Office of Air, Waste and Toxics.

2.3. A concise statement of the factual basis for alleging violations of TSCA, together with specific references to the provisions of TSCA and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

## III. ALLEGATIONS

3.1. Respondent is located at 11121 SE 31<sup>st</sup> Avenue, Milwaukie, Oregon 97222.

3.2. Respondent is a “person” within the meaning of TSCA.

3.3. Respondent is a “firm” as defined by 40 C.F.R. § 745.83.

3.4. Respondent is a “renovator” who performed “renovations” for compensation as defined by 40 C.F.R. § 745.83.

3.5. Respondent performed renovations on properties located at 4030 NE 28<sup>th</sup> Avenue, Portland, Oregon, and at 6470 SW 181<sup>st</sup> Place, Aloha, Oregon. The properties were constructed before 1978.

3.6. The properties listed in Paragraph 3.5 above are “target housing” as defined by 40 C.F.R. § 745.103.

3.7. 40 C.F.R. § 745.84 (a) requires that no more than 60 days before beginning a renovation in any residential dwelling unit of target housing, the firm performing the renovation must provide the owner of the unit with an EPA-approved lead hazard information pamphlet, and either: (i) obtain from the owner a written acknowledgment that the owner received the pamphlet; or (ii) obtain a certificate of mailing documenting that the pamphlet was mailed to the owner at least seven days prior to the renovation.

3.8. 40 C.F.R. § 745.86(a) requires that firms performing renovations must retain and if requested make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E.

3.9. Under 40 C.F.R. § 745.87(a), failure to comply with any provision of 40 C.F.R. Part 745, Subpart E is a violation of Section 409 of TSCA, 15 U.S.C. § 2689.

3.10. 40 C.F.R. § 745.87(b) states that failure to establish and maintain records required by 40 C.F.R. Part 745, Subpart E is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689).

3.11. Respondent failed to provide the owners and/or occupants of 4030 NE 28<sup>th</sup> Avenue, Portland, Oregon, and 6470 SW 181<sup>st</sup> Place, Aloha, Oregon, with an EPA-approved lead hazard information pamphlet and obtain a written acknowledgement or certificate of mailing of the pamphlet prior to the commencement of a renovation at the properties as required by 40 C.F.R. § 745.84(a).

3.12. Respondent failed to establish and maintain records required by 40 C.F.R. Part 745, Subpart E for the renovations conducted at the properties identified in Paragraph 3.5. above.

3.13. Under Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a), EPA may assess penalties against any person who violates any provision of TSCA Section 409, 15 U.S.C. § 2689.

#### IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.

4.4. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.5. Except as provided in Paragraph 4.10., below, each party shall bear its own costs in bringing or defending this action.

4.6. Based on Respondent's willingness to settle this matter without litigation, and in accordance with Section 16(b) of TSCA, taking into account the nature, circumstances, extent, and gravity of the violations; Respondent's ability to pay and to continue to do business; any history of prior such violations, and the degree of culpability, in addition to any such matter as

justice may require, EPA and Respondent agree that an appropriate penalty to settle action is \$500.00.

4.7. Respondent consents to the issuance of the Final Order recited herein and to payment of the penalty cited in Paragraph 4.6. above within 30 days of the effective date of the Final Order.

4.8. Payment under this CAFO shall be made by cashier's check or certified check payable to the "U.S. Treasury" and mailed to:

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

Respondent shall note on the check the title and docket number of this case. Respondent also may make the penalty payment by wire transfer or credit card in accordance with instructions provided by EPA.

4.9. Respondent shall submit a photocopy of the check described above to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Suite 900  
1200 Sixth Avenue, Mail Stop ORC-158  
Seattle, Washington 98101

Barbara Ross  
U.S. Environmental Protection Agency  
Region 10, Suite 900  
1200 Sixth Avenue, Mail Stop AWT-128  
Seattle, Washington 98101

4.10. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action under TSCA Section 16(a)(4), 15 U.S.C. § 2615(a)(4), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.11. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the date the underlying penalty first becomes past due.

4.12. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4.13. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO.

4.14. Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in Section III above.

STIPULATED AND AGREED:

FOR CHA SPECIAL PAINTING, LLC

OK Kyung Cha  
Signature

Dated: 4-6-2011

Print Name: OK KYUNG CHA

Title: owner

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

Richard Albright  
Richard Albright, Director  
Office of Air, Waste and Toxics

Dated: 4/25/11

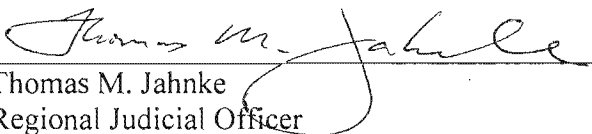
V. FINAL ORDER

5.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of settlement contained in the Consent Agreement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to TSCA for the particular violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

This Final Order shall become effective upon filing.

SO ORDERED this 26<sup>TH</sup> day of April, 2011

  
Thomas M. Jahnke  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10



CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: CHA SPECIAL PAINTING, LLC, DOCKET NO.: TSCA-10-2011-0050** was filed with the Regional Hearing Clerk on April 26, 2011.

On April 26, 2011 the undersigned certifies that a true and correct copy of the document was delivered to:

Bob Hartman, Esquire  
US Environmental Protection Agency  
Suite 900  
1200 Sixth Avenue, ORC-158  
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 on April 26, 2011, to:

Cha's Special Painting, LLC  
Ok Kyung Cha  
11121 SE 31 Avenue  
Milwaukie, Oregon 97222

Buckley Law P.C.  
Suite 250  
Three Centerpointe Drive  
Lake Oswego, Oregon 97035

DATED this 26<sup>th</sup> day of April 2011.



---

Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10

0001417 11-24  
Office AU # 1210(B)

# CASHIER'S CHECK

0141719387

Operator I.D.: alas0613

April 06, 2011

PAY TO THE ORDER OF \*\*\*US TREASURY \*\*\*  
\*\*\*REF: OK KYUNG CHA \*\*\*  
*CHA special painting LLC*  
\*\*\*Five hundred dollars and no cents\*\*\*

\*\*\$500.00\*\*

WELLS FARGO BANK, N.A.  
301 W NORTHERN LIGHTS BLVD  
ANCHORAGE, AK 99503  
FOR INQUIRIES CALL (480) 394-3122

*Docket No. TSCA-10-2011-0050*

VOID IF OVER US \$ 500.00

*Richard Levy*  
CONTROLLER

Security Features Included. Details on Back.

RECEIVED

11 APR 26 PM 3:41

HEARINGS CLERK  
EPA--REGION 10

⑈0141719387⑈ ⑆121000248⑆4861 506277⑈