



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 06 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Shuman
General Manager
Shucom Properties
2650 Dean Road
Jacksonville, Florida 32216

Re: Shucom Properties
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2012-2603(b)

Dear Mr. Shuman:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$ 15,071 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case. Penalty payment questions should be directed to Ms. Heather Russell either by telephone at (513) 487-2044 or by written correspondence to her attention at the U.S. Environmental Protection Agency's Cincinnati Accounting Operation address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call Ms. Elizabeth Wilde at (404) 562-8998.

Also enclosed is a copy of the October 2001, Enforcement Alert titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure requirements." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly L. Bingham".

Kimberly L. Bingham
Acting Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2012 JAN -6 AM 7:17
HEARING CLERK

In the Matter of:)

Shucom Properties)

Respondent.)

Docket No.: TSCA-04-2012-2603(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, U. S. Environmental Protection Agency, Region 4. Respondent is Shucom Properties.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, also known as Title X of the Housing and Community Development Act of 1992. Pursuant to Title X, it is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with a provision of Title X or any rule or order issued under Title X.
4. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, the penalty for each violation of Title X of TSCA shall not exceed \$10,000. The Debt Collection Improvement Act of 1996 requires EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation of Title X occurring after January 30, 1997, through January 12, 2009, is \$11,000 and for each violation occurring after January 12, 2009, the maximum penalty is \$16,000.
5. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 12-2-A. Pursuant to the aforementioned Delegations, the Director of Air, Pesticides and Toxics Management Division has authority to commence an enforcement action as the Complainant in this matter.

6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Ms. Elizabeth Wilde
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8998.

III. Specific Allegations

7. Respondent is a Lessor, as defined at 40 C.F.R. § 745.103, of residential housing located at 2650 Dean Road, Jacksonville, FL 32216. These residential units are "target housing," as defined at 40 C.F.R. § 745.103.
8. Based on information obtained by EPA on or about March 18, 2009, relating to Respondent's contracts to lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and 40 C.F.R. Part 745, Subpart F as follows:
- a. Pursuant to 40 C.F.R. § 745.113(b)(2), Lessor is to include, as an attachment or within the contract, a statement by the Lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or indicating no knowledge of the presence of lead-based paint and/or lead based paint hazards. Lessor failed to include such statement as an attachment or within the contract.
 - b. Pursuant to 40 C.F.R. § 745.113(b)(3), Lessor is to include, as an attachment or within the contract, a list of any records or reports available to the Lessor that pertain to lead hazard information, or the failure to indicate that no such list exists. Lessor failed to provide as an attachment or within the contract a list of records or reports pertaining to lead hazard information or to indicate whether or not such list exists.

- c. Pursuant to 40 C.F.R. § 745.113(b)(2) and (b)(3), Lessor is to include in the contract for lease a statement by the Lessee affirming receipt of the lead hazard pamphlet required under 15 U.S.C. § 2696 as specified. Lessor failed to acknowledge through Lessee's initials the receipt of the required EPA lead-based hazard pamphlet.

IV. Consent Agreement

9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
10. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
11. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
12. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart F.
13. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
14. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

15. Respondent is assessed a civil penalty of **FIFTEEN THOUSAND SEVENTY ONE DOLLARS (\$15,071)** which shall be paid within thirty (30) days of the effective date.
16. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

The Respondent shall note on the face of the check the Respondent's Name and the Docket Number associated with this CAFO.

The penalty payment shall be sent by one of the following methods to the address identified for the method chosen:

Address for payment submittal using the United States Postal Service:

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

Address for payment submittal using other mail service (e.g., Federal Express, United Parcel Service (UPS), DIIL, etc.):

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact Person: Natalie Pearson (314) 418-4087.

17. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

VI. Effective Date

23. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: SHUCOM PROPERTIES
Docket No.: TSCA-04-2012-2603(b)

By: David H. Shuman Date: 12/2/2011
Name: DAVID H. SHUMAN
Title: PRESIDENT

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By: Carol H. Kember Date: 12/27/11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 5th day of January, 2012.

By: Susan B. Schub Date: 1/5/12
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order. In the Matter of: Shucom Properties, Docket Number TSCA-04-2012-2603(b), to the addressees listed below, in the manner indicated:

Mr. David Shuman
General Manager
Shucom Properties
2650 Dean Road
Jacksonville, FL 32216

(via Certified Mail, Return Receipt Requested)

Elizabeth Wilde
Pesticides and Toxic Substances Branch
Air, Pesticides and Toxics Management Division
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

(via EPA's internal mail)

Date: 1-6-12



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-9511