

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

In the Matter of:	:	
	:	
Pennrose Management Company	:	U.S. EPA Docket No. TSCA-03-2021-0021
1301 North 31st Street	:	
Philadelphia, PA 19121	:	Proceeding under Sections 16(a) and 409 of the
	:	Toxic Substances Control Act, 15 U.S.C. §§
Respondent.	:	2615 and 2689
	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Pennrose Management Company (“Respondent”) (collectively the “Parties”), pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615 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. TSCA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under TSCA, 15 U.S.C. §§ 2601, *et seq.* (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(5).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(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.
12. On July 17, 2018, the EPA inspected the lease agreements of the rental properties (“Inspection”) located at the following addresses (collectively, “Properties”) to determine compliance with the Real Estate Notification and Disclosure Rule for Lead-Based Paint (the “Lead Disclosure Rule”), set forth at 40 C.F.R. Part 745, Subpart F:

Lease Agreement Number	Property Address	Date of Lease
1	3143 W. Diamond St., Apt. B Philadelphia, PA 19121	September 1, 2017
2	5112 Regent St., Apt. A Philadelphia, PA 19143	April 1, 2017
3	3000 A. West Master St., Apt. 214 Philadelphia, PA 19121	September 26, 2016
4	1624 B. Ellsworth St., Apt. B Philadelphia, PA 19146	January 15, 2017

13. At the time lease agreement numbers 1, 3 and 4 were executed as identified in the chart in Paragraph 12 above, at least one child under the age of six (6) years of age resided at

each of the respective properties.

14. 40 C.F.R. § 745.103 defines “lessor” as 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.
15. Section 401 of TSCA, 15 U.S.C. § 2681(17), defines “Target Housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing). *See also* 40 C.F.R. § 745.103.
16. Respondent is, and at all times relevant to the violations alleged herein, was a “lessor” as that term is defined in 40 C.F.R. § 745.103 and is subject to the assessment of civil penalties for the violations alleged herein.
17. The Properties are, and at all times relevant to the violations alleged herein, were “target housing,” as that term is defined in Section 401 of TSCA, 15 U.S.C. § 2681(17) and 40 C.F.R. § 745.103.
18. Respondent is, and at all times relevant to the violations alleged herein, was the lessor of the Properties.

Counts I-III

(Failure to timely include, as an attachment or within the contract to lease target housing, the Lead Warning Statement)

19. The allegations of Paragraphs 1 through 18 of this Consent Agreement are incorporated herein by reference.
20. Pursuant to 40 C.F.R. § 745.113(b)(1), lessors shall include, as an attachment or within the contract, a Lead Warning Statement.
21. At the time of the July 17, 2018 Inspection, Respondent violated 40 C.F.R. § 745.113(b)(1) by failing to include a Lead Warning Statement in the lease agreement numbers 1, 2 and 4 of the Properties identified in Paragraph 12 above.
22. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with a provision of this subchapter or with any rule or order issued under this subchapter.
23. In failing to comply with 40 C.F.R. § 745.113(b)(1), Respondent is in violation of Section 409 of TSCA, 15 U.S.C. § 2689, and is subject to the assessment of penalties under Section 16(a) of the TSCA, 15 U.S.C. § 2615(a).

Count IV-VII

(Failure to timely include, as an attachment or within the contract to lease target housing, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or disclosing lack of knowledge thereof)

24. The allegations of Paragraphs 1 through 23 of this Consent Agreement are incorporated herein by reference.
25. Pursuant to 40 C.F.R. § 745.113(b)(2), lessors shall include, as an attachment or within the contract to lease target housing, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or disclosing lack of knowledge thereof.
26. At the time of the July 17, 2018 Inspection, Respondent violated 40 C.F.R. § 745.113(b)(2) by failing to include a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or disclosing lack of knowledge thereof in the lease agreements of all Properties identified in Paragraph 12 above.
27. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with a provision of this subchapter or with any rule or order issued under this subchapter.
28. In failing to comply with 40 C.F.R. § 745.113(b)(2), Respondent is in violation of Section 409 of TSCA, 15 U.S.C. § 2689 and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Count VIII-X

(Failure to timely include, as an attachment or within the contract to lease target housing, a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and EPA's lead hazard pamphlet required under 15 U.S.C. § 2686)

29. The allegations of Paragraphs 1 through 28 of this Consent Agreement are incorporated herein by reference.
30. Pursuant to 40 C.F.R. § 745.113(b)(4), lessors shall include, as an attachment or within the contract to lease target housing, a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and EPA's lead hazard pamphlet required under 15 U.S.C. § 2686.
31. At the time of the July 17, 2018 Inspection, Respondent violated 40 C.F.R. § 745.113(b)(4) by failing to include a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and EPA's lead hazard pamphlet required under 15 U.S.C. § 2686 in the lease agreement numbers 1, 2 and 4 of the Properties identified in Paragraph 12 above.
32. Pursuant to Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with a provision of this subchapter or with any rule or order issued under this subchapter.
33. In failing to comply with 40 C.F.R. § 745.113(b)(4), Respondent is in violation of Section 409 of TSCA, 15 U.S.C. § 2689 and is subject to the assessment of penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

CIVIL PENALTY

34. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Fifty Six Thousand Seven Hundred dollars (\$56,700.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
35. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in TSCA, Section 16(a), 15 U.S.C. § 2615(a) including, the following: the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, 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 Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy which reflects the statutory penalty criteria and factors set forth at TSCA, Section 16(a), 15 U.S.C. § 2615(a), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
36. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No.: TSCA-03-2021-0021
 - b. All checks shall be made payable to the "United States Treasury".
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>
 - e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

T. Chris Minshall
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029
minshall.chris@epa.gov

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest 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. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
38. Payment of the civil penalty is due and payable, in accordance with the above terms and provisions, within ninety (90) days upon Respondent's receipt of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
39. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties 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).
40. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.
41. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
42. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

43. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
44. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

45. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

46. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of TSCA, 15 U.S.C. §§ 2601, *et seq.*, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

47. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it

under TSCA, 15 U.S.C. §§ 2601, *et seq.*, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

48. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

49. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

50. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Pennrose Management Company

Date: 12/16/20

By: **Lisa Landis** Digitally signed by Lisa Landis
Date: 2020.12.16 11:49:59
-05'00'

Lisa Landis
Senior Vice President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

T. Chris Minshall
Sr. Assistant Regional Counsel
U.S. EPA – Region III

In the Matter of: Pennrose Management Company

EPA Docket No. TSCA-03-2021-0021

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REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:

**Pennrose Management Company
1301 North 31st Street
Philadelphia, PA 19121**

Respondent.

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: **U.S. EPA Docket No. TSCA-03-2021-0021**
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: **Proceeding under Sections 16(a) and 409 of the**
: **Toxic Substances Control Act, 15 U.S.C. §§**
: **2615(a) and 2689.**
:
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:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Pennrose Management Company, 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 22.13(b) and 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 EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in TSCA, Section 16(a), 15 U.S.C. § 2615(a) including, the following: the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, 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 Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy which reflects the statutory penalty criteria and factors set forth at TSCA, Section 16(a), 15 U.S.C. § 2615(a), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Sections 16(a) and 409 of the Toxic Substances Control Act (“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 **Fifty Six Thousand Seven Hundred dollars (\$56,700.00)**, in

accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

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.

Date

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