

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

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In the Matter of: )  
)  
Masonicare Corporation )  
22 Masonic Ave. )  
Wallingford, CT 06492 )  
)  
Respondent )  
)  
Proceeding under Section 16(a) )  
of the Toxic Substances Control )  
Act, 15 U.S.C. § 2615(a). )

EPA ORC  
OFFICE OF  
HEARING CLERK  
Docket No.  
TSCA-01-2009-0051

CONSENT AGREEMENT  
AND FINAL ORDER

**CONSENT AGREEMENT**

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. § 22.18 of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”).

**I. INTRODUCTION**

2. Complainant, the United States Environmental Protection Agency (“EPA”), Region 1, initiated this proceeding against Respondent, Masonicare Corporation (“Masonicare”), by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”), pursuant to Section 16(a) of TSCA, on June 16, 2009.

3. The complete factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint.

## II. TERMS OF SETTLEMENT

4. The provisions of this Consent Agreement and Final Order ("CAFO") shall apply to and be binding on Respondent, its officers, directors, successors and assigns, until Respondent has completed all of the obligations required by this CAFO.

5. Respondent agrees that EPA has jurisdiction over the subject matter alleged in the Complaint, and hereby waives any defenses it might have as to jurisdiction and venue.

6. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

7. Respondent hereby waives its right to appeal the Final Order accompanying this Consent Agreement.

8. Without admitting or denying the facts and violations alleged in the Complaint, Respondent consents to the terms and issuance of this CAFO, and consents for the purposes of settlement to the payment of the civil penalty as set out in this CAFO.

9. Respondent certifies that it is presently in compliance with Section 15 of TSCA, 15 U.S.C. § 2614, and 40 C.F.R. Part 761.

10. After consideration of the nature of the violation alleged in the Complaint and other relevant factors, Complainant has determined that it is fair and proper that Respondent pays a civil penalty in the amount of \$26,600 in settlement of this matter.

### Penalty Payment

11. Respondent shall pay the civil penalty set forth in this CAFO by no later than thirty (30) days after the effective date of this CAFO.

12. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

13. Respondent shall make the penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

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

Respondent shall note the case name ("In the Matter of: Masonicare Corporation") and the docket number ("TSCA-01-2009-0051") of this action on the payment check and in an accompanying cover letter, and shall provide copies of each check and letter to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (RAA)  
Boston, MA 02114-2023

and:

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (SEL)  
Boston, MA 02114-2023

14. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid within 30 calendar days of the effective date of this CAFO. Interest

will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

15. The civil penalty described above in Paragraph 10, and any interest, non-payment penalties, and/or other charges as described in Paragraph 14, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

Additional Provisions

16. Compliance with this CAFO, including payment of any penalties, interest, or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive, suspend, or modify the responsibility of Respondent to comply with such laws and regulations.

17. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA for the specific violations alleged in this CAFO. Nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondent's facility which may present an imminent and substantial endangerment to public health or the environment. Nor shall this CAFO be construed to, nor is it intended to operate in any way to, resolve any criminal liability or any other civil liability of Respondent.

18. Except as described in Paragraph 14, each party shall bear its own costs and fees in this proceeding.

19. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

THE UNDERSIGNED PARTY enters into this CAFO for In the Matter of: Masonicare Corporation, Docket No. TSCA-01-2009-0051.

For Masonicare Corporation:

Stephen B McPherson  
Name: Stephen B McPherson  
Title: President & CEO  
Company: MASONICARE

July 10, 2009  
Date

THE UNDERSIGNED PARTY enters into this CAFO for In the Matter of: Masonicare Corporation, Docket No. TSCA-01-2009-0051.

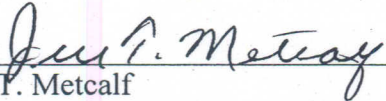
For U.S. EPA, Region 1:

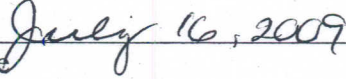
Susan Studlien  
Susan Studlien  
Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

07/15/09  
Date

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

  
\_\_\_\_\_  
Jill T. Metcalf  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

  
\_\_\_\_\_  
Date



*In the Matter of: Masonicare Corporation.*  
TSCA-01-2009-0051

**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,  
hand-delivered:

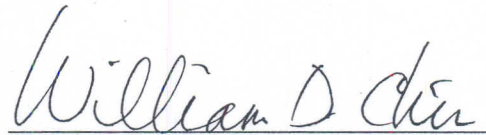
Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, MA 02114

One copy, by Certified Mail,  
Return Receipt Requested:

Robert J. Haley  
Vice President  
Compliance and Legal Services  
Masonicare Corporation  
22 Masonic Avenue  
P.O. Box 70  
Wallingford, CT 06492

Dated: \_\_\_\_\_

8/7/09



William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, MA 02114