

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson 8/9/12
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2011-0058

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

College Pro Painters (U.S.) Ltd.
15 Commonwealth Ave, Suite 202
Woburn, MA 01801

Total Dollar Amount of Receivable \$ 7,200 Due Date: 9/8/12

SEP due? Yes No Date Due 1/6/13

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

RECEIVED
AUG 09 2012
EPA ORC 105
Office of Regional Hearing Clerk

BY HAND

AUG 09 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In re: College Pro Painters (U.S.) Ltd., Docket No. TSCA-01-2011-0058

Dear Ms. Santiago:

Enclosed please find the original and one copy of the fully executed Consent Agreement and Final Order resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Simpson", followed by a long horizontal line.

Andrea Simpson
Senior Enforcement Counsel

Enclosures

cc: Ronald W. Ruth, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED
AUG 09 2012
EPA ORC WS
Office of Regional Hearing Clerk

_____))
In re:))
))
College Pro Painters (U.S.) Ltd.))
15 Commonwealth Avenue, Suite 202))
Woburn, MA 01801))
))
Respondent))
))
Proceeding under Section 16(a)))
of the Toxic Substances Control))
Act, 15 U.S.C. § 2615(a).))
_____)

Docket No. TSCA-01-2011-0058

**CONSENT AGREEMENT AND
FINAL ORDER**

I. INTRODUCTION

The United States Environmental Protection Agency – Region 1 (“EPA”), as Complainant, and College Pro Painters (U.S.) Ltd. (“College Pro”), as Respondent, enter into this Consent Agreement and Final Order (“CAFO”) by mutual consent. By this CAFO, Respondent agrees to pay a civil penalty, complete a compliance evaluation and perform a Supplemental Environmental Project (“SEP”) for alleged violations of 40 C.F.R. Part 745, Subpart E (the “Pre-Renovation Rule”), and, thereby, Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689.

This CAFO simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), and Section 16 of TSCA, 15 U.S.C. § 2615. Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

II. PRELIMINARY STATEMENT

1. EPA alleges that Respondent failed to comply with TSCA Section 406(b), 15 U.S.C. § 2686(b), and the federal regulations of the Pre-Renovation Rule promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart E. EPA alleges that Respondent failed to comply with the “information distribution requirements” of the Pre-Renovation Rule, found at 40 C.F.R. § 745.84(a), on at least 41 occasions by failing to provide EPA’s lead hazard information pamphlet to owners and, in the case of non-owner occupied dwelling units, adult occupants, of pre-1978 housing units no more than 60 days prior to beginning renovation activities at their properties. The allegations specify that Respondent performed surface preparation and painting work, and disturbed greater than 20 square feet of exterior painted surface at each pre-1978 housing unit. These 41 renovations allegedly took place between August 2008 and November 2009, in Connecticut, Maine, New Hampshire, and Massachusetts.

2. Failure to comply with any regulatory requirement of the Pre-Renovation Rule constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689. Pursuant to TSCA Section 16, 15 U.S.C. § 2615, EPA may seek the assessment of civil and/or criminal penalties for violations of TSCA Section 409, 15 U.S.C. § 2689.

III. EPA FINDINGS

3. Respondent is a company incorporated in Maryland with its New England office located in Woburn, Massachusetts.

4. Respondent is a “person” as defined at 40 C.F.R. § 745.83.

5. Respondent is a residential painting and window-cleaning contractor specializing in exterior house painting services that operates in 28 states and throughout New England. The company operates a franchise business in which the majority of its work is performed through franchisees. A portion of Respondent’s painting work is performed directly by Respondent’s employees or contractors, rather than by franchisees.

6. Pursuant to 40 C.F.R. § 745.84(a)(1), no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation shall provide the owner of the unit with a full and complete copy of an EPA-developed or EPA-approved lead hazard information pamphlet (“lead pamphlet”), as defined at 40 C.F.R. § 745.83, and either: (i) obtain from the owner a written acknowledgment that the owner has received the lead pamphlet; or (ii) obtain a certificate of mailing at least 7 days prior to the renovation. In addition, 40 C.F.R. § 745.84(a)(2) provides that if the owner does not occupy the dwelling unit, the firm performing the renovation must provide an adult occupant of the unit with the lead pamphlet and either: (i) obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet, or certify in writing that a pamphlet has been delivered to the dwelling and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult occupant; or (2) obtain a certificate of mailing at least 7 days prior to the renovation.

7. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, “target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled, or any 0-bedroom dwelling.

8. Renovation is defined in 40 C.F.R. § 745.83 to mean the modification of any

existing structure, or portion thereof, that results in the disturbance of painted surfaces, excluding actions taken as part of a TSCA abatement, or minor repair and maintenance activities.

9. On October 21, 2009, an EPA inspector conducted an inspection (“inspection”) at Respondent’s Woburn office to evaluate Respondent’s compliance with the Pre-Renovation Rule.

10. On March 30, 2010, EPA issued a TSCA subpoena requesting additional information necessary to evaluate Respondent’s compliance with the Pre-Renovation Rule. EPA received a response to the subpoena (“Subpoena Response”) from Respondent on June 14, 2010.

11. The Subpoena Response contained information pertaining to 41 renovation projects performed directly by College Pro employees from August 2008 through November 2009 at target housing. Specifically, the projects involved exterior surface preparation and painting renovation activities at 41 target housing properties located in the municipalities listed in Appendix A.

12. Based upon statements, documents, and information provided by Respondent, the activities that Respondent performed at the target housing properties listed in Appendix A were “renovations,” as defined in 40 C.F.R. § 745.83.

13. According to statements, documents, and information provided by Respondent, the renovations that Respondent performed at the target housing properties listed in Appendix A did not constitute: (a) minor repairs and maintenance activities that disrupted 20 square feet or less of painted surface per component; (b) emergency renovation operations; (c) renovations in which a written determination has been made by an inspector (certified pursuant to either 40 C.F.R. § 745.226 or a State or Tribal certification program authorized pursuant to 40 C.F.R. § 745.324) that the components affected by the renovation are free of paint or other surface

coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight, as those activities are described in 40 C.F.R. § 745.82.

14. According to statements, documents, and information provided by Respondent, none of the properties listed in Appendix A were, at the time of the violations alleged herein, housing for the elderly or persons with a disability, as defined by 40 C.F.R. § 745.103.

15. According to statements, documents, and information provided by Respondent, none of the properties listed in Appendix A were, at the time of the violations alleged herein, “0-bedroom dwellings,” as defined by 40 C.F.R. § 745.103.

IV. VIOLATIONS

16. EPA alleges that on at least 41 occasions, Respondent failed to provide a copy of the lead pamphlet to the owners and, in the case of non-owner occupied dwelling units, the adult occupants of the target housing properties listed in Appendix A no more than 60 days before Respondent began renovation activities at the properties, as required by 40 C.F.R. §§ 745.84(a)(1) and 745.84(a)(2).

17. EPA alleges that Respondent failed to obtain from the 41 owners, and, in the case of non-owner occupied dwelling units, the adult occupants of the target housing properties listed in Appendix A, written acknowledgment that such owner and adult occupant received from Respondent a copy of the lead pamphlet prior to the start of the renovation, in violation of 40 C.F.R. §§ 745.84(a)(1)(i) and 745.84(a)(2)(i), or, at least 7 days prior to initiating renovation activities at the properties, certificates of mailing the lead pamphlet, in violation of 40 C.F.R. §§ 745.84(a)(1)(ii) and 745.84(a)(2)(ii).

18. EPA alleges that pursuant to 40 C.F.R. §§ 745.87(a) and (d), Respondent’s failure to: (a) provide a copy of the lead pamphlet to the 41 owners and, in the case of non-owner

occupied dwelling units, adult occupants of the target housing properties listed in Appendix A, and (b) obtain a written acknowledgment that the owners and, in the case of non-owner occupied dwelling units, the adult occupants received lead pamphlets, or obtain certificates of mailing at least 7 days prior to renovations, on 41 occasions, constitutes 41 violations of 40 C.F.R. §§ 745.84(a)(1) and 745.84(a)(2) and TSCA Section 409, 15 U.S.C. § 2689. Respondent is, thus, subject to civil penalties pursuant to TSCA Section 16, 15 U.S.C. § 2615.

V. TERMS OF SETTLEMENT

19. Respondent stipulates that EPA has jurisdiction over the subject matter alleged herein and that the allegations in this CAFO state a claim upon which relief can be granted. Respondent waives any defenses it might have as to jurisdiction, venue, and statute of limitations.

20. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth herein and waives its right to appeal the Final Order accompanying this Consent Agreement. Without admitting or denying the factual findings or allegations herein, Respondent consents to the terms of this CAFO.

21. This CAFO shall apply to and be binding upon College Pro, its officers, directors, agents, successors, and assigns.

22. 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.

23. Respondent certifies that it is now operating its business in compliance with Section 406(b) of TSCA, 15 U.S.C. § 2686(b) and 40 C.F.R. § 745.84(a).

24. Pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), in light of the nature of the alleged violations, Respondent's agreement to complete a compliance evaluation as

described in Section VI below, Respondent's agreement to perform the SEP described in Appendix B and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is \$7,200.

25. Within thirty (30) days of the Effective Date of this CAFO (the Effective Date shall be the date that the CAFO is filed with the EPA Regional Hearing Clerk), Respondent shall submit a cashier's or certified check, with the title of the CAFO ("In Re: College Pro Painters (U.S.) Ltd.") and docket number ("TSCA-01-2011-0058") noted on the check, to the order of the "Treasurer, United States of America," in the amount of \$7,200 to:

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

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check must be mailed to the Regional Hearing Clerk:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Mail Code ORA18-1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and to:

Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Mail Code OES04-2
5 Post Office Square, Suite 100
Boston, MA 02109-3912

26. Neither assessment nor payment of an administrative penalty shall affect Respondent's continuing obligation to comply with all applicable requirements of federal law.

27. The terms of this CAFO constitute a settlement by EPA of all claims for civil penalties for the violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, and local law. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent.

28. This CAFO 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.

29. Failure by Respondent to pay the penalty (\$7,200) in full by the due date shall subject Respondent to stipulated penalties in accordance with Paragraphs 43-46 below, plus interest at current prevailing rates from the due date for such payment. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. 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 addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. See 31 C.F.R. § 901.9(d).

30. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

VI. COMPLIANCE REPORT

31. To further ensure compliance with the requirements cited in Paragraph 6 above, Respondent shall complete a compliance evaluation and submit to EPA a Compliance Report (“Compliance Report”) within 195 days of the Effective Date of this CAFO, containing the following documentary evidence of its compliance with the Pre-Renovation Rule for the six months following the Effective Date of this CAFO:

- a. A list of each contract that Respondent entered into to perform repairs and/or renovations of target housing for compensation where more than 6 square feet of interior painted surfaces and/or 20 square feet of exterior painted surfaces were disturbed (even if it is not known that the painted surfaces contained lead-based paint); and
- b. Copies of all documents demonstrating compliance with the Pre-Renovation Rule, including the owners’ and, in the case of non-owner occupied dwelling units, the adult occupants’ acknowledgments of receipt of lead pamphlets or certificates that the pamphlets have been mailed to the owners and adult occupants.

Respondent shall submit the Compliance Report by first class mail to:

Hugh Pilgrim
U.S. Environmental Protection Agency, Region 1
Mail Code OES05-4
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and to:

Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Mail Code OES04-2
5 Post Office Square, Suite 100
Boston, MA 02109-3912

32. With respect to the Compliance Report, College Pro shall comply with the document retention, document production and certification requirements set forth in Paragraph 39, below.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

33. Respondent shall complete the SEP as specified in this CAFO and Appendix B (the SEP Scope of Work). The SEP consists of window replacements and restoration at the Harvard Hillel Children's School Incorporated ("School") in Cambridge, Massachusetts. Respondent must incur at least \$65,000 in eligible SEP costs in the course of completing the SEP. The Parties agree that the SEP is intended to secure significant environmental or public health protection and improvements.

34. Respondent shall complete the SEP within 150 days of the Effective Date of this CAFO.

35. Respondent hereby certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation (including any lead abatement order) and also certifies that Respondent has not received, and is not presently negotiating to receive, credit for

the SEP in any other enforcement action. Respondent specifically certifies as follows:

It is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. To the best of Respondent's knowledge and belief after reasonable inquiry, there is no such open federal transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

36. Respondent shall submit one SEP Progress Report and a SEP Completion Report in accordance with the schedule and specifications set forth in Paragraphs 3-5 of Appendix B. Failure to submit such documents in accordance with those requirements shall be deemed a violation of this CAFO for which EPA may seek stipulated penalties as provided in Paragraphs 44-46, below.

37. Respondent shall submit the SEP reports required by this CAFO and Appendix B to:

Hugh Pilgrim
U.S. Environmental Protection Agency, Region 1
Mail Code OES05-4
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Mail Code OES04-2
5 Post Office Square, Suite 100
Boston, MA 02109-3912

38. Respondent agrees that EPA and its representatives, contractors, consultants, and attorneys may inspect the School upon 24-hour notice in order to confirm that the SEP work is being undertaken in conformance with this CAFO. This CAFO in no way limits or affects any right of entry and inspection held by the United States, EPA or any State or municipality in which a property owned and/or managed by Respondent is located, under applicable Federal, State or local laws, regulations, or permits.

39. Respondent shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to EPA pursuant to this CAFO for not less than three (3) years from the Effective Date of this CAFO and shall provide the documentation of any such underlying research and data to EPA not more than fourteen (14) days after a request for such information. For all documents or reports submitted to EPA pursuant to this CAFO, Respondent shall sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

40. *Acceptance of SEP Completion Report:* After receipt of the SEP Completion

Report described in Paragraph 5 of Appendix B, EPA will notify Respondent, in writing, and:

- (i) specifically identify any deficiencies in the SEP Completion Report itself and grant Respondent an additional forty-five (45) days to correct any deficiencies; or
- (ii) indicate that the SEP has been completed satisfactorily; or
- (iii) determine that the SEP has not been completed satisfactorily within the time period provided in Paragraph 34 of this CAFO and seek stipulated penalties in accordance with Paragraphs 44-46, below.

Notwithstanding option (iii) of Paragraph 40, above, for any SEP Completion Report submitted after the applicable deadline specified by this CAFO and Appendix B, EPA may seek stipulated penalties from Respondent in accordance with Paragraphs 44-46, below.

41. If EPA elects to exercise option (iii) of Paragraph 40, above (after receipt of an original or resubmitted Completion Report), such that EPA concludes that Respondent has not implemented part or all of the SEP in accordance with the CAFO, EPA may require Respondent to:

- (i) Pay a stipulated penalty as provided in Paragraphs 44-46;
- (ii) Repeat or correct any deficient work; and/or,
- (iii) If specific tasks set forth in Appendix B were not performed, perform such work.

EPA will provide Respondent with notice of any such requirement, in writing, within one hundred eighty (180) days after submission of any original or resubmitted SEP Completion Report.

42. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of the Respondent acting in his or her official capacity, making

reference to the SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Lead Act, TSCA, and the Pre-Renovation Rule.”

VIII. STIPULATED PENALTIES

43. In the event that Respondent fails to pay the penalty in a timely manner or fails to submit the Compliance Report as required by Paragraph 31 above, Respondent shall pay the following stipulated penalties: (a) for failure to pay the civil penalty by the date specified in Paragraph 25, Respondent shall pay \$200 per day until the full penalty amount, plus interest at current prevailing rates from the date on which the payment was due, is received by EPA; (b) for failure to submit the Compliance Report to EPA by the date specified in Paragraph 31 Respondent shall pay \$100 per day until the Compliance Report is submitted.

44. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of a SEP described in Paragraphs 33-42, above, and in Appendix B and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEP described in Paragraph 33, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a. Except as provided in subparagraph (b) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$65,000, plus interest at the current prevailing rate from the Effective Date of this CAFO.

b. If the SEP is not completed satisfactorily, but Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to

be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

c. If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States equal to the amount resulting from the following calculation: The amount set forth in Paragraph 33 above, less the amount actually expended by Respondent as documented pursuant to Paragraph 5 of Appendix B, plus interest at the current prevailing rate from the Effective Date of this CAFO.

d. If the SEP is satisfactorily completed, and Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

e. For failure to submit a SEP Completion Report required by Paragraph 36, above, and Appendix B in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$100 for each day after the SEP Completion Report was originally due under Paragraph 3 of Appendix B until the report is submitted.

f. For failure to submit any other report or information required by EPA under Paragraphs 33-42 above or in Appendix B in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$100 for each day after such report or information was due until the report or information is submitted.

45. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity, even if no notice of such violation is sent to Respondent.

46. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA. Respondent shall pay interest on any stipulated penalty, or portion thereof, that is not paid within fifteen (15) days of EPA's written demand. Payment of stipulated penalties and interest, if any, shall be made by certified or cashier's check payable to "Treasurer, United States of America" in accordance with the procedures specified in Paragraph 25 above.

47. Force Majeure: If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify Complainant in writing within ten business days of the delay or of the date that Respondent first knew or should have known of the event by the exercise of due diligence, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the cause or causes of the delay, the measures taken and/or to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.

48. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances beyond the control of Respondent or any entity controlled by Respondent, including Respondent's consultants and contractors, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time. Stipulated penalties shall not be due for the number of days of the extension of time stipulated by the parties.

49. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Final Order has been or will be caused by circumstances beyond the control of the Respondent or any entity controlled by Respondent including Respondent's consultants and contractors, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

50. The burden of proving that any delay is caused by circumstances beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

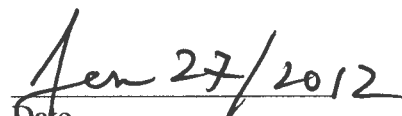
51. Each party shall bear its own costs and fees in this proceeding, including attorneys fees, and Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

52. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

FOR COLLEGE PRO PAINTERS (U.S.) LTD.

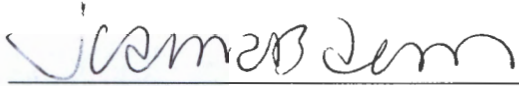


Tony Valle
Chief Executive Officer
College Pro Painters (U.S.) Ltd.



Date

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



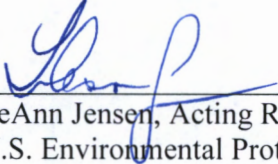
Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

8/7/12
Date

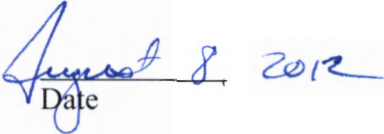
FINAL ORDER

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

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen, Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1



Date

APPENDIX A

List of Locations of Target Housing Properties

Newton	MA
Newton	MA
Westwood	MA
Worcester	MA
Newton	MA
Watertown	MA
Newton Highlands	MA
Sharon	MA
Harvard	MA
Mansfield	MA
Westford	MA
North Easton	MA
North Easton	MA
North Easton	MA
Laconia	NH
Portland	ME
Sharon	MA
Peabody	MA
Reading	MA
Beverly	MA
Winchester	MA
Medford	MA
Westwood	MA
Lynn	MA
Concord	MA
Beverly	MA
Lynnfield	MA
Stowe	MA
Milton	MA
Woburn	MA
Hyde Park	MA
Chestnut Hill	MA
Glastonbury	CT
Fracestown	NH
Dunbarton	NH

Watertown	CT
West Hartford	CT
Alfred	ME
Hudson	NH
West Roxbury	MA
Ware	MA

Appendix B

Supplemental Environmental Project Scope of Work

In the Matter of: College Pro Painters (U.S.) Ltd.,
Docket No. TSCA-01-2011-0058

1. **Description of Project:** Pursuant to this project, Respondent shall, within 150 days of the Effective Date of the CAFO, spend \$65,000 to replace and restore windows at the Harvard Hillel Children's School Incorporated ("School"), located at 136 Magazine Street, Cambridge, Massachusetts. The School owns three, interconnected buildings that were all built before 1965, which house a synagogue, a school and residential apartments.

Respondent shall ensure the replacement or restoration of between 59 and 79 windows as described in the attached Window Inventory in the following manner:

- a. Architecturally significant windows at the front of the Victorian building:
 - Remove existing wood sash and window hardware. Save antique hardware from historic sash in Unit #136 including from windows that are not scheduled to be restored.
 - Send wood sashes and window hardware to window restoration company for stripping and repair. Window openings are to be covered and made weather-tight until the restored windows re-installed.
 - Remove existing storm windows.
 - Install sashes with new parting beads and metal weather stripping at the jambs. Also install antique hardware and new ropes.
 - Install new window stops. Use screws with finish washers spaced consistently.
 - Paint windows – 2 coats both sides.
 - Seal and paint exterior window sills.
 - Prepare and encapsulate all interior window trim including casings, stool caps, aprons, etc.
 - Install new storm windows.

- b. Windows to be replaced:
 - Remove and dispose of existing windows, parting beads, ropes, weights and stops.
 - Remove and dispose of existing storm windows.
 - Insulate weight pockets.
 - Seal and paint exterior window sill.
 - Install replacement window units in the existing finish openings. Bed in sealant and seal both inside and outside perimeter to provide a weather-tight

installation. Use non-expanding foam to fill the spaces between the window unit and the opening.

- Install and paint new window stops.
- Prepare and encapsulate all interior window trim including casings, stool caps, aprons, etc.

c. Windows to be restored:

- Remove and dispose of existing storm windows.
- Paint sash interior faces.
- Seal and paint exterior window sills.
- Adjust hardware and balances so that sashes operate properly.
- Prepare and encapsulate all interior window trim including casings, stool caps, aprons, etc.
- Install new storm windows.

2. **Standard of Care:**

a. The SEP shall be performed in accordance with the Massachusetts standards for renovation work found at 454 C.M.R. § 22.00 and in the state-approved training materials for renovation work, which materials are consistent with EPA's regulations on Residential Property Renovation set forth at 40 C.F.R. Part 745, Subpart E, and the United States Department of Housing and Urban Development Guidelines for Evaluation and Control and Lead-Based Paint Hazards in Housing (June 1995, as revised in 1997).

b. A "Lead-Safe Renovator-Supervisor," as that term is defined in the regulations at 454 C.M.R. § 22.02, must be on site and in control of all work related to the SEP at all times when work is in progress. Only licensed "Lead Safe Renovator Contractors," as that term is defined in the regulations at 454 C.M.R. § 22.02, shall perform work related to this SEP.

c. The SEP shall be performed in compliance with all applicable requirements at 454 C.M.R. § 22.11, including, but not limited to, all work practice requirements, clean-up requirements, waste disposal requirements and post-cleaning verification requirements.

d. The SEP shall be performed in compliance with all of the requirements at 40 C.F.R. § 745.84 regarding distribution of lead hazard information including distribution of EPA's pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*.

3. **Schedule:** Respondent shall complete the SEP on the following schedule:

a. Within 90 days after the Effective Date of the CAFO, Respondent shall submit a SEP Progress Report, which shall contain the information specified in Paragraph 4 below.

b. Within 150 days after the Effective Date of the CAFO, Respondent shall complete the SEP.

c. Within 180 days of the Effective Date of the CAFO, or within 30 days of completing the SEP, whichever date is earlier, Respondent shall submit a SEP Completion Report, containing the information specified in Paragraph 5 below.

4. **SEP Progress Report:** The SEP Progress Report required by Paragraph 3(a) above shall contain the following information:

a. A summary of the window replacement and restoration activities completed between the Effective Date of the CAFO and 60 days thereafter.

b. A summary of the SEP costs incurred during the reporting period, with costs itemized (documentation of these costs shall be provided at the end of the project, when Respondent submits the SEP Completion Report);

c. Copies of all inspection and clearance sampling reports issued during the reporting period, providing inspection and clearance sampling locations, inspection and clearance sampling results and documentation of analytical quality assurance/quality control or certification that post-renovation cleaning verification measures were performed as described in 454 C.M.R. 22.92, Appendix 2 and that the cleaning verification requirements were met; and

d. The certification language provided in Paragraph 39 of the CAFO.

5. **SEP Completion Report:** The SEP Completion Report required by Paragraph 3(c) above shall contain the following information:

a. Description of the window replacement and restoration activities completed, including representative photographs;

b. Any inspection or clearance sampling reports and data and/or cleaning verification information not already submitted in the semi-annual progress reports;

c. Itemized costs of goods and services used to complete the window replacement and restoration activities, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;

d. Itemized costs of services used to complete any lead inspections or clearance sampling, documented by copies of invoices or canceled checks that specifically identify and itemize the costs of the services.

e. Certification that the individuals who performed the SEP and clearance sampling are authorized to perform such work in accordance with Massachusetts law, including copies of appropriate firm and worker certifications;

- f. Certification that Respondent has completed the SEP in compliance with this CAFO;
- g. A statement that Respondent has not and will not seek rebates for the window purchases pursuant to any federal, state or local agency's or utility's energy-efficiency program;
- h. A description of any operating problems encountered and the solutions thereto; and
- i. The certification language provided in Paragraph 39 of the CAFO.

In itemizing costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes, without limitation, invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment was made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

EPA DOCKET NO. TSCA-01-2011-0058
In re: College Pro Painters (U.S.), Ltd.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

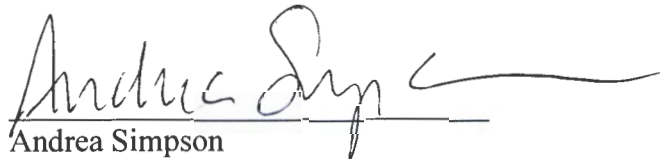
Original and one copy,
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Copy, by certified mail,
return receipt requested:

Ronald W. Ruth, Esq.
Sherin & Lodgen LLP
101 Federal Street
Boston, MA 02110

Dated: 8/5/12



Andrea Simpson

Senior Enforcement Counsel
U.S. EPA, Region 1
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