



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. Environmental
Protection Agency - Region 2
2019 JUL 11 PM 3:07
REGIONAL JUDICIAL
CLERK

JUL 11 2019

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED
Article Number: 7018 2290 0000 4960 8222

Mr. Derlin Colon
Total Change Inc.
144-30 35th Avenue, Apt 2A
Flushing, NY 11354

Re: In the Matter of Total Change Inc, Docket No. TSCA-02-2019-9287

Dear Mr. Colon:

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the United States Environmental Protection Agency.

Please note that payment is due within thirty (30) days of the date on which the Regional Judicial Officer signed the enclosed Consent Agreement and Final Order. Please arrange for payment of this penalty according to the schedule and instructions given in the Order.

Sincerely yours,

Stuart N. Keith
Assistant Regional Counsel
Waste & Toxic Substances Branch
Office of Regional Counsel

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. Environmental Protection Agency Region 2
2019 JUL 11 PM 3:07
REGIONAL HEARING
OF ERK

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In the Matter of :
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Total Change, Inc., : CONSENT AGREEMENT
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Respondent : AND
:
:
Docket No. : TSCA-02-2019-9287
:
:
Proceeding under Section 16(a) of :
the Toxic Substances Control Act :
:
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter "Consolidated Rules of Practice"). Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Total Change, Inc. (“Respondent”).
2. Respondent’s primary place of business is located at 144-30 35th Avenue, Apt. 2A, Flushing, NY 11354.
3. Respondent is engaged in the business of residential renovation.
4. Respondent is a “firm” as that term is defined at 40 C.F.R. § 745.83, with EPA Firm Certification No.LBP-F166988-1 valid from July 19, 2016 to August 2, 2019.
5. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692, and set forth at 40 C.F.R. Part 745, including Residential Property Renovation at 40 C.F.R. Part 745, Subpart E [the “Renovation, Repair and Painting (“RRP”)”] Rule.
6. The RRP Rule was promulgated to ensure that renovation activities in target housing¹ are, at a minimum, conducted by properly trained individuals and in a safe and proper manner to minimize lead exposure to the public, housing occupants and the environments.
7. The RRP Rule requires that firms conduct renovations (as defined in 40 C.F.R. § 745.83) in target housing in accordance with the work practice standards of 40 C.F.R. Part 745, Subpart E, unless (1) the firm has first made or obtained a determination in writing that the

¹ “Target Housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. Section 401 of TSCA, 15 USC Section 2681(17) and 40 C.F.R. Section 745.223.

components affected by the renovation are free of paint or other surface coatings that contain lead equal to, or in excess of, 1.0 milligrams/per square centimeter (mg/cm²) or 0.5% by weight as described at 40 C.F.R. § 745.82, or (2) the renovation is, itself, a minor repair and maintenance activity as defined at 40 C.F.R. § 745.83.

8. On June 22, 2016, the United States Environmental Protection Agency, Region 2 (“EPA”), received a tip/complaint about dust at a residential renovation at 68 Montague Street, Brooklyn, NY (“Montague Street worksite”). On June 23, 2016, the New York City Department of Health and Mental Hygiene (“NYCDOHMH”) inspected the site and referred the matter to EPA on June 27, 2016.

9. In an Information Request Letter (“IRL”) dated August 2, 2016, EPA requested that Respondent provide a written response to EPA’s questions regarding the renovations at the Montague Street worksite. Respondent submitted a response to the IRL dated August 9, 2016.

10. Based on the information provided by Respondent and NYCDOHMH, EPA determined that Respondent had performed renovations subject to the RRP Rule at the Montague Street worksite on or about June 22, 2016:

11. EPA further alleges that at the Montague Street worksite, Respondent:
 - a. performed renovations subject to the RRP Rule without obtaining initial firm certification from EPA, as required by 40 C.F.R. § 745.81(a)(2)(ii);
 - b. failed to establish and maintain records of compliance for the renovation conducted, as required by 40 C.F.R. § 745.87(b); and
 - c. failed to contain waste from renovation activities to prevent the release of dust and debris, as required by 40 C.F.R. § 745.85(a)(4)(i);

