

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2008 SEP 24 AM 9:04

In the Matter of:)	Docket No.
)	
Neil R. Kennedy)	TSCA-05-2008-0016
Boardman, Ohio)	
Respondent)	
_____)	

COMPLAINANT'S NOTICE OF RE-SERVICE TO RESPONDENT

The United States Environmental Protection Agency (EPA), Region 5 (Complainant) submits this Notice of Re-service to Respondent. On July 28, 2008, EPA filed its Complaint in this matter with the Regional Hearing Clerk. See Attached Complaint. EPA sent a true and accurate copy of the filed Complaint via Certified Mail to:

Neil Kennedy, Owner
Rent 2 Own Homes
5600 Market Street, Suite 4
Boardman, Ohio 44512.

However, to date EPA has not received the return receipt from that posting. On or about July 28, 2008, EPA successfully served Region 5's Regional Judicial Officer and also sent a copy of the Complaint to Respondent's attorney. EPA has also emailed Respondent's attorney with a copy of the filed Complaint.

Accordingly, with this Notice of Re-service to Respondent, EPA is re-serving Respondent with the properly filed Complaint.

Respectfully Submitted,



Leslie A. Kirby-Miles
Counsel for Complainant



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V

2008 SEP 24 AM 9:04

REPLY TO THE ATTENTION OF
L-8J

CERTIFIED MAIL
RECEIPT NO. 7001 0320 0006 1456 1712

Neil R. Kennedy, Owner
Rent 2 Own Homes
5600 Market Street, Suite 4
Boardman, Ohio 44512

Re: In the Matter of Neil R. Kennedy, Docket No: *TSCA-05-2008-0016 207*

Dear Mr. Kennedy:

I have enclosed a complaint filed by the United States Environmental Protection Agency (U.S. EPA), Region 5 against Neil R. Kennedy (you), under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a). The complaint alleges violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-13J), U.S. EPA – Region 5, 77 West Jackson Blvd., Chicago, IL 60604 within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, if you prefer not to request a hearing, you may request an informal settlement conference instead. If you wish to request an informal settlement conference, or if you have questions about this matter, please contact me or you may contact Leslie Kirby-Miles, Associate Regional Counsel at (312) 353-9443.

Sincerely,

Margaret M. Guerriero
Director
Land and Chemicals Division

Enclosures

cc: Damian DeGenova (w/ encl.)
DeGenova, Frederick, Vouros & Yarwood, Ltd.

notification requirements for residential rentals and sales. Section 1018, 42 U.S.C. § 4852d, requires the Administrator of U.S. EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease.

5. On March 6, 1996, U.S. EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d. Owners of more than four residential dwellings must comply with the Disclosure Rule by September 6, 1996, pursuant to 40 C.F.R. § 745.102(a).

6. The Disclosure Rule implements the provisions of 42 U.S.C. § 4852d, which impose certain requirements on the sale or lease of target housing.

7. 40 C.F.R. § 745.103 defines “target housing” as 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.

8. 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.

9. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

10. 40 C.F.R. § 745.103 defines “agent” as any party who enters into a contract with a seller or a lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing.

11. 40 C.F.R. § 745.103 defines “seller” as any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

12. 40 C.F.R. § 745.103 defines “purchaser” as any entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

13. 40 C.F.R. § 745.100 requires, among other things, that the seller or lessor of target housing complete the required disclosure activities before a purchaser or lessee is obligated under any contract to purchase or lease target housing.

14. 40 C.F.R. § 745.113(a) requires that each contract to sell target housing include an attachment containing a lead warning statement; a statement by the seller disclosing the presence of any known lead-based paint and/or lead-based paint hazards or lack of knowledge of such presence; a list of any records or reports available to the seller that have been provided to the purchaser regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records are available; a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (3) and the Lead Hazard Information Pamphlet; a statement by the purchaser that he/she has received or waived the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a); and signatures and dates of signatures of the seller and purchaser certifying the accuracy of their statements.

15. 40 C.F.R. § 745.113(b) requires that each contract to lease target housing include, as an attachment or within the contract, a lead warning statement; a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence; a list of any records or reports available to the lessor regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet; and signatures and dates of signatures of the lessor and lessee certifying the accuracy of their statements.

16. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failing to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118(f), and 42 U.S.C. § 4852d(b)(5).

17. Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f), authorize the Administrator of U.S. EPA to assess a civil penalty under Section 16(a) of TSCA of up to \$10,000 for each violation of Section 409 of TSCA. U.S. EPA increased the maximum penalty to \$11,000 for each violation occurring after July 28, 1997. 40 C.F.R. § 745.118(f) and 40 C.F.R. Part 19.

General Allegations

18. Complainant incorporates paragraphs 1 through 17 of this Complaint as if set forth in this paragraph.

19. Between at least August 7, 2003, and December 5, 2003, Respondent owned the single family dwelling at 102 South Glenellen, Youngstown, Ohio (the "Glenellen Property").

20. Between at least August 7, 2003, and December 5, 2003, Respondent owned the

single-family dwelling at 105 North Dunlap, Youngstown, Ohio (the "Dunlap Property").

21. The Glenellen Property was constructed prior to 1978.

22. The Dunlap Property was constructed prior to 1978.

23. The Glenellen Property is "target housing" as defined in 40 C.F.R. § 745.103.

24. The Dunlap Property is "target housing" as defined in 40 C.F.R. § 745.103.

25. On June 24, 2004, a representative of the U.S. EPA conducted an inspection at Rent 2 Own Homes, located at 5600 Market Street, Suite 4, Boardman, Ohio, to monitor compliance with Section 1018 and its implementing regulations at 40 C.F.R. Part 745, Subpart F.

26. On August 7, 2003, Respondent, either directly or through his authorized agent, entered into a lease agreement (contract) with an individual for the lease of Respondent's Dunlap Property.

27. On December 5, 2003, Respondent, either directly or through his authorized agent, entered into a purchase agreement (contract) with an individual for the purchase of Respondent's Glenellen Property.

28. The contract referenced in paragraph 26, above, covered a term of occupancy greater than 100-days.

29. Respondent is a "lessor" as defined in 40 C.F.R. § 745.103, since he has offered the target housing referenced in paragraph 26, above, for lease.

30. The individual who signed the lease to pay rent in exchange for occupancy of a dwelling, referenced in paragraph 26, above, became a "lessee" as defined in 40 C.F.R. § 745.103, since he or she entered into an agreement to lease target housing.

31. Respondent is a "seller" as defined in 40 C.F.R. § 745.103, since he transferred legal title of the target housing referenced in paragraph 27, above, for purchase.

32. The individual who signed the contract to purchase the target housing referenced in paragraph 27, above, became a “purchaser” as defined in 40 C.F.R. § 745.103, since he or she entered into an agreement to purchase target housing.

33. On March 12, 2008, U.S. EPA advised Respondent by pre-filing notice letter that U.S. EPA was planning to file a civil administrative complaint against Respondent for specific alleged violations of Section 1018 and that the complaint would seek a civil penalty. In its pre-filing notice letter, U.S. EPA asked Respondent to identify any factors Respondent thought U.S. EPA should consider before issuing the complaint. If Respondent believed there were financial factors which bore on Respondent’s ability to pay a civil penalty, U.S. EPA asked Respondent to submit specific financial documents.

34. On March 19, 2008, Respondent received the pre-filing notice letter referred to in paragraph 33, above. Respondent replied to the letter on March 31, 2008, and provided a narrative response to the alleged violations. Respondent did not claim an inability to pay the proposed, approximate civil penalty and did not provide facts or other information concerning its ability to pay the proposed, approximate civil penalty.

35. Complainant has considered all of the information provided by Respondent in assessing the alleged violations and proposing a penalty.

Count 1

36. Complainant incorporates paragraphs 1 through 35 of this Complaint as if set forth in this paragraph.

37. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the required disclosure activities before a lessee is obligated under any contract to lease target housing. 40 C.F.R. § 745.113(b)(1) requires the lessor to include, either within each contract or

as an attachment to each contract to lease target housing, a Lead Warning Statement.

38. Count 1: Respondent failed to include, either within the contract or as an attachment to the contract dated August 7, 2003, for the Dunlap Property, a Lead Warning Statement.

39. Respondent's failure to include, either within the contract or as an attachment, a Lead Warning Statement for the leasing transaction referred to in paragraph 26, above, constitutes a violation of 40 C.F.R § 745.113(b)(1), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Count 2

40. Complainant incorporates paragraphs 1 through 35 of this Complaint as if set forth in this paragraph.

41. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the required disclosure activities before a lessee is obligated under any contract to lease target housing. 40 C.F.R. § 745.113(b)(2) requires a lessor to include, either within each contract or as an attachment to each contract to lease target housing, a statement disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

42. Count 2: Respondent failed to include, either within the contract or as an attachment to the contract dated August 7, 2003, for the Dunlap Property a statement disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

43. Respondent's failure to include, either within the contract or as an attachment, a statement disclosing either the presence of any known lead-based paint and/or lead-based paint

hazards in the target housing being leased or a lack of knowledge of such presence for the leasing transaction referred to in paragraph 26, above, constitutes a violation of 40 C.F.R. § 745.113(b)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Count 3

44. Complainant incorporates paragraphs 1 through 35 of this Complaint as if set forth in this paragraph.

45. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the required disclosure activities before a lessee is obligated under any contract to lease target housing. 40 C.F.R. § 745.113(b)(3) requires a lessor to include, either within each contract or as an attachment to each contract to lease target housing, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

46. Count 3: Respondent failed to include, either within the contract or as an attachment to the contract dated August 7, 2003, for the Dunlap Property a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that had been provided to the lessee or a statement that no such records were available.

47. Respondent's failure to include, either within the contract or as an attachment, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee, or a statement that no such records are available, for the leasing transaction referred to in paragraph 26, above, constitutes a violation of 40 C.F.R. § 745.113(b)(3), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Count 4

48. Complainant incorporates paragraphs 1 through 35 of this Complaint as if set forth in this paragraph.

49. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the required disclosure activities before a lessee is obligated under any contract to lease target housing. 40 C.F.R. § 745.113(b)(4) requires the lessor to include, either within each contract or as an attachment to each contract, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

50. Count 4: Respondent failed to include, either within the contract or as an attachment to the contract dated August 7, 2003, for the Dunlap Property a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

51. Respondent's failure to include, either within the contract or as an attachment, a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696 for the leasing transaction referred to in paragraph 26, above, constitutes a violation of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Count 5

52. Complainant incorporates paragraphs 1 through 35 of this Complaint as if set forth in this paragraph.

53. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the required disclosure activities before a lessee is obligated under any contract to lease target

housing. 40 C.F.R. § 745.113(b)(6) requires the lessor to include, either within each contract or as an attachment to each contract to lease target housing, the signatures of the lessor and the lessee certifying to the accuracy of their statements to the best of their knowledge along with the dates of signature.

54. Count 5: Respondent failed to include, either within the contract or as an attachment to the contract dated August 7, 2003, for the Dunlap Property the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

55. Respondent's failure to include, either within the contract or as an attachment, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures for the leasing transaction referred to in paragraph 26, above, constitutes a violation of 40 C.F.R. § 745.113(b)(6), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Count 6

56. Complainant incorporates paragraphs 1 through 35 of the Complaint as if set forth in this paragraph.

57. 40 C.F.R. § 745.100 requires, among other things, that the seller of target housing complete the required disclosure activities before a purchaser is obligated under a contract to purchase the housing. 40 C.F.R. § 745.113(a)(5) requires the seller to include, as an attachment to the contract, a statement by the purchaser that the purchaser has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity.

58. Count 6: Respondent failed to include, as an attachment to the contract dated December 5, 2003, to sell the target housing at the Glenellen Property a statement by the purchaser that he or she had either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity.

59. Respondent failed to include, as an attachment to the contract dated December 5, 2003, to sell target housing 102 South Glenellen, Youngstown, Ohio, a statement by the purchaser that he or she had either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity for the sales transaction referred to in paragraph 27, above, constitutes a violation of 40 C.F.R. § 745.113(a)(5), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Proposed Penalty

60. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint as follows:

Count 1

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$8,800

Count 2

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$6,600

Count 3

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$2,200

Count 4

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4) \$4,400

Count 5

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6) \$1,100

Count 6

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(a)(5) \$440

Total Proposed Civil Penalty.....\$23,540

61. In determining the amount of any civil penalty, Section 16 of TSCA requires U.S. EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, affect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require.

62. U.S. EPA calculates penalties by applying its Section 1018 - Disclosure Rule Enforcement Response Policy dated December 2007 (Response Policy). This Response Policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases. As discussed in the Response Policy, the severity of each violation alleged in the complaint is based on the extent to which each violation impairs the ability of a lessee to assess information regarding hazards associated with lead-based paint, and precludes the lessee from making a fully informed decision whether to lease the housing or take appropriate measures to protect against lead-based paint hazards. Factors relevant to assessing an appropriate penalty include information pertaining to a Respondent's ability to pay a penalty, any evidence showing that no lead-based paint exists in the cited housing, and any evidence that Respondent has taken steps to discover the presence of and/or has taken steps to abate lead-based paint and its hazards in subject housing.

63. As stated in paragraph 34, above, by pre-filing notice letter dated March 12, 2008, the U.S. EPA advised Respondent that U.S. EPA was planning to file a civil administrative complaint against Respondent for alleged violations of Section 1018, and that Section 1018 authorizes the assessment of a civil administrative penalty. U.S. EPA asked Respondent to identify any factors Respondent thought U.S. EPA should consider before issuing the complaint. Further, if Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, U.S. EPA asked Respondent to submit specific financial documents. Respondent did not claim an inability to pay a penalty and has provided no facts or information which would indicate that the penalty should be adjusted for financial or other factors related to the alleged violation.

Rules Governing This Proceeding

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint is a copy of the Consolidated Rules.

Filing and Service of Documents

Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends to include as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Leslie A. Kirby-Miles to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Kirby-Miles at (312) 353-9443. Her address is:

Leslie A. Kirby-Miles (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Penalty Payment

Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, United States of America" and by delivering the check to:

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

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to (ORC attorney) and to:

Pamela Grace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Answer and Opportunity to Request a Hearing

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that he is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted according to the Consolidated Rules.

In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that he has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation. Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Pamela Grace at the address provided above.

Respondent's request for an informal settlement conference does not extend the 30-calendar-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. The Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. The Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

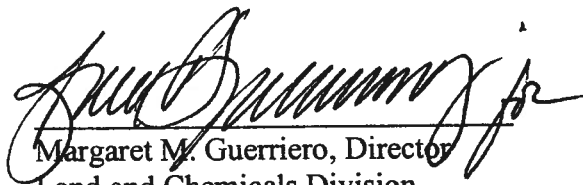
Continuing Obligation to Comply

Respondent's payment of the civil penalty will not satisfy Respondent's legal obligation to comply with TSCA and any other applicable federal, state, or local law.

Consent Agreement and Final Order

The U.S. EPA has authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference. The terms of the settlement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties is binding when the Regional Administrator signs the Consent Order.

7/24/08
Date


Margaret M. Guerriero, Director
Land and Chemicals Division

DENIED
JUL 28 10 54 AM '08

20

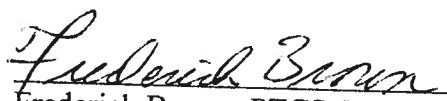
CERTIFICATE OF SERVICE

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administration involving Neil R Kennedy (Rent 2 Own Homes) was filed on July 28, 2008, with the Regional Hearing Clerk (E-13J), U.S.EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7001 0320 0006 1456 1712, along with a copy each of the "Consolidated Rules of Practice, 40 C.F.R. Part 22," and "Section 1018 Disclosure Rule Enforcement Response Policy" to:

Neil Kennedy, Owner
Rent 2 Own Homes
5600 Market Street, Suite 4
Boardman, Ohio 44512

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Leslie Kirby-Miles, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA 05-2008-0016 02

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5

CERTIFICATION OF SERVICE

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

This is to certify that the original and one copy of this Notice of Re-service to Respondent (including attached Complaint as filed on July 28, 2008) in the Neil R. Kennedy TSCA matter (Docket No. TSCA-05-2008-0016) was filed on 9/24/08, with the Regional Hearing Clerk (E-13J) U.S. EPA – Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, and that a true and correct copy was sent by Certified Mail, Return Receipt Nos. 7001 0320 0006 1456 1712 and 7001 0320 0006 1456 1637 to:

Neil R. Kennedy, Owner
Rent 2 Own Homes
5600 Market Street, Suite 4
Boardman, Ohio 44512

Damian DeGenova (Attorney for Respondent)
DeGenova, Frederick, Vouros & Yarwood, Ltd.
42 North Phelps Street
Youngstown, Ohio 44503

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC C14-J
Leslie Kirby-Miles, Counsel for Complainant, ORC C14-J



Pamela Grace
Pesticides and Toxics Compliance Section
Chemicals Management Branch
Land and Chemicals Division

Docket No. **TSCA-05-2008-0016**