



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912**

May 13, 2019

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1  
5 Post Office Square, Suite 100 (4-6)  
Boston, Massachusetts 02109

RECEIVED

MAY 13 2019

EPA ORC  
Office of Regional Hearing Clerk

Re: Juan C. Garcia d/b/a Master Roofing and Restoration;  
Docket No. TSCA-01-2017-0060

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of:

1. Motion for Default Order,
2. Memorandum in Support of Motion for Default Order with exhibits,
3. Proposed Default Order, and
4. Certificate of Service.

Thank you for your assistance in this matter.

Very truly yours,

  
Andrea Simpson  
Senior Enforcement Counsel

cc: Juan C. Garcia

Enclosures

Docket No. TSCA-01-2017-0060

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, the original and one copy of the Motion for Default Order, Memorandum in Support of Motion for Default Order and Proposed Default Order in the matter of Juan C. Garcia d/b/a Master Roofing and Restoration, Docket No. TSCA-01-2017-0060, were hand-delivered to the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below:

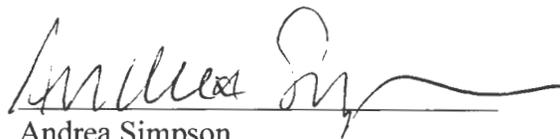
Original and one copy  
by hand delivery to:

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

Copy by first class mail to:

Juan C. Garcia, d/b/a Master Roofing and  
Restoration  
19 Piave Street Rear  
Stamford, CT 06902-5596

Dated: 5/13/19



Andrea Simpson  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency  
Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109  
(617) 918-1738

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

\_\_\_\_\_) )  
In the Matter of: ) )  
 ) )  
Juan C. Garcia d/b/a ) )  
Master Roofing and Restoration ) )  
19 Piave Street Rear ) )  
Stamford, CT 06902-5596 ) )  
 ) )  
Respondent ) )  
 ) )  
\_\_\_\_\_) )

Docket No. TSCA-01-2017-0060  
**RECEIVED**  
**MAY 13 2019**  
EPA ORC  
Office of Regional Hearing Clerk  
Proceeding under Section 16(a) of the  
Toxic Substances Control Act,  
15 U.S.C. § 2615(a)

**MOTION FOR DEFAULT ORDER**

The Complainant, the United States Environmental Protection Agency (“EPA”), moves for the issuance of an order under 40 C.F.R. § 22.17, finding that Respondent Juan C. Garcia d/b/a Master Roofing and Restoration is in default in this matter, finding that Respondent violated Sections 15 and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. 4851 *et seq.*, and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart E (“Renovation, Repair and Painting Rule”), and assessing a penalty of up to \$1,354.00.

In support of its motion, EPA submits the attached Memorandum in Support of Default Motion, with Exhibits 1, 2, 3 and 4, and a Proposed Default Order.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Andrea Simpson", written over a horizontal line.

Andrea Simpson  
Senior Enforcement Counsel  
U.S. EPA, Region 1

Date: 5/13/19

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:	)	
	)	
Juan C. Garcia d/b/a	)	
Master Roofing and Restoration	)	<b>Docket No.</b>
19 Piave Street Rear	)	<b>TSCA-01-2017-0060</b>
Stamford, CT 06902-5596	)	
	)	
Respondent.	)	<b>MOTION FOR</b>
	)	<b>DEFAULT ORDER</b>
Proceeding under Section 16(a) of the	)	
Toxic Substances Control Act,	)	
15 U.S.C. § 2615(a)	)	
	)	

MEMORANDUM IN SUPPORT OF MOTION FOR DEFAULT ORDER

The Complainant, the United States Environmental Protection Agency (“EPA”), has moved for the issuance of an order finding that Respondent, Juan C. Garcia d/b/a Master Roofing and Restoration (“Respondent”), is in default in this matter, finding that Respondent violated Sections 15 and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. 4851 *et seq.*, and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart E (“Renovation, Repair and Painting Rule”), and assessing a penalty of up to \$1,354.00.

I. Respondent Should Be Found in Default

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 (“Part 22”), provides that a party may be found to be in default after motion, upon failure to file a timely answer to the complaint. 40 C.F.R. § 22.17.

The Complaint in this action was filed on August 9, 2017. Complaint and Notice of Opportunity for Hearing at 14, In re Juan C. Garcia d/b/a Master Roofing and Restoration, No. TSCA-01-2017-0060 (Aug. 9, 2017) (“*Compl.*”) (attached as Exhibit 1). In the Complaint, EPA alleged that Respondent violated federally enforceable provisions of TSCA Sections 15 and 409, the Act, and the Renovation, Repair and Painting (“RRP”) Rule, and that Respondent is therefore subject to penalties under TSCA Section 16, 15 U.S.C. § 2615. *Id.* para. 1. The Complaint was served on Respondent by hand-delivery via Rene Garcia, who signed for the receiving package at Mr. Juan Garcia’s direction on October 26, 2017. *See* 40 C.F.R. § 22.5 (b)(1); *see also* E-mail from James Israel, Civil Investigator, EPA, to Molly Magoon, Environmental Protection Specialist, EPA (Oct. 27, 2017) and copy of U.S. Postal Service green card signed by Rene Garcia on October 26, 2017 (both attached as Exhibit 2). Accordingly, service was complete on October 26, 2017. *See* 40 C.F.R. § 22.7(c).

Respondent has not filed an answer, and the 30-day period for filing an answer has lapsed. *See* 40 C.F.R. § 22.15(a). Since Respondent has not filed a timely answer to the Complaint, Respondent should be found in default. Such default constitutes an admission of all facts alleged in the Complaint and a waiver of any rights to contest the factual allegations of the Complaint. *See* 40 C.F.R. § 22.17(a).

## II. Respondent’s Actions Violated TSCA, the Act, and the RRP Rule.

The following factual and legal grounds, as required by 40 C.F.R. § 22.17(b), support a finding that the Complaint establishes a prima facie case that Respondent violated TSCA Sections 15 and 409, the Act, and the RRP Rule.

In 1992, Congress passed the Act, 42 U.S.C. § § 4851 *et seq.*, in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American

housing stock contains more than three million tons of lead in the form of lead-based paint (“LBP”), and that the ingestion of lead from deteriorated or abraded LBP is the most common cause of lead poisoning in children. In 1996, the EPA promulgated regulations to implement the Act, which are set forth at 40 C.F.R. Part 745, Subpart E and L.

Pursuant to 40 C.F.R. § 745.82, the regulations in 40 C.F.R. Part 745, Subpart E apply to all renovations performed for compensation in “target housing.” As provided in 40 C.F.R. § 745.83, “renovation” means the “modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement,” and includes the renovation of a building for the purpose of converting a building or portion of a building into target housing. Pursuant to Section 401 of TSCA, 15 U.S.C. § 2681(17), “target housing” is defined as “any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing), or any 0-bedroom dwelling.”

The RRP Rule sets forth procedures and requirements for, among other things, the accreditation of training programs, the certification of renovation firms and individual renovators, the work practice standards for renovation, repair and painting activities in target housing and child-occupied facilities, and the establishment and maintenance of records. Pursuant to Section 409 of TSCA, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule). Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA.

Respondent is a sole proprietorship in Connecticut with its business address located at 19 Piave Street Rear, Stamford, CT 06902-5596, which is also the address of its principal owner and

operator, Mr. Juan Garcia. Compl., para. 9. Respondent is a construction business involved in roofing, other renovation, and painting services, with annual sales of \$140,000.00. *Id.*; *See also* Hoover's Report (attached as Exhibit 3). In 2014, Respondent was hired to complete a renovation on a single-family house located at 24 Hewlett Street, Waterbury, CT ("24 Hewlett St."), which was constructed in 1900, and was "target housing," as defined in 40 C.F.R. § 745.83. *Id.* paras. 10 – 11. The house does not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule. *Id.* para. 11.

In September 2014, the Waterbury, Connecticut Health Department ("WHD") received a complaint that renovation work being performed at 24 Hewlett St. did not have the proper containment, and that dry sanding was occurring without a high-efficiency particulate air ("HEPA") exhaust attachment. *Id.* para. 12. Shortly thereafter, a representative from the WHD visited 24 Hewlett St. *Id.* After observing the work being performed by Respondent, the WHD representative stopped the work at the site due to the lack of proper lead-safe work practices. Compl., para. 12. The representative then referred the matter to the Connecticut Department of Public Health ("CT DPH"). *Id.* On September 23, 2014, a representative of the CT DPH visited 24 Hewlett St. and provided compliance assistance information regarding the RRP Rule to Respondent. Compl., para. 13. The representative then referred the matter to EPA, Region 1, where, subsequently, an EPA representative contacted Respondent and arranged for a site visit at 24 Hewlett St. on November 24, 2014. Compl., paras. 13 – 14.

On November 24, 2014, the EPA representative met with Mr. Gustavo Garcia, whose son, Mr. Juan Garcia, is the owner of Master Roofing. Compl., para. 15. Later that day, with the cooperation of Mr. Juan Garcia, the EPA representative conducted an inspection at Respondent's office ("EPA Inspection") located in Stamford, CT to determine Respondent's compliance with

the RRP Rule requirements during the renovation of 24 Hewlett St. Compl., para. 15. During the EPA Inspection, Mr. Juan Garcia admitted that Respondent was not a certified firm as required by the RRP Rule, that Mr. Juan Garcia was not a certified renovator, and that Mr. Juan Garcia had not assigned a certified renovator to perform the work at 24 Hewlett St. on behalf of Respondent. Compl., paras. 16 – 17. Mr. Juan Garcia was also unable to provide the EPA inspector with a written acknowledgement by the owner of 24 Hewlett St. certifying receipt of the EPA lead hazard pamphlet that renovators are required to provide to home owners or occupants of target housing prior to the start of the renovation work on such housing. Compl., para. 18.

On May 3, 2016, EPA Region 1 issued to Respondent a “Notice of Finding of Violation of RRP Rule and TSCA and Opportunity for Settlement,” and a proposed settlement agreement, proposing to settle the matter for a \$2,580.00 penalty, consistent with the EPA Office of Enforcement and Compliance Assurance’s May 3, 2012 Pilot RRP Penalty Program for Micro-Businesses. Compl., para. 19. Micro-Businesses are defined under the Pilot RRP Penalty Program as those businesses with an annual income under \$300,000.00. *Id.* The proposed agreement contained a six-month payment plan as requested by Respondent based on its claim of inability to pay the penalty in a lump sum. *Id.*

After receiving the proposed settlement agreement, Mr. Garcia claimed he was unable to make the penalty payments, but never provided financial documentation to support his inability to pay claim, as requested by EPA. *Id.* para. 20.

At all times relevant to the allegations set forth in this Complaint, Respondent’s paint removal activities at 24 Hewlett St. constituted a “renovation,” as defined in 40 C.F.R. § 745.83, and the paint removal activities at 24 Hewlett St. constituted a “renovation for compensation”

subject to the RRP Rule. *Id.* para. 21; *see* 40 C.F.R. § 745.82. Furthermore, this paint removal at 24 Hewlett St. did not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule. *Id.* para. 22. At all times relevant to the allegations set forth in this Complaint, Respondent was a “renovator” as defined in 40 C.F.R. § 745.83, as well as a “firm” as defined in 40 C.F.R. § 745.83. *Id.* paras. 23 – 24.

Based on the above-described inspections, Complainant identified the following violations of Section 409 of TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and the RRP Rule, as set forth at 40 C.F.R. Part 745, Subpart E and L. *Id.* para. 26.

A. Count I: Failure to Obtain Firm Certification under RRP Rule

As noted above, EPA has offered factual and legal support that Respondent failed to obtain Firm Certification under the RRP Rule. Firms that perform renovations for compensation in target housing must apply to EPA for certification to perform renovations or dust sampling under 40 C.F.R. § 745.89(a), pursuant to 40 C.F.R. § 745.81(a)(2)(ii), which provides that no firm may perform, offer, or claim to perform renovations in target housing or child-occupied facilities without certification from EPA under 40 C.F.R. § 745.89. *Id.* para. 28.

The house at 24 Hewlett St. is target housing because it was built in 1900, well prior to 1978, and the renovation activities performed by Respondent at that address occurred after April 10, 2010. *Id.* para. 29. At the time of the EPA Inspection, Respondent had not applied for or received RRP Firm Certification from the EPA. Compl., para. 30. Therefore, Respondent’s failure to obtain RRP Firm Certification prior to performing renovation work on the house at 24 Hewlett St. constitutes a violation of 40 C.F.R. §§ 745.89(a) and 745.81(a)(2)(ii). Compl., para. 31.

The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA. *Id.* para. 32.

B. Count II - Failure to Provide Pre-Renovation Education Information

As noted above, EPA has offered factual and legal support that Respondent did not provide lead hazard information in the form of an EPA pamphlet to the owners of the unit being renovated. 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, a firm must provide lead hazard information in the form of an EPA pamphlet to the owner of the unit, and obtain a written acknowledgement of receipt or certificate of mailing such pamphlet, in the manner specified at 40 C.F.R. §§ 745.84(a)(1)(i) or (a)(1)(ii). *Id.* para. 34. Respondent did not provide an EPA pamphlet or an EPA-approved pamphlet to the owner of 24 Hewlett Street before commencing renovation activities including lead paint removal using high speed machines without a HEPA exhaust control attachment. *Id.* para. 35. Respondent's failure to distribute a pamphlet to the owner of 24 Hewlett St. prior to commencing renovation activities at the property violated 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA. Compl., para. 36.

The above-described violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA. *Id.* para. 37.

C. Count III- Failure to Meet Work Practices Standards

As noted above, EPA has offered factual and legal support that Respondent failed to comply with work practice standards when renovating 24 Hewlett St. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the

firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. *Id.* para. 39. Under 40 C.F.R. § 745.85(a)(3)(ii), the use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation. *Id.* Respondent's failure to ensure the use of HEPA exhaust control attachments on high speed paint removal machines constitutes a violation of 40 C.F.R. § 745.89(d)(3) and 40 C.F.R. § 745.85(a)(3)(ii), and Section 409 of TSCA. *Id.* para. 41.

The above-described violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA. *Id.* para. 42.

D. Count IV- Failure to Assign a Certified Renovator

As noted above, EPA has offered factual and legal support that Respondent did not assign a certified renovator to the renovation performed at 24 Hewlett St. Pursuant to 40 C.F.R. § 745.89(d), firms performing renovations must ensure that (1) all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with § 745.90, and (2) a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90. *Id.* para. 44. Respondent did not assign a certified renovator to the renovation performed at 24 Hewlett St. even though that renovation involved modification of a house build in 1900, and significant disturbance of painted surfaces. *Id.* para.

45. Respondent's failure to assign a certified renovator to the renovation project at 24 Hewlett St. constitutes a violation of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA. *Id.* para. 46.

The above-described violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA. *Id.* para. 47.

### III. A Penalty of \$1,354.00 Should Be Assessed

Complainant recommends the imposition of a \$1,354.00 civil penalty. *See* Compl. para. 49. The following legal and factual grounds, as required by 40 C.F.R. § 22.17(b), support a finding that the proposed penalty amount is appropriate in light of the penalty assessment criteria of TSCA Section 16, 15 U.S.C. § 2615, as applied to the circumstances of this case. Section 16 of TSCA requires Complainant to consider the nature, circumstances, extent and gravity of the violations and, with respect to Respondent, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of such prior violations, the degree of culpability, and other such matters as justice may require. Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's August 2010 Interim Final Policy entitled, "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" the ("LBP Consolidated ERPP"). The LBP Consolidated ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. (*See* Attachment I to the Complaint explaining the reasoning for this penalty.) In addition, Complainant also has taken into account EPA's March 5, 2017 Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements, a copy of which is enclosed with this Motion (attached as Exhibit 4). *See Id.* para.

49. Further, EPA performed a search of Master Roofing and Restoration on Hoovers which indicated that Respondent's annual sales are \$140,000. *See* Exhibit 3. Therefore, Respondent has the ability to pay the proposed penalty of \$1,354.00.

#### IV. Conclusion

The Complainant requests that the Regional Judicial Officer issue an order finding that Respondent is in default, that Respondent violated the federally-enforceable provisions of TSCA Sections 15 and 409, the Act, and the Renovation, Repair and Painting Rule, and that an appropriate penalty be assessed in the amount of \$1,354.00.

Respectfully submitted,



Andrea Simpson  
Senior Enforcement Counsel  
Office of Regional Counsel  
U.S. EPA, Region 1

# **Exhibit 1**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

In the Matter of:	)	
	)	
Juan C. Garcia d/b/a	)	
Master Roofing and Restoration	)	<b>Docket No.</b>
19 Piave Street Rear	)	<b>TSCA-01-2017-0060</b>
Stamford, CT 06902-5596	)	
	)	<b>COMPLAINT AND</b>
Respondent.	)	<b>NOTICE OF</b>
	)	<b>OPPORTUNITY FOR</b>
Proceeding under Section 16(a) of the	)	<b>HEARING</b>
Toxic Substances Control Act,	)	
15 U.S.C. § 2615(a)	)	
	)	

**COMPLAINT**

**I. STATUTORY AND REGULATORY BACKGROUND**

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the 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 (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, U.S. Environmental Protection Agency (“EPA” or “Complainant”), Region 1. Respondent, Juan C. Garcia d/b/a Master Roofing and Restoration (“Master Roofing” or “Respondent”), is hereby notified of Complainant’s determination that Respondent has violated Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled “Residential Property

Renovation,” as set forth at 40 C.F.R. Part 745, Subpart E. Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

2. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account during the renovation of homes and apartments. To carry out this purpose, the Act added a new title to TSCA entitled “Title IV-Lead Exposure Reduction,” which currently includes Sections 401-411 of TSCA, 15 U.S.C. §§ 2681-2692.

3. In 1996, EPA promulgated regulations to implement Section 402(a) of TSCA, 15 U.S.C. § 2682(a). These regulations are set forth at 40 C.F.R. Part 745, Subpart L. In 1998, EPA promulgated regulations to implement Section 406(b) of the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart E. In 2008, EPA promulgated regulations to implement Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3) by amending 40 C.F.R. Part 745, Subparts E and L (the “Renovation, Repair and Painting Rule” or the “RRP Rule” and the “Lead-Based Paint Activities Rule,” respectively).

4. Pursuant to 40 C.F.R. § 745.82, the regulations in 40 C.F.R. Part 745, Subpart E apply to all renovations performed for compensation in “target housing.” As

provided in 40 C.F.R. § 745.83, “renovation” means the “modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement,” and includes the renovation of a building for the purpose of converting a building or portion of a building into target housing. Pursuant to Section 401 of TSCA, 15 U.S.C. § 2681(17), “target housing” is defined as “any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing), or any 0-bedroom dwelling.”

5. The RRP Rule sets forth procedures and requirements for, among other things, the accreditation of training programs, the certification of renovation firms and individual renovators, the work practice standards for renovation, repair and painting activities in target housing and child-occupied facilities, and the establishment and maintenance of records.

6. Pursuant to Section 409 of TSCA, it is unlawful for any person to fail to comply with any rule issued under Subchapter IV of TSCA (such as the RRP Rule). Pursuant to 40 C.F.R. § 745.87(a), the failure to comply with a requirement of the RRP Rule is a violation of Section 409 of TSCA.

7. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 409 of TSCA shall be liable to the United States for a civil penalty.

8. Section 16(a) of TSCA, 40 C.F.R. § 745.87(d), and 40 C.F.R. § 745.235(e) authorize the assessment of a civil penalty of up to \$25,000 per violation per day of the RRP Rule. Under the Debt Collection Improvement Act and 40 C.F.R. Part 19,

violations that occurred after January 12, 2009, are subject to penalties of up to \$32,500 per violation per day, and violations that occurred after January 12, 2009, are subject to penalties of up to \$37,500 per violation per day. *See* 78 Fed. Reg. 66643, 66647. Under the 2015 Civil Penalty Inflation Adjustment Act, the maximum penalty remained \$37,500 for violations occurring after November 2, 2015 and assessed after July 31, 2016 but before January 15, 2017. The statutory maximum penalty for violations for which the penalty is assessed after January 15, 2017 is \$38,114.

## **II. GENERAL ALLEGATIONS**

9. Respondent is a sole proprietorship in Connecticut with its business address located at 19 Piave Street Rear, Stamford, CT 06902-5596, which is also the address of its principal owner and operator, Juan Garcia. Respondent is a construction business involved in roofing, other renovation, and painting services, with annual sales of \$140,000.

10. In 2014, Master Roofing was hired to complete a renovation on a single-family house located at 24 Hewlett St., Waterbury, CT (“24 Hewlett St.”), which was constructed in 1900.

11. At all times relevant to this Complaint, the house at 24 Hewlett St. was “target housing,” as defined in 40 C.F.R. § 745.83. Furthermore, the house does not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

12. In September 2014, the Waterbury, Connecticut Health Department (“WHD”) received a complaint that renovation work being performed at 24 Hewlett St. did not have the proper containment and that dry sanding was occurring without a high-efficiency particulate air (“HEPA”) exhaust attachment. Shortly thereafter, a

representative from the WHD visited 24 Hewlett St. After observing the work being performed by Respondent, the WHD representative stopped the work at the site due to the lack of proper lead-safe work practices. The representative then referred the matter to the Connecticut Department of Public Health (“CT DPH”).

13. On September 23, 2014, a representative of the CT DPH visited 24 Hewlett St. and provided compliance assistance information regarding the RRP Rule to Respondent. The representative then referred the matter to EPA, Region 1.

14. Subsequently, an EPA representative contacted Respondent and arranged for a site visit at 24 Hewlett St. on November 24, 2014.

15. On November 24, 2014, the EPA representative met with Mr. Gustavo Garcia, whose son, Mr. Juan Garcia, is the owner of Master Roofing. Later that day, with the cooperation of Mr. Juan Garcia, the EPA representative conducted an inspection at Respondent’s office (“EPA Inspection”) located in Stamford, CT to determine Respondent’s compliance with the RRP Rule requirements during the renovation of 24 Hewlett St.

16. During the EPA Inspection, Mr. Juan Garcia admitted that Respondent was not a certified firm as required by the RRP Rule.

17. During the EPA Inspection Mr. Juan Garcia admitted that he was not a certified renovator, and that he had not assigned a certified renovator to perform the work at 24 Hewlett St. on behalf of Respondent.

18. During the EPA Inspection, Respondent also was unable to provide the EPA inspector with a written acknowledgement by the owner of 24 Hewlett St. certifying receipt of the EPA lead hazard pamphlet that renovators are required to provide to home

owners or occupants of target housing prior to the start of renovation work on such housing.

19. On May 3, 2016, EPA Region 1 issued to Respondent a “Notice of Finding of Violation of RRP Rule and TSCA and Opportunity for Settlement,” and a proposed settlement agreement, proposing to settle the matter for a \$2,580, consistent with the EPA Office of Enforcement and Compliance Assurance’s May 3, 2012 Pilot RRP Penalty Program for Micro-Businesses. Micro-Businesses are defined under the Pilot RRP Penalty Program as those businesses with an annual income under \$300,000. The proposed agreement contained a six-month payment plan as requested by Respondent based on its claim of inability to pay the penalty in a lump sum.

20. After receiving the proposed settlement agreement, Mr. Garcia claimed he was unable to make the penalty payments, but never provided financial documentation to support his inability to pay claim, as requested by EPA.

21. At all times relevant to the allegations set forth in this Complaint, Respondent’s paint removal activities at 24 Hewlett St. constituted a “renovation,” as defined in 40 C.F.R. § 745.83.

22. At all times relevant to the allegations set forth in this Complaint, the paint removal activities at 24 Hewlett St. constituted a “renovation for compensation” subject to the RRP Rule. See 40 C.F.R. § 745.82. Furthermore, this paint removal at 24 Hewlett St. did not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

23. At all times relevant to the allegations set forth in this Complaint, Respondent was a “renovator” as defined in 40 C.F.R. § 745.83.

24. At all times relevant to the allegations set forth in this Complaint, Respondent was a “firm,” as defined in 40 C.F.R. § 745.83.

25. At all times relevant to the allegations set forth in this Complaint, Respondent did not assign a certified renovator to the renovation at 24 Hewlett St., as required by 40 C.F.R. § 745.81(a)(3).

26. Based on the above-described inspections, Complainant has identified the following violations of Section 409 of TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and the RRP Rule, as set forth at 40 C.F.R. Part 745, Subpart E.

### **III. VIOLATIONS**

#### **Count 1 – Failure to Obtain Firm Certification under RRP Rule**

27. Complainant incorporates by reference paragraphs 1 through 26.

28. Firms that perform renovations for compensation in target housing must apply to EPA for certification to perform renovations or dust sampling under 40 C.F.R. §745.89(a), pursuant to 40 C.F.R. § 745.81(a)(2)(ii), which provides that no firm may perform, offer, or claim to perform renovations in target housing or child-occupied facilities without certification from EPA under § 745.89.

29. The house at 24 Hewlett St. is target housing because it was built in 1900, well prior to 1978, and the renovation activities performed by Respondent at that address occurred after April 10, 2010.

30. At the time of the EPA Inspection, Master Roofing had not applied for or received RRP firm certification from the EPA.

31. Respondent's failure to obtain RRP Firm Certification prior to performing renovation work on the house at 24 Hewlett St. constitutes a violation of 40 C.F.R. §§ 745.89(a) and 745.81(a)(2)(ii).

32. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

**Count 2 - Failure to Provide Pre-Renovation Education Information**

33. Complainant incorporates by reference paragraphs 1 through 32.

34. 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, a firm must provide lead hazard information in the form of an EPA pamphlet to the owner of the unit, and obtain a written acknowledgement of receipt or certificate of mailing such pamphlet, in the manner specified at 40 C.F.R. §§ 745.84(a)(1)(i) or (a)(1)(ii).

35. Respondent did not provide an EPA pamphlet or EPA-approved pamphlet to the owner of 24 Hewlett St. before commencing renovation activities including lead paint removal using high speed machines without a HEPA exhaust control attachment.

36. Respondent's failure to distribute a pamphlet to the owner of 24 Hewlett St. prior to commencing renovation activities at the property violated 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA.

37. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

**Count 3 - Failure to Meet Work Practices Standards**

38. Complainant incorporates by reference paragraphs 1 through 37.

39. Pursuant to 40 C.F.R. § 745.89(d)(3), firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85. Pursuant to 40 C.F.R. § 745.85(a)(3)(ii), the use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation.

40. While renovating 24 Hewlett St., Respondent used machines that remove lead-based paint through high speed operation without a HEPA vacuum attachment.

41. Respondent's failure to ensure the use of HEPA exhaust control attachments on high speed paint removal machines constitutes a violation of 40 C.F.R. § 745.89(d)(3) and 40 C.F.R. § 745.85(a)(3)(ii), and Section 409 of TSCA.

42. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

**Count 4 - Failure to Assign a Certified Renovator**

43. Complainant incorporates by reference paragraphs 1 through 42.

44. Pursuant to 40 C.F.R. § 745.89(d), firms performing renovations must ensure that (1) all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance

with § 745.90, and (2) a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.

45. Master Roofing did not assign a certified renovator to the renovation performed at 24 Hewlett St. even though that renovation involved modification of a house built in 1900 and significant disturbance of painted surfaces.

46. Respondent's failure to assign a certified renovator to the renovation project at 24 Hewlett St. constitutes a violation of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA.

47. The above-listed violation alleged in this count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.87(a), and a violation for which penalties may be assessed pursuant to Section 16 of TSCA.

#### **IV. PROPOSED PENALTY**

48. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires Complainant to consider the nature, circumstances, extent and gravity of the violations and, with respect to Respondent, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

49. To assess a penalty for the alleged violations in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to account EPA's August 2010 Interim Final Policy entitled, "Consolidated Enforcement Response and Penalty Polity for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities

Rule” (the “LBP Consolidated ERPP”), a copy of which is enclosed with this Complaint. The LBP Consolidated ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. Complainant also has taken into account EPA’s March 5, 2017 Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements, a copy of which is enclosed with this Complaint. Complainant proposes that Respondent be assessed a civil penalty in the amount of **one thousand three hundred fifty-four dollars (\$1,354)** for the TSCA violations alleged in this Complaint. (See Attachment I to this Complaint explaining the reasoning for this penalty.)

#### **V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

50. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA’s Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. Any request for a hearing must be included in Respondent’s written Answer to this Complaint (“Answer”) and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

51. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments

alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

52. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Wanda A. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square – Suite 100  
Mail Code: ORA18-1  
Boston, Massachusetts 02109-3912

53. Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Andrea Simpson, the attorney assigned to represent Complainant in this matter, and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Andrea Simpson  
Senior Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square – Suite 100  
Mail Code: OES04-2  
Boston, Massachusetts 02109-3912

54. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40

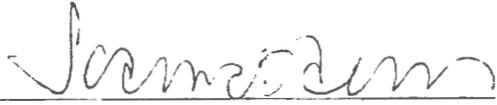
C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

55. The filing of service of documents other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided with the Complaint.

#### **VI. SETTLEMENT CONFERENCE**

56. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or his designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. To explore the possibility of settlement, Respondent or Respondent’s counsel should contact Andrea Simpson, Senior Enforcement Counsel, at the address cited above or by calling (617) 918-1738. Please note that a request for an informal settlement conference by Respondent does not automatically extend the 30-day time period within which a written Answer must be

submitted in order to avoid becoming subject to default.



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

8/9/17  
Date

## Attachment I

### In the Matter of Master Roofing and Restoration Docket Number TSCA-01-2017-0060

#### PROPOSED PENALTY SUMMARY

The following provides the justification for the proposed penalty calculation in the administrative penalty action against Master Roofing and Restoration which seeks to assess a civil penalty in the amount of \$1,354 for alleged violations of the Lead Disclosure Rule and the Renovation, Repair and Painting (“RRP”) Rule. The penalty was calculated according to EPA’s August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (“LBP Consolidated ERPP”) and the March 5, 2017 *Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements*. A breakdown of the penalty by count is set forth below.

#### **COUNT I – Failure of a Firm to Obtain Initial Certification**

**Provision Violated:** 40 C.F.R. § 745.81(a)(2)(ii) requires that all firms performing renovations for compensation must apply to EPA for certification to perform renovations or dust sampling. No firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82.

**Circumstance Level:** The failure to obtain certification from EPA prior to performing renovations results in a *medium probability* of impacting human health and the environment because a firm that is not certified by EPA is less likely to comply with the work practice standards of 40 C.F.R. § 745.85. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.81(a)(2)(ii) is a *Level 3a* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The documented absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to obtain firm certification before conducting a renovation at the following 24 Hewlett target housing unit:

Respondent	Address	Date of Renovat.	Children	Extent of Harm	Gravity-based Penalty
Master Roofing	24 Hewlett Street	9/14	None	Minor	\$4,500

**COUNT II – Failure to Provide a Lead-Safe Renovation Pamphlet**

**Provisions Violated:** 40 C.F.R. § 745.84(a)(1) requires firms performing renovations to, no more than 60 days before beginning renovation activities, provide the owner of the unit with a full and complete copy of an EPA-developed or EPA-approved lead-safe renovation pamphlet (“Pamphlet”), as defined at 40 C.F.R. § 745.83. The renovating firm must also either: (i) obtain from the owner a written acknowledgment that the owner has received the Pamphlet; or (ii) obtain a certificate of mailing at least seven days prior to the renovation.

**Circumstance Level:** The failure to provide the owner of the unit with the EPA-approved lead-safe renovation pamphlet results in a *high probability* of impacting the human health and the environment by impairing the owner’s ability to properly assess information regarding the risks associated with exposure to lead-based paint, lead dust, and debris. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R § 745.84(a)(1) is a *Level 1b* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The documented absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to provide a lead-safe renovation pamphlet to the occupants of the following target housing units before conducting renovations at those units:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$2,840

**COUNT III – Failure to Prohibit the Use of Machines that Remove Lead-Based Paint through High Speed Operation without HEPA Exhaust Control**

**Provision Violated:** 40 C.F.R. § 745.89(d)(3), requires that firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work

practice standards in 40 C.F.R. § 745.85. 40 C.F.R. § 745.85(a)(3)(ii), prohibits the use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation.

**Circumstance Level:** The use of high speed equipment on painted surfaces without a HEPA vacuum attachment to collect dust and debris results in a *high probability* of impacting the human health and the environment by releasing dust and debris contaminated with lead. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.89(d)(3) and 40 C.F.R. § 85(a)(3)(ii) is a *Level 1a* violation.

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$7,500

#### **COUNT IV - Failure to Assign Certified Renovators**

**Provision Violated:** 40 C.F.R. § 745.89(d) requires that all firms performing renovations must ensure that all (1) all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with § 745.90, and (2) a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.

**Circumstance Level:** The failure to ensure that a certified renovator is assigned to the renovation results in a high probability of a renovation firm failing to comply with the work practice standards of 40 C.F.R. § 745.85. As a result, under the LBP Consolidated ERPP Appendix A, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 3a* violation.

**Extent of Harm:** The LBP Consolidated ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Respondent failed to assign a certified renovator to the following renovation project:

Respondent	Address	Work Dates	Children /Ages	Extent of Harm	Gravity-Based Penalty
Master Roofing	24 Hewlett Street	9/14	Minor	Minor	\$4,500

**Total Penalty under the LPB Consolidated ERPP: \$19,340**

**Gross Annual Revenue: \$140,000**

**Equation Multiplier:  $\$140,000 \div \$2,000,000 = .07$**

**Graduated Penalty Calculation:  $\$19,340 \times .07 = \$1,354$**

**Total Penalty: \$1,354**

## **Exhibit 2**

## **Israel, James**

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**To:** Magoon, Molly  
**Cc:** Simpson, Andrea; Hayes, Sharon; Cassidy, Meghan  
**Subject:** TSCA Complaint Delivery in Connecticut

Molly,

The TSCA Complaint for Master Roofing and Restoration was successfully delivered on 10/26/2017. Upon arrival at the address of 19 Piave Street (Rear) Stamford, Connecticut this Investigator observed an individual working on the building of the address I was to deliver the package.

Conversation revealed that this was not the person of interest but this person knew my individual and had a good phone number for same. (203) 943-4242. I called this number and spoke to Juan Garcia, I was advised by Juan Garcia to give the packaged documents to the person at the address, I did and also had this individual sign for the documents, (Rene Garcia).

The documents were received by Rene Garcia placed on the desk of Juan Garcia. At this time this Investigator departed the premises.

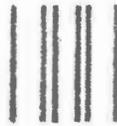
Note: Signed card will be delivered to Andrea Simpson.

James E. Israel, Civil Investigator  
U. S. Environmental Protection Agency  
OSRR - Technical & Enforcement Support Section  
5 Post Office Square, Suite 100 (HBS)  
Boston, MA 02109 - 3912  
617.918.1270  
[israel.james@epa.gov](mailto:israel.james@epa.gov)

USPS TRACKING #



9590 9402 2555 6306 1226 ES



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

\* Sender: Please print your name, address and ZIP+4® in this box\*

Andrea Simpson, OES04-2  
U.S. EPA  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Juan C. Garcia  
19 Piave St. Rear  
Stanford, CT 06902-5596

@ 11<sup>PM</sup> IN HAND!



9590 9402 2555 6306 1226 ES

2 A+® Number (transfer from service label)

7016 1370 0001 3309 9400

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X KEENE GARCIA  Agent  Addressee

B. Signature by Printed Name

Juan Garcia

C. Date of Delivery

10/26/17

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

(203) 943-4241

- |  |   |
|--|---|
| <input type="checkbox"/> Service Type                            | <input type="checkbox"/> Priority Mail Envelope                     |
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Registered Mail®                           |
| <input type="checkbox"/> Your Signature Restricted Delivery      | <input type="checkbox"/> Registered Mail—Special Delivery           |
| <input checked="" type="checkbox"/> Certified Mail®              | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Signature Confirmation®                    |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Receipts (Domestic) |   |
| <input type="checkbox"/> Insured                                 |   |
| <input type="checkbox"/> Registered Delivery                     |   |

## **Exhibit 3**

**HOOVERS**<sup>TM</sup>  
A D&B COMPANY

11/15/14

## Master Roofing & Restoration Profile

Has limited marketability due to incomplete or invalid data

19 Piave St Rear  
Stamford, CT 06902 United States

# WELCOME

Hoover's is the business information resource that delivers a unique combination of up-to-date data, broad coverage, and comprehensive information about companies, decision makers, and industries - along with powerful tools to put this information to work for your business. Hoover's offers everything you need to successfully:

- \* Identify and evaluate potential sales leads, markets, and business partners
- \* Deepen relationships with current customers
- \* Assess competitive risks and eliminate threats
- \* Build presentation-ready reports and customized lists of companies, industries, and decision makers

Unlike other business information providers, only Hoover's has a full-time, in-house editorial and research team dedicated wholly to investigating, pinpointing, authenticating, and analyzing data to provide the most comprehensive, up-to-date information available on companies, industries, and executives.

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Key Financials	2

# Company Overview

19 Piave St Rear  
Stamford, CT 06902, United States

Roofing, siding, and sheetmetal work, nsk

## Key Information

DUNS Number	066873982
Location Type	Single Location
Subsidiary Status	No
Manufacturer	No
Company Type	Non-Public
Total Employees	2
1-Year Employee Growth	0.00%
Year of Founding or Change in Control	2011
Primary Industry	1967:Roofing, Siding, & Sheet Metal Contractors
Primary SIC Code	17610103:Roofing contractor
Primary NAICS Code	238160:Roofing Contractors
Latitude/Longitude	41.045797 / -73.557325

## Key Financials

Fiscal Year-End	December
Annual Sales (Estimated)	\$0.14M

## **Exhibit 4**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 05 2017

MEMORANDUM

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

SUBJECT: Pilot Graduated Penalty Approach for TSCA RRP Rule and Abatement Rule Enforcement Settlements

FROM: Gregory Sullivan, Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement

TO: Regions 1-10

This memorandum transmits a pilot Lead-Based Paint Graduated Penalty Approach (“LBP GPA Pilot” or “Pilot”) for addressing eligible businesses under the LBP Consolidated Enforcement Response and Penalty Policy (ERPP).<sup>1</sup> The LBP GPA Pilot is available for settlements that resolve violations of the Renovation, Repair, and Painting (“RRP”) Rule and the Abatement Rule<sup>2</sup> for cases that are concluded in Fiscal Year 2017. The pilot offers Regions a settlement tool in addition to the Micro-business Penalty Pilot.<sup>3</sup> The effective date of the LBP GPA Pilot is January 10, 2017. Regions may use the pilot but are not required to.

The LBP GPA Pilot provides case teams the option of applying a multiplier to penalty calculations that reduces the gravity-based penalty otherwise imposed under the ERPP, as explained below.<sup>4</sup> The Pilot is available where a respondent has a pre-tax (unadjusted) gross annual revenue (GAR) of \$2,000,000 or less, or a net worth of \$600,000 or less. The Pilot adopts the graduated penalty approach in Appendix X of the 1994 Clean Air Act (CAA) Civil Penalty Policy,<sup>5</sup> adjusted for inflation as discussed below. The CAA penalty policy and RRP/Abatement Rules deal with comparable respondents in terms of business size, such as plumbing and heating, ventilation, and air conditioning (HVAC) contractors. The CAA’s scaled approach provides an alternative to the category-based penalty matrices in the Micro-business Penalty Pilot.

<sup>1</sup> Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (LBP Consolidated ERPP) (August 2010), [http://www.epa.gov/compliance/resources/policies/civil\\_penalty/leadbasedpaint-consolidatederpp0810](http://www.epa.gov/compliance/resources/policies/civil_penalty/leadbasedpaint-consolidatederpp0810).

<sup>2</sup> 40 C.F.R. Part 745, Subparts E and L, respectively.

<sup>3</sup> Memorandum, Rosemarie A. Kelley, Director, WCED OCE OECA, *Pilot RRP Penalty Program for Micro-businesses* (May 3, 2012)(Micro-business Penalty Pilot). Like the Micro-business Penalty Pilot, the LBP GPA Pilot uses pre-tax dollars and does not apply to training provider cases.

<sup>4</sup> The multiplier is a fraction representing the ratio between the respondent’s finances versus the maximum amount allowed under the pilot. E.g., if the respondent’s GAR is \$500,000, then the multiplier is 0.25 (\$500,000 is 25% of the pilot’s \$2,000,000 maximum GAR), so that the penalty is reduced to 25% of the ERPP amount.

<sup>5</sup> Appendix X Clean Air Act Civil Penalty Policy for Violations of 40 CFR Part 82, Subpart F: Maintenance, Service, Repair, and Disposal of Appliances Containing Refrigerant (Appendix X) (June 1, 1994).

Internet Address (URL) • <http://www.epa.gov>

## **Inflation Adjustment to the CAA's Approach for the Lead-based Paint GPA Pilot**

The CAA policy is dated June 1, 1994. The LBP GPA Pilot adjusts the maximum amounts allowed for a respondent's gross annual revenue or net worth for inflation. The Consumer Price Index Inflation from 1994 to 2016 is a factor of 1.7. Rounding up the inflation factor, the LBP GPA Pilot doubles the maximum allowable gross annual revenue and net worth used in the 1994 CAA policy. The LBP GPA Pilot is available for respondents with *up to* \$2,000,000 in GAR or \$600,000 in net worth (rather than up to \$1,000,000 GAR or \$300,000 net worth allowed under the 1994 CAA policy).

## **Formula for Determining the LBP GPA Penalty**

Determine the LBP GPA penalty as follows:

- Identify the ERPP gravity-based penalty for the violation.
- Then, determine the Pilot's multiplier. If using gross annual revenue documentation, then divide the respondent's gross annual revenue by \$2,000,000 (the Pilot's maximum GAR), *or* if using net worth documentation, then divide the respondent's net worth by \$600,000 (the Pilot's maximum net worth). The resulting quotient is the LBP GPA's multiplier.
- Then apply the pilot's multiplier to reduce the ERPP penalty: multiply the ERPP penalty (from Step 1) by the GPA multiplier (from Step 2). The resulting product is the LBP GPA penalty.

Attachment 1 provides illustrations, along with a comparison to the penalty available under the Micro-business Penalty Pilot.

## **Other Considerations**

The LBP GPA Pilot modifies only the ERPP's gravity-based penalty. Therefore, an LBP GPA penalty should be determined before any adjustments for mitigating or aggravating factors under the ERPP. If the LBP GPA penalty exceeds the statutory maximum penalty, then the statutory maximum applies. The Region may exercise discretion in determining whether to use the LBP GPA Pilot or the Micro-Business Penalty Pilot, or neither. In making this selection, the case team is encouraged to consider the extent, nature and reliability of the documentation used to support the significant penalty reduction available under the Pilot; and may consider the nature of the violation and other appropriate factors. Attachment 2 compares the LBP GPA Pilot versus the Micro-business Penalty Pilot.

## **Financial Documentation**

To ensure transparency, accuracy and fairness in implementing the LBP GPA Pilot, the case file needs to include adequate documentation confirming the respondent's eligibility for the penalty reduction under the Pilot. The Region should use the following, in order of preference: (1) the respondent's federal income tax filing<sup>6</sup>; (2) the respondent's actual financial records, such as sales

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<sup>6</sup> Gross revenue is calculated as *gross sales/receipts* minus *returns and allowances*. Gross revenue is reported on federal taxes at Form 1120, Line 1, or at Form 1040, Schedule C, Line 3. Net worth is calculated as *total assets* minus *total liabilities*. Total assets and total liabilities are reported on Form 1120, Schedule L. Regions should calculate net worth as that figure is not calculated for federal income tax purposes.

and balance sheets; or (3) publicly-available sales, revenue and/or income documentation, such as reports from Dun & Bradstreet or American Business Directory. Alternatively, the Region may use a certified statement provided by the respondent's certified public accountant which attests to the respondent's financial situation.<sup>7</sup> The documentation should cover at least the most recent two (2) full years of business operation, but documentation covering only the most recent year of operation may be acceptable in appropriate circumstances.

### **Duration of the Pilot; Information**

The LBP GPA Pilot is available for cases concluded by September 30, 2017. OECA intends to review the pilot to determine whether to continue it, with or without revision. Therefore, Regions are asked to record, in the settlement instrument or otherwise, when a settlement incorporates the LBP GPA Pilot (or the Micro-business Penalty Pilot).

### **Contacts**

Comments and question may be directed to Stephanie Brown, [brown.stephanie@epa.gov](mailto:brown.stephanie@epa.gov).

### **Attachments:**

Attachment 1: Hypothetical Illustrations

Attachment 2: *LBP GPA Pilot* versus *Micro-business Penalty Pilot*

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<sup>7</sup> Where no verifiable information is available, the Region may accept a self-certification in which the respondent describes its financial situation at risk of penalty under 18 U.S.C. § 1001. Also, Regions are encouraged to include in any settlement agreement an appropriate certification by which the respondent attests to the truth and completeness of financial information that it supplied to EPA at risk of penalty under 18 U.S.C. § 1001 and potential nullification of the penalty reduction.

# Attachment 1

**Figure 1 – Hypothetical Illustrations**

<b>Figure 1 – Hypothetical Illustrations</b>	
<b>FACTUAL BACKGROUND:</b>	
<b>Violation:</b> Failure of a firm that performs, offers or claims to perform renovations or dust sampling for compensation to obtain initial certification from EPA, under 40 CFR §749.89 (a) pursuant to 40 CFR §745.81 (a)(2)(ii). Level 3a violation. <b>ERPP Penalty:</b> \$15,300, assuming a Significant Extent level.	
LBP GPA	Micro-business (MB) Pilot
<b>Scenario #1. Gross Annual Revenue (GAR) is \$100,000.</b>	
Step 1: ERPP penalty @ \$15,300. Step 2: \$100,000 (GAR) ÷ \$2,000,000 (Pilot's GAR limit) = 0.05 (Multiplier). Step 3: \$15,300 (ERPP Penalty) × 0.05 (Multiplier) = \$765. <b>The LBP GPA penalty is \$765.</b>	Step 1: ERPP penalty @ \$15,300. Step 2: \$100,000 (GAR) meets MB Pilot eligibility for respondent with ≤ \$100,000 in annual sales  <b>The Micro-business penalty would be \$900.</b>
<b>Scenario #2. Gross Annual Revenue (GAR) is \$299,000.</b>	
Step 1: ERPP penalty @ \$15,300. Step 2: \$299,000 (GAR) ÷ \$2,000,000 (Pilot's GAR limit) = 0.1495 (Multiplier). Step 3: \$15,300 (ERPP Penalty) × 0.1495 (Multiplier) = \$2,287.35. <b>The LBP GPA penalty is \$2,287.35.</b>	Step 1: ERPP penalty @ \$15,300. Step 2: \$299,000 (GAR) meets eligibility from MB Pilot for respondent with annual sales between \$100,001 and \$300,000.  <b>The Micro-business penalty would be \$2,040.</b>
<b>Scenario #3. Gross Annual Revenue (GAR) is \$301,000.</b>	
Step 1: ERPP penalty @ \$15,300. Step 2: \$301,000 (GAR) ÷ \$2,000,000 (Pilot's GAR limit) = 0.1505 (Multiplier). Step 3: \$15,300 (ERPP Penalty) × 0.1505 (Multiplier) = \$2,302.65. <b>The LBP GPA penalty is \$2,302.65.</b>	Step 1: ERPP penalty @ \$15,300. Step 2: \$301,000 (GAR) does <u>not</u> meet eligibility requirements for the Micro-business Pilot.  <b>The MB Pilot is <u>not</u> available since the GAR exceeds \$300,000.</b>
<b>Scenario #4. Net worth is \$450,000.</b>	
Step 1: ERPP penalty @ \$15,300. Step 2: \$ 450,000 (Net Worth) ÷ \$600,000 (Pilot's Net Worth limit) = 0.75 (Multiplier). Step 3: \$15,300 (ERPP Penalty) × 0.75 (Multiplier) = \$11,475. <b>The LBP GPA penalty is \$11,475.</b>	Step 1: ERPP penalty @ \$15,300. Step 2: \$ 450,000 (Net Worth) does <u>not</u> meet eligibility requirements for the MB Pilot.  <b>The MB Pilot is <u>not</u> available since it does not consider net worth.</b>

## Attachment 2

### *LBP GPA Pilot versus Micro-Business Penalty Pilot*

	<b>Graduated Penalty Approach (GPA) Pilot</b>	<b>Micro-business (MB) Penalty Pilot</b>
<b>Effective Date</b>	Jan. 10, 2017	May 3, 2012
<b>Pilot End Date</b>	TBD	TBD
<b>Deadline for Concluding Case</b> (*Subject to possible extension)	September 30, 2017 *	September 30, 2017 *
<b>Deadline for Initial Contact with Respondent</b>	None	None
<b>Eligible Violations</b>	RRP Rule or Abatement Rule (any violation, <i>except</i> training provider violations)	RRP Rule or Abatement Rule (any violation, <i>except</i> training provider violations)
<b>Approach to Penalty Reduction</b>	Graduated approach (based on applying a multiplier derived by comparing respondent's finances to the pilot's maximum allowed amount)	Flat Rate (based on categorical matrices)
<b>Penalty Affected</b>	Pilot reduces ERPP gravity-based penalty – which can then be adjusted using ERPP adjustment factors.	Pilot reduces ERPP gravity-based penalty – which can then be adjusted using ERPP adjustment factors.
<b>Financial Measure(s) Analyzed</b>	Gross Annual Revenue (pre-tax) or Net worth	Gross Annual Revenue (pre-tax) (stated as “annual sales or gross pre- tax revenue” or “annual [pre-adjusted] gross income”) (Net worth is <u>not</u> considered.)
<b>Eligibility Maximum</b>	\$2,000,000 gross annual revenue (pre- tax) – or \$600,000 net worth	\$300,000 gross annual revenue (pre- tax)
<b>Appropriate Documentation</b>	Sufficient documentation as specified in the Pilot	Sufficient documentation as specified in the Pilot