

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

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BEFORE THE ADMINISTRATOR

In the Matter of:)	
)	Docket No. TSCA-07-2014-0009
)	
Ace Service Team, LLC)	
1910 Lake Drive)	
Smithville, Mo 64089)	
)	
Respondent)	

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and Ace Service Team, LLC (Respondent) have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Renovation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Section I
Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by

failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E, *Lead-Based Paint Renovation, Repair and Painting Rule* (RRP Rule) promulgated pursuant to 15 U.S.C. §§ 2682, 2686 and 2687.

Section II **Parties**

3. The Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.

4. The Respondent is Ace Service Team, LLC, a limited liability company in good standing under the laws of the state of Missouri.

Section III **Statutory and Regulatory Background**

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding *Title IV - Lead Exposure Reduction*, TSCA Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692.

6. Section 402(c) of TSCA, 15 U.S.C. § 2682, required the Administrator of EPA to promulgate regulations for the certification of individuals engaged in renovation or remodeling activities in target housing, public buildings built before 1978, and commercial buildings and for standards in conducting those renovation and remodeling activities.

7. Section 407 of TSCA, 15 U.S.C. § 2687 required that the regulations promulgated by the Administrator include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of TSCA Subchapter IV.

8. On June 1, 1998, EPA promulgated information distribution and recordkeeping requirements in regulations codified at 40 C.F.R. Part 745, Subpart E, Requirements for Hazard Education Before Renovation of Target Housing (Pre-Renovation Education Rule or PRE Rule) pursuant to 15 U.S.C. § 2686.

9. On April 22, 2008, EPA amended and re-codified the PRE Rule information distribution and recordkeeping requirements and promulgated additional regulations at 40 C.F.R. Part 745, Subpart E, Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet (RRP Rule) pursuant to 15 U.S.C. § 2682, 2686, and 2687.

10. Under 40 C.F.R. Part 745, Subpart E, each person who performs for compensation, a renovation of target housing or a child-occupied facility must be trained and certified by an EPA accredited training provider to conduct renovation, remodeling and or painting activities in target housing and or child-occupied facilities; must be employed by an EPA-certified renovation firm and must comply with the specified work practice and recordkeeping requirements of the RRP Rule by April 22, 2008. Each person who performs for compensation, a renovation of target housing or a child-occupied facility must also provide a lead hazard information pamphlet to the owner and occupant of such housing or child-occupied facility prior to commencing the renovation and must comply with the PRE Rule by June 1, 1999, codified at 40 C.F.R. § 745.85, and with the amended information distribution requirements of the RRP Rule, recodified at 40 C.F.R. § 745.84, by April 22, 2008.

11. 40 C.F.R. § 745.83 defines *renovation* to mean 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 as defined by this part (40 C.F.R. § 745.223). The term

renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces.

12. 40 C.F.R. § 745.83 defines *renovator* to mean an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.

13. 40 C.F.R. § 745.103 defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

14. 40 C.F.R. § 745.85(a) requires that renovations must be performed by certified firms, in accordance with 40 C.F.R. 745.89, using certified renovators in accordance with 40 C.F.R. § 745.90.

15. 40 C.F.R. § 745.86(a) requires that the firm performing the renovation must retain and, if requested, make available to EPA all records necessary to demonstrate compliance with this subpart for a period of 3 years following completion of the renovation.

16. Failure to comply with any provision of 40 C.F.R. Part 745, Subpart E, of the Lead Renovation, Repair and Painting Program (RRP Rule) violates Section of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

17. Section 16(a) of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. § 745.87(d), authorize the EPA Administrator to assess a civil penalty of up to \$25,000 for each violation of Section 409 of TSCA. Each day that such a violation continues constitutes a separate violation of Section 15 of TSCA, 15 U.S.C. § 2614. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred after January 12, 2009.

Section IV
General Factual Allegations

18. Respondent is and at all times referred to herein was a “person” within the meaning of 40 C.F.R. § 745.83.

19. Respondent is a “renovator” who performed “renovations” as defined by 40 C.F.R. § 745.83 for compensation.

20. On or about April 13, 2011, Respondent signed a contract to perform renovations on the property located at 4121 N. Bellefontaine Avenue, Kansas City, Missouri. This property was constructed before 1978.

21. On or about March 16, 2011, Respondent signed a contract to perform renovations on the property located at 5535 Lydia Avenue, Kansas City, Missouri. This property was constructed before 1978.

22. On or about January 19, 2011, Respondent signed a contract to perform renovations on the property located at 1600 Country Road DD, Smithville, Missouri. This property was constructed before 1978.

23. Each of the properties listed in paragraphs 20 - 22 above is "target housing" as defined by 40 C.F.R. § 745.103.

Section V **Violations**

The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

Count I

24. Respondent failed to provide the owners and/or occupants of the property located at 4121 N. Bellefontaine Avenue, Kansas City, Missouri, with an EPA-approved lead hazard information pamphlet and obtain a written acknowledgement or certificate of mailing prior to the commencement of renovation activities at the property, in violation of 40 C.F.R. § 745.84(a).

25. Respondent's failure to perform the act indicated above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count II

26. Concerning the renovation performed at 4121 N. Bellefontaine Avenue, Kansas City, Missouri, Respondent failed to maintain records documenting compliance with 40 C.F.R. § 745.85, and at the time of the inspection, was unable to produce these records, which is a violation of 40 C.F.R. § 745.86(a).

27. Respondent's failure to perform the acts indicated in above are in violations of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count III

28. Respondent failed to provide the owners and/or occupants of the property located at 5535 Lydia Avenue, Kansas City, Missouri, with an EPA-approved lead hazard information pamphlet and obtain a written acknowledgement or certificate of mailing prior to the commencement of renovation activities at the property, in violation of 40 C.F.R. § 745.84(a).

29. Respondent's failure to perform the act indicated above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count IV

30. Concerning the renovation performed at 5535 Lydia Avenue, Kansas City, Missouri, Respondent failed to maintain records documenting compliance with 40 C.F.R. § 745.85, and at the time of the inspection, was unable to produce these records, which is a violation of 40 C.F.R. § 745.86(a).

31. Respondent's failure to perform the acts indicated in above are in violations of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count V

32. Respondent failed to provide the owners and/or occupants of the property located at 1600 Country Road DD, Smithville, Missouri, with an EPA-approved lead hazard information

pamphlet and obtain a written acknowledgement or certificate of mailing prior to the commencement of renovation activities at the property, in violation of 40 C.F.R. § 745.84(a).

33. Respondent's failure to perform the act indicated above is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

Count VI

34. Concerning the renovation performed at 1600 Country Road DD, Smithville, Missouri, Respondent failed to maintain records documenting compliance with 40 C.F.R. § 745.85, and at the time of the inspection, was unable to produce these records, which is a violation of 40 C.F.R. § 745.86(a).

35. Respondent's failure to perform the acts indicated in above are in violations of Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615

Section VI **Consent Agreement**

36. Respondent admits the jurisdictional allegations set forth above.

37. Respondent neither admits nor denies the specific factual allegations set forth above.

38. Respondent waives any right to contest the allegations set forth above, and its right to appeal the proposed Final Order portion of this Consent Agreement and Final Order.

39. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

40. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of 40 C.F.R. Part 745.

41. Respondent has provided financial information to EPA to support the mitigation of the civil penalty and certifies by the signing of this Consent Agreement and Final Order to the truth and accuracy of that information.

42. Respondent consents to the issuance of the Final Order below and consents to the payment of the mitigated civil penalty set forth in the Final Order below, and to any conditions specified in the Consent Agreement.

Section VII
Final Order

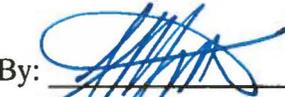
Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of Zero Dollars (\$0).
2. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

IN THE MATTER OF ACE SERVICE TEAM, LLC
Docket No. TSCA-07-2014-0009

RESPONDENT
ACE SERVICE TEAM, LLC

Date: 2/28/2014

By: 

CEO/Owner

TITLE

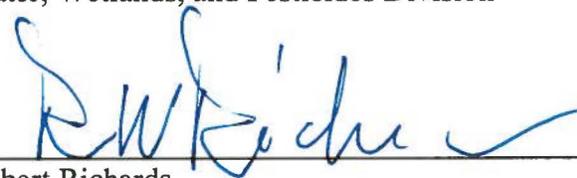
IN THE MATTER OF ACE SERVICE TEAM, LLC
Docket No. TSCA-07-2014-0009

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/17/2014

By: 
Jamie Green
Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 3/5/14

By: 
Robert Richards
Office of Regional Counsel

IN THE MATTER OF ACE SERVICE TEAM, LLC
Docket No. TSCA-07-2014-0009

IT IS SO ORDERED. This Order shall become effective immediately.

Date: 3-26-14

Karina Borrromeo
KARINA BORRROMEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Ace Service Team, LLC, Respondent
Docket No. TSCA-07-2014-0009

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy ~~hand-delivered~~ ^{email} to
Attorney for Complainant: *KR*

Robert Richards
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by First Class Mail to:

Mr. Mark Juett
Ace Service Team, LLC
1910 Lake Drive
Smithville, Missouri 64089

Dated: 3/26/14

Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7