

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Hugh W. Martinez 8/15/17
Name of Case Attorney Date

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

Case Docket Number TSCA-01-2017-0052

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

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

Cityside Management Corporation
25 Sundial Avenue
Manchester, NH 03103
46 Chris Dolloff

Total Dollar Amount of Receivable \$ 145,346 Due Date: _____

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

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

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

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





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND
5 Post Office Square, Suite 100 (OES 04-3)
Boston, MA 02109-3912

RECEIVED

AUG 14 2017

EPA ORC WS
Office of Regional Hearing Clerk

OFFICE OF
ENVIRONMENTAL STEWARDSHIP

HUGH W. MARTINEZ
direct: (617) 918-1867

BY HAND

August 14, 2017

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109-3912

Re: In Re Cityside Management Corporation, Docket No. TSCA-01-2017-0052
Approved Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (CAFO) resolving the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the CAFO and this cover letter were mailed to Respondent's President, Chris Dolloff.

Thank you for your assistance in this matter.

Sincerely,

Hugh W. Martinez, Senior Enforcement Counsel
U.S. EPA Region 1

Enclosures

cc: Chris Dolloff, President, Cityside Management Corporation
Ronnie Levin, Inspector, EPA Region 1 [by e-mail]

CERTIFICATE OF SERVICE

I hereby certify that this Certificate of Service and the foregoing Consent Agreement and Final Order and cover letter to the Regional Hearing Clerk were delivered in the following manner to the addressees listed below:

Originals (double-sided)
and One Copy by
Hand Delivery to:

Wanda I. Santiago
Regional Hearing Clerk
Environmental Protection Agency
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109-3912

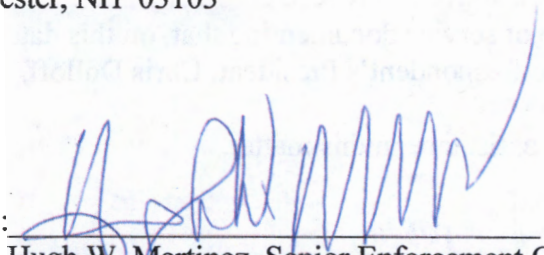
One Copy by Certified
Mail – Return Receipt
Requested to:

Chris Dolloff, President
Cityside Management Corporation
25 Sundial Avenue
Manchester, NH 03103

Date:

8-14-17

Signed:



Hugh W. Martinez, Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region 1 (Mail Code: OES 04-3)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone (617) 918-1867
Fax (617) 918-0867
martinez.hugh@epa.gov

RECEIVED

AUG 14 2017

EPA ORC WS
Office of Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In The Matter of:)
)
Cityside Management Corporation,)
)
)
Respondent.)

Docket No. TSCA-01-2017-0052
**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), having filed an Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent, Cityside Management Corporation, on June 21, 2017, and Respondent, having received extensions of time in which to file an Answer such that no Answer was filed, hereby agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. As used herein, Complainant and Respondent are referred to, collectively, as the “Parties.”

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties brought pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. §§ 745.87 and 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. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

2. EPA alleged in its Complaint that Respondent 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 federal regulations promulgated under TSCA and the Act, including 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*, 40 C.F.R. §§ 745.100-745.119], 40 C.F.R. Part 745, Subpart E [*Residential Property Renovation*, 40 C.F.R. §§ 745.80-745.92], and 40 C.F.R. Part 745, Subpart L [*Lead-Based Paint Activities*, 40 C.F.R. §§ 745.220-745.239]. As used herein, references to the “Disclosure Rule” are references to the regulations at 40 C.F.R. Part 745, Subpart F, as amended, and references to the “Renovation, Repair and Painting Rule” or “RRP Rule” are references to the regulations at 40 C.F.R. Part 745, Subparts E and L together, as amended.

TERMS OF SETTLEMENT

GENERAL

3. The provisions of this CAFO shall apply to and be binding on Respondent and its officers, directors, successors, and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

5. Respondent hereby waives the right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and the right to appeal the Final Order.

6. Respondent hereby certifies that it is currently operating in compliance with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, the Disclosure Rule at 40 C.F.R. Part 745, Subpart F, and the Renovation, Repair and Painting Rule at 40 C.F.R. Part 745, Subparts E and L. Respondent certifies, to the best of its information and belief, after thorough inquiry, that the information provided to EPA during the course of the EPA investigation of this matter is true and complete.

PENALTY

7. Pursuant to Section 16(a) of TSCA and in light of the nature of the violations and relevant statutory penalty criteria, EPA has determined that it is fair and proper to assess a civil penalty of one hundred forty-five thousand three hundred forty-six dollars (\$145,346) for the violations alleged in this matter.

8. Respondent shall pay the civil penalty of \$145,346 within thirty (30) days of the effective date of this CAFO.

9. Respondent agrees to pay the civil penalty of \$145,346 in the manner described below:

- a. Payment shall be in a single payment of \$145,346 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard time to be considered as received that day.
- b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In the Matter of Cityside Management Corporation*, TSCA-01-2017-0052), be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (Mail Code ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Hugh W. Martinez, Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES 04-3)
Boston, MA 02109-3912

10. The failure by Respondent to pay the penalty in full by the due date may subject Respondent to a civil action to collect the assessed penalty, plus all accrued interest as calculated

pursuant to Paragraph 12, due to the United States upon such failure. Interest shall continue to accrue on all unpaid amounts until the total amount due has been received by the United States. Respondent shall be liable for such amounts regardless of whether EPA has notified Respondent of its failure to pay or made demand for payment. All payments to the United States under this Paragraph shall be made in accordance with Paragraph 9.

11. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim.

12. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

13. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS

14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and regulations implementing TSCA, at 40 C.F.R. §§ 745.87 and 745.118, for the violations alleged in the Complaint. Payment of any civil penalties required under this CAFO shall be deemed to resolve all civil and administrative claims for matters addressed in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law.

15. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

16. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

17. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

18. The Parties shall bear their own costs and fees in this action, including attorneys' fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

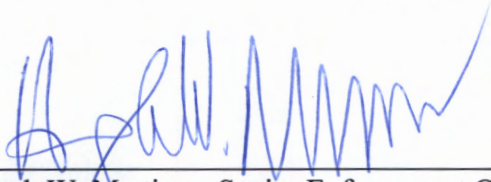
19. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Complainant, U.S. Environmental Protection Agency:



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

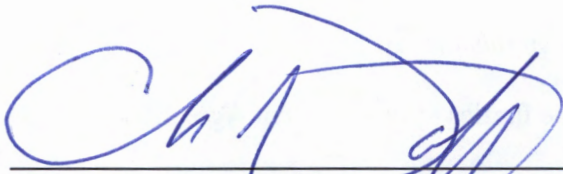
Date: 8/9/17



Hugh W. Martinez, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 8-9-17

For Respondent, Cityside Management Corporation:



Chris Dolloff, President
Cityside Management Corporation

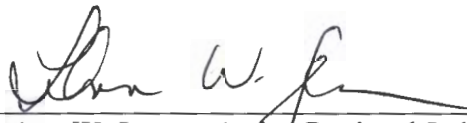
Date: 8-1-17

FINAL ORDER

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

Date:

August 9, 2017



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

