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8 UNITED STATES
9 ENVIRONMENTAL PROTECTION AGENCY
10 REGION IX

Docket No. TSCA-09-2023-0077

11 **In the Matter of:**

12 **Karabuild Development, Inc.**

13 **Respondent.**

14 **CONSENT AGREEMENT AND FINAL
15 ORDER PURSUANT TO
16 40 C.F.R. §§ 22.13 AND 22.18**

17 **I. CONSENT AGREEMENT**

18 The United States Environmental Protection Agency (“EPA”), Region IX, and Karabuild
19 Development, Inc. (“Respondent”) agree to settle this matter and consent to the entry of this Consent
20 Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in
21 accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

22 **A. AUTHORITY AND PARTIES**

23 1. This is a civil administrative penalty action brought against Respondent pursuant to Section 16(a)
24 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), for violations of Section 409 of
25 TSCA, 15 U.S.C. § 2689, for failing to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682
26 and 2686, and its implementing federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

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1 7. "Person" means any natural or judicial person including any individual, corporation, partnership,
2 or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any
3 department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 745.83.

4 8. "Firm" means a company, partnership, corporation, sole proprietorship or individual doing
5 business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a
6 nonprofit organization. 40 C.F.R. § 745.83.

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8 9. "Renovation" means the modification of any existing structure, or portion thereof, that results in
9 the disturbance of painted surfaces, unless that activity is part of an abatement as defined by 40 C.F.R. §
10 745.223. The term "renovation" includes (but is not limited to): the removal, modification or repair of
11 painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window
12 repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate
13 paint dust); the removal of building components (e.g., walls, ceilings, plumbing windows); weatherization
14 projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics
15 planning thresholds to install weatherstripping), and interim controls that disturb painted surfaces
16 The term "renovation" does not include minor repair and maintenance activities. 40 C.F.R. § 745.83.

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18 10. "Minor repair and maintenance activities" means activities, including minor heating, ventilation
19 or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted
20 surface per room for interior activities or 20 square feet or less of painted surface for exterior activities
21 where none of the work practices prohibited or restricted by § 745.85(a)(3) are used and where the work
22 does not involve window replacement or demolition of painted surface areas. 40 C.F.R. § 745.83.

23 11. "Renovator" means any individual who either performs or directs workers who perform
24 renovations. A certified renovator is a renovator who has successfully completed a renovator course
25 accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. § 745.83.

26 12. "Painted surface" means a component surface covered in whole or in part with paint or other
27 surface coatings. 40 C.F.R. § 745.83.

1 13. “Component or building component” means specific design or structural elements or fixtures of a
2 building or residential dwelling that are distinguished from each other by form, function, and location.
3 These include, but are not limited to, interior components such as . . . crown molding, walls, doors,
4 windows and trim (including sashes, window heads, jambs, sills or stools and troughs) . . . columns,
5 beams, bathroom vanities, and counter tops. 40 C.F.R. § 745.83.

6 14. “Pamphlet” means the EPA pamphlet titled “Renovate Right: Important Lead Hazard Information
7 for Families, Child Care Providers and Schools,” developed under Section 406(a) of TSCA, 15 U.S.C. §
8 2686(a), or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is
9 developed for the same purpose.
10

11 15. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation
12 Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation Adjustment
13 Act of 2015, 28 U.S.C. § 2461, as amended, authorize civil penalties not to exceed \$46,989 per day for
14 each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where
15 penalties were assessed on or after January 6, 2023.

16 **C. ALLEGED VIOLATIONS**

17 16. Respondent is a “person,” as that term is defined at 40 C.F.R. § 745.83.

18 17. At all times relevant to this CAFO, Respondent was a “firm,” as that term is defined at 40 C.F.R.
19 § 745.83.
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21 18. In or around the 2018-2019 school year, Respondent performed “renovations,” as that term is
22 defined at 40 C.F.R. § 745.83, for compensation at Chandler Elementary School in Sherman Oaks,
23 California (the “Property”).

24 19. At all times relevant to this CAFO, the Property was a “child-occupied facility,” as that term is
25 defined at 40 C.F.R. § 745.83.

26 20. Firms that perform renovations for compensation must apply to EPA for certification to perform
27 renovations. 40 C.F.R. § 745.89(a).
28

1 21. On or after April 22, 2010, no firm may perform a renovation without certification from EPA
2 under 40 C.F.R. § 745.89(a) in target housing or child-occupied facilities unless the renovation is
3 performed in target housing or child-occupied facilities that have been determined to be lead-free
4 pursuant to 40 C.F.R. § 745.82(a). 40 C.F.R. § 745.81(a)(2)(ii).

5 22. To maintain its certification, a firm must be re-certified by EPA every 5 years. 40 C.F.R. §
6 745.89(b).

7 23. If the firm fails to obtain recertification before the firm's current certification expires, the firm
8 must not perform renovations or dust sampling until it is certified anew pursuant to 40 C.F.R. § 745.89(a).
9 40 C.F.R. § 745.89(b)(1)(iii).

10 24. At all times relevant to this CAFO, Respondent had not obtained a re-certification before its
11 certification expired.

12 25. At all times relevant to this CAFO, the Respondent performed renovations for compensation
13 without obtaining a re-certification after the expiration of its certification.

14 26. At all times relevant to this CAFO, the Property had not been determined to be lead-free pursuant
15 to 40 C.F.R. § 745.82(a) before the renovations for compensation occurred.

16 27. Respondent's performance of renovations for compensation at the Property without re-
17 certification from EPA under 40 C.F.R. § 745.89(b) constitutes one violation of 40 C.F.R. §
18 745.81(a)(2)(ii), 40 C.F.R. § 745.89(b)(1)(iii), and Section 409 of TSCA, 15 U.S.C. § 2689.

19 28. No more than 60 days before beginning renovation activities in any child-occupied facility, the
20 firm performing the renovation must provide the owner of the building with the lead hazard information
21 pamphlet, and comply with one of the following: (a) obtain, from the owner, a written acknowledgement
22 that the owner has received the pamphlet, or (b) obtain a certificate of mailing at least seven days prior to
23 the renovation. 40 C.F.R. § 745.84(c)(1)(i).
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1 29. Respondent did not provide the owner of the Property with the pamphlet before performing
2 renovations for compensation nor did Respondent obtain from the owner either a written acknowledgment
3 that the owner received the pamphlet or a certificate of mailing.

4 30. Respondent's performance of renovations for compensation at the Property without providing the
5 owner with the lead hazard information pamphlet or obtaining written acknowledgment from the owner or
6 a certificate of mailing constitutes one violation of 40 C.F.R. § 745.84(c)(1)(i) and Section 409 of TSCA,
7 15 U.S.C. § 2689.

8 31. Firms performing renovations must ensure that a certified renovator is assigned to each
9 renovation performed by the firm and discharges all of the certified renovator responsibilities identified in
10 40 C.F.R. § 745.90. 40 C.F.R. § 745.89(d)(2).

11 32. Respondent failed to ensure that a certified renovator who discharged all of the certified renovator
12 responsibilities was assigned to the renovations.

13 33. Respondent's performance of renovations for compensation at the Property without ensuring that
14 a certified renovator was assigned who discharged all of the certified renovator responsibilities constitutes
15 one violation of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA, 15 U.S.C. § 2689.

16 34. Firms performing renovations must retain, and, if requested, make available to EPA
17 documentation of compliance with 40 C.F.R. § 745.85, including documentation that the certified
18 renovator provided on-the-job training for workers used on the project; that the certified renovator
19 performed or directed workers who performed all of the tasks described in 40 C.F.R. § 745.85(a); and that
20 the certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. §
21 745.85(b). 40 C.F.R. § 745.86(b)(6).

22 35. Respondent did not retain documentation for the renovations performed at the Property that: a
23 certified renovator provided on-the-job training for workers used on the project; a certified renovator
24 performed or directed workers who performed all of the work practices described in 40 C.F.R. §
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1 745.85(a); and a certified renovator performed the post-renovation cleaning verification described in 40
2 C.F.R. § 745.85(b).

3 36. Respondent's failure to retain documentation for the renovations performed at the Property that: a
4 certified renovator provided on-the-job training for workers used on the project; a certified renovator
5 performed or directed workers who performed all of the work practice tasks described in 40 C.F.R. §
6 745.85(a); and a certified renovator performed the post-renovation cleaning verification described in 40
7 C.F.R. § 745.85(b) constitutes three violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15
8 U.S.C. § 2689.
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10 **D. RESPONDENT'S ADMISSIONS**

11 37. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent:

- 12 a. admits the jurisdictional allegations contained herein;
- 13 b. neither admits nor denies the specific factual allegations contained herein;
- 14 c. consents to the assessment of the stated civil penalty and to any conditions specified herein;
- 15 d. waives any right to contest the allegations contained herein; and
- 16 e. waives the right to appeal the proposed Final Order accompanying this Consent Agreement.
17

18 **E. CIVIL ADMINISTRATIVE PENALTY**

19 38. Respondent agrees to the assessment of a penalty in the amount of TWO THOUSAND SEVEN
20 HUNDRED NINETY DOLLARS (\$2,790) as final settlement of the civil claims against Respondent
21 arising under TSCA as alleged in Section I.C of this CAFO.

22 39. Respondent shall pay the assessed penalty no later than thirty (30) calendar days of the effective
23 date of this CAFO. The assessed penalty shall be paid by certified or cashier's check, including the name
24 and docket number of this matter, payable to "Treasurer, United States of America," or be paid by one of
25 the other methods listed below and sent as follows:

26 **Regular Mail:**
27 U.S. Environmental Protection Agency
28 Fines and Penalties

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1 Cincinnati Finance Center
2 PO Box 979077
3 St. Louis, MO 63197-9000

4 **Wire Transfers:**

5 Wire transfers must be sent directly to the Federal Reserve Bank in New York City with
6 the following information:

7 Federal Reserve Bank of New York

8 ABA = 021030004

9 Account = 68010727

10 SWIFT address = FRNYUS33

11 33 Liberty Street

12 New York, NY 10045

13 Field Tag 4200 of the Fedwire message should read "D 68010727

14 Environmental Protection Agency"

15 **Overnight Mail:**

16 U.S. Bank

17 1005 Convention Plaza

18 Mail Station SL-MO-C2GL

19 ATTN Box 979077

20 St. Louis, MO 63101

21 **ACH** (also known as REX or remittance express):

22 US Treasury REX/Cashlink ACH Receiver ABA = 051036706

23 Account Number: 310006, Environmental Protection Agency

24 CTX Format Transaction Code 22 – checking

25 Physical location of US Treasury Facility

26 5700 Rivertech Court

27 Riverdale, MD 20737

28 Remittance Express (REX) 1-866-234-5681

29 **Online Payment:**

30 This payment option can be accessed from the information below:

31 www.pay.gov

32 Enter "sfo1.1" in the search field

33 Open form and complete required fields

34 If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati
35 Finance Center at (513) 487-2091.

36 Concurrently, a copy of each check or notification that the payment has been made by one of the other
37 methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter
38 indicating Respondent's name, the case title, and the docket number to the following addressees:

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1 Regional Hearing Clerk
2 R9HearingClerk@epa.gov

3 Christopher Rollins
4 rollins.christopher@epa.gov

5 40. Payment of the above civil administrative penalty shall not be used by Respondent or any other
6 person as a tax deduction from Respondent's federal, state, or local taxes.

7 41. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 38 by
8 the manner and deadlines specified in Paragraph 39, then the entire remaining balance of the assessed
9 penalty shall immediately become due and payable. Respondent also shall pay to EPA a stipulated penalty
10 of FIVE HUNDRED DOLLARS (\$500) per day for each day that payment is late in addition to the
11 assessed penalty. Stipulated penalties shall accrue until such time as the assessed penalty and all accrued
12 stipulated penalties are paid and shall become due and payable upon written request by EPA. In addition,
13 failure to pay the civil administrative penalty by the manner and deadlines specified in Paragraph 39 may
14 lead to any or all of the following actions:

- 15 a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of
16 Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R.
17 §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and
18 appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- 19 b. The debt being collected by administrative offset (i.e., the withholding of money payable by the
20 United States to, or held by the United States for, a person to satisfy the debt the person owes the
21 Government), which includes, but is not limited to, referral to the Internal Revenue Service for
22 offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- 23 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or
24 disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or
25 funds. 40 C.F.R. § 13.17.
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1 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties
2 charges, and administrative costs will be assessed against the outstanding amount that
3 Respondent owes to EPA for Respondent's failure to pay in full the assessed civil administrative
4 penalty by the deadlines specified in Paragraph 39. Interest will be assessed at an annual rate that
5 is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax
6 and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal
7 Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).
8 Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).
9 Administrative costs for handling and collecting Respondent's overdue debt will be based on
10 either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. §
11 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the
12 Department of Justice, the Internal Revenue Service), that department or agency may assess its
13 own administrative costs, in addition to EPA's administrative costs, for handling and collecting
14 Respondent's overdue debt.
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16 **F. CERTIFICATION OF COMPLIANCE**

17 42. In executing this CAFO, Respondent certifies that it is now fully in compliance with the federal
18 regulations promulgated at 40 C.F.R. Part 745, Subpart E.
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20 **G. RETENTION OF RIGHTS**

21 43. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for
22 federal civil penalties for the violations and facts specifically alleged in Section I.C of this CAFO.
23 Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of
24 any provisions of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not
25 specifically alleged in Section I.C of his CAFO; or (ii) any criminal liability. EPA specifically reserves
26 any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or
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1 other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not
2 specifically alleged in Section I.C of this CAFO.

3 44. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply
4 with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

5 **H. ATTORNEY'S FEES AND COSTS**

6 45. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this
7 proceeding.

8 **I. EFFECTIVE DATE**

9 46. In accordance with 40 C.F.R. 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date
10 that the Final Order contained in this CAFO, having been approved and issued by either the Regional
11 Judicial Officer or Regional Administrator, is filed.

12 **J. BINDING EFFECT**

13 47. The undersigned representative of Complainant and the undersigned representative of Respondent
14 each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to
15 bind the party he or she represents to this CAFO.

16 48. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers,
17 directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
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1 FOR RESPONDENT KARABUILD DEVELOPMENT, INC.:

2
3 7/27/23
4 DATE

5 
6 ARA KARAJERJIAN
7 CEO and Project Manager
8 Karabuild Development, Inc.

9 FOR COMPLAINANT EPA:

10 7/27/2023
11 DATE

12 MATTHEW
13 SALAZAR

14 Digitally signed by MATTHEW
15 SALAZAR
16 Date: 2023.07.27 08:15:18
17 -07'00'

18 MATT SALAZAR, P.E.
19 Manager, Toxics Section
20 Enforcement and Compliance Assurance Division
21 U.S. Environmental Protection Agency, Region IX
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing Consent Agreement and Final Order in the matter of Karabuild
3 Development, Inc. (TSCA-09-2023-0077) was filed with the Regional Hearing Clerk, and that a
4 true and correct copy of the same was sent to the following parties via electronic mail, as
5 indicated below:

6 **RESPONDENT:** Ara K. Karajerjian
7 CEO and Project Manager
8 Karabuild Development, Inc.
9 17530 Ventura Blvd., Suite 209A
10 Encino, CA 91316
11 Publicworks@Karabuild.com
12 (818) 817-9300

13 **COMPLAINANTS:** Jacob Finkle
14 Assistant Regional Counsel
15 U.S. EPA – Region IX
16 75 Hawthorne Street, ORC-2-2
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19 Christopher Rollins
20 Environmental Protection Specialist
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Ponly J. Tu Date
Regional Hearing Clerk
U.S. EPA - Region IX