

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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In the Matter of:)
) Docket No. TSCA-05-2008-0019
Mardaph II, LLC, Mardaph III,)
LLC, and Vinnie Wilson,)
Cincinnati, Ohio)
)
Respondents.)
_____)

ORDER TO SHOW CAUSE

This is an administrative action alleging that Respondents Mardaph II, LLC, Mardaph III, LLC, and Vinnie Wilson violated the Toxic Substances Control Act (“TSCA”). Specifically, the Complaint alleges that the two companies (as lessors) and Ms. Wilson (as the owner and/or agent for the owner of rental units) failed to provide its lessees with the required disclosures regarding the possible presence of lead paint at the rental units. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA) Region 5, has moved for entry of a default order against Respondents Mardaph II, LLC, and Mardaph III, LLC, for their failure to file an answer in this matter.¹

This proceeding is governed by the Consolidated Rules of Practice, 40 C.F.R. Part 22. Section 22.17(a) of the Consolidated Rules provides in part:

(a) *Default.* A party may be found to be in default: after motion, upon failure to file a timely answer to the complaint. . . . Default by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent’s right to contest such factual allegations. . . .

(c) *Default order.* When the Presiding Officer finds that a default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. If the order resolves all outstanding issues and claims in the proceeding, it shall constitute the initial decision under these Consolidated Rules of Practice. The relief proposed in the complaint or in the motion for default shall be ordered unless the

¹ Complainant previously moved for entry of a default order against Respondent Wilson. That motion, however, was denied and Ms. Wilson has filed an answer.


requested relief is clearly inconsistent with the record of the proceeding or the Act.

The record in this matter reflects that Vinnie Wilson is the President of Mardaph II and Mardaph III.² She is appearing in this matter *pro se* and filed an answer on May 22, 2009. That answer was on behalf of Ms. Wilson only, not the two companies which she apparently serves as President. The Consolidated Rules require that an answer be filed by *all* respondents, regardless of their relationship to one another. Thus, an answer by Respondents Mardaph II and Mardaph III is overdue.

In view of the gravity and consequences of a default, Respondents Mardaph II, LLC, and Mardaph III, LLC, are ORDERED, on or before **July 22, 2009**, to show cause why each should not be held in default and to answer the Complaint. **Failure on the part of Respondents to file a timely response to this Order or an answer could subject them to assessment of the full amount of the proposed civil penalty which is \$30,320 as to Respondent Mardaph II, LLC, and \$26,840 as to Respondent Mardaph III, LLC.**

IT IS SO ORDERED.

Date: July 1, 2009


Marcy A. Toney
Regional Judicial Officer

² See Complainant's *Brief in Support of Motion for Default* (filed June 10, 2009) at Exh. 1 Att. C.

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In the Matter of Mardaph II, LLC, Mardaph II, LLC, and Vinnie Wilson, Respondents.
Docket No. TSCA-05-2008-0019

CERTIFICATE OF SERVICE

I certify that the foregoing Order to Show Cause, dated July 1, 2009, was sent this day in the following manner:

Original hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 5 (E-19J)
77 West Jackson Boulevard
Chicago, IL 60604-3590

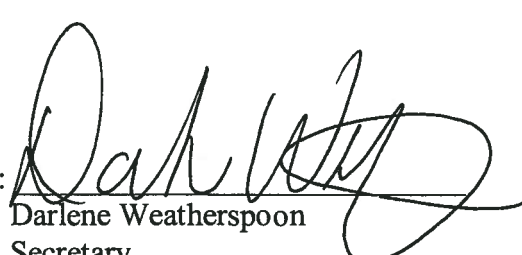
Copy hand delivered to
Attorney for Complainant:

Peter Felitti
U. S. Environmental Protection
Agency, Region 5 (C-14J)
Office of Regional Counsel
77 West Jackson Boulevard
Chicago, IL 60604-3590

Copy by U.S. Mail to:

Ms. Vinnie Wilson
P.O. Box 317639
Cincinnati, Ohio 45231

Dated: 7/1/09

By: 
Darlene Weatherspoon
Secretary