



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
July 8, 2014

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL 7009 1680 0000 7649 9996
RETURN RECEIPT REQUESTED

Mr. David Lubben
Davis & Campbell L.L.C.
401 Main Street, Suite 1600
Peoria, IL 61602

Consent Agreement and Final Order in the Matter of
Charles Greyeb, Docket No. TSCA-05-2014-0015

Dear Mr. Lubben:

I have enclosed a copy of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on July 8, 2014 with the Regional Hearing Clerk.

The civil penalty in the amount of \$2,291 is to be paid in the manner described in paragraphs 31 and 32. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by August 7, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Paul Fericelli".

Paul Fericelli
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Charles Grayeb
Peoria, Illinois,

Respondent.



Docket No. TSCA-05-2014-0015

Proceeding to Assess a Civil
Penalty Under Section 16(a) of the
Toxic Substances Control Act,
15 U.S.C. § 2615(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Charles Grayeb, a sole proprietor with a place of business located at 510 West High Street, Peoria, Illinois 61606.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO. Respondent neither admits nor denies any violations of statutory requirements.

8. Respondent waives his right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and his right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Lead Act), 42 U.S.C. § 4852d, requires the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing that is offered for sale or lease.

10. On March 6, 1996, EPA promulgated regulations at 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 (Disclosure Rule) pursuant to 42 U.S.C. § 4852d.

11. 40 C.F.R. § 745.103 defines target housing as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

12. 40 C.F.R. § 745.103 defines “lessor” as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

13. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

14. 40 C.F.R. § 745.100 requires, among other things, that the seller or lessor of target housing complete the required disclosure activities before a purchaser or lessee is obligated under any

contract to purchase or lease target housing.

15. 40 C.F.R. § 745.113(b) requires that each contract to lease target housing include, as an attachment or within the contract, a lead warning statement; a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence; a list of any records or reports available to the lessor regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet; and, the signatures and dates of signature of the lessor and lessee certifying the accuracy of their statements.

16. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failure to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

17. The Administrator of EPA may assess a civil penalty of up to \$11,000 for each violation of Section 409 of TSCA that occurred after July 28, 1997 through January 12, 2009 and may assess a civil penalty of up to \$16,000 for each violation of Section 409 that occurred after January 12, 2009, pursuant to 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Between at least May 1, 2010 and November 2, 2011, Respondent owned residential buildings in Peoria, Illinois at 601 North West Bryan Street and 605 North West Bryan Street (Respondent's properties).

19. Respondent's properties were both built before 1978.

20. Respondent's properties are "target housing" as defined in 40 C.F.R. § 745.103.

21. On the following dates, Respondent entered into the following three written lease

agreements (contracts) with individuals for the lease of Respondent's properties:

Address	Date of Lease
605 North West Bryan Street, Unit F1	May 1, 2010
605 North West Bryan Street, Unit R3	August 31, 2011
601 North West Bryan Street, Unit 1	November 2, 2011

22. Each of the three contracts referred to in paragraph 21, above, covered a term of occupancy greater than 100 days.

23. Respondent is a "lessor," as defined in 40 C.F.R. § 745.103, because it offered the target housing referred to in paragraph 21, above, for lease.

24. The individuals who signed a lease to pay rent in exchange for occupancy of the target housing referred to in paragraph 21, above, became "lessees" as defined in 40 C.F.R. § 745.103.

25. Respondent failed to include a lead warning statement, either within the contracts or as an attachment to the contracts for the lease of Respondent's properties listed in paragraph 21 in violation of 40 C.F.R. § 745.113(b)(1), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

26. Respondent failed to include a statement disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the contracts or as an attachment to the contracts for the lease of Respondent's properties listed in Paragraph 21 in violation of 40 C.F.R. § 745.113(b)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

27. Respondent failed to include a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessees or a statement that no such records are available, either within the contracts or as an attachment to the contracts for the lease of Respondent's properties listed in Paragraph 21 in violation of 40 C.F.R. § 745.113(b)(3), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

28. Respondent failed to include statements by the lessees affirming receipt of the

information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the contracts or as an attachment to the contracts for the lease of Respondent's properties listed in Paragraph 21 in violation of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

29. Respondent failed to include the signatures of the lessor and the lessees certifying to the accuracy of their statements and the dates of such signatures, either within the contracts or as an attachment to the contracts for the lease of Respondent's properties listed in Paragraph 21 in violation of 40 C.F.R. § 745.113(b)(6), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Civil Penalty

30. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$2,291. In determining the penalty amount, Complainant considered the nature, circumstances, extent, gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, and any history of such prior violations, the degree of culpability and other factors as justice may require. Complainant also considered EPA's Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007.

31. Within 30 days after the effective date of this CAFO, Respondent must pay a \$2,291 civil penalty by cashier's check using one of the following mailing options:

For checks sent by regular U.S. Postal Service mail, Respondent must send a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

For checks sent by express mail, Respondent must send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must state "Charles Grayeb" and the docket number of this CAFO.

32. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when he pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Paul Fericelli (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Karen Peaceman (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

33. This civil penalty is not deductible for federal tax purposes.

34. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

35. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

37. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

38. This CAFO does not affect Respondent's responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state, and local laws.

39. Respondent certifies that he is complying with the Lead Act and the Disclosure Rule.

40. The terms of this CAFO bind Respondent, and Respondent's successors and assigns.

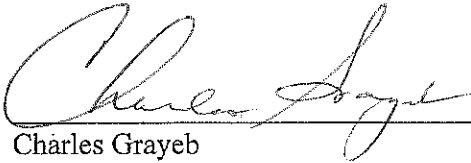
41. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

42. Each party agrees to bear its own costs and attorneys fees in this action.

43. This CAFO constitutes the entire agreement between the parties.


Charles Grayeb, Respondent

5/30/14
Date


Charles Grayeb

United States Environmental Protection Agency, Complainant

6/26/2014
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Charles Grayeb
Docket No. TSCA-05-2014-0015

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

7-2-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5


CERTIFICATE OF SERVICE

This is to certify that a copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving Charles Grayeb, was filed on July 8, 2014, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Blvd. Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7649 9996 to:

David Lubben
Davis & Campbell L.L.C.
401 Main Street, Suite 1600
Peoria, IL 61602

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Karen Peaceman, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD


James O'Neil, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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