

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:	)	DOCKET NO.: TSCA-03-2018-0123
	)	
Custom Contractors & Remodeling, Inc.	)	Proceeding Under Section 16(a) of the
4700 Belle Grove Road	)	Toxic Substances Control Act, 15 U.S.C.
Baltimore, MD 21225	)	Section 2615(a)
	)	
Respondent,	)	
	)	
5410 El Camino 2A,	)	
9625 Whiteacre Road A3, and	)	
5709 Harpers Farm Road D	)	
Columbia, MD	)	
	)	
Target Housing.	)	

**U.S. EPA-REGION 3-RHC**  
FILED-18JUL2018PM1:19

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**CONSENT AGREEMENT**

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Preliminary Statement

This Consent Agreement is entered into by the Director for the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Custom Contractors & Remodeling, Inc. (“Respondent”) pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant's civil penalty claims against Respondent under TSCA arising from alleged violations of the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.

6. Respondent shall bear his own costs and attorney's fees.
7. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

Complainant's Findings of Fact and Conclusions of Law

8. In accordance with 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

9. Pursuant to 40 C.F.R. § 745.83, the term "firm" means "a company, partnership, corporation, sole proprietorship or individual doing business, association or other business entity; a Federal, State, Tribal or local government agency; or a nonprofit organization."

10. Pursuant to 40 C.F.R. § 745.83, the term "renovation" means "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 40 C.F.R. § 745.223."

11. Pursuant to Section 401(17) of TSCA, 15 U.S.C. § 2681(17), the term "target housing" means "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. In 2015 and 2016, Respondent conducted maintenance and repair work involving the disturbance of painted surfaces in housing located at: 9625 Whiteacre Road - A3, 5410 El Camino 2A and 5709 Harpers Farm Road D, in Columbia, Maryland (collectively, the "Renovation Properties").

13. Respondent, at all times relevant to the violations alleged in this Consent Agreement, was a "firm" who performed "renovation(s)," as those terms are defined at 40 C.F.R. § 745.83, at the Renovation Properties.

14. The Renovation Properties were constructed prior to 1978 and each is "target housing" as that term is defined in Section 401(17) of TSCA, 15 U.S.C. § 2681(17).

15. Respondent's work at the Renovation Properties described in paragraph 12 each constituted a renovation for compensation under 40 C.F.R. § 745.82(a) and was subject to the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E.

Alleged Violations

**Count 1 – Failure to Obtain Firm Re-Certification**

16. The allegations contained in Paragraphs 1 through 15 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

17. Pursuant to 40 C.F.R. § 745.89(b)(1)(iii), a firm must not perform renovations until it is certified anew pursuant to 40 C.F.R. § 745.89 if it fails to obtain recertification before its current certification expires.

18. At the time Respondent performed the renovations at the Renovation Properties in 2015 and 2016, its current certification had expired and Respondent had not obtained recertification pursuant to 40 C.F.R. § 745.89.

19. Respondent's acts or omissions described in paragraph 18 immediately above constitute a violation of 40 C.F.R. § 745.89(b)(1)(iii) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### **Counts 2-4 – Failure to Ensure Certified Renovators are Assigned**

20. The allegations contained in Paragraphs 1 through 19 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

21. Pursuant to 40 C.F.R. § 745.89(d)(2), firms are required to ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90.

22. Respondent did not ensure that a certified renovator was assigned to the renovations it performed at each of the Renovation Properties in 2015 and 2016.

23. Respondent's acts or omissions described in paragraph 22 immediately above constitute violations of 40 C.F.R. § 745.89(d)(2) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### **Count 5-6 – Failure to Provide EPA-Approved Lead Hazard Pamphlet**

24. The allegations contained in Paragraphs 1 through 23 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

25. Pursuant to 40 C.F.R. § 745.84(a), firms are required to provide EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet to owners or adult occupants of dwelling units before beginning renovation activities.

26. Respondent failed to provide the owner or adult occupant with EPA's *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers* pamphlet prior to beginning renovation activities at 9625 Whiteacre Road - A3 and 5709 Harpers Farm Road D, Columbia, Maryland, in 2015 and 2016, respectively.

27. Respondent's acts or omissions described in paragraph 26 immediately above constitute violations of 40 C.F.R. § 745.84(a) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### **Count 7-9 – Failure to Retain Records Demonstrating Compliance with Work Practices**

28. The allegations contained in Paragraphs 1 through 27 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

29. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations are required to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E, for a period of 3 years following completion of the renovation.

30. Section 40 C.F.R. §745.86(b) specifies the types of records required to be retained pursuant to 40 C.F.R. § 745.86(a) and includes, but is not limited to, records documenting compliance with the work practice standards of 40 C.F.R. § 745.85(a) and post renovation cleaning verification requirements of 40 C.F.R. § 745.85(b). *See* 40 C.F.R. § 745.86(b)(6).

31. Respondent failed to retain records documenting compliance with the Residential Property Renovation regulations promulgated at 40 C.F.R. 745, Subpart E, including records documenting compliance with the work practice standards of 40 C.F.R. § 745.85(a) or post renovation cleaning verification requirements of 40 C.F.R. § 745.85(b) as required by 40 C.F.R. §745.86(b)(6) for the renovations performed at each of the Renovation Properties in 2015 and 2016.

32. Respondent's acts or omissions described in paragraph 31 immediately above constitute violations of 40 C.F.R. § 745.86(a) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

#### Civil Penalty

33. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of three hundred and fifty dollars (\$350). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty of three hundred and fifty dollars (\$350) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

34. The Parties represent that the settlement terms are based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013).

35. The Parties acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon financial information submitted to Complainant by and on behalf of Respondent. By his signature

below, Respondent's representative certifies that the information submitted to EPA regarding its ability to pay is accurate and not misleading. Respondent is aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any of other matter herein at issue, are materially false, fictitious or fraudulent.

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

37. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

38. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

39. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

40. Respondent shall pay the amount described in paragraph 33 by sending a certified or cashier's check payable to the "United States Treasury," as follows:

- a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO, 63197-9000.  
Contact: Craig Steffen 513-487-2091  
Jessica Henderson 513-487-2718

- b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone contact: 314-418-1028

- c. All payment made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- d. By electronic funds transfer (“EFT”) to the following account:

Federal Reserve Bank of New York  
ABA 021030004  
Account No. 68010727  
SWIFT Address FRNYUS33  
33 Liberty Street  
NY, NY 10045

(Field tag 4200 of Fedwire message should read “D 68010727  
Environmental Protection Agency”)

- e. By automatic clearinghouse (“ACH”) to the following account:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA 051036706  
Account No. 310006  
Environmental Protection Agency  
CTX Format  
Transaction Code 22 – checking

Contact: John Schmid 202-874-7026  
REX 866-234-5681

- f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

- g. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

All payments shall also reference the above case caption and docket number (Docket No. TSCA-03-2018-0123). At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III

Jennifer M. Abramson (3RC50)  
U.S. EPA, Region III

Effective Date

45. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

46. This CAFO constitutes the entire agreement and understanding of the Complainant and Respondent concerning settlement of the action referenced in the caption above, and there are no representations, warranties, covenants, terms, or conditions agreed upon between Complainant and Respondent other than those expressed herein.

For Respondent:

6-6-18

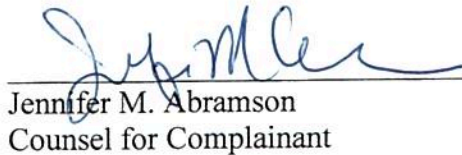
Date

  
Martin Mooney, President  
Custom Contractors & Remodeling, Inc.

For Complainant:

6/26/18

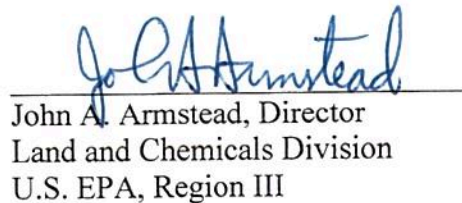
Date

  
Jennifer M. Abramson  
Counsel for Complainant

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

7.10.18

Date

  
John A. Armstead, Director  
Land and Chemicals Division  
U.S. EPA, Region III

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

Custom Contractors & Remodeling, Inc.  
4700 Belle Grove Road  
Baltimore, MD 21225

Respondent,

5410 El Camino 2A,  
9625 Whiteacre Road A3, and  
5709 Harpers Farm Road D  
Columbia, MD

Target Housing.

**EPA Docket No. TSCA-03-2018-0123**

**FINAL ORDER**

**Proceeding under** Section 16(a) of the  
Toxic Substances Control Act,  
15 U.S.C. § 2615(a).

U.S. EPA-REGION 3-RHC  
FILED-18JUL2018pm1:19

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Custom Contractors & Remodeling, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (August 2012, revised April 2013) and the statutory factors set forth in Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

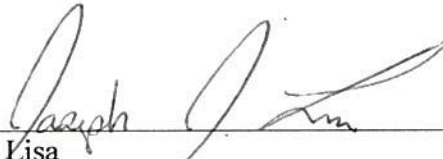
**NOW, THEREFORE, PURSUANT TO** Sections 16(a) and 409 of TSCA, 15 U.S.C. §§ 2615(a) and 2689, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **THREE**



**HUNDRED AND FIFTY DOLLARS (\$350)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

July 18, 2018  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:	)	
	)	DOCKET NO.: TSCA-03-2018-0123
Custom Contractors & Remodeling, Inc.	)	
4700 Belle Grove Road	)	Proceeding Under Section 16(a) of the
Baltimore, MD 21225	)	Toxic Substances Control Act, 15 U.S.C.
	)	Section 2615(a)
Respondent.	)	

**CERTIFICATE OF SERVICE**

I certify that on JUL 18 2018, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

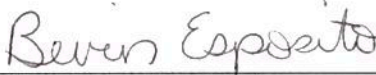
Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Martin Mooney, President  
Custom Contractors & Remodeling, Inc.  
4700 Belle Grove Road, Suite 20  
Baltimore, MD 21225

Copy served via **Hand Delivery or Inter-Office Mail** to:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
Office of Regional Counsel (3RC50)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)

Dated: JUL 18 2018

  
\_\_\_\_\_  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 7004 2510 0004 7902 8544