

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

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COMMUNICATIONS SECTION
U.S. ENVIRONMENTAL AGENCY

*Via Certified Mail,
Return Receipt Requested, Postage Prepaid
(Article No. 7004 2890 0000 5075 7484)*

JAN 19 2009

Frank B. Kirsch, III
208 87th Street
Virginia Beach, VA 23451

Re: Letter of Remittance

Broadway Associates (a/k/a Broadway Avenue Associates), Frank B. Kirsch, III and Michael R. Kirsch, General Partners, Olde Hampton, LLC and MBA-View, LLC
Consent Agreement & Final Order (*Docket No. TSCA-03-2008-0052*)

Dear Mr. Kirsch:

On March 25, 2008, the Regional Judicial Officer issued a Final Order ratifying the Consent Agreement (collectively, the "CAFO") entered into by the Director of the Waste and Chemicals Management Division of the U.S. Environmental Protection Agency, Region III ("EPA"), and each of the individuals, partnerships and limited liability corporations identified above ("Respondents"), which simultaneously initiated and resolved alleged violations by such Respondents of various requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, and regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F, which statutory and regulatory provisions are enforceable pursuant to RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689. As a requirement and condition of the settlement, the Respondents agreed to pay a penalty of \$31,418.25 and to spend up to \$67,900.75 in the performance of a Lead-Based Paint Abatement Supplemental Environmental Project ("SEP"). The SEP required Respondents to remove fifty-one (51) window casings, forty-eight (48) windows (including frames, sashes, window heads, jambs, sills or stools and troughs), two (2) front entrance doors and nine (9) interior doors and associated door casings in residential dwelling areas of a "target housing" property located at 534 Hampton Place, Portsmouth, Virginia 23704, upon which the presence of lead-based paint had been confirmed through preliminary X-ray fluorescence analysis, and to replace each removed window with an energy-efficient window that is free of lead-based paint and each removed door with one that is free of lead-based paint, along with other specified lead-based paint abatement and post-abatement activities.

EPA has determined that the Respondents timely paid the required \$31,418.25 civil penalty. EPA further has determined, based on information that you provided to EPA in a December 31, 2008 SEP Completion Report (amended by a correction letter dated January 14, 2009) and required pursuant to Paragraph 112 of the Consent Agreement, that: (i) the SEP was conducted and timely completed by the Respondents in accordance with the requirements and provisions of this CAFO and in compliance with all applicable federal, state and local laws and regulations, pursuant to Consent Agreement Paragraph 114.a.; and, (ii) Respondents have incurred and spent \$66,600.75 in Approved SEP Expenditures (i.e., an amount that is more than 86% of the \$67,900.75 Required SEP Expenditure amount) such that, pursuant to Consent Agreement Paragraph 123.c.ii, the Respondents are not subject to any additional penalties pursuant to the provisions of Section XI ("Penalties for Noncompliance and Delay"), or any other provisions, of the Consent Agreement.

EPA has determined that the Respondents have paid all civil penalty amounts due pursuant to the terms of the CAFO and have complied fully with the SEP requirements and provisions set forth in the Consent Agreement and all additional requirements and provisions of the CAFO. Therefore, in accordance with Paragraph 118 of the Consent Agreement, EPA hereby issues this Letter of Remittance.

Sincerely,



Renée Sarajian
Regional Judicial Officer

cc: Regional Hearing Clerk (3RC00)
Ms. Lori Weidner (MS-002)
Mr. Kyle Chelius (3LC61)
A.J. D'Angelo (3RC30)
Marina Liacouras Phillips, Esquire

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

In the Matter of:	:	
	:	
Broadway Associates,	:	U.S. EPA Docket No.
(a/k/a Broadway Avenue Associates),	:	
Frank B. Kirsch, III and Michael R. Kirsch,	:	TSCA-03-2008-0052
General Partners,	:	
Olde Hampton, LLC, and	:	
MBA-View, LLC,	:	
	:	
	:	
Respondents.	:	
	:	
534 Hampton Place,	:	Proceeding under Sections 409
Portsmouth, Virginia 23704	:	and 16(a) of the Toxic Substances
	:	Control Act, 15 U.S.C. §§ 2689
and	:	and 2615(a)
	:	
	:	
263 A View Avenue,	:	
Norfolk, Virginia 23503,	:	
	:	
	:	
Target Housing.	:	

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029 the original and one copy of the foregoing Letter of Remittance in the above-captioned matter. I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed via Certified Mail, Return Receipt Requested, Postage Prepaid, to the following persons at the following addresses:

Frank B. Kirsch, III
208 87th Street
Virginia Beach, VA 23451
(Article No. 7004 2890 0000 5075 7484)

Marina Liacouras Phillips, Esquire
Kaufman & Canoles
150 West Main Street
Suite 2100
Norfolk, VA 23510
(Article No. 7004 2890 0000 5075 5114)

JAN 19 2009

Date


A.J. D'Angelo (3RC30)
Sr. Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Tel. (215) 814-2480