



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

MAR 18 2008

REPLY TO THE ATTENTION OF:

LC-8J

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2008 MAR 18 AM 9:21

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8931 9035

Olie Olsen
7251 Thornapple Dale Drive S.E.
Alto, Michigan 49302

Consent Agreement and Final Order, Docket No. TSCA-05-2008-0006

Dear Mr. Olsen:

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 March 18, 2008 with the Regional Hearing Clerk.

The civil penalty in the amount of \$600.00 is to be paid in the manner prescribed in paragraphs 62 thru 65. Please be certain that the number **BD 2750847X006** and the docket number are written on both the transmittal letter and on the check. Payment is due by April 17, 2008 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

Estrella Calvo
Pesticides and Toxics Compliance Section

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)
Andre Daugavietis, ORC/C-14J (w/Encl.)
Eric Volck, Cincinnati Finance/MWD (w/Encl.)

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Statutory and Regulatory Background

7. In enacting Section 1018 of Title X, the Residential Lead-Based Paint Hazard Reduction Act of 1992, at 42 U.S.C. § 4851, Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6. At low levels, lead poisoning in children causes intelligence deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems. The ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. Key components of the national strategy to reduce and eliminate the threat of childhood lead poisoning are mandatory disclosure and notification requirements for residential rentals and sales. 42 U.S.C. § 4852d (Section 1018) requires the Administrator of the U.S. EPA and the Secretary of the United States Department of Housing and Urban Development (HUD) to promulgate regulations for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease.

8. On March 6, 1996, U.S. EPA and HUD promulgated regulations at 40 C.F.R. Part 745, Subpart F and 24 C.F.R. Part 35, Subpart A, respectively, "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.

9. The Disclosure Rule implements the provisions of 42 U.S.C. § 4852d, which impose certain requirements on the sale or lease of target housing.

10. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978.

11. 40 C.F.R. § 745.103 defines “owner” as any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

12. 40 C.F.R. § 745.103 defines “agent” as any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing.

13. 40 C.F.R. § 745.100 requires, among other things, that the seller or lessor complete the specified disclosure activities before a purchaser or lessee is obligated under any contract to buy or lease target housing.

14. 40 C.F.R. § 745.113(a) requires that each contract to sell target housing include as an attachment to the contract a lead warning statement; a statement by the seller disclosing the presence of any known lead-based paint and/or lead-based paint hazards or lack of knowledge of such presence; a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (a)(3) and the Lead Hazard Information Pamphlet; a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by § 745.110(a) or waived the opportunity; and the signatures and dates of signatures of the seller and purchaser certifying to the accuracy of their statements.

15. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failing to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the

violator to U.S. EPA administrative civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118(f), and 42 U.S.C. § 4852d(b)(5).

General Allegations

16. Paragraphs 1 through 15, above, are re-alleged and incorporated here by reference.

17. Between at least April 28, 2004 and February 4, 2006, Respondent owned the following two residential rental properties in Grand Rapids, Michigan, located at the following addresses, respectively: 857 Clancey Avenue N.E. and 1001 Oakdale Street S.E. (referred to individually as “Residential Rental Property” and collectively as the “Residential Rental Properties”).

18. Each Residential Rental Property was constructed prior to 1978.

19. Each Residential Rental Property and each rental unit within such property is “target housing” as defined in 40 C.F.R. § 745.103.

20. On July 17, 2006, representatives of the U.S. EPA and HUD conducted an inspection to monitor compliance with Section 1018 and its implementing regulations found at 40 C.F.R. Part 745, Subpart F.

21. On October 10, 2001, AAA Lead Inspection, Inc. conducted clearance sampling of the property located at 857 Clancey N.E., Grand Rapids, Michigan, in order to establish clearance of the lead stabilization work performed at the residential property. Respondent, Olie Olsen was issued a copy of the laboratory results from the clearance sampling conducted at the residential property. The laboratory results issued to the Respondent provided him with knowledge regarding the presence of lead-based paint and/or lead-based paint hazards at the aforementioned property.

22. On July 17, 2003 the property located at 1001 Oakdale Street S.E., Grand Rapids, Michigan was inspected by the Kent County Health Department. The request was made by the Kent County Health Department, Nursing Division, to investigate a case of lead poisoning for a tenant at the aforementioned address. The Respondent was notified by Certified Letter on July 23, 2003, that the residence posed “a threat to human health through the presence of lead-based paint.” The Certified Letter issued to the Respondent provided him with knowledge regarding the condition of his property and the presence of lead-based paint and/or lead-based paint hazards.

23. Respondent, as the owner of target housing, transferred legal title to the Residential Rental Properties by entering into written sales agreements (“sales contracts”) with individuals on the dates indicated below:

Property Address	Date of Sale	Date of Disclosure
857 Clancey Avenue N.E.	02/04/2006	03/31/2006
1001 Oakdale Street S.E.	04/28/2004	06/16/2004

24. Respondent is a “seller,” as defined by 40 C.F.R. § 745.103, since he has transferred legal title to target housing, referenced in the table in paragraph 23, above.

25. Each individual who entered into an agreement to purchase an interest in the target housing referenced in the table in paragraph 23 above, is a “purchaser,” as defined in 40 C.F.R. § 745.103.

26. On June 27, 2007, U.S. EPA advised Respondent by letter that U.S. EPA was planning to file a civil administrative complaint against Respondent for specific alleged violations of Section 1018 and that the complaint would seek a civil penalty. U.S. EPA asked Respondent to identify any factors Respondent thought U.S. EPA should consider before issuing the complaint. U.S. EPA asked Respondent to submit specific financial documents, if

Respondent believed U.S. EPA should consider information on Respondent's ability to pay a penalty. If Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, U.S. EPA asked Respondent to submit specific financial documents.

27. On June 29, 2007, Respondent received the pre-filing letter referenced in the above paragraph. In response to the letter, Respondent provided information relating to the alleged violations and did not provide facts or other information demonstrating an inability to pay a penalty.

28. The Director of the Land and Chemicals Division has determined that the Respondent has violated the Federal regulations regarding the disclosure of lead-based paint and/or lead-based paint hazards, 40 C.F.R. Part 745, in the ways set forth below, and therefore violated Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 1-2: Failure to Include a Lead Warning Statement in Sale Contracts

29. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

30. 40 C.F.R. § 745.113(a)(1) and 40 C.F.R. § 745.100 require, before a purchaser is obligated under the contract to purchase target housing the seller to include, as an attachment to each contract to sell target housing, a Lead Warning Statement consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

31. Count 1: Respondent failed to include, as an attachment to the sales contract, a Lead Warning Statement before the purchaser of 857 Clancey Avenue N.E., Grand Rapids, Michigan, was obligated under the sales contract.

32. Count 2: Respondent failed to include, as an attachment to the sales contract, a Lead Warning Statement before the purchaser of 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the sales contract.

33. Respondent's failure to include, as an attachment to each sales contract, a Lead Warning Statement, before the purchasers were obligated under the contracts for each of the sales transactions referenced in paragraphs 31 and 32, above, constitutes two violations of 40 C.F.R. § 745.113(a)(1), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 3-4: Failure to Include a Lead Disclosure Statement in Sales Contracts

34. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

35. 40 C.F.R. § 745.113(a)(2) and 40 C.F.R. § 745.100 require a seller to include, as an attachment to each contract to sell target housing, a statement disclosing 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, before a purchaser is obligated under the contract to purchase target housing. Additionally, 40 C.F.R. § 745.113(a)(2) and 40 C.F.R. § 745.100 require that, before a purchaser is obligated under a contract to purchase target housing, a seller must disclose any additional information available concerning known lead-based paint and/or lead-based paint hazards.

36. Count 3: Respondent failed to disclose additional available information concerning known lead-based paint and/or lead-based paint hazards before the purchaser of the property at

857 Clancey Avenue N.E., Grand Rapids, Michigan, was obligated under the sales contract.

37. Count 4: Respondent failed to disclose additional available information concerning known lead-based paint and/or lead-based paint hazards before the purchaser of the property 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the sales contract.

38. Respondent's failure to include, as an attachment to each sale contract, 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, before the purchasers were obligated under the contracts for each of the sales transactions referenced in paragraphs 36 and 37, above, constitutes two violations of 40 C.F.R. § 745.113(a)(2), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 5-6: Failure to Include a List of Records or Statement that No Records Exist in Sales Contracts

39. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

40. 40 C.F.R. Part § 745.113(a)(3) and 40 C.F.R. § 745.100 require the seller to include, as an attachment to each contract to sell target housing, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing, or a statement that no such records exist, before a purchaser is obligated under a contract to purchase target housing.

41. Count 5: Respondent failed to include, as an attachment to the contract, a list of any records or reports available to him regarding lead-based paint and/or lead-based paint hazards in the target housing, or a statement that no such records existed, before the purchaser of the property at 857 Clancey Avenue N.E., Grand Rapids, Michigan, was obligated under the sales contract.

42. Count 6: Respondent failed to include, as an attachment to the contract, a list of any

records or reports available to him regarding lead-based paint and/or lead-based paint hazards in the target housing, or a statement that no such records existed, before the purchaser of the property at 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the sales contract.

43. Respondent's failure to include, as an attachment to each contract to sell target housing, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing, or a statement that no such records existed, before the purchasers were obligated under the contracts for each of the sales transactions referenced in paragraphs 41 and 42, above, constitutes two violations of 40 C.F.R. § 745.113(a)(3), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 7-8: Failure to Include Statement of Receipt of Lead Hazard Information and Pamphlet in Sales Contracts

44. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

45. 40 C.F.R. § 745.113(a)(4) and 40 C.F.R. § 745.100 require the seller to include, as an attachment to each contract, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (a)(3), and the lead hazard information pamphlet before the purchaser is obligated under a contract to purchase target housing.

46. Count 7: Respondent failed to include, as an attachment to the contract, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (a)(3), and the lead hazard information pamphlet before the purchaser of the property at 857 Clancey Avenue N.E, Grand Rapids, Michigan, was obligated under the sales contract.

47. Count 8: Respondent failed to include, as an attachment to the contract, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and

(a)(3), and the lead hazard information pamphlet before the purchaser of the property at 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the sales contract.

48. Respondent's failure to include, as an attachment to each contract, a statement by the purchaser affirming receipt of the information set out in 40 C.F.R. § 745.113(a)(2) and (a)(3), and the lead hazard information pamphlet before the purchasers were obligated under the contracts for each of the sales transactions referenced in paragraphs 46 and 47, above, constitutes two violations of 40 C.F.R. § 745.113(a)(4), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 9-10: Failure to Include Statement Concerning Opportunity for Risk Assessment and/or Inspection in Sales Contracts

49. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

50. 40 C.F.R. § 745.113(a)(5) and 40 C.F.R. § 745.100 require that the seller must include, as an attachment to each contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before a purchaser is obligated under a contract to buy target housing.

51. Count 9: Respondent failed to include, as an attachment to the contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before the purchaser of the property at 857 Clancey Avenue N.E., Grand Rapids, Michigan, was obligated under the sales contract .

52. Count 10: Respondent failed to include, as an attachment to the contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before the purchaser of the property at 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the

sales contract.

53. Respondent's failure to include, as an attachment to each contract, a statement by the purchaser that he/she has either received the opportunity to conduct the risk assessment or inspection required by 40 C.F.R. § 745.110(a) or waived the opportunity before the purchasers were obligated under the contract referenced in paragraphs 51 and 52, above, constitutes two violations of 40 C.F.R. § 745.113(a)(5), 40 C.F.R. § 745.100, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 11-12: Failure to Include Certifying Signatures in Sales Contracts

54. Paragraphs 1 through 28, above, are re-alleged and incorporated here by reference.

55. 40 C.F.R. § 745.113(a)(7) and 40 C.F.R. § 745.100 require the seller to include, as an attachment to each contract, the signatures of the sellers, agents, and purchasers certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature, before the purchaser is obligated under a contract to purchase target housing.

56. Count 11: Respondent did not include, as an attachment to the contract, the signatures of the sellers, agent, and purchasers certifying to the accuracy of their statements, along with the dates of such signature, before the purchaser of the property at 857 Clancey Avenue N.E, Grand Rapids, Michigan, was obligated under the sales contract.

57. Count 12: Respondent did not include, as an attachment to the contract, the signatures of the sellers, agent, and purchasers certifying to the accuracy of their statements, along with the dates of such signature, before the purchaser of the property at 1001 Oakdale Street S.E., Grand Rapids, Michigan, was obligated under the sales contract.

58. Respondent's failure to include, as an attachment to each contract, the signatures of the seller, agent, and purchaser certifying to the accuracy of their statement along with the dates

of such signatures, before the purchasers were obligated under the contracts for each of the sales transactions referenced in paragraphs 56 and 57, above, constitutes two violations of 40 C.F.R. § 745.113(a)(7), 40 C.F.R. § 745.100, 42 U.S.C. § 2680.

Penalty Calculation

59. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852D(B)(5), and 40 C.F.F. Part 745 Subpart F, authorize the assessment of a civil penalty under TSCA § 16 in the maximum amount of \$10,000 for each violation of TSCA § 409. This maximum penalty amount has been adjusted to \$11,000 per each violation under the Civil Monetary Penalty Inflation Adjustment Act and Rule for violations occurring after July 28, 1997. 40 C.F.R. § 19.2 (61 Fed. Reg. 69361 [1996]).

60. In determining a civil penalty, the U.S. EPA has taken into consideration the nature, circumstances, extent and gravity of the violation alleged and, with respect to the violator, ability to pay, affect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require.

61. Respondent certifies that Respondent has instituted new procedures for ensuring compliance with U.S. EPA's lead paint disclosure requirements and regulation. In consideration of factors including Respondent's cooperation in resolving this matter, U.S. EPA agrees to mitigate the proposed penalty by 30 percent from \$7,480 to \$5,236.

62. In consideration of Respondent's agreement to perform the Window Replacement Project specified below, U.S. EPA agrees to further mitigate the penalty of \$5,236 to \$600.

63. Respondent shall pay the \$600 civil penalty by cashier's or certified check payable to the "*Treasurer, United States of America,*" within 30 days after the effective date this CAFO.

64. Respondent shall send the check to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

65. Respondent shall accompany the payment with a transmittal letter, stating Respondent's name, complete address, the case docket number and the billing document (BD) number. Respondent shall write the case docket number and the BD number on the face of the check. The BD number may be found on the cover letter transmitting this CAFO. Respondent shall send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Estrella Calvo (LC-8J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

66. If Respondent does not timely pay the civil penalty, or any stipulated penalties under this CAFO, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action. TSCA Section 16(a)(4), 42 U.S.C. § 2615(a)(4).

67. 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, U.S. EPA will assess a 6 percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

Window Replacement Project and Lead Clearance Sampling

68. Within four months after entry of this CAFO, Respondent must complete a Window Replacement Project and lead clearance sampling designed to protect tenants from potential lead-based paint hazards by replacing windows in the rental property at 7346 S Croton-Hardy, Newaygo, Michigan, formerly known as 6068 Croton-Hardy, Croton, Michigan, and shall submit the reports required by paragraph 74 at the end of this four month period.

69. The Window Replacement Project must be conducted in compliance with the Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995), and executed by individuals certified and licensed to perform such work under state and local laws and regulations.

70. Respondent must perform standard lead clearance testing upon completion of the Window Replacement Project using HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995), and executed by individuals certified and licensed to perform such work under state and local laws, in the property listed in paragraph 68, above. The individual or company executing the standard lead clearance sampling must not be paid or employed or, otherwise compensated by the individuals conducting the Windows Replacement Project.

71. Respondent agrees to spend at least \$4,712 to complete the Window Replacement Project and lead clearance sampling.

72. Respondent certifies that Respondent is not required to perform the Window

Replacement Project by any law, regulation, grant, order, or any other agreement, or as injunctive relief as of the date Respondent signs this CAFO. Respondent further certifies that Respondent has not received, and is not negotiating to receive, credit for the Window Replacement Project in any other enforcement action.

73. U.S. EPA may inspect the property at any time to monitor Respondent's compliance with this CAFO's requirements. Any access to the building or units therein will be provided on reasonable notice to Respondent and Respondent will make good faith efforts to obtain tenant cooperation for such access.

74. Respondent must submit a Window Replacement Project report and lead clearance sampling report upon completion of the Window Replacement Project within four months following entry of the CAFO. These reports must contain the following information:

- a. a description of the Window Replacement Project as completed, which includes the sampling information contained in subparagraph b, below;
- b. a clearance sampling report for the property, giving sampling locations, sample results, and documentation of analytical quality assurance/quality control;
- c. itemized costs of goods and services used to complete the Window Replacement Project documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services: including receipts for the cost of the lead based paint inspection conducted to identify the lead-based paint and/or lead-based paint hazards in the building;
- d. itemized costs of services used to complete the lead clearance sampling documented by copies of invoices or canceled checks that specifically identify and itemize the costs of the services;
- e. provide documentation that the individuals who performed the Window Replacement Project and the lead clearance sampling are certified and licensed to perform such work in accordance with the state and local law and regulations; and
- f. certification that Respondent has completed the Window Replacement Project and the lead clearance sampling in compliance with this CAFO.

75. For federal income tax purposes, Respondent agrees that it will neither capitalize into

inventory or basis nor deduct any costs or expenditures incurred in performing the Window Replacement Project.

76. Respondent must submit all notices and reports required by the CAFO by first class mail to Estrella Calvo, at the address in paragraph 65, above.

77. In each report that Respondent submits as provided by this CAFO, Respondent or Respondent's authorized representative must certify that the report is true and complete by including the following statement signed by the Respondent.

I certify that I am familiar with the information in this document and that based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

78. If Respondent violates any requirements of this CAFO relating to the Window Replacement Project and lead clearance sampling, Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent does not complete the Window Replacement Project and lead clearance sampling according to this CAFO, Respondent must pay a stipulated penalty of \$5,000;
- b. If Respondent satisfactorily completes the Window Replacement Project and lead clearance sampling according to this CAFO, but spends less than 90% of the amount of money which was required to be spent on the project, Respondent must pay a stipulated penalty of \$1,000;
- c. If Respondent fails to ensure and document that lead clearance sampling work for the property is executed by individuals certified and licensed to perform such work in accordance with 40 C.F.R. Part 745 and applicable state and local laws and regulations, Respondent shall pay a stipulated penalty of \$2,000;
- d. If Respondent fails to ensure and document that the Window Replacement Project complies with the requirements of paragraphs 69 through 71, above, Respondent shall pay a stipulated penalty of \$2,000; and
- e. If Respondent fails to submit timely the Window Replacement Project completion report and the lead clearance sampling completion report addressing

each of the requirements in paragraph 74, above, or if Respondent fails to satisfactorily address each requirement in the window replacement completion report paragraphs of the CAFO, Respondent must pay a stipulated penalty of \$50 for each day after the report was due until the report is submitted in its entirety, but the total penalty amount under this subparagraph (e) is not to exceed \$4,000.

79. U.S. EPA's reasonable and good faith determination of whether the Respondent satisfactorily completed the Window Replacement Project and lead clearance sampling and whether they made good faith, timely efforts to complete the Window Replacement Project and lead clearance sampling will bind Respondent for the purposes of this CAFO.

80. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. All penalties shall begin to accrue on the first date of noncompliance, and shall continue to accrue through the date of completion. Respondent will use the method of payment specified in paragraphs 63 through 65, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

81. **Force Majeure.** a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify Complainant in writing not more than 10 days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this Agreement based on such incident.

b. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period of no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that the U.S. EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Final Order has been or will be caused by circumstances beyond the control of the Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

Terms of Settlement

82. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

83. Respondent waives its 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 its right to appeal this CAFO.

84. Respondent certifies that, as of the effective date of this CAFO, it is in compliance with the requirements of 40 C.F.R. Part 745, Subpart F, and intends to continue to comply with 40 C.F.R. Part 745, Subpart F.

85. This CAFO settles U.S. EPA's claims for civil penalties for violations the alleged herein.

86. This CAFO does not affect Respondent's responsibility to comply with TSCA, the Lead-Based Paint Hazard Reduction Act and other applicable Federal, state and local laws and regulations.

87. This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns.

88. Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

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

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

91. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during U.S. EPA discussions, or to be served with and reply to, any memorandum or communications, where the purpose of such discussion, memorandum or communication is to persuade such an official to accept and issue the CAFO.

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

93. This CAFO shall become effective immediately upon filing with the Regional Hearing Clerk, U.S. EPA Region 5.

Consent Agreement and Final Order
In the Matter of: Olie Olsen

Docket No. — TSCA-05-2008-0006


Date: 2-25-08

By: 

Olie Olsen, Respondent

United States Environmental Protection Agency,
Complainant:

Date: 3/12/08

By: 

Margaret M. Guerriero, Director
Land and Chemicals Division

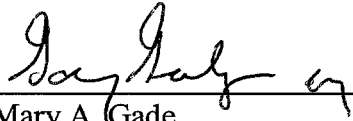
In the Matter of: Olie Olsen

Docket No. **TSCA-05-2008-0006**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, will become effective immediately upon filing with the Regional Hearing Clerk, IT IS SO ORDERED.

Date: 3/14/08



Mary A. Gade
Regional Administrator
United States Environmental Protection Agency
Region 5

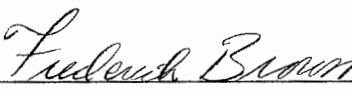
CERTIFICATE OF SERVICE

I hereby certify that a copy of the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Olie Olsen, was filed on March 18, 2008, with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0005 8931 9035, a copy of the original to the Respondents:

Olie Olsen
7251 Thornapple Dale Drive S.E.
Alto, Michigan 49302

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Andre Daugavietis, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2008-0006

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