



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 11 2013

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Paul J. Marino  
Attorney at Law  
Paul J. Marino, PA  
13300 Indian Rocks Road  
Largo, Florida 33774

Re: Henderson & Associates Services, LLC d/b/a Daryl Henderson  
Ratified Consent Agreement and Final Order  
Docket No. TSCA-04-2013-2709(b)

Dear Mr. Marino:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22. Please inform your client that payment is required in accordance with Section V of the CAFO and the penalty information along with payment instructions are listed there.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you or your client have any questions about this matter or the company's compliance status in the future, please contact Mr. Ronald Raye of the EPA Region 4 staff at (404) 562-9612 or email at [raye.ronald@epa.gov](mailto:raye.ronald@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures  
cc: Daryl Henderson

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

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HEARING CLERK

**In the Matter of:** )  
)  
Henderson & Associates Services, L.L.C. )  
and Daryl Henderson )  
)  
Respondents )  
\_\_\_\_\_ )

**Docket No.:** TSCA-04-2013-2709(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) is vested in the Administrator of the United States Environmental Protection Agency. The Administrator of the EPA has delegated this authority under TSCA to the Regional Administrator of the EPA Region 4 by the EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator of the EPA Region 4 has re-delegated this authority under TSCA to the Director of the Air, Pesticides, and Toxics Management Division, by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. In accordance with 40 C.F.R. § 22.3(a), the Complainant in this matter is the Director of the Air, Pesticides, and Toxics Management Division. Respondents are Henderson & Associates Services, L.L.C., a limited liability company and Daryl Henderson, an individual, both doing business in the

State of Florida.

2. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. Pursuant to Sections 402 and 406 of the TSCA, 15 U.S.C. §§ 2682 and 2686, the Administrator of the EPA promulgated Residential Property Renovation Rules at 40 C.F.R. Part 745, Subpart E including the Pre-Renovation Education Rule; the Renovation, Repair and Painting Rule; and the Lead-Based Paint Activities Rule. It is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with any of the rules issued under 40 C.F.R. Part 745, Subpart E.
4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Ronald Raye  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9612

## **III. Specific Allegations**

5. Respondents are a "renovation firm and renovator," that performs "renovation activities" for compensation as those terms are defined and/or referenced in 40 C.F.R. §§ 745.83,



745.81(a), 745.89 and 745.90. Respondents performed renovation activities at residential units located at 1301 and 1351 Gulf Boulevard, Clearwater, Florida between May 2010 and January 2011, prior to an inspection conducted by EPA on January 20, 2011. These residential units are “target housing,” as that term is defined by 40 C.F.R. § 745.103.

6. Based on information provided by Respondents to EPA in a letter dated May 4, 2011, EPA alleges that Respondents violated Sections 402 and 406 of TSCA and 40 C.F.R. § Part 745, Subpart E as follows:
  - a. Respondent, Henderson & Associates Services, L.L.C., failed to apply to EPA for Firm Certification to perform renovations or dust sampling prior to undertaking renovation activities as required by 40 C.F.R. § 745.81 and § 745.89.
  - b. Respondent, Henderson & Associates Services, L.L.C., failed to obtain, from the owner and/or adult occupant, a written acknowledgement that the owner and/or adult occupant has received the renovation pamphlet, “The Lead-Safe Certified Guide to Renovate Right,” from the Respondent Henderson & Associates Services, L.L.C., or, alternatively, failed to obtain a certificate of mailing of the pamphlet, at least 7 days prior to the start of the renovation work, as required by 40 C.F.R. § 745.84.
  - c. Respondent, Henderson & Associates Services, L.L.C., failed to insure that a certified renovator was assigned to each renovation performed by the firm and that the renovator discharged all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90, as required by 40 C.F.R. § 745.89.
  - d. Respondent, Daryl Henderson, failed, as a renovator, to obtain a course completion certificate (proof of certification), prior to performing renovator or dust sampling activities as required by 40 C.F.R. § 745.90.

#### **IV. Consent Agreement**

7. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations set forth above.
8. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal the Final Order accompanying the Consent Agreement.
9. Respondents consent to the assessment of the penalty proposed by the EPA and agree to pay the civil penalty as set forth in the Final Order section of this CAFO.
10. Respondents certify that as of the date of its execution of this CAFO, they are in compliance with all relevant requirements of 40 C.F.R. § Part 745, Subpart E. The Respondents have provided to EPA documentation indicating that Respondent, Henderson & Associates Services, L.L.C., was issued an EPA firm certification number NAT-105786-1 effective March 4, 2011, that expires in five years or about March 18, 2016, and that Respondent, Daryl Henderson, was issued an EPA lead renovator initial certification number R-I-42870-11-00012, effective February 10, 2011, that expires in five years or about February 10, 2016. These documents are in compliance with 40 C.F.R. §§ 745.81, 745.89 and 745.90.
11. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondents to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondents for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

shall be paid within thirty (30) days of the effective date of this CAFO.

13. Respondents shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America".

**The Respondents shall note on the face of the check the  
Respondents' Names and the Docket Number TSCA-04-2013-2709(b).**

The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service:

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

Other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.)  
using the following address:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101  
Phone No.: (314) 418-1028

14. At the time of payment, Respondents shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

Ronald Raye  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street



Atlanta, Georgia 30303-8960; and

Saundi J. Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

15. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.
16. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts.
17. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
18. This CAFO shall be binding upon the Respondents, their successors and assigns.
19. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

#### **VI. Effective Date**

20. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

By: Daryl Henderson Date: MARCH 6, 2013  
Name: Daryl Henderson & Henderson & Assoc. Svc LLC  
Title: MANAGER/owner

**Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY**

By: Beverly H. Banister Date: 4-4-13  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 11 day of April, 2013.

By: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

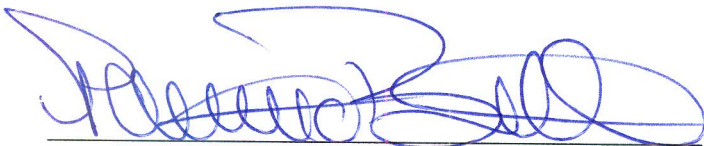
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Henderson & Associates Services, L.L.C. and Daryl Henderson, Docket Number: TSCA-04-2013-2709(b), to the addressees listed below:

Daryl Henderson (via Certified Mail, Return Receipt Requested)  
Owner  
Henderson & Associates Services, L.L.C.  
219 Harbor View Lane  
Largo, Florida 33770

Paul J. Marino, P.A. (via Certified Mail, Return Receipt Requested)  
Attorney at Law  
P.O. Box 344  
Indian Rocks Beach, Florida 33786

Ronald Raye (via EPA's internal mail)  
Lead and Children's Health Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Robert Caplan, Senior Attorney (via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9511

Date: 4-11-13