



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

SEP 20 2010

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt Number 7009 1680 0000 7670 5622

Mr. Robert S. Parker  
Registered Agent  
Marbles Realty, LLC  
1711 Wabash Avenue  
Terre Haute, Indiana 47802

Re: In the matter of Marbles Realty, LLC (d/b/a Marbles Realty & Property  
Management), Terre Haute, Indiana **TSCA-05-2010-0022**

Dear Mr. Parker:

I have enclosed the Complaint filed by the U.S. Environmental Protection Agency, Region 5 against Marbles Realty, LLC, under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), and a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. The Complaint alleges violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*

As provided in the Complaint, if you would like to request a hearing, you must do so in your answer to the Complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604 within 30 days of your receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later. If you choose to file an answer, you also must mail a copy of it to Mony Chabria, Associate Regional Counsel (C-14J), U.S. EPA, 77 West Jackson Blvd., Chicago, Illinois 60604.

If you intend to file with the Regional Hearing Clerk, as part of the record in this matter, any document that includes trade secrets, proprietary information or any business information that you claim is entitled to confidential treatment, you may submit the document "under seal." The rules for submitting confidential information under seal are set forth at Section 22.5(d) of the Consolidated Rules, 40 C.F.R. § 22.5(d). You should also refer to 40 C.F.R. Part 2, Subpart B. For more information about the procedures for submitting information under seal, go to: <http://epa.gov/oalj/orders/alj-practice-manual.pdf>. EPA reserves its right to object to the submission of documents under seal.

In addition, you may file under seal documents containing information that you believe may be subject to a personal privacy interest. Such personal privacy information may include social security numbers, personal addresses and telephone numbers, dates of birth and medical information. When filing documents that you believe may be subject to a personal privacy interest, follow the procedures for submitting confidential business information at Section 22.5(d) of the Consolidated Rules, 40 C.F.R. § 22.5(d).

Whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Mony Chabria, Associate Regional Counsel, at (312) 886-6842.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce F. Sypniewski", written in a cursive style.

Bruce F. Sypniewski  
Acting Director  
Land and Chemicals Division

Enclosures

cc: Regional Hearing Clerk (E-19J)  
Mony Chabria (C-14J)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Marbles Realty, LLC (d/b/a Marbles  
Realty & Property Management),  
Terre Haute, Indiana

Respondent.

Docket No. TSCA-05-2010-0022

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

RECEIVED  
SEP 20 2010

Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

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

3. Respondent is Marbles Realty, LLC, doing business as Marbles Realty & Property Management (Marbles), which at all times relevant to this Complaint had a place of business located at 1711 Wabash Avenue, Terre Haute, Indiana.

Statutory and Regulatory Background

4. In promulgating 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; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

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 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.

5. On March 6, 1996, EPA and HUD promulgated regulations codified at 40 C.F.R. Part 745, Subpart F and 24 C.F.R. Part 35, Subpart A, 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. Owners of more than four residential dwellings must comply with Subpart F and 24 C.F.R. Part 35, Subpart A, by September 6, 1996 pursuant to 40 C.F.R. § 745.102(a).

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

7. 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.

8. 40 C.F.R. § 745.103 defines “residential dwelling” as (1) a single-family dwelling including attached structures such as porches and stoops; or (2) a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, in whole or in part, as the residence of one or more persons.

9. 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.

10. 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.

11. 40 C.F.R. § 745.103 defines “agent” as any party who enters into a contract with a lessor, including any party who enters into a contract with a representative of the lessor, for the purpose of leasing target housing.

12. 40 C.F.R. § 745.100 requires, among other things, that the lessor complete the specified disclosure activities before a lessee is obligated under any contract to lease target housing.

13. 40 C.F.R. § 745.115 requires each agent to ensure the lessor has performed all disclosure activities required under 40 C.F.R. §§ 745.107, 745.110, and 745.113 or to personally ensure compliance with the disclosure activities required under 40 C.F.R. §§ 745.107, 745.110, and 745.113.

14. 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 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 signatures and dates of signatures of the lessor and lessee certifying 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 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. Complainant incorporates paragraphs 1 through 15 of this Complaint as if set forth in this paragraph.

17. At various times prior to the date of this Complaint, Respondent owned the residential dwelling at 1868 E. Crystal Creek Drive, Terre Haute, Indiana (collectively, with the residential dwellings listed in paragraph 18, the “Residential Dwellings”).

18. At various times prior to the date of this Complaint, Respondent acted as the rental management agent for the following residential dwellings: 3006 S. 10<sup>th</sup> Street; 2110 2<sup>nd</sup> Avenue; 1431 North Avenue; 1625 Woodlawn Avenue; 1527 Ohio Street, Unit 1; 1527 Ohio Street, Unit 5; 2209 5<sup>th</sup> Avenue; 719 S. 7<sup>th</sup> Street; 719B S. 7<sup>th</sup> Street; 7536 Cullen Place; 518 S. 5<sup>th</sup> Street, Unit B; 518 S. 5<sup>th</sup> Street, Unit D; 518 S. 5<sup>th</sup> Street, Unit F; 1452 Walnut Street; 231 S. 14<sup>th</sup> Street; 2236 2<sup>nd</sup> Avenue; 1333 S. 10<sup>th</sup> Street; 920 Washington; 1415 Woodley; 1118 S. 11<sup>th</sup> Street; 1233B S. 10<sup>th</sup> Street; and 1231A S. 10<sup>th</sup> Street (collectively, with the residential dwelling listed in paragraph 17, the “Residential Dwellings”).

19. Each Residential Dwelling was constructed prior to 1978.
20. Each Residential Dwelling is “target housing” as defined in 40 C.F.R. § 745.103.
21. On December 11, 2008, EPA issued a request for information to Respondent in order to determine Respondent’s compliance with Section 1018 and its implementing regulations at 40 C.F.R. Part 745, Subpart F, and seeking, among other things, copies of all rental agreements and lead-based paint disclosure documentation for rental transactions at Residential Properties owned and/or managed by Respondent.
22. On February 2, 2009, Respondent provided Complainant with documents responsive to the information request referenced in paragraph 21, above, including information identifying Respondent, as owner of a certain Residential Dwelling and as the rental property manager of certain Residential Dwellings.
23. On the following dates, Respondent, as rental property manager, entered into the following 22 written lease contracts with individuals for the lease of the following Residential Dwellings, located in Terre Haute, Indiana:

<b>Street Address</b>	<b>Date of Lease Contract</b>
3006 S. 10 <sup>th</sup> Street	4/30/2008
2110 2 <sup>nd</sup> Avenue	5/16/2008
1431 North Avenue	12/01/2007
1625 Woodlawn Avenue	11/15/2008
1527 Ohio Street, Unit 1	10/17/2008
1527 Ohio Street, Unit 5	05/01/2008
2209 5 <sup>th</sup> Avenue	6/30/2008
719 S. 7 <sup>th</sup> Street	1/14/2008
719B S. 7 <sup>th</sup> Street	2/18/2008
7536 Cullen Place	6/16/2008
518 S. 5 <sup>th</sup> Street, Unit B	7/02/2008
518 S. 5 <sup>th</sup> Street, Unit D	6/18/2008
518 S. 5 <sup>th</sup> Street, Unit F	7/13/2008
1452 Walnut Street	6/07/2008

231 S. 14 <sup>th</sup> Street	6/10/2008
2236 2 <sup>nd</sup> Avenue	9/10/2008
1333 S. 10 <sup>th</sup> Street	1/24/2009
920 Washington	12/18/2007
1415 Woodley	7/17/2008
1118 S. 11 <sup>th</sup> Street	6/23/2008
1233B S. 10 <sup>th</sup> Street	4/30/2008
1231A S. 10 <sup>th</sup> Street	4/30/2008

24. On June 6, 2008, Respondent, as the owner, entered into a written lease agreement with an individual for the lease of the Residential Dwelling at 1868 E. Crystal Creek Drive, Terre Haute, Indiana.

25. Each of the 23 contracts referenced in paragraphs 23 and 24, above, covered a term of occupancy greater than 100 days.

26. On or before the dates referenced in paragraphs 23 and 24, above, Respondent offered the Residential Dwellings for lease, and individuals entered into contracts on the dates listed in paragraphs 23 and 24, above, to lease those Residential Dwellings.

27. Respondent is a “lessor”, as defined by 40 C.F.R. § 745.103, since it has offered the target housing referenced in paragraph 24, above, for lease.

28. Respondent is an “agent”, as defined by 40 C.F.R. § 745.103, since it has entered into a contract to lease target housing referenced in paragraph 23, above, on behalf of various owners.

29. Each individual who signed a lease to pay rent in exchange for occupancy of a Residential Dwelling, referenced in paragraphs 23 and 24 above, became a “lessee” as defined in 40 C.F.R. § 745.103, since he or she entered into an agreement to lease target housing.



30. On May 6, 2010, EPA advised Respondent by letter that 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. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint. If Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, the EPA asked Respondent to submit specific financial documents.

31. On May 19, 2010, Respondent received the pre-filing notice letter referenced in paragraph 30, above. While Respondent has informed EPA that it is in poor financial condition and is considering seeking bankruptcy protection, and despite numerous requests and extensions of time for a response, to date Respondent has not provided facts or other information concerning its ability to pay a penalty.

32. The Director of the Land and Chemicals Division, EPA, Region 5, has determined that 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, as described below, and thereby violated Section 409 of TSCA, 15 U.S.C. § 2689.

#### **Regulatory Requirements for Lessors and Agents**

33. 40 C.F.R. § 745.113(b)(1) requires the lessor to include a Lead Warning Statement, either within each contract or as an attachment to each contract to lease target housing.

34. 40 C.F.R. § 745.113(b)(2) requires a lessor to include a statement disclosing either the presence of any known lead-based paints and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within each contract or as an attachment

to each contract to lease target housing, before a lessee is obligated under the contract to lease target housing.

35. 40 C.F.R. § 745.113(b)(3) requires a lessor to include 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, either within each contract or as an attachment to each contract to lease target housing, before a lessee is obligated under the contract to lease target housing.

36. 40 C.F.R. § 745.113(b)(4) requires the lessor to include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within each contract or as an attachment to each contract to lease target housing.

37. 40 C.F.R. § 745.113(b)(5) requires the lessor, when one or more agents are involved in the leasing transaction, to include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within each contract or as an attachment to each contract to lease target housing.

38. 40 C.F.R. § 745.113(b)(6) requires the lessor to include the signatures of the lessor and the lessee certifying to the accuracy of their statements to the best of their knowledge along with the dates of signature, either within each contract or as an attachment to each contract to lease target housing.

39. 40 C.F.R. § 745.115(a) requires the agent to ensure compliance with all requirements under 40 C.F.R. § 745.107 and 745.113 by informing the lessor of his obligations

and by ensuring that the lessor performs all activities required under 40 C.F.R. § 745.107 and 745.113 or personally ensure compliance with these requirements.

**Failure to Comply with Lessor Disclosure Requirements**

**Count 1**

40. Complainant incorporates paragraphs 1 through 39 of this Complaint as if set forth in this paragraph.

41. Respondent failed to include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the June 6, 2008, contract for 1868 E. Crystal Creek Drive, Terre Haute, Indiana, referenced in Paragraph 24 above, or as an attachment thereto.

42. Respondent's failure to include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the June 6, 2008, contract for 1868 E. Crystal Creek Drive, Terre Haute, Indiana, referenced in Paragraph 24 above, or as an attachment thereto, constitutes a violation of 40 C.F.R. § 745.113(b)(6), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Failure to Comply with Agent Disclosure Requirements**

**Counts 2 through 7 – Failure to Ensure Inclusion of Lead Warning Statement**

43. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

44. Count 2: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the April 30, 2008, contract for

3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

45. Count 3: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the November 15, 2008, contract for 1625 Woodlawn Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

46. Count 4: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

47. Count 5: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

48. Count 6: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

49. Count 7: Respondent, as agent, failed to ensure that the lessor include or to personally include a Lead Warning Statement, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

50. Respondent's failure to ensure inclusion of or to include a Lead Warning Statement, either within each contract or as an attachment to each contract, for each leasing transaction referenced in paragraphs 44 through 49, above, constitutes six violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(1), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Counts 8 through 13 – Failure to Ensure Inclusion of Statement of Known Lead Based Paint**

51. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

52. Count 8: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the April 30, 2008, contract for 3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

53. Count 9: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the November 15, 2008, contract for 1625 Woodlawn Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

54. Count 10: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either

within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

55. Count 11: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

56. Count 12: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

57. Count 13: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

58. Respondent's failure to ensure inclusion of or to include a statement disclosing either the presence of any known lead-based paints and lead-based paint hazards in the target housing or a lack of knowledge of such presence, either within each contract or as an attachment to each contract, in each contract for each leasing transaction referenced in paragraphs 52 through 57, above, constitutes six violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(2), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Counts 14 through 19 – Failure to Ensure Inclusion of a List of Records or Reports Regarding Lead Based Paint**

59. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

60. Count 14: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the April 30, 2008, contract for 3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

61. Count 15: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the November 15, 2008, contract for 1625 Woodlawn Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

62. Count 16: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

63. Count 17: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

64. Count 18: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

65. Count 19: Respondent, as agent, failed to ensure that the lessor include or to personally include 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, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana,



referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

66. Respondent's failure to ensure inclusion of or to include 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, either within each contract or as an attachment to each contract, in each contract for each leasing transaction referenced in paragraphs 60 through 65, above, constitutes six violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(3), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Counts 20 through 25 – Failure to Ensure Inclusion of Lessee Affirming Receipt of Information and Lead Hazard Pamphlet**

67. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

68. Count 20: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the April 30, 2008, contract for 3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

69. Count 21: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the November 15, 2008, contract for 1625 Woodlawn Avenue,

Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

70. Count 22: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

71. Count 23: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

72. Count 24: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

73. Count 25: Respondent, as agent, failed to ensure that the lessor include or to personally include a statement by the lessee affirming receipt of the information set out in

40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

74. Respondent's failure to ensure inclusion of or to include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within each contract or as an attachment to each contract, in each contract for each leasing transaction referenced in paragraphs 68 through 73, above, constitutes six violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(4), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Counts 26 through 37 – Failure to Ensure Inclusion of a Statement that Agent Informed the Lessor of Lessor's Obligations and that Agent is Aware of Agent's Obligations**

75. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

76. Count 26: Respondent, as agent, failed to ensure that lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the April 30, 2008, contract for 3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

77. Count 27: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R.

Part 745, Subpart F, either within the November 15, 2008, contract for 1625 Woodlawn Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

78. Count 28: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

79. Count 29: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

80. Count 30: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

81. Count 31: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

82. Count 32: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the December 1, 2007, contract for 1431 North Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

83. Count 33: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the June 7, 2008, contract for 1452 Walnut Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

84. Count 34: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the January 24, 2009, contract for 1333 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

85. Count 35: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the December 18, 2007, contract for 920 Washington, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

86. Count 36: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the June 23, 2008, contract for 1118 S. 11<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

87. Count 37: Respondent, as agent, failed to ensure that the lessor include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within the April 30, 2008, contract for 1233B S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

88. Respondent's failure to ensure inclusion of or to include a statement that the agent has informed the lessor of its obligations under 42 U.S.C. § 4852d, and that the agent is aware of his/her duty to ensure compliance with the requirements of 40 C.F.R. Part 745, Subpart F, either within each contract or as an attachment to each contract, in each contract for each leasing transaction referenced in paragraphs 76 through 87, above, constitutes twelve violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(5), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

**Counts 38 through 56 – Failure to Ensure Inclusion of Lessor and Lessee Signatures  
Certifying Accurate Statements**

89. Complainant incorporates Paragraphs 1 through 39 of this Complaint as if set forth in this Paragraph.

90. Count 38: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the April 30, 2008, contract for 3006 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

91. Count 39: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the November 15, 2008, contract for 1625 Woodlawn Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

92. Count 40: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the October 17, 2008, contract for 1527 Ohio Street, Unit 1, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

93. Count 41: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their

statements or the dates of such signature, either within the June 30, 2008, contract for 2209 5<sup>th</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

94. Count 42: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the January 14, 2008, contract for 719 S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

95. Count 43: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the June 10, 2008, contract for 231 S. 14<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto, prior to the lessee being obligated under the contract.

96. Count 44: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the January 24, 2009, contract for 1333 S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

97. Count 45: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the December 18, 2007, contract for



920 Washington, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

98. Count 46: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the April 30, 2008, contract for 1233B S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

99. Count 47: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the May 16, 2008, contract for 2110 2<sup>nd</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

100. Count 48: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the May 1, 2008, contract for 1527 Ohio Street, Unit 5, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

101. Count 49: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the February 18, 2008, contract for 719B S. 7<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

102. Count 50: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the June 16, 2008, contract for 7536 Cullen Place, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

103. Count 51: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the July 2, 2008, contract for 518 S. 5<sup>th</sup> Avenue, Unit B, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

104. Count 52: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the June 18, 2008, contract for 518 S. 5<sup>th</sup> Avenue, Unit D, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

105. Count 53: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the July 13, 2008, contract for 518 S. 5<sup>th</sup> Avenue, Unit F, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

106. Count 54: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their

statements or the dates of such signature, either within the September 10, 2008, contract for 2236 2<sup>nd</sup> Avenue, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

107. Count 55: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the July 17, 2008, contract for 1415 Woodley, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

108. Count 56: Respondent, as agent, failed to ensure that the lessor include or to personally include the signatures of the lessor and the lessee certifying to the accuracy of their statements or the dates of such signature, either within the April 30, 2008, contract for 1231A S. 10<sup>th</sup> Street, Terre Haute, Indiana, referenced in Paragraph 23 above, or as an attachment thereto.

109. Respondent's failure to ensure inclusion of or to include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696, either within each contract or as an attachment to each contract, in each contract for each leasing transaction referenced in paragraphs 90 through 108, above, constitutes nineteen violations of 40 C.F.R. §§ 745.115(a) and 745.113(b)(6), 42 U.S.C. § 4852d(b)(5), and 15 U.S.C. § 2689.

#### **Proposed Civil Penalty**

110. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint as follows:

**Violations in Rental Transaction by Respondent, as Lessor**

Count 1

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.113(b)(6) ..... \$130

**Violations in Rental Transactions by Respondent, as Agent**

Count 2

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$1,550

Count 3

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$6,450

Count 4

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$1,550

Count 5

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$1,550

Count 6

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$1,550

Count 7

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(1) ..... \$1,550

Count 8

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(2) ..... \$770

Count 9

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(2) ..... \$5,160

	<u>Count 10</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(2) .....		\$770
	<u>Count 11</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(2) .....		\$770
	<u>Count 12</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(2) .....		\$770
	<u>Count 13</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(2) .....		\$770
	<u>Count 14</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$260
	<u>Count 15</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$1,680
	<u>Count 16</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$260
	<u>Count 17</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$260
	<u>Count 18</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$260
	<u>Count 19</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(3) .....		\$260
	<u>Count 20</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(4) .....		\$520

Count 21

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(4) ..... \$3,220

Count 22

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(4) ..... \$520

Count 23

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(4) ..... \$520

Count 24

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(4) ..... \$520

Count 25

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(4) ..... \$520

Count 26

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(5) ..... \$260

Count 27

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(5) ..... \$1,680

Count 28

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(5) ..... \$260

Count 29

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(5) ..... \$260

Count 30

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(5) ..... \$260

	<u>Count 31</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 32</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 33</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 34</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 35</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 36</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 37</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(5) .....		\$260
	<u>Count 38</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
	<u>Count 39</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$640
	<u>Count 40</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
	<u>Count 41</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130

Count 42

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 43

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 44

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 45

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 46

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 47

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 48

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 49

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$1,290

Count 50

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 51

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130

Count 52

42 U.S.C. § 4852d(b)(5)  
40 C.F.R. § 745.115(a)  
40 C.F.R. § 745.113(b)(6) .....\$130



	<u>Count 53</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
	<u>Count 54</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
	<u>Count 55</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
	<u>Count 56</u>	
42 U.S.C. § 4852d(b)(5)		
40 C.F.R. § 745.115(a)		
40 C.F.R. § 745.113(b)(6) .....		\$130
<b>Total Proposed Civil Penalty</b>		<b>\$40,820</b>

111. In determining the amount of any civil penalty, Section 16 of TSCA requires EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, effect 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.

112. EPA calculates penalties by applying its *Section 1018 - Disclosure Rule Enforcement Response Policy* dated December 2007 (Response Policy). This Response Policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases. As discussed in the Response Policy, the severity of each violation alleged in the complaint is based on the extent to which each violation impairs the ability of a lessee to assess information regarding hazards associated with lead-based paint, and precludes the lessee from making a fully informed decision whether to lease the housing or take appropriate measures to protect against lead-based paint hazards. Factors relevant to assessing

an appropriate penalty include information pertaining to a Respondent's ability to pay a penalty, any evidence showing that no lead-based paint exists in the cited housing, and any evidence that Respondent has taken steps to discover the presence of and/or has taken steps to abate lead-based paint and its hazards in subject housing.

113. As stated in paragraph 30, above, by letter dated May 6, 2010, EPA advised Respondent that EPA was planning to file a civil administrative complaint against Respondent for alleged violations of Section 1018 and that Section 1018 authorizes the assessment of a civil administrative penalty. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint, and if Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty, EPA asked Respondent to submit specific financial documents.

After Respondent indicated verbally that it is in poor financial condition, EPA contacted Respondent five times by telephone and three times by e-mail to request that Respondent submit information so that EPA could factually consider the claimed inability to pay a penalty. Respondent has not provided any information. EPA has not discovered publicly available financial information relating to Respondent. EPA's investigation in this matter discovered that Respondent managed rentals of at least 47 residential units and owned at least one residential unit. EPA considered this limited information and made no adjustment to the penalty due to Respondent's ability to pay.

### **Rules Governing This Proceeding**

*The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) at*

40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint is a copy of the Consolidated Rules.

**Filing and Service of Documents**

Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends to include as part of the record in this proceeding. The Regional Hearing Clerk's address is:

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

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Mony Chabria, Associate Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Chabria at (312) 886-6842. His address is:

Mony Chabria (C-14J)  
Associate Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**Penalty Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, United States of America" and by delivering the check to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center

P.O. Box 979077  
St. Louis, Missouri 63197-9000

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Mony Chabria and to:

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

**Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted according to the Consolidated Rules.

In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular

factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation. Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

#### **Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Mony Chabria at the address provided above.

Respondent's request for an informal settlement conference does not extend the 30-calendar-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. The

Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. The Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

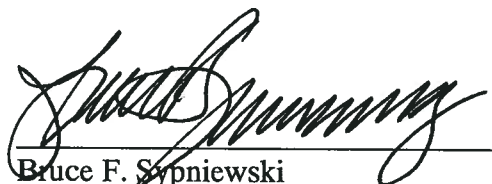
**Continuing Obligation to Comply**

Respondent's payment of the civil penalty will not satisfy Respondent's legal obligation to comply with TSCA and any other applicable federal, state, or local law.

**Consent Agreement and Final Order**

EPA has authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with Respondent in an informal conference. The terms of the settlement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties is binding when the Regional Administrator signs the Final Order and it is filed with the Regional Hearing Clerk.

9/17/10  
Date

  
Bruce F. Sypniewski  
Acting Director  
Land and Chemicals Division

**RECEIVED**  
SEP 20 2010  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

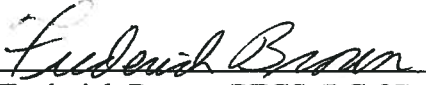
**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Complaint involving Mr. Robert S. Parker, was filed on September 20, 2010, with the Regional Hearing Clerk (E-19J), U. S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7670 5622, along with a copy each of the “Consolidated Rules of Practice, 40 C.F.R. Part 22,” and “Section 1018 Disclosure Rule Enforcement Response Policy” to:

Mr. Robert S. Parker  
Registered Agent  
Marbles Realty, LLC  
1711 Wabash Avenue  
Terre Haute, Indiana 47802

and forwarded intra-Agency copies to:

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

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

**RECEIVED**  
SEP 20 2010

Docket No. TSCA-05-2010-0022

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**