



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

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0182 9917

David Cohen
Harry Cohen Company, Inc.
4105 Commerce
Commerce Twp., Michigan 48382

David Cohen and Harry Cohen Company, Inc. TSCA-05-2008-0021 28.

Dear Mr. Cohen:

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 3, 2009, with the Regional Hearing Clerk.

The civil penalty in the amount of \$7427.00 with interest is to be paid in the manner described in paragraphs 10 and 11. Please be certain that the number BD2750967X003 and the docket number are written on both the transmittal letter and on the check. Payment is due by April 2, 2009 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

Scott Cooper
Pesticides and Toxic Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)
Sanford A. Schulman, Attorney (w/Encl)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. TSCA-05-2008-0021
)	
David Cohen and)	Proceeding to Assess a Civil Penalty
Harry Cohen Company, Inc.)	Under Section 16(a) of the Toxic Substances
)	Control Act, 15 U.S.C. § 2615(a)
Respondents.)	
<hr/>		

Consent Agreement and Final Order

Preliminary Statement

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. Complainant, the Director of the Land and Chemicals Division, United States

Environmental Protection Agency, Region 5, brought this administrative action seeking a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. On August 12, 2008, EPA filed the Complaint in this action against Respondents David Cohen and Harry Cohen Company, Inc. The Complaint alleges that in one contract to sell target housing and one contract to lease target housing, Respondents violated Section 1018(b)(5) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d(b)(5), Section 409 of TSCA, 15 U.S.C. § 2689, 40 C.F.R. § 745.113(a)(2), (3),(4) and (7), and 40 C.F.R. § 745.113(b)(2), (3), (4), and (6).

3. Respondents filed an Answer and requested a hearing in this matter.

Stipulations

4. Respondents admit the jurisdictional allegations in the Complaint and neither admit nor deny the factual allegations in the Complaint.

5. Respondents waive any right to contest the allegations in the Complaint and their right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondents certify that they are complying fully with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations at 40 C.F.R. Part 745.

7. Respondents consent to the assessment of the civil penalty stated in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalties

9. In consideration of Respondents' attitude and other factors as justice may require, EPA agrees to mitigate the proposed penalty of \$10,810.00 to \$7,427.00.

10. Respondents must pay the civil penalty payment of \$7,427.00, with interest, in accordance with the following schedule: within 30 days after the effective date of this CAFO, Respondents must pay the first penalty payment of \$2,500.00; within five months after the effective date of this CAFO, Respondents must pay the second penalty payment of \$2,500.00; and within 9 months of the effective date of this CAFO, Respondents must pay the third penalty payment of \$2,500.00. Respondents shall make each civil penalty payment by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

for checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Each check must state "In the Matter of: David Cohen and Harry Cohen Company, Inc.," the docket number of this CAFO, and the billing document number.

11. A transmittal letter stating Respondents' name, complete address, the case docket number, and the billing document number must accompany each payment. Respondents must send a copy of each check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Scott Cooper (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Mary McAuliffe (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

12. This civil penalty is not deductible for federal tax purposes.

13. If Respondents do not pay the civil penalty timely, and upon notice to Respondents, the entire remaining balance of the civil penalty shall become due and owing no later than 30 days after missed payment date. If Respondents fail to pay the remaining civil penalty balance within 30 days after a missed payment date, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

14. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment

was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15.00 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

15. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in the Complaint.

16. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

17. This CAFO does not affect Respondents' responsibility to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and other applicable federal, state, and local laws.

18. The terms of this CAFO bind Respondents, and their successors and assigns.

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

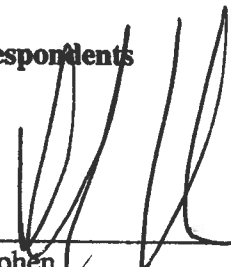
20. Each party agrees to bear its own costs and attorney's fees in this action.

21. This CAFO constitutes an entire agreement between the parties.

David Cohen and Harry Cohen Company, Inc., Respondents

2/7/09


Date



David Cohen
Individually, and as President,
Harry Cohen Company, Inc.

United States Environmental Protection Agency, Complainant

2/26/09
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of:
David Cohen and Harry Cohen Company, Inc.
Docket No. TSCA-05-2008-0021**

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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

2-27-09

Date



Bharat A. Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

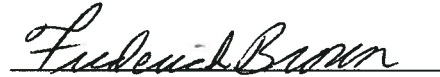
CERTIFICATE OF SERVICE

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving David Cohen and Henry Cohen Company, Inc., was filed on March 3, 2009, with the Regional Hearing Clerk (E-13J), 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. 7001 0320 0006 0186 9917, to:

David Cohen
Harry Cohen Company, Inc.
4105 Commerce
Commerce Twp., Michigan 48382

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Mary McAuliffe, 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

Docket No. TSCA-05-2008-0021

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