



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2007 MAY 17 AM 9:50
REGIONAL HEARING
CLERK

May 16, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
VIA FAX (212) 248-3008

Philip J. Onoroto, Esq.
Wood Rafalsky & Wood, LLP
Attorneys at Law
62 Williams Street, 2nd Floor
New York, New York 10005

Re: Consent Agreement and Final Order for Violations of the Clean Air Act,
Docket No. CAA- 02-2006-1236

Dear Mr. Onoroto:

Enclosed is the fully executed Consent Agreement and Final Order (CAFO) concerning the subject matter.

If you have any questions, please do not hesitate to contact me at (212) 637-3201.

Sincerely,

A handwritten signature in cursive script, appearing to read "Evans Stamatakis".

Evans Stamatakis
Assistant Regional Counsel
Office of Regional Counsel

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2007 MAY 17 AM 9:50

REGIONAL HEARING
CLERK

-----X
In the matter of:

Jamie Towers Housing Co., Inc
Bronx, NY
Respondent

In a proceeding under Section 113(d)
of the Clean Air Act 42 U.S.C. § 7413(d)
-----X

CONSENT AGREEMENT
AND
FINAL ORDER

CAA-02-2006-1236

Preliminary Statement

The United States Environmental Protection Agency (EPA) issues this Consent Agreement and the attached Final Order (CAFO) under the authority of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (CAA or Act), 42 U.S.C. § 7413(d), Section 113(d), in accordance with 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 Complainant in this matter is the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2, who is duly delegated authority to issue Complaints and Consent Agreements on behalf of EPA Region 2, which includes the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands. The Regional Administrator of EPA Region 2, has the authority to execute Final Orders.

On September 9, 2005, the U.S. Department of Justice (DOJ) granted EPA's request for a waiver of the CAA Section 113(d) 12-month limitation on EPA's authority to initiate an administrative action against Jamie Towers Housing Co., Inc. (Respondent). On September 26, 2006, EPA issued a Complaint CAA-02-2006-1236 (Complaint) to Respondent for civil monetary penalties. In the Complaint, EPA alleges that Respondent violated 40 C.F.R. Part 60 Subpart A, the "New Source Performance Standards General Provisions," and 40 C.F.R. Part 60, Subpart Dc, 40 C.F.R. §§ 60.40c - 60.48c the "Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units" (NSPS Subpart Dc) promulgated pursuant to Sections 111 and 114 of the Act. EPA also alleges that Respondent violated certain terms and/or conditions of a permit issued to it by New York State in accordance with 6 NYCRR Chapter III, Subpart 201, developed pursuant to 40 C.F.R. Part 70, which was promulgated pursuant to 42 U.S.C. §§ 7661-7661f, Sections 501 through 507 (title V) of the Act.

Complainant and Respondents have agreed to resolve the Complaint by entering into this Consent Agreement and by the issuance of a Final Order.

For purposes of this proceeding, Respondent: (1) admits that EPA has jurisdiction over the subject matter as alleged herein; (2) neither admits nor denies specific factual allegations contained in the Complaint; (3) consents to the terms of agreement set forth in this Consent Agreement; and (4) consents to the issuance of the attached Final Order.

Consent Agreement

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Pursuant to Section 113(d) of the Act, Respondent shall pay a civil penalty of Sixty Two Thousand Two Hundred and Fifty dollars (\$62,250) in eight (8) payments in accordance with paragraphs 2 and 3 of this Consent Agreement.

2. Respondent shall pay:

- i. an initial penalty of \$25,000 within 90 days from the date the Regional Administrator executes this Consent Agreement as a Final Order (Effective Date); and
- ii. a second payment of \$5,120 no later than the seventh (7th) month following the Effective Date.

3. Thereafter, Respondent shall make six payments of \$5,355 each, in accordance with the following schedule:

- i. the first of the six payments no later than the last day in the 10th month following the Effective Date;
- ii. the second of the six payments no later than the last day of the 13th month following the Effective Date;
- iii. the third of the six payments no later than the last day of the 16th month following the Effective Date;
- iv. the fourth of the six payments no later than the last day of the 19th month following the Effective Date;
- v. the fifth of the six payments no later than the last day of the 22nd month following the Effective Date; and
- vi. the sixth and final payment no later than the last day of the 25th month following the Effective Date.

4. Each payment shall be made either by cashiers' or certified check.

Respondent shall: (1) clearly type or write the docket number (CAA-02-2006-1236) on the checks to ensure proper payment; (2) make the checks payable to the order of "Treasurer, United States of America;" and (3) send the checks to:

U.S. Environmental Protection Agency
Region 2 Hearing Clerk
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

5. Respondent shall send notice of each payment and a copy of each of the checks to the following individuals:

Kenneth Eng, Air Compliance Branch Chief
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway - 21st Floor
New York, New York 10007

and

Flaire Hope Mills, Air Branch Chief
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, New York 10007

6. If Respondent fails to make full and complete payment of the \$62,250 penalty that is required by this CAFO, this case may be referred by EPA to the United States Department of Justice and/or the United States Department of the Treasury for collection. In such an action, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3717, Respondent shall pay the following amounts:

- i. Interest If Respondent fails to make payment, or makes partial payment, any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 31 U.S.C. § 3717 and 26 U.S.C. § 6621 from the payment Due Date; and
- ii. Handling Charges Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be paid if any portion of the assessed penalty is more than thirty (30) days past the payment Due Date.
- iii. Attorney Fees, Collection Costs, Nonpayment of Penalty If Respondent fails to pay the amount of an assessed penalty on time, pursuant to 42 U.S.C. § 7413(d)(5), in addition to such assessed penalty and interest and handling assessments, Respondent shall also pay the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

7. This Consent Agreement is being entered into voluntarily and knowingly in full settlement of Respondent's alleged violations of the Act set forth in the Complaint.

8. Respondent has read the Consent Agreement, finds it reasonable and consents to its terms and to its issuance as a Final Order.

9. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other environmental laws, nor shall this CAFO affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

10. Respondent waives any right to contest the allegations made in the Complaint and its right to appeal the proposed Final Order accompanying this Consent

Agreement.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with, or to be served with and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. Each party to this CAFO shall bear its own costs and attorneys fees in the action resolved by this Consent Agreement.

13. This CAFO shall be binding on Respondent and its successors and assignees.

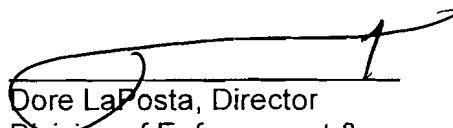
14. Each of the undersigned representative(s) to this CAFO certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and bind that party to it.

For Respondent:



Jamie Towers Housing Co., Inc

For Complainant:



Dore LaPosta, Director
Division of Enforcement &
Compliance Assistance
United States Environmental
Protection Agency, Region 2

Date

May 3, 2007

Date

MAY 10, 2007

FINAL ORDER

The Regional Administrator of EPA, Region 2, concurs in the foregoing Consent Agreement resolving the CAA matter: Jamie Towers Housing Co., Inc., CAA-02-2006-1236. The Consent Agreement in this matter is hereby approved and issued, as a Final Order, effective immediately.

DATE: 5/14/01

Mathleen Callahan

for Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection
Agency - Region 2

CERTIFICATE OF SERVICE

In re: Jamie Towers Housing Co., Inc.
CAA-02-2006-1236

I certify that I have this day, May 16, 2007, caused to be sent the foregoing fully executed CONSENT AGREEMENTS AND FINAL ORDERS, bearing the above-referenced docket numbers, in the following manner to the respective addressees below:

Original and One Copy by Hand To:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection
Agency – Region 2
Office of Regional Counsel
290 Broadway – 16th Floor
New York, New York 10007

Copy by Certified Mail
Return Receipt Requested To:

Mr. Philip J. Onoroto, Esq.
Wood Rafalsky & Wood, LLP
Attorneys at Law
62 Williams Street, 2nd Floor
New York, NY 10005

Dated: May 16, 2007
New York, New York


Orelia Lewis, Secretary