

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tonia Bandrowicz
Name of Case Attorney

8/28/12
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-DI-2012-0070

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Kindred Painting LLC
PO Box 971
Dover, NH 03281

Total Dollar Amount of Receivable \$ 2,730 Due Date: 9/27/12

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

RECEIVED
AUG 28 2012
EPA ORC WJS
Office of Regional Hearing Clerk

BY HAND

August 28, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Re: In the Matter of Kindred Painting LLC
Docket No. TSCA-1-2012-0070

Dear Ms. Santiago:

In accordance with 40 C.F.R. § 22.18(b), enclosed for filing in the above-referenced case, please find a Toxic Substances Control Act Renovation, Repair and Painting (RRP) Rule Micro-Business Settlement Agreement that has been signed by the parties and approved by the Regional Judicial Officer. Consistent with 40 C.F.R. §§ 22.13(b) and 22.18(b) this Settlement Agreement both commences and concludes the matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tonia Bandrowicz".

Tonia Bandrowicz
Senior Enforcement Counsel

Enclosure

cc: Jon Taylor, Owner
Kindred Painting, LLC

Micro-business Settlement Agreement
Docket No. TSCA-01-2012-0070

CERTIFICATE OF SERVICE

I certify that the foregoing fully executed Micro-business Settlement Agreement was transmitted to the following persons, in the manner specified, on the date below:

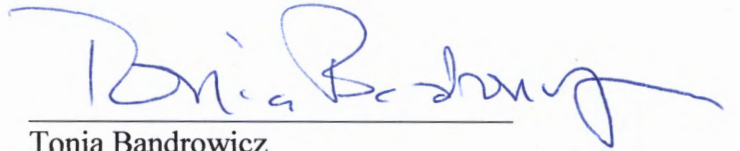
Original and one copy hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

Jon Taylor, Owner
Kindred Painting, LLC
PO Box 971
Dover, NH 03281

Dated: 8-28-12



Tonia Bandrowicz
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone: (617) 918-1734
Fax: (617) 918-0734



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED
AUG 28 2012
EPA ORC
Office of Regional Hearing Clerk

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 19 2012

Jon Taylor, Owner
Kindred Painting, LLC
15 Millstone Road
Windham, NH 03087

Re: **Notice of Finding of Violation of Federal Renovation,
Repair and Painting Rule and Toxic Substances Control Act
and Opportunity for Settlement**
Docket No. TSCA-01-2012-0070

Dear Mr. Taylor:

Based on a July 21, 2011 joint U.S. Environmental Protection Agency ("EPA") and New Hampshire OSHA inspection, EPA has determined that Kindred Painting, LLC, failed to comply with the **Renovation, Repair and Painting ("RRP") Rule** during a renovation activity at the following address:

435 Exeter Road
Hampton, New Hampshire

The RRP Rule is promulgated under Sections 402(c) and 406(b) of the Toxic Substances Control Act ("TSCA"), 42 U.S.C. §§ 2682(c) and 2686(b), and can be found at 40 C.F.R. Part 745, Subpart E. Copies of the RRP Rule and EPA's September 2011 *Small Entity Compliance Guide to Renovate Right: EPA's Lead Based Paint Renovation, Repair and Painting Program* are enclosed for your information.

EPA specifically finds that Kindred Painting, LLC did not comply with the following requirements of the RRP Rule:

- the notification requirements of 40 C.F.R. § 745.85(a)(1) (by failing to post signs clearly defining the work area);
- the certification requirements of 40 CFR §§ 745.81(a)(2)(ii) (by failing to obtain initial firm certification from EPA) and 745.81(a)(3) (by failing to obtain training course completion certification); and

- the work practices requirements of 40 C.F.R. §§ 745.85(a)(4)(i) (by failing to contain waste from the renovation activities) and 745.85(a)(3)(ii) (by failing to prohibit the use of machines that remove lead-based paint through high speed operation such as sanding, unless such machines are used with HEPA exhaust control).

By violating the RRP Rule, Kindred Painting, LLC, violated sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and 40 C.F.R. § 745.87(a).

You should immediately review your compliance with the RRP Rule requirements and correct any continuing noncompliance as soon as possible.

Based on its finding that Kindred Painting, LLC has violated the RRP Rule, EPA is prepared to proceed with initiating a penalty enforcement action concerning the violations cited above. **EPA has the authority under Section 16 of the TSCA, 42 U.S.C. § 2615, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, to seek civil penalties administratively for violations of the RRP Rule, up to a statutory maximum of \$37,500 per violation, per day.** Penalties are calculated by EPA in accordance with *EPA's Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, dated August 2010, a copy of which is available at:

<http://www.epa.gov/compliance/resources/policies/civil/penalty/leadbasedpaint-consolidatederpp0810.pdf>

Opportunity for Quick Settlement for Reduced Penalties

Before proceeding to initiate formal enforcement, EPA is offering to quickly resolve the alleged violations cited above for a reduced penalty of **\$2,730** through a quick settlement process.

To take advantage of this offer of reduced penalties, you must comply with each of the following conditions within thirty (30) days of your receipt of this letter:

- (1) Correct any remaining violations of the RRP Rule at the above address; and
- (2) Sign and return to EPA the enclosed Micro-Business Settlement Agreement ("Agreement"). Note that, by signing the Agreement, you are certifying that you have corrected the cited violations and are in compliance with the RRP Rule, that you will pay a penalty of \$2,730, and that you are waiving your opportunity for a hearing or an appeal concerning the alleged violations. In addition, you are also certifying that you will, as necessary, obtain renovator training and/or firm certification as required under the RRP Rule.

Return the signed Agreement to:

Alexander Aman
Environmental Engineer
Toxics and Pesticides Unit
U.S. EPA - Region 1 (New England)
5 Post Office Square, Suite 100
Mail Code OES 05-4
Boston, MA 02109-3912

Do not send payment with the signed Agreement. When EPA receives the signed Agreement back from you, the Agreement will be forwarded to the EPA Legal Enforcement Manager of the Office of Environmental Stewardship and the EPA Regional Judicial Officer for approval and signature. After the EPA Regional Judicial Officer signs the Agreement, EPA will file it with the EPA Regional Hearing Clerk and mail you a fully executed copy. The Agreement becomes effective on the day it is filed with the EPA Regional Hearing Clerk. Within 30 days of the date the Agreement is filed with the Regional Hearing Clerk, you must send a payment of \$2,730 by check made out to "Treasurer, United States of America," to:

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

You must also send copies of the check to:

Alexander Aman
Environmental Engineer
Toxics and Pesticides Unit
U.S. EPA - Region 1 (New England)
5 Post Office Square, Suite 100
Mail Code OES 05-4
Boston, MA 02109-3912

and

EPA Regional Hearing Clerk
U.S. EPA - Region 1 (New England)
5 Post Office Square, Suite 100
Mail Code ORA 18-1
Boston, MA 02109-3912

The check must reference the docket number of the case: TSCA-01-2012-0070.

If you do not follow the procedures outlined in this letter for quick settlement (i.e, correct any continuing violations and sign and return the Agreement) within thirty (30) days of your receipt of this letter, **this settlement offer will be withdrawn. This withdrawal will not affect EPA's ability to file a penalty enforcement action for the alleged violations under Section 16 of TSCA, 42 U.S.C. § 2615, and EPA's Consolidated Enforcement Response and Penalty Policy.**

If you believe that you are not subject to, or have not violated any requirements of, the RRP Rule, or are not able to pay the penalty, please provide a written explanation, along with any relevant documentation, to Alexander Aman at the address above within thirty (30) days of your receipt of this letter. Claims for inability to pay must be supported by the documentation listed on page 20 of the *EPA's Consolidated Enforcement Response and Penalty Policy*, including, but not limited to, the company's last three to five years of tax returns, balance sheets, and income statements.

If you have any questions or wish to discuss the general circumstances of your case, please contact the Compliance Officer assigned to your case, Alexander Aman, Environmental Engineer at 617-918-1722, or have your attorney contact Tonia Bandrowicz, EPA's legal counsel representing the Agency in this matter, at 617-918-1734.

Sincerely,



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA - Region 1 (New England)

Enclosures:

1. RRP Rule
2. EPA's September 2011 *Small Entity Compliance Guide to Renovate Right: EPA's Lead Based Paint Renovation, Repair and Painting Program*
3. Micro-Business Settlement Agreement

cc: Tonia Bandrowicz, U.S. EPA - Region 1 (New England)
Alexander Aman, U.S. EPA - Region 1 (New England)
Rosemarie Ohar, Area Director, New Hampshire Occupational Safety and Health Administration
Laura Vincent-Ford, Program Manager, New Hampshire Department of Health and Human Services, Childhood Lead Poisoning Prevention Program



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

RRP Settlement Agreement

**Issued under Section 16 of TSCA, 15 U.S.C. § 2615
and 40 C.F.R. § 22.13(b) and 22.18(b)
Docket Number TSCA-01-2012-0070**

RECEIVED
AUG 28 2012
EPA ORC
Office of Regional Hearing Clerk

The U.S. Environmental Protection Agency ("EPA") finds that Respondent, Kindred Painting, LLC, of 15 Millstone Road, Windham, NH, 03087, failed to comply with the "Renovation, Repair and Painting" ("RRP") Rule, set forth at 40 C.F.R. Part 745, Subpart E, promulgated under Section 402(c) and 406(b) of the Toxic Substances Control Act ("TSCA"), §§ 2682(c) and 2686(b), during a "renovation," as defined at section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.83, of "target housing," as defined at 40 C.F.R. § 745.224, at 435 Exeter Road, Hampton, NH 03842.

EPA finds, that Respondent was subject to the RRP Rule and failed to comply with the notification requirements of 40 C.F.R. § 745.85(a)(1) (by failing to post signs clearly defining the work area); the certification requirements of 40 C.F.R.

§§ 745.81(a)(2)(ii) (by failing to obtain initial firm certification from EPA) and 745.81(a)(3) (by failing to obtain training course completion certification); and work practices requirements of 40 C.F.R. §§ 745.85(a)(4)(i) (by failing to contain waste from the renovation activities) and 745.85(a)(3)(ii) (by failing to prohibit the use of machines that remove lead-based paint through high speed operation such as sanding, unless such machines are used with HEPA exhaust control). By violating the RRP Rule, Respondent, violated sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and 40 C.F.R. § 745.87(a). Section 16(a) of TSCA, 15 U.S.C. § 2615(a), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, authorizes assessment of a civil penalty of up to \$37,500 per day, per violation, for violations occurring on or after January 13, 2009.

For the purpose of this proceeding, Respondent admits it is subject to the RRP Rule and TSCA and that EPA has jurisdiction over Respondent. Respondent neither admits nor denies the specific factual allegations stated above, consents to the assessment of the penalty below, and waives any objections it may have to EPA's jurisdiction in this matter.

The parties enter into this RRP Settlement Agreement ("Agreement") in order to settle the civil violations alleged above. Pursuant to TSCA and the Consolidated Rules of Practice at 40 C.F.R. Part 22, based on the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **\$2,730**. Respondent consents to the issuance of this Agreement and consents to the payment of such penalty.

Respondent agrees that, within 30 days of the effective date of this Agreement (the date it is filed with the EPA Regional Hearing Clerk), Respondent shall submit a check, with case name and docket number noted ("In the Matter of Kindred Painting, LLC, Docket No TSCA-01-2012-0070"), for the amount specified above, payable to "Treasurer, United States of America," to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. Respondent shall also submit a copy of the check to: EPA Regional Hearing Clerk, U.S. EPA - Region 1 (New England), 5 Post Office Square, Suite 100, Mail Code ORA 18-1, Boston, MA 02109-3912 and Alexander Aman, Environmental

Engineer, U.S. EPA - Region 1 (New England), 5 Post Office Square, Suite 100, Mail Code OES 05-4, Boston, MA 02109-3912.

Respondent consents to the assessment of the penalty and waives its right to: (1) contest the findings of violation specified in this Agreement; (2) a judicial or administrative hearing or appeal on any issue of law or fact set forth herein; and (3) appeal the Final Order accompanying this Agreement.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the U. S. Government, that it has corrected all violations and is in full compliance with the RRP Rule including, as necessary, obtaining renovator and/or firm certification and training.

This Agreement settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of the RRP Rule, TSCA or of any other federal statute or regulation.

Nothing in this agreement is intended to, nor shall be construed to operate in any way to resolve any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment. Each party shall bear its own costs and fees, if any. Respondent specifically waives any right to recover costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504.

If Respondent does not sign and return this Agreement within 30 days of the date of its receipt, this proposed settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.

This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. 22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.

APPROVED BY KINDRED PAINTING, LLC:

Name (print): JON TAYLOR

Title (print): OWNER

Signature: [Signature] Date: 8-18-12

APPROVED BY EPA:

[Signature] Date: 8/22/12

Joanna Jerison, Legal Enforcement Manager Office of Environmental Stewardship
U.S. EPA - Region 1 (New England)

IT IS SO ORDERED:

[Signature] Date: 8/23/12

LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA - Region 1 (New England)

Timothy Willicason, Acting RJO & LAJ