

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. TSCA-05-2023-0005
)	
JJ Real Estate Solutions, LLC)	Proceeding to Assess a Civil Penalty Under
Canton, Ohio,)	Section 16(a) of the Toxic Substances
Respondent.)	Control Act, 15 U.S.C. § 2615(a)
)	
)	
)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and Section 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. § 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3).
2. The Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is JJ Real Estate Solutions, LLC, a corporation with a business address of PO Box 36758, Canton, Ohio 44735.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional and factual allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including its right to request a hearing or petition for judicial review under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and under 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06, any right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, Pub. L. No. 102-550, Oct. 28, 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under age six; at low levels, lead poisoning in children causes intelligence quotient 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 children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-

based paint poisoning and steps to reduce and eliminate such hazards. *See* 42 U.S.C. § 4851.

10. Section 1021 of Title X amended TSCA by adding Sections 401-12, entitled Lead Exposure Reduction, at 15 U.S.C. §§ 2681-92.

11. Section (11)(a) and (b) of TSCA, 15 U.S.C. 2610(a) and (b), provides EPA with authority to conduct inspections upon the presentation of appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected.

12. Pursuant to Section 402(c)(3) of TSCA, 15 U.S.C. § 2682(c)(3), EPA promulgated regulations amending 40 C.F.R. Part 745, Subparts E and L, that apply to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. These regulations prescribe work practice standards and ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified. These requirements are known as the Renovation, Repair, and Painting Program Rule (RRP Rule).

13. 40 C.F.R. § 745.82(a)(1) makes 40 C.F.R. Part 745, Subpart E applicable to renovations of target housing performed for compensation.

14. 40 C.F.R. § 745.83 defines “firm” as a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

15. 40 C.F.R. § 745.83 defines “renovation” to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. Part 745 (40 C.F.R.

§ 745.223). The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, and surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping), and interim controls that disturb painted surfaces.

16. 40 C.F.R. § 745.83 defines “renovator” to mean an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.

17. 40 C.F.R. § 745.103 defines “residential dwelling” to mean a single-family dwelling, including attached structures such as porches and stoops; or 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, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

18. 40 C.F.R. § 745.103 defines “target housing” to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

19. Under 15 U.S.C. § 2689 and 40 C.F.R. § 745.87(a), failing to comply with any requirement of 40 C.F.R. Part 745, Subpart E, violates Section 409 of TSCA, 15 U.S.C. § 2689,

which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and 40 C.F.R. § 745.87(d).

20. The Administrator of EPA may assess a civil penalty of up to \$46,989 for each violation of Section 409 of TSCA that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19.

General Allegations

21. Complainant incorporates paragraphs 1 through 20 of this CAFO as if set forth in this paragraph.

22. At all times relevant to this CAFO, Respondent was a firm doing business in Ohio.

23. At all times relevant to this CAFO, Respondent was a “firm,” as defined at 40 C.F.R. § 745.83.

24. On July 24, 2019, Respondent performed, or directed subcontractors to perform for compensation, modifications at 217 Sunset Road, Avon Lake, Ohio 44012 (Sunset property), a residential dwelling constructed in 1930. In particular, the Respondent and its subcontractors, remodeled the interior of the home.

25. The Sunset property is “target housing” as defined at 40 C.F.R. § 745.103.

26. Respondent’s subcontracted work at the Sunset property on July 24, 2019 was a “renovation” as defined at 40 C.F.R. § 745.83.

27. On July 24, 2019, Respondent was a “renovator” as defined at 40 C.F.R. § 745.83.

28. On July 24, 2019, an authorized representative of EPA arrived at the Sunset property and presented her federal inspector credentials to Respondent’s agent in charge to

monitor Respondent's compliance with TSCA and 40 C.F.R. Part 745.

29. On July 24, 2019, Respondent's agent in charge did not permit entry or inspection to the authorized representative of EPA at the Sunset property.

30. Respondent was not registered as a certified firm under 40 C.F.R. §§ 745.89 and 745.81(a)(2)(ii) until November 1, 2022.

31. On October 19, 2019, Complainant issued a TSCA request for information (Request for Information Letter) to Respondent, seeking, among other things, a copy of the renovator certification showing completion of an EPA accredited training course, a copy of the firm certification received by EPA, copies of all contracts and/or agreements for renovation (contracts) and copies of all acknowledgement of receipt of a pamphlet by the owners and occupants of residential housing.

32. Respondent received the letter referred to in paragraph 31 by United States Postal Service *Certified Mail*. Complainant received Respondent's signed and dated United States Postal Service *Certified Mail* acknowledgement receipt on November 21, 2019. Respondent did not otherwise reply to the TSCA Information Request letter.

Count I – Failure to obtain initial firm certification from EPA before performing, offering, or claiming to perform renovations for compensation

33. Complainant incorporates paragraphs 1 through 32 of this CAFO as if set forth in this paragraph.

34. 40 C.F.R. § 745.81(a)(2)(ii) provides that on or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from EPA under 40 C.F.R. § 745.89 in target housing, unless the renovation qualifies for one of the exceptions identified in 40 C.F.R. § 745.82(a) or (c).

35. On July 24, 2019, Respondent performed the renovation activities described in paragraph 24. Respondent was not certified as a firm, under 40 C.F.R. § 745.89, until November 1, 2022.

36. Respondent's failure to be certified as a firm, under 40 C.F.R. § 745.89, before the renovation referred to in paragraph 24 constitutes a violation of 40 C.F.R. § 745.81(a)(2)(ii) and 15 U.S.C. § 2689.

Count II – Failure or refusal to permit entry or inspection to EPA at the single-family residential dwelling

37. Complainant incorporates paragraphs 1 through 32 of this CAFO as if set forth in this paragraph.

38. 40 C.F.R. § 745.87(c) requires the firm to permit entry or inspection to EPA of target housing.

39. On July 24, 2019, Respondent failed to permit entry or inspection to EPA at the Sunset property.

40. For the renovation referenced in paragraph 24, Respondent's failure to permit entry or inspection violated 40 C.F.R. § 745.87(c).

Count III – Failure to establish and maintain records, or to make available such records to EPA when requested

41. Complainant incorporates paragraphs 1 through 32 of this CAFO as if set forth in this paragraph.

42. 40 C.F.R. § 745.87(b) requires the firm to make available such records to EPA when requested in EPA's "Request for Information under 40 C.F.R. § 745.86" letter dated October 19, 2019.

43. Respondent failed to make available such records to EPA when requested in EPA's October 19, 2019 "Request for Information under 40 C.F.R. § 745.86" and during the renovation described in paragraph 24.

44. For the renovation referenced in paragraph 24, Respondent's subsequent failure to make available such records to EPA when requested in EPA's "Request for Information under 40 C.F.R. § 745.86" violated 40 C.F.R. § 745.87(b) and Section 409 of TSCA.

Civil Penalty

45. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$11,361. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the 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. Complainant also considered EPA's *Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, Revised April 5, 2013.

46. Within 30 days after the effective date of the CAFO, Respondent must pay the \$11,361 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000

47. A transmittal letter stating Respondent's name, complete address, and the case

docket number must accompany the payment in paragraph 46. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
R5hearingclerk@epa.gov

Craig Meredith (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
meredith.craig@epa.gov
and
R5lecab@epa.gov

Thomas Turner (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
turner.thomas@epa.gov

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

49. If Respondent does not timely pay the civil penalty, 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). Respondent acknowledges that the validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

50. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following interest, fees, and penalties on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

51. Pursuant to 40 C.F.R. § 22.5(b)(2), the parties consent to service of this CAFO by email at the following email addresses: turner.thomas@epa.gov (for Complainant) and jteam@jjrealestatesolutions.com (for Respondent). *See* 40 C.F.R. § 22.5-6. The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6. Respondent understands that the CAFO will become publicly available upon filing.

52. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

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

54. This CAFO does not affect Respondent's responsibility to comply with TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, the Lead Residential Lead-Based Paint Disclosure Program, and other applicable federal, state, or local laws and permits.

55. Respondent certifies that it is complying with TSCA and 40 C.F.R. Part 745.

56. The terms of this CAFO bind Respondent and its successors and assigns.

57. Each person signing this CAFO 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.


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

59. This CAFO constitutes the entire agreement between the parties.

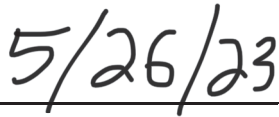
60. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

**Consent Agreement and Final Order
In the Matter of JJ Real Estate Solutions,
LLC Docket No.: TSCA-05-2023-0005**

JJ Real Estate Solutions, LLC, Respondent



Mr. Jeremiah Johnson
Owner
JJ Real Estate Solutions, LLC



Date

**Consent Agreement and Final Order
In the Matter of JJ Real Estate Solutions, LLC
Docket No.: TSCA-05-2023-0005**

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

 Digitally signed by MICHAEL
HARRIS
Date: 2023.05.31 09:29:33
-05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order
In the Matter of JJ Real Estate Solutions,
LLC Docket No.: TSCA-05-2023-0005**

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.

ANN COYLE Digitally signed by ANN COYLE
Date: 2023.05.31 13:22:53
-05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5