



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

POUCH MAIL

October 23, 2008

Honorable Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue., NW
Washington, DC 20460

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In re: In the matter of Mountainside Realty et. al.
EPA Docket No. TSCA-03-2008-0333
Complainant's Initial Pre-hearing Exchange

Dear Judge Gunning:

Enclosed please Complainant's Initial Pre-hearing Exchange as requested by your Order dated August 26, 2008.

Should you have any question or require further information, please feel free to call me at (215) 814-2681.

Respectfully,

Louis F. Ramalho
Sr. Assistant Regional Counsel

Enclosures

cc: J. Michael Wiley, Esq.
Counsel for Respondents



BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

Mountainside Realty,
Kevin Weinhoffer, and
Marshall R. Corbin

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Docket No.: TSCA-03-2008-0333

RESPONDENTS.

COMPLAINANT'S INITIAL PREHEARING EXCHANGE

Pursuant to Rule 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. § 22.19(a), and the August 26, 2008 *Prehearing Order* issued by the Honorable Barbara A. Gunning, Presiding Officer, Complainant, the Director of the Waste and Chemicals Management Division of the United States Environmental Protection Agency - Region III, files its Initial Prehearing Exchange in the above-captioned matter. Complainant respectfully reserves its right to supplement this Initial Prehearing Exchange in accordance with 40 C.F.R. § 22.19(f) and/or to file a motion to amend its Prehearing Exchange in accordance with 40 C.F.R. § 22.16.

Complainant notes for the record that certain of the exhibits have been redacted based, in part, on the advice of the Regional Judicial Officer, because of privacy concerns.

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These redactions are based on 40 C.F.R. § 2.105(a)(6) of the EPA regulations implementing the requirements of the Freedom of Information Act, 5 U.S.C. § 552. Pursuant to this provision, EPA will not disclose information concerning, “Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.”

The redactions for the relevant exhibits are noted with explanatory asterisks in the list of Complainant’s Prehearing Exchange Exhibits (Attachment A to the Prehearing Exchange). These redactions may concern social security numbers, the names of people not relevant to this proceeding, and the names of the lessees and their children. The Presiding Officer, the Regional Hearing Clerk, and Respondents’ counsel have each been provided with one redacted and one unredacted (under seal) set of exhibits. Also, for convenience, Respondent Mountainside Realty, Kevin Weinoffer, and Marshall R. Corbin are collectively referred to in this Prehearing Exchange as “Respondents.”

ITEM 1 RESPONSES

1.A. Witnesses

Complainant reserves the right to call any and/or all of the following witnesses at a hearing of the above-captioned matter. In addition, should Respondents’ Prehearing Exchange or other discovery reveal the need for further witnesses, Complainant respectfully reserves the right to supplement the list of witnesses upon adequate notice to this tribunal and Respondents to call such witnesses at the hearing of this matter.

A. Demian Ellis - U.S. EPA Region III, Lead Compliance Officer

Type of Witness: Fact

Mr. Ellis is a Lead Compliance Officer with EPA Region III's Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch. His duties as a Lead Compliance Officer include, among other things, investigations of possible lead disclosure violations under Section 409 of the Toxic Substances Control Act, 15 U.S.C. § 2689 ("TSCA") and the Real Estate Notification and Disclosure Rule, 40 C.F.R. Part 745, Subpart F ("Disclosure Rule"). Mr. Ellis may be called upon to testify as a fact witness concerning, *inter alia*, the requirements of the Disclosure Rule with regard to the leasing of target housing. Mr. Ellis will testify about his involvement in EPA's investigation into the lead disclosure violations by Respondents set forth in the Complaint. More specifically, Mr. Ellis' testimony will establish that Respondents were required to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA") Section 1018, 42 U.S.C. § 4852d, and the Disclosure Rule, 40 C.F.R. Part 745, Subpart F, in connection with the nine leases of target housing set forth in the Complaint. Mr. Ellis will establish that the Respondents, as the owners and/or lessors of such target housing, were required to make to the lessees certain specific disclosures concerning lead-based paint, as provided by the Disclosure Rule. Mr. Ellis will provide testimony that establishes that the Respondents failed to make the disclosures required by the Disclosure Rule as set forth in the Administrative Complaint and Notice of Opportunity for a Hearing ("Complaint") even though Respondents knew of the Disclosure Rule requirements and deliberately and intentionally decided not to comply with such requirements. Mr. Ellis shall provide testimony that establishes

that the civil penalty proposed in Complainant's Exhibit 38 of this Prehearing Exchange is appropriate and fair in light of Respondents' violations and that the proposed civil penalty is consistent with the statutory factors as provided by TSCA Section 16, 15 U.S.C. § 2615, and EPA's December 2007 *Real Estate Notification and Disclosure Rule: Final Enforcement Response Policy* ("ERP") (Complainant's Exhibit -39). Mr. Ellis will also provide testimony concerning the ERP, including, but not limited to, the history of the ERP, the public policy matters and EPA policies underlying the ERP, and the relationship between the ERP and the statutory factors provided by TSCA Section 16, 15 U.S.C. § 2615.

B. Harry Boyer - U.S. EPA Region III, Inspector

Type of Witness: Fact

Mr. Boyer is an inspector with EPA Region III's Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch. His duties as an inspector include the investigation of compliance with the lead-based paint Disclosure Rule requirements under TSCA. Mr. Boyer conducted an inspection on September 25, 2006 at Respondents' offices located at 1506 Pine Crest Drive, South Williamsport, Pennsylvania. Mr. Boyer may testify to establish the collection of leases and other pertinent information attached to his inspection report, and the discussions he had with the Respondents during the inspection.

C. Betty Ann Quinn - U.S. EPA Region III, Toxicologist

Type of Witness: Exper

Ms. Quinn is a Toxicologist with EPA Region III's Waste and Chemicals Management Division and will provide expert testimony concerning, *inter alia*, the risks posed generally to human health and the environment by lead-based paint, dust, chips and flakes, the increased risks posed by the aforesaid materials to the health of pregnant women and children (especially under the age of six), the routes of human exposure to lead-based paint, dust, chips and flakes, measures of body-lead burden, dose/response and risk characterization/assessment concerning lead-based paint, dust, chips and flakes, and the association of exposure to lead-based paint, dust, chips and flakes and elevated blood lead levels. More specifically, concerning the action at bar, Ms. Quinn will testify that the target housing leased by the Respondents could have posed an increased health risk to the lessees due to Respondents' failure to make the disclosures required by the Disclosure Rule in light of the fact that, at the time Respondents entered into certain leases with lessees for target housing that had children under the age of six. Additionally, Ms. Quinn will provide expert testimony concerning the benefits, in terms of protecting human health, children and pregnant women, arising from having a lead-based paint risk assessment, inspection and/or abatement performed on such target housing and the benefits arising from having the disclosures required under the Disclosure Rule made to lessees. More specifically, Ms. Quinn will testify that, if Respondents had complied with the Disclosure Rule.

the lessees would have been alerted to the risks posed by the target housing and that lessees, armed with this information, could have made an informed decision, investigated, minimized and/or eliminated the potential risks posed to them by the target housing.

**D. Deborah V. Roane - Compliance Assistance and Enforcement Division,
Office of Healthy Homes and Lead Hazard Control, U.S. Department of
Housing and Urban Development**

Type of Witness: Fact

Ms. Roane may be called to testify concerning Respondents' non-compliance at 210-212 West Southern Avenue, South Williamsport, Pennsylvania, and the lead-paint and lead-based paint hazards at such target housing as well as correspondence with Respondents relevant to such target housing set forth in the Complaint.

E. Brad Whitely, Inspector, Amerispec Home Inspections.

Type of Witness: Fact

Mr. Whitely is expected to provide testimony concerning his inspection of 210-212 West Southern Avenue, South Williamsport, Pennsylvania, the collection of the lead-based paint samples at such target housing, and the lead paint sample analysis performed BTS Laboratories for such target housing.

F. Maria P. Perca, Supervisor , BTS Laboratories

Type of Witness: Fact/Expert

Ms. Perca is expected to provide testimony concerning the standard operating procedures at BTS Laboratories, including, but not limited to, the quality assurance and quality control

procedures at BTS Laboratories, and the analytical results of the lead-based paint samples for 210-212 West Southern Avenue, South Williamsport.

G. Gail Coad - Principal, Industrial Economics

Type of Witness: Expert

Ms. Coad may be called to testify, as part of Complainant's case in chief and/or in rebuttal, as an expert in the field of applied economics and financial analyst, in the form of opinion testimony and otherwise, in the event any of the Respondents raise inability to pay the civil penalty proposed in the Complaint in their Prehearing Exchange. Ms. Coad is also expected to testify concerning the assets of the Respondents.

H. Kevin Weinhoffer - Co-Owner/Lessor of Target Housing and a General Partner of Mountainside Realty.

Type of Witness: Fact

Mr. Weinhoffer may be called upon to testify as the owner or lessor of some of the target housing at issue in the Complaint, his knowledge of lead-based paint and/or lead-based paint hazards or other lead sampling results at some of the target housing at issue in the Complaint, correspondence from the Office of Healthy Homes and Lead Hazard Control, U.S. Department of Housing and Urban Development, and associated lead sampling results and elevated blood level sampling results for these dwellings, his relationship with Mountainside Realty, and his financial situation should he raise an inability to pay as a defense for the penalties proposed in this action. Mr. Weinhoffer may also be called upon to testify, in his capacity as general partner of Mountainside Realty regarding his knowledge of lead-based paint and/or lead-based paint

hazards or other lead sampling results at these target housing, the receipt and management of correspondence it was given concerning lead-based paint and/or lead-based paint hazards at the target housing at issue in the Complaint and the financial situation of the partnership should he raise an inability to pay defense on behalf of Mountainside Realty. Mr. Weinhoffer may also be called upon to testify concerning responses to EPA inquiries about the alleged lead violations cited in the Complaint.

I. Marshall R. Corbin - Co-Owner/Lessor of Target Housing and a General Partner of Mountainside Realty.

Type of Witness: Fact

Mr. Corbin may be called upon to testify as the owner or lessor of some of the target housing at issue in the Complaint, his knowledge of lead-based paint and/or lead-based paint hazards or other lead sampling results at some of the target housing at issue in the Complaint, correspondence from the Office of Healthy Homes and Lead Hazard Control, U.S. Department of Housing and Urban Development, and associated lead sampling results and elevated blood level sampling results for these dwellings, his relationship with Mountainside Realty, and his financial situation should he raise an inability to pay as a defense for the penalties proposed in this action. Mr. Corbin may also be called upon to testify, in his capacity as general partner of Mountainside Realty regarding his knowledge of lead-based paint and/or lead-based paint hazards or other lead sampling results at these target housing, the receipt and management of correspondence it was given concerning lead-based paint and/or lead-based paint hazards at the target housing at issue in the Complaint and the financial situation of the partnership should he raise an inability to pay

defense on behalf of Mountainside Realty. Mr. Corbin may also be called upon to testify concerning responses to EPA inquiries about the alleged lead violations cited in the Complaint.

1.B. Complainant's Exhibits

See Attachment A, Complainant's Prehearing Exchange Exhibits, for a list of Complainant's Exhibits.

1.C. Place of Hearing/ Estimation of Time

Given that the Respondents all work or reside in or near South Williamsport, Pennsylvania as well as some of Complainant's proposed witnesses, Complainant believes that South Williamsport, Pennsylvania might be the most convenient venue for a hearing. Complainant estimates that the time needed to present its direct case should every witness be called to testify would be approximately three days. However, should the parties stipulate to certain facts in dispute, this estimate could be significantly abbreviated. Should the hearing be limited to what is an appropriate penalty for the violations at issue, Complainant's direct case could be presented in one day. However, these estimates are contingent, in part, on Respondents' possible claim of inability to pay the proposed penalty, and how many Respondents might make such a claim. Complainant notifies the Presiding Officer and Respondents of its intention to seek discovery concerning the financial situation of any party raising such a claim. Frequently, a thorough analysis of a potentially complicated financial situation can add significantly to the time it takes to present Complaint's direct case. Therefore, Complainant reserves the right to amend

its estimation for direct presentation of its case should it learn of additional information, especially of a financial nature, which could complicate and lengthen Complainant's presentation of its direct case.

ITEM 2 RESPONSES

While all the exhibits included with this Prehearing Exchange have been considered to one degree or another in the calculation of the suggested penalty for the violations set forth in the Complaint, based on the sequence of questions in the Presiding Officer's Prehearing Order, Complainant believes that the Presiding Officer is requesting specific documents relating to how EPA calculates penalties for the lead disclosure violations at issue. The enforcement response policy ("ERP") (CX-39) and Penalty Calculation Worksheet (CX-38) are the two primary documents. In addition, Section 1018 of the RLBPHRA, 42 U.S.C. § 4852d, Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 745.118(f) authorize the Administrator of EPA to assess a civil penalty of up to \$10,000 for each violation of TSCA Section 409, 15 U.S.C. § 2689. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, this amount has been adjusted to \$11,000 for each violation occurring after July 28, 1997. (*See also* 40 C.F.R. § 745.118(f)). Pursuant to 40 C.F.R. § 745.118(e), violations of the Disclosure Rule are violations of TSCA Section 409 of TSCA, 15 U.S.C. § 2689. For purposes of determining the amount of any civil penalty to be assessed for a violation of TSCA Section 409, 15 U.S.C. § 2689, TSCA Section 16, 15 U.S.C. § 2615, requires EPA to take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the violator's ability to pay, effect of the proposed penalty on the ability of the

violator to continue to do business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require (“statutory factors”). An explanation of the statutory factors and how such factors were implemented by the ERP to derive at the civil penalty proposed in the Complaint is as follows:

1. Nature and Gravity

A. Circumstance Levels:

- a) 40 C.F.R. § 745.113(b)(1) violations: Violations of the disclosure requirements set forth at 40 C.F.R. § 745.113(b)(1) are deemed to represent a “high” level of impairment to a lessee’s ability to assess the information required to be disclosed and have been characterized as Circumstance Level 2 violations in the ERP. As a result, each of the violations alleged in Counts 1 - 9 of the Complaint may be characterized as Circumstance Level 2 violations for purposes of calculating an appropriate penalty under the ERP.
- b) 40 C.F.R. § 745.113(b)(2) violations: Violations of the disclosure requirements set at 40 C.F.R. § 745.113(b)(2) are deemed to represent a “medium” level of impairment to a lessee’s ability to assess the information required to be disclosed and are characterized as Circumstance Level 3 violations in the ERP. As a result, each of the violations alleged in Counts 10 - 18 of the Complaint may be characterized as Circumstance Level 3 violations for purposes of calculating an appropriate penalty under the ERP.

c) 40 C.F.R. § 745.113(b)(4) violations: Violations of the requirements set forth at 40 C.F.R. § 745.113(b)(4) are deemed to represent a “medium” level of impairment to a lessee’s ability to assess the information required to be disclosed and are characterized as Circumstance Level 4 violations in the ERP. As a result, each of the violations alleged in Counts 19 - 27 of the Complaint may be characterized as Circumstance Level 4 violations for purposes of calculating an appropriate penalty under the ERP.

B. Extent Levels:

Failure to provide lead-based paint disclosures and/or certifications to lessees where no children or pregnant women live in the target housing is considered a “Minor Extent” violation under the ERP. However, failure to provide lead-based paint disclosures and/or certifications to lessees where children or pregnant women live in the target housing is considered a “Major Extent” violation under the ERP. Respondents failed to provide disclosures and/or certifications with respect to eight (8) different lease agreements (Lease Transactions #1 through #5, and #7 through #9) to lessees in which EPA has not determined whether children or pregnant women were present. Accordingly, the Disclosure Rule violations associated with each of these eight (8) lease transactions are all “Minor Extent” violations under the ERP. However, Respondents failed to provide disclosures and/or obtain affirmations with respect to Lease Transaction #6 for target housing at which children under the age of six were present during the term of the lease. Accordingly, the Disclosure Rule

violations associated with Lease Transaction #6 are all “Major Extent” under the ERP.

C. Summary of Number of Violations/ Penalty Calculation

<u>Counts</u>	<u>Violations</u>	<u>Circumstance/Extent</u>	<u>Penalty</u>
1 – 5	113(b)(1)	Level 2, Minor Extent	\$1,550 per count x 5 counts = \$ 7,750
6	113(b)(1)	Level 2, Major Extent	\$ 10,320
7 - 9	113(b)(1)	Level 2, Minor Extent	<u>\$1,550 per count x 3 counts = \$ 4,650</u>
			Total: \$22,720

<u>Counts</u>	<u>Violations</u>	<u>Circumstance/Extent</u>	<u>Penalty</u>
10-14	113(b)(2)	Level 3, Minor Extent	\$ 770.00 per count x 5 counts = \$ 3,850
15	113(b)(2)	Level 2, Major Extent	\$ 7,740
16-18	113(b)(2)	Level 3, Minor Extent	<u>\$ 770.00 per count x 3 counts = \$ 2,310</u>
			Total: \$13,900

<u>Counts</u>	<u>Violations</u>	<u>Circumstance/Extent</u>	<u>Penalty</u>
19-23	113(b)(4)	Level 4, Minor Extent	\$ 520.00 per count x 5 counts = \$ 2,600
24	113(b)(4)	Level 4, Major Extent	\$ 5,160
25- 27	113(b)(4)	Level 4, Minor Extent	<u>\$ 520.00 per count x 3 counts = \$ 1,560</u>
			Total: \$ 9,320

Total Proposed Penalty for Counts 1 – 27: \$45,940.00

2. Respondent’s Ability to Pay and Ability of the Violator to Continue to Do Business

EPA proposes that the civil penalty proposed in the Complaint be assessed against the Respondents jointly and severally. EPA will consider, among other factors, each Respondent’s ability to pay the proposed civil penalty proposed in the Complaint. With respect to Respondents’ ability to pay the proposed penalty, it is each Respondent’s responsibility to provide to Complainant financial information to support and establish a claim by any Respondent of an inability to pay the proposed penalty. In consideration of Respondents’ ability to

Pay/Continue in Business, see especially, the Lycoming County Property Records for Respondents (CX-25 through 32, and CX-35), and other summaries of public information concerning property owned by Respondents (CX-34, CX-36 and CX-37). During the past 5 years, Respondents have consistently purchased investment property in South Williamsport, Pennsylvania. Upon information and belief, Respondents may own additional real estate investments in other companies, partnerships, and/or corporations. As result of Respondents past and current investment activities, EPA determined that the civil penalty proposed in the Complaint would have no affect on Respondents' ability to continue their business activities.

3. History of Prior Such Violations and the Degree of Culpability of the Violator

The Respondents do not have a history of prior violations with the Disclosure Rule. However, the evidence will show that Respondents had knowledge of the lead-based paint Disclosure Rule requirements and that Respondents knowingly, willfully, and intentionally determined not to comply with such requirements. (See CX-1, CX-3.A., 4.A., 5.A., 6.A., 7.A., 8.A., 9.A., 10.A.6, 11.A. and CX-12).

ITEM 3 RESPONSES

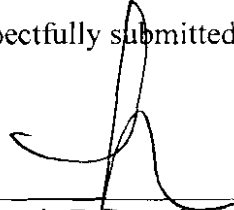
Not relevant to Complainant.

ITEM 4 RESPONSES

4. Various elements of 40 C.F.R. Part 745 have been determined to be subject to the Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. § 3501, *et seq.* All of 40 C.F.R. Part 745 is subject to a single Office of Management and Budget Control Number, 2070-0151, which was valid at all times relevant to the violations alleged in the Complaint and

is currently effective (expiration date is March 31, 2011). *See* Attachment B. PRA
Section 3512 is therefore inapplicable to this proceeding.

Respectfully submitted,



Date: 10/23/08

By: _____

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA Region III
Counsel for Complainant

ATTACHMENT A

Complainant's Prehearing Exchange Exhibits

In the matter of: Mountainside Realty et. al., Docket No. TSCA-03-2008-0

Exhibits denoted by "*" indicate documents which have been redacted as they contain "Privacy Act" sensitive information. Un-redacted copies- provided under seal have been filed with the Regional Hearing Clerk, and sent to the Presiding Officer and Respondent's counsel.

Complainant's Ex. 1. - Lead Disclosure Rule Inspection Report with attachments prepared by Harry Boyer, USEPA Inspector.

Complainant's Ex. 1.A. - Notice of Inspection dated September 25, 2006.

Complainant's Ex. 1.B. - TSCA Inspection Confidentiality Notice dated September 25, 2006.

Complainant's Ex. 1.C. - Lead Paint - Receipt for Documents dated September 25-26, 2006.

Complainant's Ex. 1.D. - Letter dated January 19, 2006 by Walter D. Wynn, III, Director, Compliance Assistance and Enforcement Division, U.S. Department of Housing and Urban Development to Kevin Weinoffer, general partner of Mountainside Realty.

Complainant's Ex. 1.E. - Toxics Programs and Enforcement Branch Inspector File Review and Case Review Worksheet.

Complainant's Ex. 1.F. - 21 Photographs of 210-212 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 1.G. - Photographs of other properties owned by Mountainside Realty.

Complainant's Ex. 1.H. - Background Material:

1. Certificate of Occupancy for 210-212 West Southern Avenue, South Williamsport, PA.
2. Letter dated September 21, 2006 from Jon S. Dangle, Codes Officer, Borough of South Williamsport, PA.
- 3.* Request for Order of Possession, Landlord Tenant Complaint by Mountainside Realty against Tenant, Jane Doe, 212 West Southern Avenue, South Williamsport, PA.

4. Undated letter from Kevin Weinoffer, general partner of Mountainside Realty, to Doborah V. Roane, Compliance Assistance and Enforcement Division, U.S. Department of Housing and Urban Development.

Complainant's Ex. 2. - Delegation - 1200 TN RIII- 147- Toxic Substances Control Act, 12-1. Inspections and Subpoenas, and 12-2-A. Administrative Enforcement: Issuance of Complaints and Signing of Consent Agreements.

Complainant's Ex. 3. * - Lease transaction # 1: 07/26/05 - 2713 Grand Street, South Williamsport, PA.

Complainant's Ex. 3.A. * - Lease transaction # 1: Lead Disclosure Form dated September 23, 2006 for lease dated July 26, 2005 re: 2713 Grand Street, South Williamsport, PA.

Complainant's Ex. 3.B. * - Lease transaction # 1: Consent by Williamsport Housing Authority for Transfer of Housing assistance payment Contract resulting from Change of Ownership dated September 28, 2005.

Complainant's Ex. 4. * - Lease transaction #2: 10/01/04 - 375 Main Street, Apt. #2, South Williamsport, PA.

Complainant's Ex. 4.A. * - Lease transaction # 2: Lead Disclosure Form dated September 21, 2006 for lease dated October 1, 2004, re: 375 Main Street, Apt.# 2, South Williamsport, PA.

Complainant's Ex. 5. * - Lease transaction # 3: 04/01/04 - 438 Market Street, 1st Fl., South Williamsport, PA.

Complainant's Ex. 5.A. * - Lease transaction # 3: Lead Disclosure Form dated September 23, 2006 for lease dated April 1, 2004 - 438 Market Street, 1st Fl., South Williamsport, PA.

Complainant's Ex. 6. * - Lease transaction # 4: 04/01/04 - 110 Valley Street, Duboistown, PA.

Complainant's Ex. 6. A.* - Lease transaction # 4: Lead Disclosure Form dated September 22, 2006 for lease dated April 1, 2004 - 110 Valley Street, Duboistown, PA.

Complainant's Ex. 7. * - Lease transaction # 5: 09/01/04 - 2669 Riverside Drive, South Williamsport, PA.

Complainant's Ex. 8. * - Lease transaction # 6: 10/15/04 - 212 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 9. * - Lease transaction # 7: 05/01/05 - 5071/2 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 9.A. * - Lease transaction # 7: Lead Disclosure Form dated September 21, 2006 for lease dated May 1, 2005 - 5071/2 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 10.* - Lease transaction #8: 07/25/05 - 505 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 10.A.* - Lease transaction #8: Lead Disclosure Form dated September 21, 2006 for lease dated July 25, 2005 - 505 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 11.* - Lease transaction #9: 11/02/04 - 815 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 11.A.* - Lease transaction #9: Lead Disclosure Form dated September 21, 2006 for lease dated November 2, 2004 - 815 West Southern Avenue, South Williamsport, PA.

Complainant's Ex. 12.* - Lease transaction # 10: 11/01/05 - 375 Main Street, Apt. 3, South Williamsport, PA.

Complainant's Ex. 13. - Deed: 2713 Grand Street, Williamsport, PA.

Complainant's Ex. 14. - Deed: 375 Main Street, Williamsport, PA.

Complainant's Ex. 15. - Deed: 438 Market Street, Williamsport, PA.

Complainant's Ex. 16. - Deed: 110 Valley Street, Duboistown, PA.

Complainant's Ex. 17. - Deed: 2669 Riverside Drive, Williamsport, PA.

Complainant's Ex. 18. - Deed: 212 West Southern Drive, Williamsport, PA.

Complainant's Ex. 19. - Deed: 505-507 West Southern Drive, Williamsport, PA.

Complainant's Ex. 20. - Deed: 815 West Southern Drive, Williamsport, PA.

Complainant's Ex. 21. - Letter dated May 15, 2006 from Walter D. Wynn, III, Director, Compliance Assistance and Enforcement Division, U.S. Department of Housing and Urban Development to Aquanetta Dickens, Chief, Toxic Programs and Enforcement Branch, U.S. EPA, Region III.

- Complainant's Ex. 22.* - U.S. EPA, Region III Tip/Complaint Inspection Log entry dated May 19, 2006 from Jane Doe and John Doe.
- Complainant's Ex. 23.* - Letter dated December 1, 2005 from Thomas J. Martin, M.D., Susquehanna Health System to Mr. Reitz, Esquire from Lepley, Engelman and Yaw, Attorneys at Law.
- Complainant's Ex. 24.* - Facsimile Transmission dated January 11, 2008 from Mary Ann, AmeriSpec Home Inspection to Louis F. Ramalho, Esq., U.S. EPA, Region III consisting of four (4) pages re: lead-based paint at 212 West Southern Avenue, South Williamsport, PA.
- Complainant's Ex. 25 . - Lycoming County Property Record re: 2713 - 2715 Grand Street, South Williamsport, PA.
- Complainant's Ex. 26 . - Lycoming County Property Record re: 375 Main Street, South Williamsport, PA.
- Complainant's Ex. 27 . - Lycoming County Property Record re: 438 South Market Street, South Williamsport, PA.
- Complainant's Ex. 28 . - Lycoming County Property Record re: 110-112 Valley Street, Duboistown, PA.
- Complainant's Ex. 29 . - Lycoming County Property Record re: 2669-2671 Riverside Drive, South Williamsport, PA.
- Complainant's Ex. 30 . - Lycoming County Property Record re: 212 West Southern Avenue, South Williamsport, PA.
- Complainant's Ex. 31 . - Lycoming County Property Record re: 507 West Southern Avenue, South Williamsport, PA.
- Complainant's Ex. 32 . - Lycoming County Property Record re: 815 West Southern Avenue, South Williamsport, PA.
- Complainant's Ex. 33 . - Commonwealth of Pennsylvania, Department of State, Business Entity Filing for Mountainside Realty.
- Complainant's Ex. 34 . - Dun and Bradstreet Report dated October 3, 2006 re: SW Realty.
- Complainant's Ex. 35 . - Lycoming County Property Record re: 345 - 347 Main Street, South Williamsport, PA.

- Complainant's Ex. 36 . - Real Quest Property Search for Mountainside Realty re: 26 East Village Drive, South Williamsport, PA.
- Complainant's Ex. 37. - Deed: 345 Main Street, Williamsport, PA.
- Complainant's Ex. 38. - Penalty Calculation Worksheet.
- Complainant's Ex. 39. - EPA Section 1018 Disclosure Rule Enforcement Response Policy, December 2007.
- Complainant's Ex. 40. - Memorandum dated September 21, 2004 entitled "Modifications to EPA Penalty Policies to Implement the Civil Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004.
- Complainant's Ex. 41. - March 6, 1996 Federal Register Notice for Department of Housing and Urban Development ("HUD") and EPA Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Hazards in Housing; Final Rule - 24 C.F.R. Part 35, 40 C.F.R. Part 745 ("Joint Lead Disclosure Regulations Preamble"), 61 FR 9063.
- Complainant's Ex. 42. - January 5, 2001 Federal Register Notice for EPA Identification of Dangerous Levels of Lead; Final Rule - 40 C.F.R. Part 745 ("Identification of Lead Danger Levels Preamble"), 66 FR 1206;
- Complainant's Ex. 43. - EPA Interpretive Guidance for the Real Estate Community on the Requirements for Disclosure of Information Concerning Lead-Based Paint in Housing, Part I (August 20, 1996) and Part II (December 5, 1996);
- Complainant's Ex. 44. - EPA Lead Hazard Pamphlet: *Protect Your Family and Your Home* (April, 1999).
- Complainant's Ex. 45. - EPA Technology Transfer Network Air Toxics Website: Lead Compounds (updated February 12, 2003; available at www.epa.gov/ttn/atw/hlthef/lead/html).
- Complainant's Ex. 46. - EPA Integrated Risk Information System: Lead and Compounds (inorganic)(CASRN 7439-92-1, updated October 15, 2003, www.epa.gov/iris/subst/0277.htm).
- Complainant's Ex.47.- EPA Risk Analysis to Support Standards for Lead in Paint, Dust, and Soil, Volume I (June, 1998).
- Complainant's Ex. 48. - EPA Risk Analysis to Support Standards for Lead in Paint, Dust, and Soil, Volume II (June, 1998).

Complainant's Ex. 49. - FACT SHEET; EPA and HUD Move to Protect Children from Lead-Based Paint Poisoning; Disclosure of Lead-Based Paint Hazards in Housing.

Complainant's Ex. 50. - Resume of Gail B. Coad, Principal, Industrial Economics.

Complainant's Ex. 51. - Resume of Elizabeth Ann Quinn, Toxicologist, U.S. EPA, Region III.

ATTACHMENT B

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 07/23/2001

Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
FOR CERTIFYING OFFICIAL:
FOR CLEARANCE OFFICER:

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 08/31/2000

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200008-2070-004
TITLE: Residential Lead-Based Paint Hazard Disclosure Requirements
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 2070-0151

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 11/30/2004

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	35,086,878	7,143,991	0
New	12,359,721	7,145,412	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-22,727,157	1,421	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Donald R. Arbuckle
Deputy Administrator,
Office of Information and Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Residential Lead-Based Paint Hazard Disclosure Requirements	1710.03		

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 11/05/2004

Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
FOR CERTIFYING OFFICIAL:
FOR CLEARANCE OFFICER:

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 07/26/2004

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200407-2070-001
TITLE: Residential Lead-Base Paint Hazardous Disclosure Requirements
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 2070-0151

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 11/30/2007

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	12,359,721	7,145,412	0
New	12,576,000	8,855,610	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	216,279	1,710,198	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Donald R. Arbuckle
Deputy Administrator,
Office of Information and Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Residential Lead-Base Paint Hazardous Disclosure Requirements	1710.04		


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Complainant's Initial Pre-hearing Exchange, Docket No. TSCA-03-2008-0333, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Honorable Barbara A. Gunning (Pouch Mail)
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue., NW
Washington, DC 20460

J. Michael Wiley, Esq. (Overnight Mail)
Raup, Wiley & Mott
The Henry C. Parsons House
829 West Fourth Street
Williamsport, PA 17701

10/23/08
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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