



U. S. ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912



BY HAND

August 10, 2012

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

Re: *In the Matter of John M. Sayig*
Docket No: TSCA-01-2012-0082

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are the original and one copy of an Administrative Complaint and Notice of Opportunity for Hearing.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laura J. Beveridge".

Laura J. Beveridge
Enforcement Counsel

cc: John M. Sayig

Enclosures

II. NATURE OF THE ACTION

2. John M. Sayig, the Respondent in this action, is hereby notified of Complainant's determination that it has violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled "Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property," as set forth at 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"). Complainant seeks civil penalties in the amount of \$152,770 pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA, 15 U.S.C. § 2689, are subject to the assessment by Complainant of civil and/or criminal penalties. In support of this Complaint, Complainant alleges the following:

III. STATUTORY AND REGULATORY BACKGROUND

A. FEDERAL LEAD DISCLOSURE LAW

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental of homes and apartments. To carry out this purpose, the Act gave EPA regulatory authority to require the disclosure of information related to lead-based paint and lead-based paint hazards upon the sale or leasing of residential property. 42 U.S.C. § 4852d(a).

4. In 1996, EPA promulgated regulations implementing the disclosure requirements of Section 1018, 42 U.S.C. § 4852d. These regulations are set forth in the Disclosure Rule at 40 C.F.R. Part 745, Subpart F.

5. Housing stock that falls within the statutory and regulatory definition of “target housing” is subject to the Disclosure Rule. “Target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing) or any 0-bedroom dwelling. See 15 U.S.C. § 2681(17); 40 C.F.R. § 745.103.

6. Before a lessee is obligated under contract to lease target housing, the Disclosure Rule requires lessors to, among other things:

(a) provide the lessee with an EPA-approved lead hazard information pamphlet;

(b) include, within or as an attachment to the lease contract, a Lead Warning Statement;

(c) disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased; and

(d) include, within or as an attachment to the lease contract, either a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based hazards in the target housing, or a statement certifying that no such records are available.

See 40 C.F.R. §§ 745.107, 745.113.

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), each failure to comply with a requirement of the Disclosure Rule constitutes a violation of Section 409 of TSCA, 15 U.S.C. § 2689.

8. Any person who violates a provision of Section 409 of TSCA, 15 U.S.C. § 2689, is liable to the United States for a civil monetary penalty. 15 U.S.C. § 2615(a)(1); 40 C.F.R. § 745.118.

9. Violations of the Disclosure Rule occurring on or after January 13, 2009, are subject to penalties up to \$16,000 per violation. See 42 U.S.C. § 4852d(b)(5); 40 C.F.R. Part 19; 40 C.F.R. § 745.118(f), see also 73 Fed. Reg. 75340 (Dec. 11, 2008) (final rule adjusting civil penalties for inflation as mandated by Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701).

B. RHODE ISLAND LEAD DISCLOSURE REQUIREMENTS

10. In 2005, the State of Rhode Island enacted the Lead Hazard Mitigation Act to prevent lead poisoning and educate prospective purchasers and lessees about the hazards associated with lead-based paint. See R.I. GEN. LAWS § 42-128.1-5. State regulations promulgated by the Rhode Island Housing Resources Commission (“HRC”) implementing the Lead Hazard Mitigation Act require owners of rental properties built before 1978 to: (1) complete an approved lead hazard awareness seminar; (2) hire a licensed lead inspector to perform an Independent Clearance Inspection to assess compliance with state lead mitigation standards; (3) obtain a Certificate of Conformance; (4) provide prospective tenants with an HRC-approved information pamphlet about lead hazards and a copy of the most recent Independent Inspection Clearance Report, and (5) have tenants sign a lead disclosure form. See generally, R.I. Admin. Code 37-1-4:6.

11. The lead awareness training required by HRC includes coverage of both federal and state lead disclosure requirements.

12. The Independent Clearance Inspection required by HRC regulations consists of verification that the property owner has completed the lead awareness training, the results of visual inspection and dust testing performed by a licensed

independent lead inspector, and an evaluation of any supporting laboratory documentation. R.I. Admin. Code 37-1-4:6E.

13. The lead hazard information pamphlet required by HRC for use in rental transactions in Rhode Island is EPA's lead hazard information pamphlet, "Protect Your Family from Lead in Your Home." See www.health.ri.gov/healthrisks/poisoning/lead/for/landlords.

14. The sample lead disclosure form approved for use in Rhode Island rental transactions is the model disclosure form provided by EPA. See www.health.ri.gov/healthrisks/poisoning/lead/for/landlords.

15. In addition to an Independent Clearance Inspection Report and a Certificate of Conformance, lessors may have additional reports or records pertaining to lead-based paint and/or lead-based paint hazards issued by state or federal government agencies, courts, independent contractors, or other entities.

16. Reports and records pertaining to lead-based paint and/or lead-based paint hazards in target housing that are required by Rhode Island's lead disclosure laws or provided to lessors by state or federal agencies or courts, as well as any other available reports or records related to lead-based paint and/or lead-based paint hazards in the target housing, are subject to the federal disclosure requirements and related penalty provisions set forth in Section 1018 of the Act, 42 U.S.C. § 4852(d), and 40 C.F.R Part 745, Subpart F. See Section III.A, supra.

IV. GENERAL ALLEGATIONS

17. Respondent John M. Sayig owns and offers for lease approximately 8 residential properties with approximately 13 dwelling units in and around Providence, Rhode Island.

18. On March 21, 2011, and June 15, 2012, an EPA Inspector conducted inspections to evaluate Mr. Sayig's compliance with Section 1018 of the Act, 42 U.S.C. § 4852d, and the Disclosure Rule (respectively, the "2011 Inspection" and "2012 Inspection"; collectively, the "Inspections").

19. The Inspections were conducted at Mr. Sayig's office located at 192 Waterman Avenue in East Providence, Rhode Island.

20. At the 2011 Inspection, Mr. Sayig informed the EPA Inspector that he does not use written leases but instead makes entries by hand in a "rent roll" notebook to document rent received from tenants.

21. Mr. Sayig also told the EPA Inspector that he was not aware of the federal lead disclosure laws and that he did not have signed lead disclosure forms from his current tenants.

22. The EPA Inspector gave Mr. Sayig a compliance package containing information about the Disclosure Rule and verbally reviewed the requirements with Mr. Sayig.

23. Mr. Sayig told the EPA Inspector that he would begin complying with the Disclosure Rule immediately.

24. Approximately one year later, EPA conducted its second compliance evaluation inspection on June 15, 2012.

25. On June 4, 2012, eleven (11) days prior to the 2012 Inspection, the EPA Inspector spoke to Mr. Sayig by telephone. During that conversation, Mr. Sayig indicated that he remembered meeting with the EPA Inspector previously, but again stated that he was not aware of the Disclosure Rule and was not complying with its requirements.

26. At the 2012 Inspection, Mr. Sayig informed the EPA inspector that he continued to use the handwritten rent roll notebook rather than paper leases and that he did not have any signed disclosure forms or other documentary evidence establishing compliance with the Disclosure Rule.

27. The EPA Inspector photocopied pages of Mr. Sayig's rent roll notebook documenting rental transactions¹ for the following seven properties:

Table 1

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries²
374 Sharon Street	Providence	4/3/11 to 5/3/12
191 Ontario Street	Providence	5/1/10 to 3/4/11
195 Ontario Street	Providence	8/2/10 to 8/13/11
55 Zone Street	Providence	4/2/10 to 6/1/12
41 Highland Street	Providence	4/14/11 to 10/23/11
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11

28. All of the properties identified in Table 1, supra, were built before 1978 and are therefore “target housing” as defined by 40 C.F.R. § 745.103.

¹The Disclosure Rule applies to “all transactions” to lease target housing. See 40 C.F.R. § 745.101; see also R.I. GEN. LAWS § 34-18-11 (Rhode Island Residential Landlord and Tenant Act defines “rental agreement” broadly to include both “written and oral” agreements).

² Due to the impaired legibility of entries in Respondent's rent roll notebook, approximate lease dates are based on the first and last readable entries under a tenant's name.

29. At all times relevant to this Complaint, Mr. Sayig was the “owner” as defined by 40 C.F.R. § 745.103, of the residential properties, and all dwelling units therein, identified in Table 1, supra.³

30. At all times relevant to this Complaint, Mr. Sayig “offered for lease” the properties listed in Table 1. 40 C.F.R. § 745.103; 40 C.F.R. § 745.101. Each of the properties appears in Mr. Sayig’s rent roll notebook with handwritten entries documenting rent received during the corresponding time period identified in Table 1.

31. Mr. Sayig is therefore the “lessor,” as defined by 40 C.F.R. § 745.103, of the properties identified in Table 1.

32. Based on the 2011 and 2012 Inspections, and additional documentation obtained and reviewed by EPA subsequent to the Inspections, EPA determined that none of the rental transactions identified in Table 1 comply with the federal lead disclosure requirements set forth in Section 1018 of the Act, 42 U.S.C. §4852d, and 40 C.F.R. Part 745, Subpart F.

33. None of the rental transactions identified in Table 1 were accompanied by a signed disclosure form, nor did Mr. Sayig supply any other evidence, establishing that he provided prospective lessees with a copy of EPA’s pamphlet, “Protect Your Family from Lead in Your Home,” or an equivalent lead hazard information pamphlet approved by EPA, before each lessee became obligated to lease a particular property or dwelling unit. See 40 C.F.R. § 745.107(a)(1); 40 C.F.R. § 745.113(4), (6).

³ Rhode Island property records indicate Mr. Sayig sold 2493 Pawtucket Avenue on March 30, 2012, approximately a year after making the February 25, 2011 entry for rent received in his rent roll notebook.

34. Similarly, Mr. Sayig failed to establish that he provided prospective lessees associated with the rental transactions in Table 1 with the “Lead Warning Statement” required by 40 C.F.R. § 745.113(b)(1).

35. None of the rental transactions identified in Table 1 were accompanied by a signed statement disclosing the presence of lead-based paint and/or lead-based paint hazards or indicating that Mr. Sayig had no knowledge of lead-based paint and/or lead-based paint hazards. See 40 C.F.R. § 745.113(b)(2), (4), (6).

36. None of the rental transactions identified in Table 1 were accompanied by a signed statement establishing that Mr. Sayig provided prospective tenants with a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or certifying that no such records were available. 40 C.F.R. § 745.113(b)(3).

37. Although Mr. Sayig told EPA that he was not aware of the lead disclosure requirements, see Paragraphs 21 and 25, documents obtained and reviewed by EPA indicate that the Rhode Island Department of Health (“RIDOH”) sent Mr. Sayig a letter on October 7, 2002, directing Mr. Sayig to review the lead disclosure requirements.

38. In addition, HRC records reveal that Mr. Sayig obtained Certificates of Conformance for several properties, including 2493 Pawtucket Avenue, Unit 1, in East Providence and 193 Ontario Street, Unit 1, in Providence based on Independent Clearance Inspections dated, respectively, August 24, 2010, and March 27, 2010. As stated in Section III.B, supra, in order to receive a Certificate of Conformance from HRC, Mr. Sayig was required to complete lead awareness training, which includes a review of federal lead disclosure requirements.

39. The EPA Inspector also provided Mr. Sayig with a compliance package containing written information about the Disclosure Rule and verbally explained the disclosure requirements to him during the 2011 Inspection.

V. VIOLATIONS

40. Complainant has identified the following violations of the Act and the Disclosure Rule based on the Inspections as well as information and documents obtained from Respondent and/or other sources.

FIRST COUNT:

Failure to Provide Lead Hazard Information Pamphlet

41. Complainant incorporates by reference Paragraphs 1 through 40.

42. Pursuant to 40 C.F.R. § 745.107(a)(1), lessors must provide lessees with an EPA-approved lead hazard information pamphlet, such as the EPA pamphlet entitled “Protect Your Family From Lead in Your Home” or an equivalent pamphlet approved for use in particular states by EPA, before a lessee is obligated to lease target housing. In Rhode Island, the approved lead hazard information pamphlet is the EPA pamphlet. See Paragraph 13, supra.

43. Mr. Sayig failed to provide the lessees associated with the rental transactions identified in Table 2, infra, with an EPA-approved lead hazard information pamphlet before those lessees became obligated to lease target housing. 40 C.F.R. § 745.107(a)(1).

Table 2

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries
374 Sharon Street	Providence	4/3/11 to 5/3/12
191 Ontario Street	Providence	5/1/10 to 3/4/11
195 Ontario Street	Providence	8/2/10 to 8/13/11

55 Zone Street	Providence	4/2/10 to 6/1/12
41 Highland Street	Providence	4/14/11 to 10/23/11
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11

44. Each failure to provide the lessees identified in Table 2 with an EPA-approved lead hazard information pamphlet constitutes a separate violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 7 violations.

SECOND COUNT:
Failure to Include Lead Warning Statement

45. Complainant incorporates by reference Paragraphs 1 through 44.

46. The Disclosure Rule provides that each contract to lease target housing must include – either as an attachment or within the lease contract itself – the “Lead Warning Statement” set forth in 40 C.F.R. § 745.113(b)(1).

47. Mr. Sayig failed to provide the lessees associated with the rental transactions identified in Table 3, *infra*, with the “Lead Warning Statement” required by 40 C.F.R. § 745.113(b)(1).

Table 3

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries
374 Sharon Street	Providence	4/3/11 to 5/3/12
191 Ontario Street	Providence	5/1/10 to 3/4/11
195 Ontario Street	Providence	8/2/10 to 8/13/11
55 Zone Street	Providence	4/2/10 to 6/1/12
41 Highland Street	Providence	4/14/11 to 10/23/11
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11

48. Each failure to include the “Lead Warning Statement” required by 40 C.F.R. § 745.113(b)(1) constitutes a separate violation of 40 C.F.R. § 745.113(b)(1) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 7 violations.

THIRD COUNT:
Failure to Disclose Presence of Lead-Based Paint
and/or Lead-Based Paint Hazards

49. Complainant incorporates by reference Paragraphs 1 through 48.

50. Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing must include a statement – either as an attachment or within the lease contract itself – disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating that the lessor has no knowledge of lead-based paint or lead-based paint hazards in the target housing.

51. Mr. Sayig failed to provide the lessees associated with the rental transactions identified in Table 4, *infra*, with the disclosure statement required by 40 C.F.R. § 745.113(b)(2).

Table 4

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries
374 Sharon Street	Providence	4/3/11 to 5/3/12
191 Ontario Street	Providence	5/1/10 to 3/4/11
195 Ontario Street	Providence	8/2/10 to 8/13/11
55 Zone Street	Providence	4/2/10 to 6/1/12
41 Highland Street	Providence	4/14/11 to 10/23/11
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11

52. Each failure to include the required lead disclosure statement for the rental transactions identified in Table 4 constitutes a separate violation of 40 C.F.R. § 745.113(b)(2) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 7 violations.

FOURTH COUNT:
Failure to List and/or Certify that No Records or Reports Are Available

53. Complainant incorporates by reference Paragraphs 1 through 52.

54. The Disclosure Rule requires lessors to list all available records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing in an attachment to or within the lease contract itself. 40 C.F.R. § 745.113(b)(3). If no such records or reports are available, lessors must include a statement so indicating. See 40 C.F.R. § 745.113(b)(3).

55. Mr. Sayig failed to provide a statement, as required by 40 C.F.R. § 745.113(b)(3), listing available records and reports pertaining to lead-based paint or lead-based paint hazards or certifying that no such records were available for the target housing subject to the rental transactions identified in Table 5, below.

Table 5

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries
374 Sharon Street	Providence	4/3/11 to 5/3/12
191 Ontario Street	Providence	5/1/10 to 3/4/11
195 Ontario Street	Providence	8/2/10 to 8/13/11
55 Zone Street	Providence	4/2/10 to 6/1/12
41 Highland Street	Providence	4/14/11 to 10/23/11
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11

56. Each failure to include a statement listing available records or reports pertaining to lead-based paint and/or lead based paint hazards or indicating that no such records or reports were available for the target housing identified in Table 5 constitutes a separate violation of 40 C.F.R. § 745.113(b)(3) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 7 violations.

VI. PROPOSED PENALTY

57. Based on the violations described in this Complaint, a total civil penalty of \$152,770 is hereby proposed to be assessed against the Respondent. The proposed civil

penalty has been determined in accordance with Section 16 of TSCA, 15 U.S.C. § 2615, the provisions of 40 C.F.R. § 745.118(f), as well as the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19.

58. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires Complainant to consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, its ability to pay, the effect of the proposed penalty on its ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

59. To assess a penalty for the violations alleged in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's December 2007 Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy (the "ERPP"), a copy of which is enclosed with this Complaint. The ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

60. The penalties proposed for each of the violations alleged in this Complaint are set forth, below:

Count	Regulation Violated	Description	Penalty
1	40 C.F.R. § 745.107(a)(1)	Failure to Provide Lead Hazard Information Pamphlet	\$59,500
2	40 C.F.R. § 745.113(b)(1)	Failure to Include Lead Warning Statement	\$40,630
3	40 C.F.R. § 745.113(b)(2)	Failure to Disclose Presence of Lead-Based Paint or Hazards	\$39,690
4	40 C.F.R. § 745.113(b)(3)	Failure to List and/or Certify No Records or Reports Were Available	\$12,950
		Total	\$152,770

The document marked as Attachment A to this Complaint provides a more detailed explanation of the penalty proposed herein. The proposed penalty was developed based upon the best information available to Complainant but may be adjusted if Respondent establishes a *bona fide* claim of inability to pay or other issues relevant to determining an appropriate penalty.

VII. QUICK RESOLUTION

61. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's, or certified check payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint (TSCA-01-2012-0055) and should be forwarded to:

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

In addition, at the time of payment, Respondent should also forward notice of payment of the civil penalty as well as copies of the payment check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

and

Laura J. Beveridge
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, Massachusetts 02109-3912

If payment is made within thirty (30) days of receipt of the Complaint, Respondent need not file an Answer. If Respondent agrees to pay the penalty but needs additional time, Respondent may file a statement to that effect with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint. In that event, Respondent need not file an Answer, as described in the following section of this Complaint, and will be allowed sixty (60) days from receipt of the Complaint to pay the penalty. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondent to default. See 40 C.F.R. § 22.18(a).

62. Any settlement in this matter shall be made final by the issuance of a written Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

VIII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

63. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. Any request for a hearing must be included in Respondent's written Answer to this Complaint ("Answer") and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

64. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

65. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Laura J. Beveridge, the attorney assigned to represent Complainant and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Laura J. Beveridge
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, Massachusetts 02109-3912

66. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

IX. OPPORTUNITY FOR INFORMAL SETTLEMENT CONFERENCE

67. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or her designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. EPA has the authority to adjust penalties, where appropriate, to reflect any settlement reached in an informal conference. The terms of such an agreement would be embodied in a binding Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

68. To explore the possibility of settlement, Respondent or Respondent's counsel should contact Laura J. Beveridge, the attorney of record, at the address cited above or by calling (617) 918-1345. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted in order to avoid default.

X. CONTINUED COMPLIANCE OBLIGATION

69. Neither assessment nor payment of an administrative penalty shall affect

Respondent's continuing obligation to comply with all applicable requirements of federal law.



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

8/10/12
Date

ATTACHMENT A

In the Matter of John M. Sayig
Docket Number TSCA-01-2012-0082

PROPOSED PENALTY SUMMARY

Pursuant to EPA's December 2007 *Section 1018 Disclosure Rule Enforcement Response and Penalty Policy* ("ERPP"), EPA proposes a civil penalty in the amount of one hundred fifty-two thousand and seven hundred and seventy dollars (\$152,770) to be assessed against Respondent, John M. Sayig, as follows¹:

FIRST COUNT: **FAILURE TO PROVIDE LEAD HAZARD INFORMATION PAMPHLET**

Provision Violated: 40 C.F.R. § 745.107(a)(1) requires lessors to provide lessees with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use by EPA.

Circumstance Level: Failure to provide a lessee with an EPA-approved lead hazard information pamphlet results in *a high probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(1) is *a Level 1* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants *a major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant *a significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants *a minor* extent factor.

¹ Section 1018(b)(5) of the Act provides that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Penalties of up to \$11,000 per violation may be assessed for violations occurring between July 28, 1997, and January 12, 2009, pursuant to 40 C.F.R. § 745.118(f), the Debt Collection Improvement Act of 1996, found at 31 U.S.C. § 3701, and 40 C.F.R. Part 19. Effective January 12, 2009, the maximum penalty per violation is \$16,000. 73 Fed. Reg. 75340-46 (December 11, 2008) and 40 C.F.R. Part 19.

As described in Paragraphs 41 through 44 of the Complaint, Respondent failed to provide the EPA-approved lead hazard information pamphlet required by 40 C.F.R. § 745.107(a)(1) to lessees who leased the target housing listed below:

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries	Extent of Harm	Gravity
374 Sharon Street	Providence	4/3/11 to 5/3/12	Significant	\$8,500
191 Ontario Street	Providence	5/1/10 to 3/4/11	Significant	\$8,500
195 Ontario Street	Providence	8/2/10 to 8/13/11	Significant	\$8,500
55 Zone Street	Providence	4/2/10 to 6/1/12	Significant	\$8,500
41 Highland Street	Providence	4/14/11 to 10/23/11	Significant	\$8,500
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11	Significant	\$8,500
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11	Significant	\$8,500

Accordingly, the total proposed penalty for the violations alleged in the First Count is \$ 59,500.

SECOND COUNT: FAILURE TO INCLUDE LEAD WARNING STATEMENT

Provision Violated: 40 C.F.R. § 745.113(b)(1) requires that each contract to lease target housing include – either as an attachment to or within the lease contract itself – the Lead Warning Statement set forth in 40 C.F.R. § 745.113(b)(1).

Circumstance Level: Failure to provide lessees with the Lead Warning Statement specified in 40 C.F.R. § 745.113(b)(1) results in a *high probability* of impairing a lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(1) is a *Level 2* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

As described in Paragraphs 45 through 48 of the Complaint, Respondent failed to provide lessees associated with the rental transactions identified below with the Lead Warning Statement required by 40 C.F.R. § 745.113(b)(1).

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries	Extent of Harm	Gravity
374 Sharon Street	Providence	4/3/11 to 5/3/12	Significant	\$7,090
191 Ontario Street	Providence	5/1/10 to 3/4/11	Significant	\$7,090
195 Ontario Street	Providence	8/2/10 to 8/13/11	Significant	\$7,090
55 Zone Street	Providence	4/2/10 to 6/1/12	Significant	\$7,090
41 Highland Street	Providence	4/14/11 to 10/23/11	Significant	\$7,090
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11	Significant	\$7,090
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11	Significant	\$7,090

Accordingly, the total proposed penalty for the violations alleged in the Second Count is \$49,630.

THIRD COUNT: FAILURE TO DISCLOSE PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS

Provision Violated: 40 C.F.R. § 745.113(b)(2) requires lessors to provide lessees with a signed statement – either as an attachment to or within the lease contract itself – disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or certifying that the lessor has no knowledge of lead-based paint or lead-based paint hazards.

Circumstance Level: Failure to provide lessees with the disclosure statement required by 40 C.F.R. § 745.113(b)(2) results in a *medium probability* of impairing the lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(2)/(a)(4) is a *Level 3* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the

ages of six and eighteen warrant *a significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants *a minor* extent factor.

As described in Paragraphs 49 through 52 of the Complaint, Respondent failed to provide lessees associated with the rental transactions listed below with a signed statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or certifying that Respondent had no knowledge of lead-based paint or lead-based paint hazards.

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries	Extend of Harm	Gravity
374 Sharon Street	Providence	4/3/11 to 5/3/12	Significant	\$5,670
191 Ontario Street	Providence	5/1/10 to 3/4/11	Significant	\$5,670
195 Ontario Street	Providence	8/2/10 to 8/13/11	Significant	\$5,670
55 Zone Street	Providence	4/2/10 to 6/1/12	Significant	\$5,670
41 Highland Street	Providence	4/14/11 to 10/23/11	Significant	\$5,670
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11	Significant	\$5,670
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11	Significant	\$5,670

Accordingly, the total proposed penalty for the violations alleged in the Third Count is \$39,690.

FOURTH COUNT: FAILURE TO CERTIFY THAT NO RECORDS OR REPORTS ARE AVAILABLE

Provisions Violated: 40 C.F.R. § 745.113(b)(3) requires lessors to list available records or reports pertaining to lead-based paint and/or lead-based paint hazards within the target housing. If no such documents are available, lessors must provide lessees with a signed statement certifying that no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing are available.

Circumstance Level: Failure to provide lessees with a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards has a *low probability* of impairing a lessee’s ability to properly assess and weigh potential health risks when leasing target housing, but could potentially increase the likelihood of exposure to lead-based paint hazards. As a result, under the ERPP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(3) is a *Level 5* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants *a major* extent factor. Children between the ages of six and eighteen may be adversely affected by

the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant *a significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants *a minor* extent factor.

As described in Paragraphs 53 through 56 of the Complaint, Respondent failed to provide lessees associated with the rental transactions identified below with a statement listing available reports or records pertaining to lead-based paint and/or lead-base paint hazards in the target housing or certifying that no such reports and records are available as required by 40 C.F.R. § 745.113(b)(3).

Street Address	City	Approximate Lease Dates Based on Rent Roll Entries	Extend of Harm	Gravity
374 Sharon Street	Providence	4/3/11 to 5/3/12	Significant	\$1,850
191 Ontario Street	Providence	5/1/10 to 3/4/11	Significant	\$1,850
195 Ontario Street	Providence	8/2/10 to 8/13/11	Significant	\$1,850
55 Zone Street	Providence	4/2/10 to 6/1/12	Significant	\$1,850
41 Highland Street	Providence	4/14/11 to 10/23/11	Significant	\$1,850
8 Greystone Avenue	North Providence	1/13/10 to 7/9/11	Significant	\$1,850
2493 Pawtucket Avenue	East Providence	9/22/10 to 2/25/11	Significant	\$1,850

Accordingly, the total proposed penalty for the violations alleged in the Fifth Count is \$12,950.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF)
)

JOHN M. SAYIG)
)

Respondent.)
_____)

Docket No. TSCA-01-2012-0082

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity to Request a Hearing has been sent to the following persons on the date noted below:

Original and one copy,
hand-delivered:

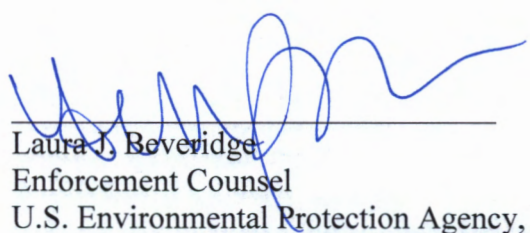
Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, by Certified Mail,
Return Receipt Requested, with
copy of 40 C.F.R. Part 22:

John M. Sayig
192 Waterman Avenue
East Providence, RI 02914

Dated: _____

8/10/2012



Laura J. Beveridge
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
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Fax (617) 918-0345