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EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. TSCA-10-2014-0169
)	
Bububhai (Bob) Patel,)	CONSENT AGREEMENT
)	
Portland, Oregon,)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

1.2. Pursuant to TSCA Section 16(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Bububhai (Bob) Patel ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Air, Waste and Toxics, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of Section 409 of TSCA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of TSCA together with the specific provisions of TSCA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1 Section 1018 of the Residential Lead-based Paint Hazard Reduction Act, 42 U.S.C. § 4852d (which became part of the Toxic Substances Control Act (“TSCA”)), and EPA’s regulations implementing this law, 40 C.F.R. § Part 745, Subpart E (“Real Estate Notification and Disclosure Rule” or “Disclosure Rule”), require a lessor, when leasing target housing, to disclose information regarding lead paint and lead-based paint hazards to lessees.

3.2 “Target housing” is defined in 40 C.F.R. § 745.103 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 years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

3.3 “Lessor” is defined in 40 C.F.R. § 745.103 to mean any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships,

corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

3.4 “Owner” is defined in 40 C.F.R. § 745.103 to mean any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a loan, in which case the owner would be the mortgagor.

3.5 Respondent is an individual residing in the State of Oregon.

3.6 Respondent is the owner and lessor of real property located at 190 SE Vista Avenue, Gresham, Oregon.

3.7 Respondent’s property described above in Paragraph 3.6 contains one unit of target housing as defined in 40 C.F.R. § 745.107.

3.8 During 2011 to 2013, Respondent leased the unit described above in Paragraph 3.7 on at least two occasions (each, a “lease”).

Count 1

3.9 Under 40 C.F.R. § 745.113(b)(1), a lessor must provide, as an attachment to or within each lease contract for target housing, a Lead Warning Statement with the language specified in that subsection.

3.10 For each of the two leases, Respondent failed to provide, within or as an attachment to each lease contract, a Lead Warning Statement with the language specified in 40 C.F.R. § 745.113(b)(1), in violation of that subsection.

Count 2

3.11 Under 40 C.F.R. § 745.113(b)(2), a lessor must provide, as an attachment to or within each lease contract for target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards, or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

3.12 For each of the two leases, Respondent failed to provide, within or as an attachment to each lease contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards, or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, in violation of 40 C.F.R. § 745.113(b)(2).

Count 3

3.13 Under 40 C.F.R. § 745.113(b)(3), a lessor must provide, within or as an attachment to each lease contract for target housing, a list of any records or reports relevant to lead-based paint and/or lead-based paint hazards in target housing which were provided to the lessees, or a statement indicating that no such reports or records are available.

3.14 For each of the two leases, Respondent failed to provide, within or as an attachment to each lease contract, a list of any records or reports relevant to lead-based paint and/or lead-based paint hazards in the target housing which were provided to the lessees, or a statement indicating that no such records or reports are available, in violation of 40 C.F.R. § 745.113(b)(3).

Count 4

3.15 Under 40 C.F.R. § 745.113(b)(4), a lessor must obtain, within or as an attachment to each lease contract for target housing, a statement from each lessee affirming receipt of the

lead-based paint disclosure statement required by 40 C.F.R. § 745.113(b)(2), a list of any records or reports relevant to lead-based paint hazards required by 40 C.F.R. § 745.113(b)(3), and the EPA-approved pamphlet entitled “Protect Your Family from Lead in Your Home” required by 15 U.S.C. § 2696.

3.16. For each of the two leases, Respondent failed to obtain, within or as an attachment to each lease contract, a statement from each lessee affirming receipt of the lead-based paint disclosure statement, a list of any records or reports relevant to lead-based paint hazards, and the EPA-approved pamphlet entitled “Protect Your Family from Lead in Your Home,” in violation of 40 C.F.R. § 745.113(b)(4).

Count 5

3.17 Under 40 C.F.R. § 745.113(b)(6), a lessor of target housing must obtain, within or as an attachment to each lease contract for target housing, the signatures of lessors, agents, and lessees certifying the accuracy of their statements, to the best of their knowledge, and the dates of their signatures.

3.18 For each of the two leases, Respondent failed to obtain, within or as an attachment to each lease contract, the signatures of the lessors, agents, and lessees certifying the accuracy of their statements, to the best of their knowledge, and the dates of their signatures, in violation of 40 C.F.R. § 745.113(b)(6).

Enforcement Authority

3.19 Pursuant to Section 1018(b)(5) of the Residential Lead-based Paint Hazard Reduction Act, 42 U.S.C. § 4852d, a violation of the Disclosure Rule is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689.

3.20 Pursuant to Section 16 of TSCA, 42 U.S.C. § 2615, and 40 C.F.R. Part 19, EPA may assess a civil penalty in an amount not to exceed \$16,000 for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, and each day a violation continues constitutes a separate violation.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 16(a)(2)(b) of TSCA, 15 U.S.C. § 2615(a)(2)(b), EPA has taken into account the nature, circumstances, extent, and gravity of the violations and with respect to Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations, degree of culpability, and such other matter as justice may require. After considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$5,000.

4.4. Respondent agrees to pay the civil penalty set forth in Paragraph 4.3 as follows: \$2,500 shall be paid within 30 days of the effective date of the Final Order and \$2,508.25 shall be paid within 120 days of the effective date of the Final Order. This second installment includes interest at the rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 3717(a)(1) from the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www.epa.gov/financial/makepayment>

4.6. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.7. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Smith.candace@epa.gov

Kim Farnham, TSCA Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop AWT-128
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Farnham.kim@epa.gov

4.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the assessed penalty under Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4). In any collection action, the validity, amount, and appropriateness of the penalty are not subject to review.

4.9. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and Final Order in full by its due date, Respondent shall be responsible for payment of interest on any unpaid portion of the assessed penalty at the rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the

assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.10. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraphs 4.8 and 4.9, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III above.

4.13. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.14. Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order. Respondent also expressly waives the notice requirement and the opportunity to request a hearing on the Final Order pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 2615(a)(2).

4.15. The provisions of this Consent Agreement shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.16. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated permit action.

4.17. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10

DATED:

9-18-2014

FOR RESPONDENT:

Bob Patel

BUBUBHAI (BOB) PATEL

DATED:

9/19/14

FOR COMPLAINANT:

Debra M Sykes

for KATE KELLY, Director,
Office of Air, Waste and Toxics
EPA Region 10

In the Matter of: Bububhai (Bob) Patel
Docket Number: TSCA-10-2014-0169
Consent Agreement

U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 552-1000

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 33rd day of September, 2014.


M. Socorro Rodriguez
Regional Judicial officer
U.S. Environmental Protection Agency
Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
Bububhai (Bob) Patel,)
Portland, Oregon,)
Respondent.)

DOCKET NO. TSCA-10-2014-0169

FINAL ORDER

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. This Consent Agreement and Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to TSCA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and regulations promulgated or permits issued thereunder.

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Bububhai (Bob) Patel, Docket No.:** TSCA-10-2014-0169, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

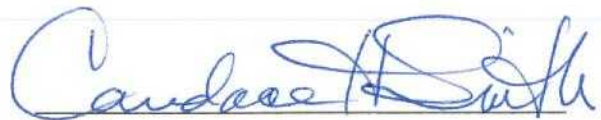
The undersigned certifies that a true and correct copy of the document was delivered to:

Julie A. Vergeront
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Bububhai (Bob) Patel
11144 NE Sandy Blvd
Portland, Oregon 97220

DATED this 23rd day of Sept., 2014


Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10

