

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
EPA REGION 5  
2011 NOV -2 AM 9:12

In the Matter of: )  
)  
) Docket No. TSCA-05-2011-0021  
)  
) Patrick Wilbur, )  
) YaYa Milwaukee, LLC, )  
) Sancho Properties, LLC, )  
)  
) Respondents. )  
\_\_\_\_\_ )

**ORDER AND NOTICE OF EXCLUSION**

Complainant, by lawful delegation, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5, has commenced an administrative proceeding against Respondents Patrick Wilbur, YaYa Milwaukee, LLC, and Sancho Properties, LLC. Complainant alleges that Respondents violated the Residential Lead-Based Paint Hazard Reduction Act of 1992 and seeks a civil penalty under the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a). This proceeding is governed by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties*, 40 C.F.R. Part 22 (Rules of Practice). A copy of these rules was served on Respondents along with the Complaint.

Respondent has submitted to the Agency a one-page document dated October 25, 2011, that includes the statement "I am at this time requesting a hearing." The document was not signed, did not include a certificate of service, and did not contain a proper caption as required by the Rules of Practice. See 40 C.F.R. § 22.5(a)(3), (c)(2), (c)(3). Moreover, the document did not "clearly and directly admit, deny or explain each of the factual allegations contained in the complaint" or meet any other requirements of an answer as set forth at 40 C.F.R. § 22.15(b).

Section 22.5(c)(5) of the Rules of Practice authorizes the Presiding Officer to exclude from the record any document which does not comply with the requirements of section 22.5. I am hereby directing the Regional Hearing Clerk not to accept Respondents' submission for filing. Respondents are hereby given an extension of time to and including **November 18, 2011**, file a proper answer that meets the requirements of sections 22.5 and 22.15(a) of the Rules of Practice (40 C.F.R. § 22.5 and 22.15(a)). Respondents' failure to file a proper answer by that date could result in a finding of default and the assessment of the full amount of the proposed civil penalty of \$140,330 against them.

I am enclosing a copy of the Office of Administrative Law Judges "Citizens Guide" which Respondents may find a useful reference in this proceeding (copy provided only to Respondents).<sup>1</sup>

SO ORDERED.

Date: November 2, 2011

  
Marcy A. Toney  
Presiding Officer

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<sup>1</sup> The "Citizens Guide" can also be found at: <http://www.epa.gov/oalj/orders/citizens-guide.pdf>.

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Respondents.  
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CERTIFICATE OF SERVICE

I certify that the foregoing Order and Notice of Exclusion, dated November 2, 2011, was sent this day in the following manner:

Original hand delivered to: Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Copy hand delivered to  
Attorney for Complainant: Richard Clarizio  
U. S. Environmental Protection  
Agency, Region 5  
Office of Regional Counsel  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Copy by U.S. Mail First Class to: Patrick Wilber  
Sancho Properties, LLC  
YaYa Milwaukee, LLC  
3201 N. Holton  
Milwaukee, WI 53212

Dated: 11/2/11

By:   
Darlene Weatherspoon  
Administrative Program Assistant