



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
June 16, 2014

REPLY TO THE ATTENTION OF:
LC- 8J

CERTIFIED MAIL: No.7009 1680 0000 7649 6674
RETURN RECEIPT REQUESTED

Mr. Timothy L. Whaley
Kaplan AEC Education
332 Front Street, Suite 555
La Crosse, Wisconsin 54601

Expedited Agreement and Final Order In the Matter of
Kaplan AEC Education, Docket No. TSCA-05-2014-0011

Mr. Whaley:

Enclosed please find a copy of a fully executed Expedited Agreement and Final Order (ESA) in resolution of the above case. This document was filed on June 16, 2014 with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,000 is to be paid in the manner described in paragraphs 6 and 7. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by July 16, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Fericelli".

FOR Paul Fericelli
Pesticides and Toxics Compliance Section

Enclosure



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

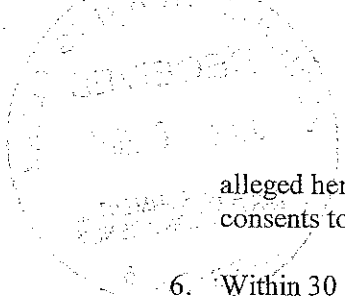
IN THE MATTER OF:)
)
Kaplan AEC Education)
La Crosse, Wisconsin)
)
Respondent)
)
)
)
_____)

Docket No. **TSCA-05-2014-0011**

EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The United States Environmental Protection Agency (EPA) alleges that Kaplan AEC Education (Respondent) failed to comply with regulations promulgated under Section 402 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2682, in violation of Section 409 of TSCA, 15 U.S.C. § 2689.
2. EPA alleges that on a number of occasions from December 1, 2012 through January 31, 2014, Respondent's training program provided, offered, or claimed to provide EPA accredited lead-based paint activities courses or renovator or dust sampling courses in violation of TSCA as follows:
 - a. Respondent's training manager failed to provide EPA with notification of all renovator, dust sampling technician, or lead-based paint activities courses offered at least 7 business days prior to the start of any renovator, dust sampling technician, or lead-based paint activities course, pursuant to 40 C.F.R. § 745.225(c)(13)(i), in violation of Section 409 of TSCA, 15 U.S.C. § 2689.
 - b. Respondent's training manager failed to provide EPA with notification no later than 10 business days following completion of all renovator, dust sampling technician, or lead-based paint activities courses, pursuant to 40 C.F.R. § 745.225(c)(14), in violation of Section 409 of TSCA, 15 U.S.C. § 2689.
 - c. Respondent's training program failed to submit and/or retain EPA-recognized documents listed at 40 C.F.R. § 745.225(c)(4)(i)-(iii) as evidence that the training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience, pursuant to 40 C.F.R. § 745.225(c)(4), in violation of Section 409 of TSCA, 15 U.S.C. § 2689.
3. EPA and Respondent agree that settlement of this matter for a civil penalty of \$3,000 is in the public interest.
4. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (Agreement) pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to 40 C.F.R. § 745.225(a); (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as



alleged herein; (3) neither admits nor denies the factual allegations contained herein; and (4) consents to the assessment of this penalty.

6. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$3,000 for the TSCA violations identified in this Agreement by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state the case title ("In the Matter of: Kaplan AEC Education"), and the docket number of this Agreement.

7. Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number (along with a photocopy of the check) to EPA at the following address when it pays the penalty:

Paul Fericelli
EPA Region 5 (LC-8J)
77 West Jackson Boulevard
Chicago, Illinois 60604

8. This civil penalty is not deductible for federal tax purposes.
9. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
10. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.
11. This Agreement resolves only Respondent's liability for federal civil penalties for the violations alleged in the Agreement.
12. This Agreement does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
13. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.
14. This Agreement does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, and other applicable federal, state, and local laws.

15. Respondent certifies that it is complying with Section 402 of TSCA, 15 U.S.C. § 2682, and its implementing regulations at 40 C.F.R. Part 745.

16. The terms of this Agreement bind Respondent, and its successors and assigns.

17. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

18. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief and other available rights to judicial or administrative review Respondent may have with respect to any issue of fact or law set forth in this Expedited Settlement Agreement, including the opportunity for a hearing or appeal pursuant to TSCA and 40 C.F.R. Part 22 and any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 -706.

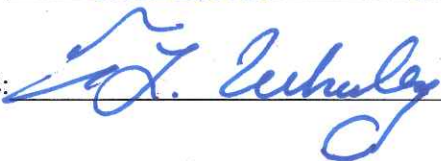
19. Each party shall bear its own costs and fees, if any.

20. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b) is effective upon filing.

IT IS SO AGREED.


NAME (print): TIMOTHY L. WHALEY

TITLE (print): PROGRAM MANAGER

SIGNATURE: 

DATE: 5-20-14

APPROVED BY EPA:



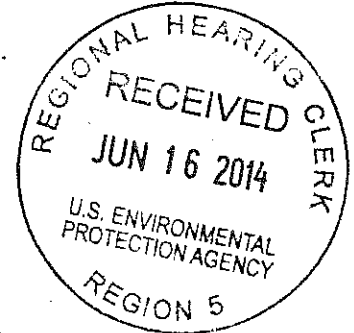
DATE: 6/6/2014

Margaret M. Guerriero
Director
Land and Chemicals Division
United States Environmental Protection Agency
Region 5

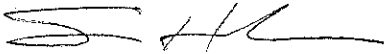
FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



6/10/2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Expedited Agreement and Final Order in resolution of the civil administrative action involving Kaplan AEC Education was filed on June 16, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7649 6674, and a copy of the original to the Respondent

Mr. Timothy L. Whaley
Kaplan AEC Education
332 Front Street, Suite 555
La Crosse, Wisconsin 54601



and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Robert A. Kaplan, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD

A handwritten signature in blue ink that reads "Frederick Brown".

Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA-05-2014-0011