

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>IN RE:</b>	)	DOCKET NO. TSCA-03-2015-0167
	)	
Mark Ferrar	)	CONSENT AGREEMENT
d/b/a Hawk Mountain Soda Blasting	)	
83 White Birch Road	)	
Orwigsburg, PA 17961	)	
	)	
MARCAT VT LLC	)	Proceeding Under Section 16(a) of
83 White Birch Road	)	the Toxic Substances Control Act
Orwigsburg, PA 17961	)	15 U.S.C. § 2615(a).
	)	
<b>Respondents,</b>	)	
	)	
322-324 Mill Street	)	
Danville, PA 17961	)	
	)	
<b>Target Housing.</b>	)	

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REGION III, PHILA. PA

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. Pursuant to Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2615(a) and 2689, the Director of the Land and Chemicals Division for the United States Environmental Protection Agency, Region III (“EPA”), initiated this administrative proceeding for the assessment of civil penalties against Mark Ferrar doing business as Hawk Mountain Soda Blasting and MARCAT VT LLC (“Respondents”), by issuance of a Complaint and Notice of Opportunity to Request a Hearing (“Complaint”) filed with the Regional Hearing Clerk on June 11, 2015. The Complaint, incorporated herein by reference, alleges that Respondents violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart E - *Residential Property Renovation* in connection with a renovation conducted at target housing located at 322-324 Mill Street in Danville, Pennsylvania on or about October 17, 2010. This Consent Agreement and the accompanying Final Order, collectively, the “CAFO”, resolve the violations alleged in the Complaint against Respondents.
2. For the purpose of this proceeding, Respondents admit the jurisdictional allegations set forth in the Complaint and herein.
3. Except as provided in paragraph 2, above, Respondents neither admit nor deny the specific factual allegations contained in the Complaint and herein.

4. For the purpose of this proceeding, Respondents consent to the issuance of this CAFO and agree to comply with the terms of this CAFO.
5. For the purpose of this proceeding, Respondents consent to the payment of a civil penalty in the amount and in the manner set forth in this CAFO.
6. For the purpose of this proceeding, Respondents expressly waive their rights to contest the allegations in the Complaint and herein, and their rights to appeal the Final Order accompanying this Consent Agreement.
7. Respondents shall bear their own costs and attorney fees.

## II. FINDINGS OF FACT

8. EPA incorporates by reference all factual allegations contained in the Complaint.

## III. CONCLUSIONS OF LAW

9. EPA incorporates by reference all legal conclusions contained in the Complaint.

## IV. SETTLEMENT RECITATION

10. In settlement of the violations alleged in the Complaint, Respondents consent to the assessment of a civil penalty of three thousand four hundred dollars (\$3,400), which Respondents agree to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon receipt by Respondents of a true and correct copy of the fully-executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondents must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondents.

11. The aforesaid settlement amount is based upon EPA's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16 of TSCA, 15 U.S.C. § 2615; EPA's August 2010 *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation and Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*, revised April 2013; and EPA's May 3, 2012 *Pilot RRP Penalty Program for Micro-Businesses* ("*Micro-Business Policy*"<sup>1</sup>).

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<sup>1</sup> The Micro-Business Policy has been extended through September 30, 2015.



12. Payment of the civil penalty amount required under the terms of Paragraph 10, above, shall be made as follows:

a. by Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO, 63197-9000.  
Contact: Craig Steffen 513-487-2091  
Molly Williams 513-487-2076

b. Via Overnight Delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

c. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

d. By electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York  
ABA 021030004  
Account No. 68010727  
SWIFT Address FRNYUS33  
33 Liberty Street  
NY, NY 10045

(Field tag 4200 of Fedwire message should read "D 68010727 Environmental Protection Agency")



e. By automatic clearinghouse (“ACH”) to the following account:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA 051036706  
Account No. 310006  
Environmental Protection Agency  
CTX Format  
Transaction Code 22 – checking  
Contact: John Schmid  
202-874-7026

f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

g. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

The payment shall also reference the above case caption and docket number (Docket No.: TSCA-03-2015-0167). At the same time that any payment is made, Respondents shall mail a copy of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to the following addressees:

Lydia A. Guy	Jennifer M. Abramson (3RC50)
Regional Hearing Clerk (3RC00)	Senior Asst. Regional Counsel
U.S. EPA, Region III	U.S. EPA, Region III
1650 Arch Street	1650 Arch Street
Philadelphia, PA 19103-2029	Philadelphia, PA 19103-2029

13. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and also to assess a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents’ failure to make timely payment or to comply with the conditions in this CAFO may result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondents. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).



The cost of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

14. Respondents agree not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

#### Certification

15. Respondent certify that they are currently in compliance with all applicable requirements of TSCA, 15 U.S.C. §§ 2601 *et seq.*

#### V. OTHER APPLICABLE LAWS

16. Nothing in this CAFO shall relieve Respondents of their obligations to comply with all applicable Federal, State, and local laws and regulations.

#### VI. RESERVATION OF RIGHTS

17. This CAFO resolves only EPA's civil claims for penalties against Respondents for the specific violations alleged in the Complaint and herein. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the TSCA, the regulations promulgated thereunder, and any other Federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.



VII. FULL AND FINAL SATISFACTION

18. This settlement shall constitute full and final satisfaction of all civil claims for penalties which EPA may have against Respondents under Sections 16(a) and 409 of the TSCA, 15 U.S.C. §§ 2615(a) and 2689, for the specific violations alleged in the Complaint and herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the Federal laws and regulations administered by EPA.

VIII. PARTIES BOUND

19. This CAFO shall apply to and be binding upon the EPA, Respondents, and the officers, directors, successors, and assigns of Respondents. By his signature below, the person signing this Consent Agreement on behalf of Respondents is acknowledging that he is fully authorized by Respondents to execute this Consent Agreement and to legally bind Respondents to the terms and conditions of this CAFO.

IX. EFFECTIVE DATE

20. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA -- Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.


X. ENTIRE AGREEMENT

21. This CAFO constitutes the entire agreement and understanding of the Parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed herein.



For Respondents:

7/9/2015  
Date

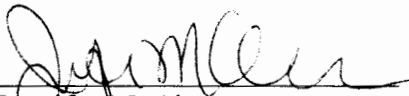
  
Mark Ferrar  
Hawk Mountain Soda Blasting

7/9/2015  
Date

  
Mark Ferrar  
MARCAT VT LLC

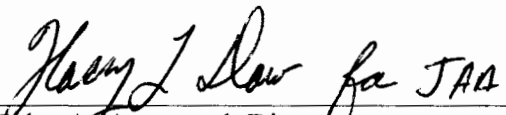
For EPA:

7/14/2015  
Date

  
Jennifer M. Abramson  
Office of Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator or his designee issue the Final Order attached hereto.

7/14/2015  
Date

  
John A. Armstead, Director  
Land and Chemicals Division

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

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**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, Mark Ferrar doing business as Hawk Mountain Soda Blasting and MARCAT VT LLC, have executed a document entitled “Consent Agreement”, which I hereby ratify as a Consent Agreement in accordance with 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. Part 22 (with specific reference to 40 C.F.R. §§ 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

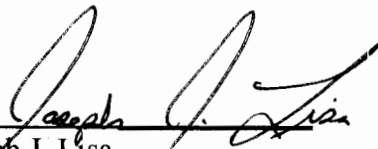
NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Sections 16(a) and 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C.



§§ 2615(a) and 2689, and having determined based on the parties' representation in the Consent Agreement that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 16 of TSCA, 15 U.S.C. § 2615, Respondents are assessed a penalty of three thousand four hundred dollars (\$3,400) in settlement of the civil claims alleged in the Complaint against Respondents.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: July 21, 2015

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III

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

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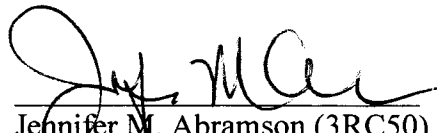
CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

**Original and one copy by hand-delivery:** Lydia Guy, Regional Hearing Clerk

**Copy by Certified Mail:** Mark Ferrar  
 Hawk Mountain Soda Blasting  
 MARCAT VT LLC  
 83 White Birch Road  
 Orwigsburg, PA 17961

      
**JUL 21 2015**  
 \_\_\_\_\_  
 Date

  
 Jennifer M. Abramson (3RC50)  
 Senior Assistant Regional Counsel  
 U.S. EPA, Region III