



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

AUG 10 2010

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7670 6087

Mr. Charles Craft
1117 N Bluff Road
Greenwood, Indiana 46142

Consent Agreement and Final Order, Docket No. TSCA-05-2010-0017

Dear Mr. Clark:

BD#: NP275109X10

I have enclosed a copy of an original fully executed Consent Agreement and Final Order concerning violations of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), as codified at 40 C.F.R. Part 22. This document was filed on August 10, 2010 with the Regional Hearing Clerk.

In accordance with paragraph 29 of the CAFO, EPA agreed to mitigate the proposed penalty of \$17,790 to 0.

Thank you for your cooperation in resolving this matter.

Sincerely,

Scott Cooper
Pesticides and Toxics Compliance Section

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)
Tom Nash, ORC/C-14J (w/Encl.)
Eric Volck, Cincinnati Finance/MWD (w/Encl.)

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AUG 10 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No. TSCA-05-2010-0017
)	
Charles Craft)	Proceeding to Assess a Civil
Greenwood, Indiana)	Penalty Under Section 16(a) of the
)	Toxic Substances Control Act,
Respondent.)	15 U.S.C. § 2615(a)
_____)	

Consent Agreement and Final Order Commencing and Concluding the Proceeding

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent is Charles Craft, a sole proprietor doing business in the State of Indiana.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and admits the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Lead Act), 42 U.S.C. § 4852d, requires the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing that is offered for sale or lease.

10. On March 6, 1996, EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d.

11. 40 C.F.R. § 745.103 defines “target housing” as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

12. 40 C.F.R. § 745.103 defines “lessor” as 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.

13. 40 C.F.R. § 745.103 defines “lessee” as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships,

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

14. 40 C.F.R. § 745.103 defines “agent” as any party who enters into a contract with a seller or a lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing.

15. 40 C.F.R. § 745.113(b) requires that each contract to lease target housing include, as an attachment or within the contract, a lead warning statement; a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards or the lack of knowledge of such presence; a list of any records or reports available to the lessor regarding lead-based paints and/or lead-based paint hazards in the target housing or a statement that no such records exist; a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the *Lead Hazard Information Pamphlet*; and the signatures and dates of signature of the lessor, agent, and lessee certifying the accuracy of their statements.

16. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failure to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

17. The Administrator of EPA may assess a civil penalty of up to \$11,000 for each violation of Section 409 of TSCA that occurred after July 28, 1997 through January 12, 2009, pursuant to 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Between July 16, 2005 and October 15, 2006, Respondent owned residential

properties in Indianapolis, Indiana, at 112 N. Bradley, 2249 Brookside, 2249 ½ Brookside, 547 Gray, 914 Jefferson, and 701 Sander (Respondent's properties).

19. Respondent's properties are "target housing" as defined in 40 C.F.R. § 745.103.

20. On the following dates, Respondent entered into the following eight lease agreements (contracts) with individuals for the lease of Respondent's properties:

Address	Date of Lease
112 N. Bradley	10/1/05
2249 Brookside	7/16/05
2249 Brookside	4/26/06
2249½ Brookside	9/30/05
547 Gray	5/1/06
914 Jefferson	1/16/06
914 Jefferson	10/15/06
701 Sander	6/1/06

21. Each of the eight contracts referred to in paragraph 20, above, covered a term of occupancy greater than 100 days.

22. Respondent is a "lessor," as defined in 40 C.F.R. § 745.103, because he offered the target housing referred to in paragraph 20, above, for lease.

23. Each individual who signed a lease to pay rent in exchange for occupancy of the target housing referred to in paragraph 20, above, became a "lessee" as defined in 40 C.F.R. § 745.103.

24. Respondent failed to include a lead warning statement, either within the contract or as an attachment to the contract for the July 16, 2005 lease of Respondent's property at 2249 Brookside, Indianapolis, Indiana, in violation of 40 C.F.R. § 745.113(b)(1), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

25. Respondent failed to include a statement disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of

knowledge of such presence, either within the contract or as an attachment to the contract, in the July 16, 2005 contract for 2249 Brookside, the May 1, 2006 contract for 547 Gray, and the June 1, 2006 contract for 701 Sander, Indianapolis, Indiana, in violation of 40 C.F.R. § 745.113(b)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

26. Respondent failed to include a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee or a statement that no such records are available, either within the contract or as an attachment to the contract, in the July 16, 2005 contract for 2249 Brookside, the May 1, 2006 contract for 547 Gray, and the June 1, 2006 contract for 701 Sander, Indianapolis, Indiana, in violation of 40 C.F.R. § 745.113(b)(3), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

27. Respondent failed to include a statement by the lessee affirming receipt of the information set out in 40 C.F.R. § 745.113(b)(2) and (3) and the *Lead Hazard Information Pamphlet* required under 15 U.S.C. § 2696, either within the contract or as an attachment to the contract, in the July 16, 2005 contract for 2249 Brookside, the May 1, 2006 contract for 547 Gray, and the June 1, 2006 contract for 701 Sander, Indianapolis, Indiana, in violation of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

28. Respondent failed to include the signatures of the lessor and the lessees certifying to the accuracy of their statements and the dates of such signatures, either within the contract or as an attachment to the contract, in the October 1, 2005 contract for 112 N. Bradley, in the July 16, 2005 and April 26, 2006 contracts for 2249 Brookside, in the September 30, 2005 contract for 2249½ Brookside, in the May 1, 2006 contract for 547 Gray, in the January 16, 2006 and October 15, 2006 contracts for 914 Jefferson, and in the June 1, 2006 contract for 701 Sander,

Indianapolis, Indiana, in violation of 40 C.F.R. § 745.113(b)(6), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Civil Penalty

29. In consideration of Respondent's inability to pay a penalty, EPA agrees to mitigate the proposed penalty of \$17,790 to \$0.

General Provisions

30. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

31. This CAFO does not 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.

32. This CAFO does not affect Respondent's responsibility to comply with the Lead Act and the Disclosure Rule and other applicable federal, state, and local laws.

33. Respondent certifies that he is complying with the Lead Act and the Disclosure Rule.

34. The terms of this CAFO bind Respondent, and his successors and assigns.

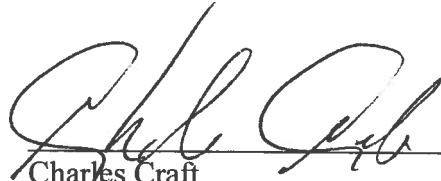
35. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

36. Each party agrees to bear its own costs and attorney's fees in this action.

37. This CAFO constitutes the entire agreement between the parties.

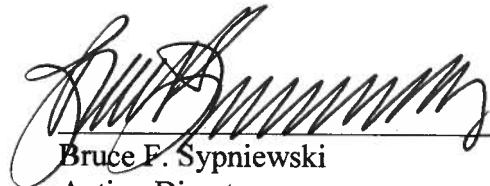
Charles Craft, Respondent

7-23-10
Date


Charles Craft

United States Environmental Protection Agency, Complainant

8/4/10
Date


Bruce F. Sypniewski
Acting Director
Land and Chemicals Division

In the Matter of:
Charles Craft
Docket No. TSCA-05-2010-0017

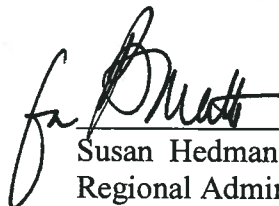
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Final Order

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

8-5-10
Date:



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY
AUG 5 2010
OFFICE OF REGIONAL
COUNSEL


CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Charles Craft, was filed on August 10, 2010, with the Regional Hearing Clerk (E-13J), 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 7670 6087, a copy of the original to the Respondents:

Mr. Charles Craft
1117 N Bluff Road
Greenwood, Indiana 46142

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Tom Nash, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

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