

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

2017 DEC -6 PM 3:49

BEFORE THE ADMINISTRATOR

| | | |
|-----------------------------|---|------------------------------|
| In the Matter of |) | Docket No. TSCA-07-2018-0019 |
| |) | |
| Top Choice Contracting, LLC |) | EXPEDITED SETTLEMENT |
| |) | AGREEMENT AND |
| Respondent |) | FINAL ORDER |
| |) | |

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Extraordinary Measures, LLC (“Respondent”) failed to comply with the regulations governing certification, in violation of Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689.
2. TSCA § 402 requires the Administrator of EPA to promulgate regulations governing lead-based paint activities to ensure, among other things, that contractors engaged in such activities are certified. These regulations are codified at Part 745 of Title 40 of the Code of Federal Regulations.
3. 40 C.F.R. § 745.81(a)(2)(ii) prohibits firms from performing, offering, or claiming to perform renovations without certification from EPA under § 745.89 in target housing or child-occupied facilities on or after April 22, 2010, unless the renovation qualifies for an exception. 40 C.F.R. § 745.89 covers firm certifications, including the requirement under § 745.89(a)(1) that firms that perform renovations for compensation must apply to EPA for certification to perform renovations or dust sampling.
4. Respondent, as a firm which performs, offers, or claims to perform residential renovations and repairs for compensation on housing constructed prior to 1978, was required to obtain an initial firm certification from EPA, under 40 C.F.R. §§ 745.89(a)(1) and 745.81(a)(2)(ii). Respondent failed to obtain an initial firm certification from EPA prior to performing a regulated renovation for compensation which did not qualify for an exception.
5. EPA and Respondent agree that settlement of this matter for a civil penalty of \$1,000.00 (one-thousand dollars and no cents) is in the public interest.
6. Not more than thirty (30) calendar days after the effective date of the Final Order, Respondent shall deposit the civil penalty amount listed in Paragraph 5 by one of the following methods:

- A. Dispatch a cashier's or certified check or money order with a notation for Docket No. TSCA-07-2018-0019 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-07-2018-0019
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000.

- B. Dispatch a cashier's or certified check or money order by an overnight/common carrier (*e.g.*, FedEx® or United Parcel Service of America, Inc.) with a notation for Docket No. TSCA-07-2017-0019 payable to the order of the "Treasury of the United States of America" to the following address:

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

- C. Make electronic payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).
7. Concurrently with Paragraph 6, Respondent shall forward a copy of the cashier's or certified check or money order or documentation of a wire transfer to the following address with a certification that regarding the violations alleged herein, Respondent is in compliance with TSCA.

Cassie Mance
Compliance Officer
WWPD/TOPE
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, KS 66219,

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7

11201 Renner Boulevard
Lenexa, KS 66219.

By written notice to Respondent, EPA may change the address and/or person listed above.

8. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA and 40 C.F.R. § 22.13(b).
9. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirement in Paragraph 2 (above); (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.
10. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violation, and has submitted true and accurate documentation of such correction; (b) agrees to provide payment of the civil penalty set forth in Paragraph 5; (c) agrees to submit a true and accurate proof of payment of said civil penalty as set forth in Paragraph 6; and (d) agrees to release said payment to EPA upon entry of the Final Order attached hereto.
11. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in Paragraph 5, Respondent shall be resolved of liability for Federal civil penalties for the violations and facts only alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
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. By signing and returning this Agreement to EPA, Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal this Agreement.
15. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

16. Each party shall bear its own costs and fees, if any.
17. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.
18. 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): Brandon Dockins

Title (print): Owner / Sole member

Signature: Dunk E. Dali Member

Date: 11/29/17

APPROVED BY EPA:

Jamie Green

Jamie Green, Branch Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 12/6/2017

Raymond C. Bosch

Raymond C. Bosch, Assistant Regional Counsel
Chemical Management Branch
Office of Regional Counsel

Date: 12/4/2017

FINAL ORDER

Pursuant to the authority of Section 16 of Toxic Substances Control Act, 15 U.S.C. § 2615, and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

1. Top Choice Contracting, LLC ("Respondent") shall comply with all terms of the Expedited Settlement Agreement;
2. Respondent is assessed a civil penalty of \$1,000.00 (one-thousand dollars and no cents); and
3. Respondent shall, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, make payment via a certified or cashier's check or money order or through a wire transfer as described in the Expedited Settlement Agreement.

This Agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for the EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO ORDERED.

Karina Borrromeo
KARINA BORRROMEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

Date: Dec. 6, 2017

IN THE MATTER Of Top Choice Contracting, LLC, Respondent
Docket No. TSCA-07-2018-0019

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

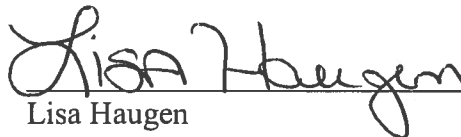
Ray Bosch

Copy sent via first class mail to Attorney for Complainant:

Anthony Asher Stein, Esq.
The Stein Law Firm
4310 Madison Avenue
Suite 201
Kansas City, Missouri 64111

Dated:

Dec 6, 2017



Lisa Haugen

Hearing Clerk, Region 7