



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 25 2010

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7667 2337

Mr. Andre' P. James  
L.A.G. Management, LLC  
24750 Mulberry Drive  
Southfield, Michigan 48034

L.A.G. Management, LLC TSCA-05-2010-0019

Dear Mr. James:

I have enclosed two copies of an original fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on August, with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,870 is to be paid in the manner described in paragraphs 29 thru 33. Please be certain that the number **BD 2751067X011** and the docket number are written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Christine Anderson".

Christine Anderson  
Pesticides and Toxics Compliance Section

Enclosures

cc: Eric Volck, Cincinnati Finance/MWD (w/Encl.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )

L.A.G. Management, LLC, )  
Southfield, Michigan, )

Respondent. )

Docket No. TSCA-05-2010-0019

Proceeding to Assess a Civil  
Penalty Under Section 16(a) of the  
Toxic Substances Control Act,  
15 U.S.C. § 2615(a)

RECEIVED

AUG 25 2010

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

CONSENT AGREEMENT AND FINAL ORDER

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, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is L.A.G. Management, LLC, a limited liability company doing business in the State of Michigan.
4. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
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 terms of this CAFO and to the assessment of the civil penalty specified herein.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies 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.

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 and corporations.

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.

14. 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, and lessee certifying the accuracy of their statements.

15. 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).

16. 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**

17. Between March 6, 1996, and June 21, 2006, Respondent owned single family dwellings in Detroit, Michigan, at 11336 Sorrento, 15848 Manor, 15349

Blackstone, 9403 Cheyenne and 9110 Forrer (Respondent's properties). The residences on these properties were all constructed prior to 1978.

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

19. On the following dates, Respondent entered into the following 5 lease agreements (contracts) with individuals for the lease of Respondent's properties:

<b>Address</b>	<b>Date of Lease or Renewal</b>
11336 Sorrento	6/21/2006
15848 Manor	12/21/1995, renewed 1/1/2006
15349 Blackstone	7/25/2000; renewed 1/1/2006
9403 Cheyenne	11/22/2000; renewed 1/1/2006
9110 Forrer	8/8/1986; renewed 1/1/2006

20. Each of the 5 contracts referred to in paragraph 19, above, covered a term of occupancy greater than 100 days.

21. Respondent is a "lessor," as defined in 40 C.F.R. § 745.103, because it offered the target housing referred to in paragraph 19, above, for lease.

22. Each individual who signed a lease to pay rent in exchange for occupancy of the target housing referred to in paragraph 19, above, became a "lessee" as defined in 40 C.F.R. § 745.103.

23. Respondent failed to include a lead warning statement, either within the contract or as an attachment to the contract for the lease of Respondent's properties listed in paragraph 19, above, in violation of 40 C.F.R. § 745.113(b)(1), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

24. 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 for the lease of Respondent's properties listed in paragraph 19, above, in violation of 40 C.F.R. § 745.113(b)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

25. Respondent failed to include a list of any records or reports available to the lessor regarding lead-based paint 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 for the lease of Respondent's properties listed in paragraph 19, above, in violation of 40 C.F.R. § 745.113(b)(3), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

26. 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 for the lease of Respondent's properties listed in paragraph 19, above, in violation of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

27. 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 for the lease of Respondent's properties listed in paragraph 19, above, 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**

28. Pursuant to section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$3,870. In determining

the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability. Complainant also considered EPA's *Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy*, dated December 2007.

29. Respondent must pay the \$3,870 penalty in three installments with interest as follows: 1) 30 days after the effective date of this CAFO, Respondent must pay \$870; 2) 180 days after the effective date of this CAFO, Respondent must pay \$1512; and 3) one year after the effective date of this CAFO, Respondent must pay \$1508. Respondent must pay the installments by sending a cashier's or certified check, payable to the "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, the docket number of this CAFO, and the billing document number.

30. A transmittal letter stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Christine L. Anderson (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Robert S. Guenther (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

31. This civil penalty is not deductible for federal tax purposes.
32. If Respondent does not pay an installment payment as set forth in paragraph 29, above, the entire unpaid balance of the civil penalty, and any amount required by paragraph 33, below, will become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. EPA may bring a civil action in United States district court to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
33. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). 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.



**General Provisions**

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

35. 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.

36. 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.

37. Respondent certifies that it is complying with the Lead Act and the Disclosure Rule.

38. The terms of this CAFO bind Respondent, and its successors and assigns.

39. 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.

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

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

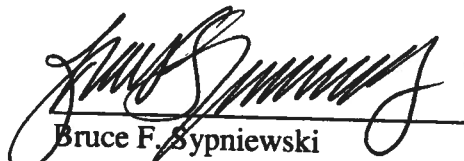
**LAG Management Corporation, Respondent**

8-1-10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
André P. James  
L.A.G. Management, LLC

**United States Environmental Protection Agency, Complainant**

8/20/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Bruce F. Sypniewski  
Acting Director  
Land and Chemicals Division

**In the Matter of:**  
**L.A.G. Management, LLC**  
**Docket No. TSCA-05-2010-0019**

**In the Matter of:  
L.A.G. Management, LLC  
Docket No. TSCA-05-2010-0019**

**RECEIVED**


AUG 25 2010

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**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.

August 24, 2010  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

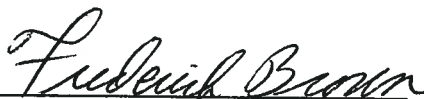
**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Consent Agreement and Final Order in the resolution of the civil administrative action involving L.A.G. Management LLC, was filed on August 25, 2010, with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7667 2337 to:

Mr. Andre' P. James  
L.A.G. Management, LLC  
24750 Mulberry Drive  
Southfield, Michigan 48034

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Robert S. Guenther, 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

Docket No. TSCA-05-2010-0019

**RECEIVED**  
AUG 25 2010

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**