

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

IN THE MATTER OF:

DOUGLAS PAULINO  
9 Orange Street  
Hartford, Connecticut 06106

Respondent.

RECEIVED

2009 SEP 28 A 10:03  
Docket No. TSCA-01-2009-0066

EPA GRC  
OFFICE OF  
REGIONAL HEARING CLERK

COMPLAINT AND NOTICE OF OPPORTUNITY  
FOR ADMINISTRATIVE HEARING

**I. STATEMENT OF AUTHORITY**

1. This Complaint and Notice of Opportunity for Administrative Hearing ("Complaint") is issued pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The Complainant is the Legal Enforcement Manager, Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 ("EPA Region 1").

**II. NATURE OF THE ACTION**

2. The Respondent in this action, Douglas Paulino ("Respondent" or "Mr. Paulino"), is hereby notified of the Legal Enforcement Manager's determination that he has violated TSCA Section 409, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. §§ 4851 *et seq.*, and federal regulations promulgated thereunder, entitled *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease*

*of Residential Property*, set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”).

Complainant seeks civil penalties pursuant to TSCA Section 16, 15 U.S.C. § 2615, which provides that violations of TSCA Section 409 are subject to the assessment by Complainant of civil and/or criminal penalties. In support of its Complaint, Complainant alleges the following:

### **III. STATUTORY AND REGULATORY BACKGROUND**

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is considered in the rental of homes and apartments.

4. In 1996, the United States Environmental Protection Agency (“EPA”) promulgated regulations to implement the Act. These regulations (the Disclosure Rule) are set forth at 40 C.F.R. Part 745, Subpart F.

5. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the housing stock addressed by the Act is termed “target housing.” “Target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled, or any 0-bedroom dwelling.

6. The Disclosure Rule requires sellers and lessors of target housing to, among other things:

- a) provide to purchasers and lessees a lead hazard information pamphlet;

- b) disclose to purchasers and lessees the presence of any known lead-based paint and/or lead-based paint hazards prior to selling or leasing target housing;
- c) provide available records or reports pertaining to lead-based paint or lead based paint hazards in the housing;
- d) ensure that the contract to lease or sell includes a Lead Warning Statement; and,
- e) ensure that the contract to lease or sell includes a statement by the lessor or seller disclosing the presence of known lead-based paint or lead-based paint hazards, or indicating no knowledge thereof.

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure to comply with the requirements of the Disclosure Rule is a violation of TSCA Section 409.

8. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of TSCA Section 409 shall be liable to the United States for a civil penalty.

9. Section 1018(b)(5) of the Act provides that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Penalties of up to \$11,000 per violation may be assessed for violations occurring between July 28, 1997, and January 12, 2009, pursuant to 40 C.F.R. § 745.118(f), the Debt Collection Improvement Act of 1996, found at 31 U.S.C. § 3701, and 40 C.F.R. Part 19. Effective January 12, 2009, the maximum penalty per violation is \$16,000. 73 Fed. Reg. 75340-46 (December 11, 2008).

#### **IV. GENERAL ALLEGATIONS**

10. Respondent Douglas Paulino is a person who resides in Hartford, Connecticut.

11. At all times relevant to the allegations in this Complaint, Respondent was the “owner,” as defined in 40 C.F.R. § 745.103, of the following residential properties (collectively “Properties”): 43-45 Colonial Street, Hartford, Connecticut (a three-unit apartment building); 9-

11 Orange Street, Hartford, Connecticut (a three-unit apartment building); 12-14 Orange Street, Hartford, Connecticut (a three-unit apartment building); 76 Ellington Street, Hartford, Connecticut (a single-family house); 105 Hebron Street, Hartford, Connecticut (a single-family house); and 356 Franklin Avenue, Hartford, Connecticut (a single-family house).

12. All of the Properties were built before 1978. All of the rental units located at the Properties are or were, at the time of the violations alleged in this Complaint, "target housing," as defined in 40 C.F.R. § 745.103. None of the rental units satisfies the requirements for an exemption to the provisions of the Act or the Disclosure Rule.

13. At all times relevant to the allegations in this Complaint, Respondent offered for lease the rental units located at the Properties. Accordingly, Respondent is a "lessor" as defined in 40 C.F.R. § 745.103.

14. On August 23, 2006, EPA Region 1 received a complaint from the City of Hartford Department of Health and Human Services indicating that at least three children residing in Respondent's Properties had confirmed elevated blood lead levels and that Respondent failed to disclose information about lead-based paint to prospective tenants.

15. On August 9, 2007, after several unsuccessful attempts to arrange a consensual inspection of Respondent's records, EPA Region 1 served Respondent a subpoena, identified as TSCA Subpoena No. TSCA-SP-2007-012 (the "Subpoena"). EPA issued the Subpoena pursuant to Section 11(c) of TSCA, 15 U.S.C. § 2610(c). The Subpoena sought information necessary to assess Respondent's compliance with the Disclosure Rule at the Properties. The Subpoena also sought information related to renovations and repairs conducted at the Properties so that EPA

could assess Respondent's compliance with another lead paint-related requirement, the Pre-Renovation Education Rule, found at 40 C.F.R. Part 745, Subpart E.

16. On November 2, 2007, after Respondent failed to respond to the Subpoena, EPA Region 1 again served the Subpoena on Respondent together with a notice stating that continued failure to respond to the Subpoena would likely result in enforcement to compel a response.

17. On May 19, 2008, the United States filed a petition to enforce the Subpoena, and on July 22, 2008, the United States District Court, District of Connecticut, ordered Respondent to comply with the Subpoena by delivering all documents and information subject thereto to EPA Region 1.

18. On August 25, 2008, representatives from EPA Region 1 met with Respondent at the United States Attorney's Office in Hartford, Connecticut, to receive his response to the Subpoena. On that date, EPA received copies of several leases and information related to those leases and the Properties. Respondent did not provide EPA with any documentation demonstrating compliance with the Disclosure Rule, and he attested at the meeting that he had not complied with the Disclosure Rule.

19. During the course of its investigation in this matter, EPA obtained copies of a letter and risk assessment report dated December 2004 that notified Respondent that a child who resided at 11 Orange Street, 2<sup>nd</sup> Floor, Hartford, Connecticut, had been found to have elevated blood-lead levels and that lead-based paint hazards were found to exist in the rental unit. This letter also informed Respondent that the report should be disclosed to purchasers and tenants pursuant to the Disclosure Rule. Additionally, EPA obtained a lead-based paint abatement order, issued by the City of Hartford on August 21, 2008, for 9-11 Orange Street 2<sup>nd</sup> and 3<sup>rd</sup>

Floors. In addition to requiring Respondent to abate and manage lead-based paint, this order notified Respondent of the requirements of the Disclosure Rule.

20. On April 6, 2009, representatives from EPA Region 1, the City of Hartford Health and Human Services Department, and the Connecticut Department of Public Health met with Respondent to conduct a follow-up inspection of his leases and lead paint-related records and to determine if his tenants' children were currently at risk from lead-based paint hazards.

#### **V. VIOLATIONS**

21. EPA has identified the following violations of the Act and the Disclosure Rule based on documents and information obtained from Respondent pursuant to the Subpoena and/or otherwise collected during EPA's investigation of this matter:

#### **FIRST COUNT**

#### **Failure to Provide Lead Hazard Information Pamphlet**

22. Paragraphs 1 through 21, above, are incorporated by reference as if fully set forth herein.

23. Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor is required to provide a lessee, before the lessee is obligated under any contract to lease target housing, with an EPA-approved lead hazard information pamphlet entitled *Protect Your Family From Lead in Your Home* or an equivalent pamphlet that has been approved for use in particular states by EPA.

24. Respondent failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants became obligated to lease the specific apartments indicated below:

- a) Gladys Melendez, who became obligated to rent 9-11 Orange Street, #2, Hartford, Connecticut, on or about September 1, 2007;

- b) Felix Colon, who became obligated to rent 12-14 Orange Street, #1, Hartford, Connecticut, on or about October 1, 2007;
- c) Marilyn Cotto Rivera, who became obligated to rent 12-14 Orange Street, #3, Hartford, Connecticut, on or about June 1, 2008;
- d) Natalie Delgado, who became obligated to rent 12-14 Orange Street, #1, Hartford, Connecticut, on or about August 1, 2006;
- e) Yaris Sanz, who became obligated to rent 12-14 Orange Street, #2, Hartford, Connecticut, on or about October 1, 2006; and
- f) Madelin Regas, who became obligated to rent 12-14 Orange Street, #3, Hartford, Connecticut, on or about October 1, 2006.

25. Respondent's failure to provide lessees of target housing with an EPA-approved lead hazard information pamphlet prior to the lessees becoming obligated under a contract to lease target housing on six occasions constitutes six separate violations of 40 C.F.R. § 745.107(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

26. Each of the above-listed instances of violation alleged in the First Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and each is a violation for which penalties may be assessed pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4825d(b)(5), and Section 16 of TSCA, 15 U.S.C. § 2615.

## SECOND COUNT

### Failure to Disclose Known Lead-Based Paint/Hazards and/or Provide Records

27. Paragraphs 1 through 26, above, are incorporated by reference as if fully set forth herein.

28. Pursuant to 40 C.F.R. § 745.107(a)(2), a lessor is required to disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing before the lessee becomes obligated under the lease contract. Under 40 C.F.R. § 745.107(a)(2), a lessor is also required to disclose any additional information available concerning known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-

based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

29. Pursuant to 40 C.F.R. § 745.107(a)(4), a lessor is required to provide to the lessee any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing before the lessee becomes obligated under the lease contract. This requirement includes records or reports regarding common areas. The term “available records” includes records in the lessor’s possession or records that are reasonably obtainable by the lessor at the time of the disclosure.

30. Respondent failed to disclose to Gladys Melendez the presence of known lead-based paint or lead based paint hazards and/or failed to provide Ms. Melendez with records or reports pertaining to lead-based paint or lead-based paint hazards before Ms. Melendez entered into a contract to lease 9-11 Orange Street, #2, Hartford, Connecticut, on or about September 1, 2007.

31. At the time Respondent leased 9-11 Orange Street, #2, Hartford, Connecticut, to Ms. Melendez, Respondent possessed the following information pertaining to lead-based paint and/or lead-based paint hazards in the rental unit: a letter from the Lead Action for Medicaid Primary Prevention (“LAMPP”) Project, Connecticut Children’s Medical Center, dated December 9, 2004, stating that a child who resided in the rental unit had elevated blood lead levels and that lead-based paint hazards were found to exist in the rental unit, and a report entitled *Visual Risk Assessment and Scope of Services to Reduce Potential Lead Hazards* for the rental unit prepared by TRC Environmental Corporation in December of 2004.

32. Respondent failed to provide Blanca Maldonado with records or reports pertaining to lead-based paint or lead-based paint hazards before Ms. Maldonado entered into a contract to



lease 9-11 Orange Street, #2, Hartford, Connecticut, on or about February 1, 2009.

33. At the time Respondent leased 9-11 Orange Street, #2, Hartford, Connecticut, to Ms. Maldonado, Respondent possessed the following information pertaining to lead-based paint and/or lead-based paint hazards in the rental unit: (a) the information contained in paragraph 31, above; (b) a State of Connecticut Department of Public Health Lead Inspection Report Form, dated August 20, 2008, with test results indicating that lead-based paint and lead-based paint hazards existed in the rental unit; and (c) a lead abatement order issued to Respondent by the City of Hartford, dated August 21, 2008.

34. Respondent's failure to (a) disclose the presence of known lead-based paint and/or lead-based paint hazards and/or (b) provide records pertaining to lead-based paint and/or lead-based paint hazards to two lessees of target housing constitutes two violations of 40 C.F.R. § 745.107(a)(2) and/or 40 C.F.R. § 745.107(a)(4), and TSCA Section 409.

35. The above-listed instances of violation alleged in the Second Count are prohibited acts under TSCA Section 409 and 40 C.F.R. § 745.118(e) and are violations for which penalties may be assessed pursuant to the Section 1018(b)(5) of the Act and Section 16 of TSCA.

**THIRD COUNT**  
**Failure to Include Lead Warning Statement**

36. Paragraphs 1 through 35, above, are incorporated by reference as if fully set forth herein.

37. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing must include a Lead Warning Statement within, or as an attachment to, the contract.

38. Respondent failed to include a Lead Warning Statement in, or attached to, his contracts with each of the lessees listed in Paragraph 24(a), (b), (d), (e), and (f), above.

39. Respondent's failure to include a Lead Warning Statement in or attached to five lease contracts constitutes five separate violations of 40 C.F.R. § 745.113(b)(1) and TSCA Section 409.

40. Each of the above-listed instances of violation alleged in the Third Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and each is a violation for which penalties may be assessed pursuant to the Section 1018(b)(5) of the Act and Section 16 of TSCA.

#### **FOURTH COUNT**

##### **Failure to Include Disclosure Statement Regarding Lead-Based Paint/Hazards**

41. Paragraphs 1 through 40, above, are incorporated by reference as if fully set forth herein.

42. Pursuant to 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include, as an attachment to or within the lease contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

43. Respondent failed to include a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or a statement indicating no knowledge of the same in, or attached to, his contracts with each of the lessees listed in Paragraph 24, above.

44. Respondent's failure to include a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in, or attached to, six lease contracts constitutes six separate violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409.

45. Each of the above-listed instances of violation alleged in the Fourth Count is a prohibited act under TSCA Section 409 and 40 C.F.R. § 745.118(e), and each is a violation for which penalties may be assessed pursuant to the Section 1018(b)(5) of the Act and Section 16 of TSCA.

#### **VI. PROPOSED PENALTY**

46. Section 1018(b)(5) of the Act provides that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Penalties of up to \$11,000 per violation may be assessed for violations occurring between July 28, 1997, and January 12, 2009, pursuant to 40 C.F.R. § 745.118(f), the Debt Collection Improvement Act of 1996, found at 31 U.S.C. § 3701, and 40 C.F.R. Part 19. Effective January 12, 2009, the maximum penalty per violation is \$16,000. 73 Fed. Reg. 75340-46 (December 11, 2008).

47. In determining the amount of any penalty to be assessed, Section 16 of TSCA, 15 U.S.C. § 2615, requires EPA to consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, ability to pay, the effect of the proposed penalty on the ability of the violator to continue to do business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require. To assess a penalty for the violations alleged herein, Complainant will take into account the particular facts

and circumstances of this case with specific reference to EPA's December 2007 *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy* ("Penalty Policy"), a copy of which is enclosed with this Complaint. The Penalty Policy provides a rational, consistent, and equitable calculation methodology for applying the above-listed statutory penalty factors to specific cases.

48. By this Complaint, Complainant seeks to assess civil penalties of up to \$11,000 per violation against the Respondent for the following 18 violations occurring before January 13, 2009, and up to \$16,000 for the one violation occurring on February 1, 2009:

- a) FIRST COUNT: Six separate violations of 40 C.F.R. § 745.107(a)(1) for failure to provide an EPA-approved lead hazard information pamphlet – A lessor's failure to provide an EPA-approved lead hazard information pamphlet has a *high probability* of impairing a lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information when leasing target housing. The pamphlet describes the hazards associated with lead-based paint and provides information about how lessees can protect themselves against potential lead exposure. The pamphlet also explains that lead exposure is especially harmful to young children and pregnant women. Five of the six tenants listed in Paragraph 24 had children at the time they became obligated to rent Respondent's apartments, and one tenant had a baby living half-time in her apartment during the lease term.
  
- b) SECOND COUNT: Two separate violations of 40 C.F.R. §§ 745.107(a)(2) and/or 745.107(a)(4) for failure to disclose to a lessee the presence of any known lead-based paint and/or lead-based paint hazards and/or provide the lessee with records and reports pertaining to the same – A lessor's failure to disclose the presence of any known lead-based paint and/or lead-based paint hazards is a serious violation of the Disclosure Rule regulations. A failure to disclose known lead-based paint and/or lead-based paint hazards has a *high probability* of impairing a lessee's ability to properly assess and weigh the potential health risks associated with leasing target housing and greatly increases the likelihood of exposure to lead-based paint hazards. A lessor's failure to provide records or reports pertaining to lead-based paint to a lessee has a *high probability* of impairing the lessee's ability to properly assess and weigh the health risks associated with target housing and greatly increases the likelihood of exposure to lead-based paint hazards. A lessor's failure to provide records or reports about lead-based paint and/or lead-based paint hazards undermines the intent of Disclosure Rule, which is to disclose to potential lessees any and all information regarding lead-based paint and/or lead-based paint hazards that may be present in the target housing the

lessees are considering renting. Lead exposure is especially harmful to young children and pregnant women. Although the September 1, 2007 lease with Gladys Melendez for 9-11 Orange Street #2 does not list any children, an August 20, 2008 Lead Inspection Report Form, created by the State of Connecticut Department of Public Health, indicates that there was a baby living half-time in the Melendez apartment. Blanca Maldonado, who signed a lease to rent 9-11 Orange Street #2 on February 1, 2009, had four children at the time of the lease transaction.

- c) THIRD COUNT: Five separate violations of 40 C.F.R. § 745.113(b)(1) for failure to provide a Lead Warning Statement – A lessor’s failure to include a Lead Warning Statement in the language of a lease contract, or as an attachment thereto, has a *high probability* of impairing a lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. The Lead Warning Statement explains that lead exposure is especially harmful to young children and pregnant women. Four of the five tenants whose contracts to lease did not contain Lead Warning Statements had children at the time they became obligated to rent Respondent’s apartments, and one tenant had a baby living half-time in her apartment during the lease term.
  
- d) FOURTH COUNT: Six separate violations of 40 C.F.R. § 745.113(b)(2) for failure to provide a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards – A lessor’s failure to include a statement disclosing knowledge of lead-based paint and/or lead-based paint hazards or indicating no knowledge thereof has a *medium probability* of impairing a lessee’s ability to properly assess the risks associated with leasing target housing. The intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in housing, and violations of this provision deprive lessees of their ability to make decisions based upon risk. Without such a statement, a lessee may unwittingly lease a unit that is known to contain lead-based paint. Five of the six tenants whose contracts to lease did not contain such statements had children at the time they became obligated to rent Respondent’s apartments, and one tenant had a baby living half-time in her apartment during the lease term.

49. Prior to any hearing on this case, EPA will file a document specifying a proposed penalty for the violations alleged herein and explaining how the proposed penalty was calculated, as required by the Consolidated Rules of Practice. Complainant will calculate a proposed penalty based, in part, on its current knowledge of the Respondent’s financial condition. The proposed penalty may be adjusted if Respondent establishes *bona fide* issues of ability to pay or other

defenses relevant to the appropriate amount of the penalty. Respondent shall pay the civil penalty with a cashier's or certified check, payable to the Treasurer, United States of America. Respondent should note on the check the docket number of this Complaint (EPA Docket No. TSCA-01-2009-0066). The check shall be forwarded to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

Judy Lao-Ruiz, Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency-Region 1  
One Congress Street, Suite 1100 (RAA)  
Boston, Massachusetts 02114-2023

and

Catherine Smith, Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency-Region 1  
One Congress Street, Suite 1100 (SES)  
Boston, Massachusetts 02114-2023

50. Neither assessment nor payment of an administrative penalty shall affect the Respondent's continuing obligation to comply with all applicable requirements of federal law.

**VII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER**

51. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14 of the Consolidated Rules of Practice, the Respondent has a right to request a hearing on any material fact alleged in this Complaint or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with the

Consolidated Rules of Practice, at 40 C.F.R. Part 22. **A request for a hearing must be incorporated into a written Answer. Respondent must file the original and one copy of the written Answer to this Complaint within thirty (30) days of receipt of this Complaint.**

Respondent shall send the Answer to the Regional Hearing Clerk at the following address:

Judy Lao-Ruiz, Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (Mail Code: RAA)  
Boston, Massachusetts 02114-2023

Respondent shall serve copies of the Answer, and any other documents submitted in this proceeding, to Complainant's counsel at the following address:

Catherine Smith, Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (Mail Code: SES)  
Boston, Massachusetts 02114-2023

In its Answer, Respondent may contest any material fact contained in the Complaint. The Answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of any defense; (2) the facts Respondent disputes; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation. *See* 40 C.F.R. § 22.15 for the required contents of an Answer.

#### **VIII. DEFAULT ORDER**

52. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by

Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the default order becomes final.

**IX. SETTLEMENT CONFERENCE**

53. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region 1.

54. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Catherine Smith, Senior Enforcement Counsel, Office of Environmental Stewardship, EPA Region 1, at the address cited above, at (617) 918-1777, or at [smith.catherine@epa.gov](mailto:smith.catherine@epa.gov). Ms. Smith has been designated to represent Complainant in this matter and is authorized, under 40 C.F.R. § 22.5(c)(4), to receive service on behalf of Complainant.

  
Joel Blumstein, Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (Mail Code SEE)  
Boston, MA 02114-2023

9/22/09  
Date



*In re: Douglas Paulino.*  
Docket No. TSCA-01-2009-0066

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for Hearing has been provided to the following persons on the date noted below:

Original and one copy,  
hand-delivered:

Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114-2023

One copy (with the Consolidated  
Rules and Penalty Policy), by First  
Class Mail, Return Receipt  
Requested:

Douglas Paulino  
9 Orange Street  
Hartford, CT 06106

Dated: 9/28/09



Catherine Smith, Senior Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street, Suite 1100 (SES)  
Boston, MA 02114-2023  
Phone (dir.): 617-918-1777  
Fax: 617-918-0777  
E-mail: smith.catherine@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
EPA REGION 1 - NEW ENGLAND  
1 Congress Street, Suite 1100  
Boston, MA 02114-2023

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**BY HAND**

September 28, 2009

Judy Lao-Ruiz Wanda Santiago  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 1  
One Congress Street, Suite 1100 (RAA)  
Boston, Massachusetts 02114-2023

Re: In the Matter of Douglas Paulino, Docket No. TSCA-01-2009-0066

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter please find the original and one copy of a Complaint and Notice of Opportunity for Administrative Hearing.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine Smith", with a long horizontal flourish extending to the right.

Catherine Smith

cc: Douglas Paulino

Enclosures