

JOHANSON BERENSON LLP

ATTORNEYS & COUNSELORS AT LAW

1146 WALKER ROAD, SUITE C • GREAT FALLS, VIRGINIA 22066

info@JohansonBerenSON.com

WRITER'S

TELEPHONE: (703) 759-1055

FACSIMILE: (703) 759-1051

29 July 2010

Regional Hearing Clerk (E-19J)
United States Environmental Protection Agency – Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

VIA FEDEX

Re: Docket No. TSCA-05-2010-0013

Dear Madam or Sir:

Enclosed herein, please find one (1) original and one (1) copy of Respondent's Answer to EPA's Administrative Complaint and one (1) original and one (1) copy of Respondent's Motion to Dismiss EPA's Administrative Complaint. Copies of both filings have been served on all parties pursuant to 40 CFR 22.16 and 40 CFR 22.5.

Respectfully,



Kevin M. Tierney, Esq.

cc: Hanson's Window and Construction, Inc.
Enclosure (4)

JOHANSON BERENSON LLP
D.S. Berenson, Esq.
Kevin M. Tierney, Esq.
1146 Walker Road, Suite C
Great Falls, Virginia 22066
Telephone Number: (703) 759-1055
Facsimile Number: (703) 759-1051

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**REGIONAL HEARING CLERK
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PROTECTION AGENCY**

Attorneys for Respondent,
Hanson's Window and Construction, Inc.

**BEFORE THE
UNITED STATES ENVIRONMENTAL AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604**

IN THE MATTER OF)
)
Hanson's Window and Construction, Inc.) **Docket No. TSCA-05-2010-0013**
Madison Heights, Michigan 48071) **Respondent's Answer**
) **to Administrative Complaint**
Respondent,)
)
)
)
_____)

COMES NOW Respondent Hanson's Window and Construction, Inc., by and through its counsel, and in Answer to the Administrative Complaint states as follows:

1. In responding to Paragraph 1, Respondent admits that the instant Complaint commenced a purported administrative proceeding against Respondent, seeking to assess a civil penalty under the Toxic Substances Control Act (TSCA), 15 USC 2615(a).
2. Paragraph 2 calls for a legal conclusion to which no response is required.
3. In responding to Paragraph 3, Respondent states that Hanson's Window and Construction, Inc., is a corporation, 800-Hansons is a trade name belonging to Respondent, 1-800-Hansons is a trade name belonging to Respondent, Hanson's Window & Siding World is an assumed name belonging to Respondent, Hansons' Windows and Siding, Inc., is a corporation, Hanson's Window & Siding is an assumed name belonging to Respondent, and Hanson's

Window Company is an assumed name belonging to Respondent. Respondent denies that “Window & Siding World” belongs to Respondent; however, Respondent does have an assumed name of “Hanson’s Window & Siding World”.

4. In responding to Paragraph 4, Respondent is without knowledge as to what Congress “found” as to low-level poisoning and states that the Congressional record is its own best evidence of Congressional findings. As to the remaining allegations in Paragraph 4, such allegations call for a legal conclusion to which no response is required.

5. Paragraph 5 calls for a legal conclusion to which no response is required.

6. In responding to Paragraph 6, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *child-occupied facility*.

7. In responding to Paragraph 7, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *common area*.

8. In responding to Paragraph 8, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *firm*.

9. In responding to Paragraph 9, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *minor repair and maintenance activities*.

10. In responding to Paragraph 10, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *pamphlet*.

11. In responding to Paragraph 11, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *renovation*

12. In responding to Paragraph 12, Respondent states that 40 C.F.R. §745.83 is its own best evidence as to the definition of *renovator*.

13. In responding to Paragraph 13, Respondent states that 40 C.F.R. §745.103 is its own best evidence as to the definition of *residential dwelling*.

14. In responding to Paragraph 14, Respondent states that 40 C.F.R. §745.103 is its own best evidence as to the definition of *target housing*.

15. In responding to Paragraph 15, Respondent states that 40 C.F.R. §745.84(a)(1) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

16. In responding to Paragraph 16, Respondent states that 40 C.F.R. §745.84(c)(1) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

17. In responding to Paragraph 17, Respondent states that 40 C.F.R. §745.86(a) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

18. In responding to Paragraph 18, Respondent states that 40 C.F.R. §745.86(b)(2) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

19. In responding to Paragraph 19, Respondent states that 40 C.F.R. §745.84(b)(3) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

20. In responding to Paragraph 20, Respondent states that 40 C.F.R. §745.86(b)(4) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

21. In responding to Paragraph 21, Respondent states that 40 C.F.R. §745.86(b)(5) is its own best evidence as to the requirements imposed on firms performing renovations in target housing.

22. Paragraph 22 calls for a legal conclusion to which no response is required.

23. Paragraph 23 calls for a legal conclusion to which no response is required.

24. In responding to Paragraph 24, Respondent states that no response is required.

25. In responding to Paragraph 25, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

26. Admitted

27. Admitted

28. In responding to Paragraph 28, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

29. In responding to Paragraph 29, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

30. In responding to Paragraph 30, Respondent admits that Complainant issued a subpoena to Respondent, but states that the subpoena is its own best evidence as to the documentation/information sought.

31. Admitted

32. Admitted

33. Admitted

34. In responding to Paragraph 34, Respondent admits that Complainant issued a subpoena to Respondent, but states that the subpoena is its own best evidence as to the documentation/information sought.

35. In responding to Paragraph 35, Respondent admits that Complainant issued a March 19, 2010, letter to Respondent, but states that the letter is its own best evidence as to the issue(s) addressed therein.

36. In responding to Paragraph 36, Respondent admits that it had not provided documents responsive to the January 2010 subpoena; however, to the extent Paragraph 36 seeks to imply that Respondent had not *offered* to provide documents responsive to the January 2010 subpoena, it is denied.

37. To the extent Paragraph 37 alleges that Respondent entered into written work contracts for window replacement work to take place at the addresses listed, admitted. No response appears otherwise required to the statements in Paragraph 37.

38. In responding to Paragraph 38, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

39. In responding to Paragraph 39, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

40. In responding to Paragraph 40, Respondent admits that a legal representative for Respondent provided Complainant with tax returns and financial information for Respondent, but denies the remaining allegations.

41. In responding to Paragraph 41, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

42. In responding to Paragraph 42, Respondent admits that Complainant issued a June 4, 2010, letter to Respondent, but states that the letter is its own best evidence as to the issue(s) addressed therein.

43. In responding to Paragraph 43, Respondent lacks sufficient information to affirm or deny the allegations and leaves Complainant to its strict proofs.

44. In responding to Paragraph 44, Respondent admits that on June 7, 2010, it sent a letter to Complainant and that on June 8, 2010, Complainant sent a response letter to Respondent; however, Respondent states that these letters are their own best evidence as to the issue(s) addressed therein.

45. Denied

46. In responding to Paragraph 46, Respondent states that no response is required.

47. Paragraph 47 calls for a legal conclusion to which no response is required.

48. – 318. To the extent Paragraphs 48 through 318 rely on 40 C.F.R. 745.84(a)(1) such paragraphs are denied and Respondent denies the creation of or exposure to civil liability with respect to Respondent from any such rules that became effective at a time beyond the dates of the actionable conduct alleged by Complainant in Paragraphs 48 through 318.

319. To the extent Paragraph 319 calls for a legal conclusion, no response is required. To the extent Paragraph 319 relies on 40 C.F.R. 745.84(a)(1) and 15 U.S.C. §2686, such paragraph is denied and Respondent denies the creation of or exposure to civil liability with respect to Respondent from any such rules that became effective at a time beyond the dates of the actionable conduct alleged by Complainant in Paragraph 319.

320. In responding to Paragraph 320, Respondent states that no response is required.

321. Paragraph 321 calls for a legal conclusion to which no response is required.

322 – 592. To the extent Paragraphs 322 through 592 rely on 40 C.F.R. 745.86(a), 40 C.F.R. 745.86(b)(2), 40 C.F.R. 745.86(b)(3), 40 C.F.R. 745.86(b)(4), and 40 C.F.R. 745.86(b)(5), such paragraphs are denied and Respondent denies the creation of or exposure to civil liability with respect to Respondent from any such rules that became effective at a time beyond the dates of the actionable conduct alleged by Complainant in Paragraphs 322 through 592.

593. To the extent Paragraph 593 calls for a legal conclusion, no response is required. To the extent Paragraph 593 relies on 40 C.F.R. 745.84(a)(1) and 15 U.S.C. §2686, such paragraph is denied and Respondent denies the creation of or exposure to civil liability with respect to Respondent from any such rules that became effective at a time beyond the dates of the actionable conduct alleged by Complainant in Paragraph 593.

594. With respect to the “Proposed Civil Penalty” set forth in Counts 1 through 542 under Paragraph 594, which counts total an alleged Proposed Civil Penalty of \$784,380, such paragraph is denied and Respondent denies the creation of or exposure to civil liability with respect to Respondent from any such rules that became effective at a time beyond the dates of the actionable conduct alleged by Complainant in Paragraph 594.

Affirmative Defense No. 1

Complainant is barred under 28 U.S.C. § 2462 from initiating an enforcement action seeking the assessment of a civil penalty as to any job that precedes June 9, 2005.

Request for Hearing

Respondent hereby requests a hearing on this matter.

Respectfully submitted for
Hanson's Window and Construction, Inc.

By:  _____

Johanson Berenson LLP

D.S. Berenson, Esq.

Kevin M. Tierney, Esq.

1146 Walker Road, Suite C

Great Falls, Virginia 22066

Telephone Number: (703) 759-1055

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PROTECTION AGENCY.

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2010, the original and a true copy of the foregoing Respondent's Answer to EPA's Administrative Complaint was served on the following person(s) via overnight FedEx:

Regional Hearing Clerk (E-19J)
United States Environmental Protection Agency – Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Marcy A. Toney
Regional Judicial Officer
United States Environmental Protection Agency - Region 5
77 West Jackson Boulevard
Mail Code C-14J
Chicago, Illinois 60604

Mary McAuliffe
Associate Regional Counsel
United States Environmental Protection Agency - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590



Kevin M. Tierney, Esq.

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