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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

_____)	
In the Matter of:)	
)	Docket No. TSCA-09-2025-0011
Shafer's Contracting LLC dba Shafer's)	
Roofing & Construction,)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18
Respondent.)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA"), and Shafer's Contracting LLC dba Shafer's Roofing & Construction ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

A. AUTHORITY AND PARTIES

1. This proceeding is a civil administrative penalty action brought against Respondent pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), for violation of Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and their implementing regulations promulgated at 40 C.F.R. Part 745, Subpart E.
2. Complainant is the Manager of the Toxics Section of the Enforcement and Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.
3. Respondent, a Hawaii limited liability corporation, is a construction firm located in Kapolei, Hawaii.

B. STATUTORY AND REGULATORY BACKGROUND

4. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), 40 C.F.R. Part 745, Subpart E requires a person who performs for compensation a renovation of target housing and child-occupied facilities to provide a lead hazard information pamphlet to the owner and occupant before beginning the renovation.
5. Pursuant to Sections 402(a) and (c) of TSCA, 15 U.S.C. §§ 2682(a) and (c), 40 C.F.R. Part 745, Subpart E provides requirements for certification of individuals and firms engaged in lead-based paint activities and work practice standards for renovation, repair, and painting activities in target housing and child-occupied facilities.
6. “Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is

expected to reside in such housing) or any 0-bedroom dwelling. Section 401 of TSCA, 15 U.S.C. § 2681, and 40 C.F.R. §745.103.

7. “Person” means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 745.83.

8. “Firm” means a company, partnership, corporation, sole proprietorship, or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization. 40 C.F.R. § 745.83.

9. “Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is part of an abatement as defined by 40 C.F.R. § 745.223. The term “renovation” includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics planning thresholds to install weatherstripping), and interim controls that disturb painted surfaces. The term “renovation” does not include minor repair and maintenance activities. 40 C.F.R. § 745.83.

10. “Painted surface” means a component surface covered in whole or in part with paint or other surface coatings. 40 C.F.R. § 745.83.

11. "Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as . . . windows and trim (including sashes, window heads, jambs, sills or stools and troughs) . . . and exterior components such as . . . windowsills or stools and troughs, casings, sashes and wells. 40 C.F.R. § 745.83.

12. "Renovator" means any individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. § 745.83.

13. "Pamphlet" means the EPA pamphlet titled, "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools," developed under Section 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. 40 C.F.R. § 745.83.

14. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to exceed \$48,512 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that occurred after November 2, 2015, where penalties were assessed on or after December 27, 2023.

C. ALLEGED VIOLATIONS

15. At all times relevant to this CAFO, Respondent was a "person," as that term is defined by 40 C.F.R. § 745.83.

16. At all times relevant to this CAFO, Respondent was a “firm,” as that term is defined at 40 C.F.R. § 745.83.

17. From on or about August 1, 2022 to on or about October 14, 2022, Respondent performed at least one “renovation,” as that term is defined at 40 C.F.R. § 745.83, for compensation at the residential property known as “The Keona Ana Apartments” located at 430 Keoniana Street, Honolulu, HI 96815 (“the Property”).

18. At all times relevant to this CAFO, the Property was “target housing,” as that term is defined at Section 401 of TSCA, 15 U.S.C. § 2681, and 40 C.F.R. §745.103.

19. Firms that perform renovations for compensation must apply to EPA for certification to perform renovations. 40 C.F.R. § 745.89(a).

20. On or after April 22, 2010, no firm may perform a renovation without certification from EPA under 40 C.F.R. § 745.89(a) in target housing or child-occupied facilities unless the renovation is performed in target housing or child-occupied facilities that have been determined to be lead-free pursuant to 40 C.F.R. § 745.82(a). 40 C.F.R. § 745.81(a)(2)(ii).

21. At all times relevant to this CAFO, Respondent did not have a certification from EPA to perform a renovation for compensation at the Property.

22. At all times relevant to this CAFO, the Property had not been determined to be lead-free pursuant to 40 C.F.R. § 745.82(a) before the renovation for compensation occurred.

23. Respondent’s performance of a renovation for compensation at the Property without certification from EPA under 40 C.F.R. § 745.89(a) constitutes one (1) violation of 40 C.F.R. § 745.81(a)(2)(ii) and Section 409 of TSCA, 15 U.S.C. § 2689.

24. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must provide the owner of the

Property with a “pamphlet,” as that term is defined at 40 C.F.R. § 748.83, and either obtain from the owner a written acknowledgment that the owner has received the “pamphlet” or obtain a certificate of mailing at least seven days prior to the renovation. 40 C.F.R. § 745.84(a)(1).

25. Respondent did not provide a “pamphlet” to the owner of the Property before beginning renovation activities.

26. Respondent’s failure to provide a “pamphlet” to the owner of the Property prior to the renovation at the Property constitutes one (1) violation of 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA.

27. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must provide an adult occupant of the unit with a “pamphlet,” as that term is defined at 40 C.F.R. § 748.83, and either obtain from the adult occupant a written acknowledgment that the adult occupant has received the “pamphlet” or obtain a certificate of mailing at least seven days prior to the renovation. 40 C.F.R. § 745.84(a)(2).

28. Respondent did not provide a “pamphlet” to an adult occupant of at least one residential dwelling unit of the Property before beginning renovation activities.

29. Respondent’s failure to provide a “pamphlet” to an adult occupant of at least one residential dwelling unit of the Property constitutes one (1) violation of 40 C.F.R. § 745.84(a)(2) and Section 409 of TSCA, 15 U.S.C. § 2689.

30. Firms performing renovations must comply with the work practice standards of § 745.85, including the posting of signs clearly defining the work area and warning occupants and

other persons not involved in renovation activities to remain outside of the work area. 40 C.F.R. § 745.85(a)(1).

31. Respondent did not post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area for the renovation performed at the Property.

32. Respondent's failure to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area for the renovation performed at the Property constitutes one (1) violation of 40 C.F.R. § 745.85(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

33. Firms performing renovations must comply with the work practice standards of § 745.85, including the containment of the work area before the beginning of the renovation so that no dust or debris leaves the work area while the renovation is being performed. In particular, for exterior renovations, the firm must close all doors and windows within 20 feet of the renovation. 40 C.F.R. § 745.85(a)(2)(ii).

34. Respondent did not contain the work area before the beginning of the renovation at the Property so that no dust or debris left the work area while the renovation was being performed.

35. Respondent's failure to contain the work area before the beginning of the renovation at the Property so that no dust or debris left the work area while the renovation was being performed constitutes one (1) violation of 40 C.F.R. § 745.85(a)(2)(ii)(A) and Section 409 of TSCA, 15 U.S.C. § 2689.

36. Firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in § 745.90. 40 C.F.R. § 745.89(d)(2).

37. Respondent did not ensure that a certified renovator discharged all of the certified renovator responsibilities identified in § 745.90 for the renovation performed at the Property.

38. Respondent's failure to ensure that a certified renovator discharged all of the certified renovator responsibilities identified in § 745.90 for the renovation performed at the Property constitutes one (1) violation of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA, 15 U.S.C. § 2689.

39. Firms performing renovations must retain documentation of compliance with the requirements of § 745.85, including documentation that: a certified renovator was assigned to the project; a certified renovator provided on the job training for workers used on the project; a certified renovator performed or directed workers who performed all of the work practice tasks described in § 745.85(a); and a certified renovator performed the post renovation cleaning verification described in § 745.85(b). 40 C.F.R. § 745.86(b)(6).

40. Respondent did not retain documentation for the renovations performed at the Property that: a certified renovator was assigned to the project; a certified renovator provided on the job training for workers used on the project; a certified renovator performed or directed workers who performed all of the work practice tasks described in § 745.85(a); and a certified renovator performed the post renovation cleaning verification described in § 745.85(b).

41. Respondent's failure to retain documentation for the renovation performed at the Property that: a certified renovator was assigned to the project; a certified renovator provided

on the job training for workers used on the project; a certified renovator performed or directed workers who performed all of the work practice tasks described in § 745.85(a); and a certified renovator performed the post renovation cleaning verification described in § 745.85(b) constitutes four (4) violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

D. RESPONDENT'S ADMISSIONS

42. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section III of this CAFO; (iii) consents to the terms of this CAFO, including the assessment of the civil administrative penalty under Section V of this CAFO; (iv) waives any right to contest the allegations contained in Section III of this CAFO; and (v) waives the right to appeal the proposed Final Order contained in this CAFO. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying this consent agreement.

E. CIVIL ADMINISTRATIVE PENALTY

43. Respondent agrees to pay a civil penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000) ("Assessed Penalty") as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C of the CAFO.

44. Respondent shall pay the Assessed Penalty no later than thirty (30) days after the effective date of the CAFO.

45. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

46. When making a payment, Respondent shall:

- a. Identify the payment with Respondent's name and the docket number of this CAFO, TSCA-09-2025-0011;
- b. Concurrent with any payment or within 24 hours of any payment, Respondent shall provide proof of such payment to the following addressees:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
r9HearingClerk@epa.gov

Brandon Boatman
Enforcement and Compliance Assurance Division (ENF-2-3)
U.S. Environmental Protection Agency, Region IX
Boatman.Brandon@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

47. Tax Treatment of Penalties. Respondent shall not use payment of any penalty under this CAFO as a tax deduction from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to use such payment as a tax deduction.

48. Late Payment Penalty Assessment. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 43 by the deadline specified in Paragraph 44, then Respondent shall pay to EPA the stipulated penalty of ONE HUNDRED DOLLARS (\$100.00) for each day the default continues, in addition to the Assessed Penalty. Stipulated penalties shall accrue until the Assessed Penalty and all accrued stipulated penalties are paid and shall become due and payable upon EPA's written request.

49. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, interest, penalty charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to timely pay any portion of the Assessed Penalty specified in Paragraph 43 by the deadline specified in Paragraph 44. The entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing and EPA is authorized to recover the following amounts:

- a. Interest. Interest begins to accrue from the effective date of the CAFO. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment

rate; any lower rate would fail to provide Respondent adequate incentive for timely payment. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. §13.11(a)(1).

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred and will include both direct and indirect costs. 40 C.F.R. §13.11(b).
- c. Late Payment Penalties. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges that remain delinquent more than ninety (90) days.

50. Late Payment Actions. In addition to the amounts described in Paragraphs 43 and 48, if Respondent fails to timely pay the Assessed Penalty, interest, or other charges and penalties pursuant to this CAFO, EPA may take additional actions, which include, but are not limited to, the following:

- a. Referral of the debt to a credit reporting agency or a collection agency. 40 C.F.R. §§ 13.13, 13.14, and 13.33. The validity, amount, and appropriateness of the

assessed penalty or of this CAFO is not subject to review in any such collection proceeding.

- b. Collection of the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- c. Suspension or revocation of Respondent's licenses or other privileges or suspension or disqualification of Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.

F. CERTIFICATION OF COMPLIANCE

51. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in compliance with the federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

G. RETENTION OF RIGHTS

52. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to

address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.

53. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEY'S FEES AND COSTS

54. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

I. EFFECTIVE DATE

55. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the Final Order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

56. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

57. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, SHAFER'S CONTRACTING LLC DBA SHAFER'S ROOFING & CONSTRUCTION:

2/16/2025

DATE



Bernadette Robbins

Owner

Shafer's Contracting LLC dba Shafer's Roofing & Construction

FOR COMPLAINANT, EPA REGION IX:

3/24/2025

DATE

MATTHEW
SALAZAR

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Date: 2025.03.24 08:15:42 -07'00'

Matt Salazar, PE

Manager, Toxics Section

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency, Region IX

II. FINAL ORDER

Complainant and Respondent, Shafer's Contracting LLC dba Shafer's Roofing & Construction, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2025-0011) be entered, and that Respondent shall pay a civil administrative penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000) and comply with the terms and conditions set forth in the Consent Agreement.

BEATRICE
WONG

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BEATRICE WONG
Date: 2025.03.28
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DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify the attached Consent Agreement and Final Order in the matter of Shafer's Contracting LLC dba Shafer's Roofing & Construction (Docket No. TSCA-09-2025-0011) has been filed by Regional Hearing Clerk, and that a true and correct copy of the same was served on the parties, via electronic mail as indicated below:

RESPONDENT: Bernadette S Robins
Owner
Shafer's Contracting LLC dba Shafer's Roofing & Construction
1019 Lauia Street. Unit 5
Kapolei, HI 96707
Shafersroofing@aol.com

COMPLAINANT: Carol Bussey
Assistant Regional Counsel
U.S. EPA – Region IX
Air & Toxics Section II (ORC-2-2)
75 Hawthorne Street
San Francisco, CA 94105
Bussey.Carol@epa.gov

Tu, Ponly Digitally signed by Tu,
Ponly
Date: 2025.03.28
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Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX