

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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In the Matter of: )  
 )  
Rick PUNCHES, ) Docket No. TSCA-05-2009-0010  
Grand Rapids, Michigan, )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

**ORDER AND NOTICE OF EXCLUSION**

Complainant, by lawful delegation, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5, has commenced an administrative proceeding against Respondent Rick PUNCHES, an individual residing in Grand Rapids, Michigan. Complainant alleges that Mr. PUNCHES violated the Residential Lead-Based Paint Hazard Reduction Act of 1992 and seeks a civil penalty under the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a). This proceeding is governed by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties*, 40 C.F.R. Part 22. A copy of these rules was served on Respondent along with the Complaint.

Respondent has submitted to the Regional Hearing Clerk a copy of the Complaint containing handwritten notations. These notations indicate that certain counts of the Complaint are denied, that the "tenant did receive pamphlet and disclosure," and that he "did not know of violation." Another handwritten note indicates that Respondent did not own property at a certain address. The document was not signed, did not include a certificate of service, did not contain a proper caption and did not contain the name and address of an individual authorized to receive service, as required by the Consolidated Rules. See 40 C.F.R. § 22.5(a)(3), (c)(2), (c)(3), (c)(4).

Consolidated Rule 22.5(c)(5) authorizes the Presiding Officer to exclude from the record any document which does not comply with the requirements of section 22.5. I am hereby directing the Regional Hearing not to accept Respondent's submission for filing. Respondent may seek permission to file a proper answer that meets the requirements of sections 22.5 and 22.15(a) of the Consolidated Rules (40 C.F.R. § 22.5 and 22.15(a)) by filing a motion. Motions must comply with the requirements of Consolidated Rule 22.16 (40 C.F.R. § 22.16).

Respondent's failure to file an answer could result in a finding of default and the assessment of the full amount of the proposed civil penalty of \$18,470 against him.

SO ORDERED.

Date: September 3, 2009

  
Marcy A. Toney  
Presiding Officer

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In the Matter of Rick Punches,  
Respondent  
Docket No. TSCA-05-2009-0010

CERTIFICATE OF SERVICE

I certify that the foregoing Order and Notice of Exclusion, dated September 3, 2009, was sent this day in the following manner:

Original hand delivered to: Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Copy hand delivered to  
Attorney for Complainant: Maria Gonzalez  
U. S. Environmental Protection  
Agency, Region 5  
Office of Regional Counsel  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Copy by U.S. Mail First Class to: Mr. Rick Punches  
5 Cummings Avenue, NW  
Grand Rapids, MI 49534

Dated: 9/3/09

By:   
Darlene Weatherspoon  
Administrative Program Assistant