



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

SEP 26 2008 10:21

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**BY HAND**

September 26, 2008

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, MA 02114-2023

RE: In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services LLC, Docket No. TSCA-01-2008-0107

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the administrative Complaint and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "William D. Chin".

William D. Chin  
Enforcement Counsel

Enclosures

cc: Rick Loughlin, NRT NE  
Kate Rossi, CBRES  
Robert McCauley, Esq., NRT NE  
Ken Hoffert, Esq., NRT

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:

NRT New England LLC  
d/b/a Coldwell Banker Real Estate Brokerage  
Reservoir Place  
1601 Trapelo Road, Suite 24  
Waltham, Massachusetts

Coldwell Banker Real Estate Services LLC  
d/b/a Coldwell Banker Real Estate Brokerage  
51-53 Kenosia Avenue  
Danbury, Connecticut

Respondents.

Proceeding under Section 16(a) of the  
Toxic Substances Control Act,  
42 U.S.C. § 2615(a).

2008 SEP 25 P 10:24

**Docket No.**  
**TSCA-01-2008-0107**

**COMPLAINT AND  
NOTICE OF OPPORTUNITY  
FOR HEARING**

**I. STATEMENT OF AUTHORITY**

1. This Administrative Complaint and Notice of Opportunity for 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. Complainant is the Enforcement Manager of the Office of Environmental Stewardship of the U.S. Environmental Protection Agency ("EPA"), Region 1.

**II. NATURE OF THE ACTION**

2. Respondents in this action, NRT New England LLC and Coldwell Banker Real Estate

Services LLC, are hereby notified of Complainant's determination that Respondents have violated Section 409 of TSCA, 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 the federal regulations promulgated thereunder, entitled "Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property," as set forth at 40 C.F.R. Part 745, Subpart F. Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

### **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 taken into account in the rental of homes and apartments.

4. In 1996, EPA promulgated regulations to implement the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule").

5. Pursuant to Section 401(17) of TSCA, 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 that, prior to purchasers and/or lessees becoming obligated to purchase and/or lease target housing, sellers and/or lessors of such housing must, among other things:

- (a) provide a lead hazard information pamphlet to purchasers and lessees;
- (b) include a Lead Warning Statement either within a lease contract or in an attachment to a sales or lease contract;
- (c) include a statement by the seller or lessor disclosing the presence of known lead-based paint or lead-based paint hazards in the target housing or indicating no knowledge thereof either within a lease contract or in an attachment to a sales or lease contract;
- (d) include a list of any records or reports available to the seller or lessor pertaining to the lead-based paint or lead-based paint hazards in the target housing that have been provided to the purchaser or lessor or a statement that no such records or reports are available either within a lease contract or in an attachment to a sales or lease contract;
- (e) include a statement by the purchaser or lessee affirming receipt of the information regarding the seller's or lessor's knowledge of and any records pertaining to lead-based paint or lead-based paint hazards in the target housing, and the lead hazard information pamphlet either within a lease contract or in an attachment to a sales or lease contract;

7. The Disclosure Rule also requires that agents for sellers and/or lessors of target housing ensure that sellers and/or lessors comply with the requirements of the rule or personally ensure compliance with the rule.

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

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



10. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation occurring after July 28, 1997, shall be no more than \$11,000.

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

11. Respondent, NRT New England, LLC (“NRT NE”) is a limited liability company established under the laws of the State of Delaware with a place of business located at Reservoir Place, 1601 Trapelo Road, Suite 24, Waltham, Massachusetts. NRT NE does business under the name “Coldwell Banker Real Estate Brokerage” and is a subsidiary of NRT LLC (“NRT”), which is the largest real estate brokerage company in the nation and twelfth largest corporate-owned commercial brokerage firm. NRT NE operates residential brokerage offices in Maine, Massachusetts, New Hampshire, and Rhode Island.

12. Respondent, Coldwell Banker Real Estate Services LLC (“CBRES”) is a limited liability company established under the laws of the State of Delaware with a place of business located at 51-53 Kenosia Avenue, Danbury, Connecticut. CBRES also does business under the name “Coldwell Banker Real Estate Brokerage” and also is a subsidiary of NRT. CBRES operates residential brokerage offices in the Connecticut/Westchester, New York region.

13. At all times relevant to the allegations in this Complaint, NRT NE and CBRES were “agents,” as defined in 40 C.F.R. § 745.103, for the sellers and/or lessors of the properties, described in Paragraphs 15-16 and 18-22 below.

14. At all times relevant to the allegations in this Complaint, CBRES’s offices in North Haven, Connecticut (the “North Haven Office”) and Fairfield, Connecticut (the “Fairfield

Office”) served as the agent for the seller(s) and/or lessor(s) of the properties described in Paragraphs 15-16. Each of these properties was constructed prior to 1978.

15. The North Haven Office served as the “agent,” as defined in 40 C.F.R. § 745.103, for the seller(s) of the following properties:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
145 Norfolk Street, West Haven, CT	02/21/2005	Walter Henry	Unknown
53 Fourth Street, Hamden, CT	03/17/2005	Germaine Macklin	Unknown
822 Forest Road, Northford, CT	01/30/2005	Lawrence and Christine Cordova	Unknown
60 Sagamore Road, Meriden, CT	02/28/2005	Christina Puglisi	Unknown
36 Oak Ridge Drive, #19, New Haven, CT	04/21/2005	Nury Amador and Roberto Fernandez	Unknown

16. The Fairfield Office served as “agent,” as defined in 40 C.F.R. § 745.103, for the seller(s) and/or lessor(s) of the following properties:

Sales:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
140 Hurd Road, Trumbull, CT	04/16/2005	Dan Stryker and Nina McKinney	Unknown
68 Grove Point Road, Westport, CT	03/11/2005	Carolyn Olsen	Unknown
92 Grove Street, #D- 1, Stamford, CT	04/03/2005	Nana Adae	Unknown

136 Benham Avenue, #138, Bridgeport, CT	03/31/2005	Miguel Santos	Unknown
596 Burnsford Avenue, Bridgeport, CT	04/10/2005	Carlos Conceicao	Unknown
296 Alexander Avenue, Bridgeport, CT	05/08/2005	Luis and Andriana Pelaez	Unknown
45 Valley View Road, Fairfield, CT	04/04/2005	Byungkyu and Songhee Jeon	Unknown
162 Greens Farms Road, Westport, CT	03/10/2005	Jill O'Shea	Unknown
165 Toll House Lane, Fairfield, CT	04/08/2005	John Tiago	Unknown
96 Kent Lane, Trumbull, CT	03/20/2005	Jason and Samantha Blazer	Unknown
30 Saxton Drive, Bridgeport, CT	02/26/2005	Peter and Margaret Maresco	Unknown
188 Sterling Road, Trumbull, CT	05/22/2005	James Boccuzzi	Unknown
22 Pleasant Hill Road, Newtown, CT	05/03/2005	Fatbardha and Harun Kodzodziku	Unknown
135 Morning Glory Drive, Easton, CT	02/28/2005	Christopher and Stacey Thomas	Unknown
56 Wakelee Avenue Ext., #39, Shelton, CT	03/21/2005	Judith Cervini	Unknown

Leases:

Address/Unit	Contract Date	Tenant Name(s)	Children Residing at Address/Unit
230 Toll House Lane, Fairfield, CT	06/11/2005	Seth Kaplan and Dawn Doucette	Unknown

17. At all times relevant to the allegations in this Complaint, NRT NE's offices in Lincoln, Massachusetts (the "Lincoln Office"), Somerville, Massachusetts (the "Somerville Office"), Dover, New Hampshire (the "Dover Office"), Manchester, New Hampshire (the "Manchester Office"), and East Providence, Rhode Island (the "East Providence Office") served as the "agent," as defined in 40 C.F.R. § 745.103, for the seller(s) and/or lessor(s) of the properties described in Paragraphs 18-22 below. Each of these properties was constructed prior to 1978.

18. The Lincoln Office served as the "agent," as defined in 40 C.F.R. § 745.103, for the seller(s) of the following property:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
112 Codman Road, Lincoln, MA	07/08/2005	David Crisafi	Unknown

19. The Somerville Office served as the "agent," as defined in 40 C.F.R. § 745.103, for the seller(s) and/or lessor(s) of the following properties:

Sales:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
25 Atherton Street, #12, Somerville, MA	06/07/2005	Louis and Jennifer Grimaldi	Unknown

Leases:

Address/Unit	Contract Date	Tenant Name(s)	Children Residing at Address/Unit
57 Victoria Street, Somerville, MA	05/18/2005	Kathryn Morrow and Stephanie Truesdell	Unknown
16 Chauncy Street, #31, Cambridge, MA	05/18/2005	Elizabeth Olney	Unknown
24 Gordon Street, #2 Somerville, MA	08/09/2005	Jennifer Lake and Michael Ducat	Unknown
23 Hall Street, #1, Somerville, MA	04/23/2005	Dayna Parr and Dan McAdams	Unknown
5 Lamont Avenue, #1, Cambridge, MA	04/27/2005	Ron Zalkind and Karin Sharav-Zalkind	Unknown

20. The Dover Office served as the “agent,” as defined in 40 C.F.R. § 745.103, for the seller(s) of the following properties:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
53 Summit Avenue, Portsmouth, NH	10/10/2007	Lauren Wood and Jeffrey Bower	Unknown
19 McKinley Street, Rochester, NH	12/02/2006	Melissa Sousa	Unknown
6 Roosevelt Avenue, Dover, NH	09/17/2007	Alex Mitchell	Unknown

21. The Manchester Office served as the “agent,” as defined in 40 C.F.R. § 745.103, for the seller(s) of the following properties:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
159 Cartier Street, Manchester, NH	06/10/2005	Carmen Favuzza	Unknown
266 Fremont Street, Manchester, NH	04/26/2005	Michael and Lisa Therrien	Unknown

22. The East Providence Office served as the “agent,” as defined in 40 C.F.R. § 745.103, for the seller(s) of the following properties:

Address/Unit	Contract Date	Buyer Name(s)	Children Residing at Address/Unit
36 Jastram Street, Providence, RI	05/12/2005	Mark Branda and Lori Ingraham Branda	Unknown

23. All of the properties referred to in Paragraphs 15-16 and 18-22 above were, at the time of the allegations in this Complaint, “target housing,” as defined in 40 C.F.R. § 745.103. None of the properties satisfies the requirements for an exemption to the provisions of the Act or the Disclosure Rule.

24. On September 3, 2004, EPA Region 1 conducted a compliance inspection at the Lincoln Office to determine its compliance with the Disclosure Rule.

25. On November 4, 2005, EPA Region 1 issued a subpoena, under the authority of Section 11(c) of TSCA, 15 U.S.C. § 2610(c), to NRT and NRT NE requiring the companies to submit records and other information regarding compliance with the Disclosure Rule (the “November 2005 Subpoena”) at the North Haven, Fairfield, Lincoln, Somerville, Manchester, and East Providence Offices as well as at a NRT NE office in Brunswick, Maine.



26. In February 2006, NRT NE submitted its response to the November 2005 Subpoena.
27. At EPA Region 1's request, on March 23, 2007, NRT NE submitted information to supplement its response to the November 2005 Subpoena.
28. On May 17, 2007, NRT submitted its response to the November 2005 Subpoena.
29. At EPA Region 1's request, on May 18, 2007, NRT NE submitted information to further supplement NRT NE's response to the November 2005 Subpoena.
30. On October 1, 2007, EPA Region 1 conducted a compliance inspection at the Needham Office to determine its compliance with the Disclosure Rule.
31. On December 19, 2007, EPA Region 1 conducted a compliance inspection at the Dover Office to determine its compliance with the Disclosure Rule.

## **V. VIOLATIONS**

32. Complainant has identified the following violations of the Act and the Disclosure Rule based on its inspections at the Lincoln, Needham and Dover Offices, NRT and NRT NE's responses to the November 2005 Subpoena as well as other information and documents obtained from Respondents and other sources.

### **Count 1 - Failure to Provide Lead Hazard Information Pamphlet**

33. Paragraphs 1 through 32 above are incorporated by reference as if fully set forth herein.

34. Pursuant to 40 C.F.R. § 745.107(a)(1), before a purchaser or lessee is obligated under any contract to purchase or lease target housing, a seller or lessor must provide a purchaser or lessee with an EPA-approved lead hazard information pamphlet, such as the EPA document

entitled *Protect Your Family From Lead in Your Home* or an equivalent pamphlet that has been approved by EPA for use in the state where such target housing is located.

35. Pursuant to 40 C.F.R. § 745.115(a), an agent shall ensure compliance with all of the requirements of the Disclosure Rule. Pursuant to 40 C.F.R. § 745.115(a)(2), to ensure compliance, an agent must, among other things, ensure that the seller or lessor has performed the activity required by 40 C.F.R. § 745.107(a)(1), or personally ensure compliance with the requirements of this regulation.

36. For each sale or lease of target housing indicated below, CBRES failed to either ensure that the seller or lessor provided the purchaser or lessee with an EPA-approved lead hazard information pamphlet before the purchaser or lessee became obligated under a contract to purchase or lease said housing, or personally ensure that the purchaser or lessee received such a pamphlet before becoming obligated under such a contract to purchase or lease said housing:

North Haven Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
145 Norfolk Street, West Haven, CT	02/21/2005	Walter Henry
53 Fourth Street, Hamden, CT	03/17/2005	Germaine Macklin
822 Forest Road, Northford, CT	01/30/2005	Lawrence and Christine Cordova
60 Sagamore Road, Meriden, CT	02/28/2005	Christina Puglisi
36 Oak Ridge Drive, #19, New Haven, CT	04/21/2005	Nury Amador and Roberto Fernandez

Fairfield Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
140 Hurd Road, Trumbull, CT	04/16/2005	Dan Styker and Nina McKinney
92 Grove Street, #D-1, Stamford, CT	04/03/2005	Nana Adae
136 Benham Avenue, #138, Bridgeport, CT	03/31/2005	Miguel Santos
596 Burnsford Avenue, Bridgeport, CT	04/10/2005	Carlos Conceicao
296 Alexander Avenue, Bridgeport, CT	05/08/2005	Luis and Andriana Pelaez
45 Valley View Road, Fairfield, CT	04/04/2005	Byungkyu and Songhee Jeon
162 Greens Farms Road, Westport, CT	03/10/2005	Jill O'Shea
165 Toll House Lane, Fairfield, CT	04/08/2005	John Tiago
96 Kent Lane, Trumbull, CT	03/20/2005	Jason and Samantha Blazer
30 Saxton Drive, Bridgeport, CT	02/26/2005	Peter and Margaret Maresco
188 Sterling Road, Trumbull, CT	05/22/2005	James Boccuzzi
22 Pleasant Hill Road, Newtown, CT	05/03/2005	Fatbardha and Harun Kodzodziku
135 Morning Glory Drive, Easton, CT	02/28/2005	Christopher and Stacey Thomas
56 Wakelee Avenue Ext., #39, Shelton, CT	03/21/2005	Judith Cervini

Lease:

Address/Unit	Contract Date	Tenant Name(s)
230 Toll House Lane, Fairfield, CT	06/11/2005	Seth Kaplan and Dawn Doucette

37. For each sale of target housing indicated below, NRT NE failed to either ensure that the seller provided the purchaser with an EPA-approved lead hazard information pamphlet before the purchaser became obligated under a contract to purchase said housing, or personally ensure that the purchaser received such a pamphlet before becoming obligated under such a contract to purchase said housing:

Lincoln Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
112 Codman Road, Lincoln, MA	07/08/2005	David Crisafi

Dover Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
53 Summit Avenue, Portsmouth, NH	10/10/2007	Lauren Wood and Jeffrey Bower
19 McKinley Street, Rochester, NH	12/02/2006	Melissa Sousa
6 Roosevelt Avenue, Dover, NH	09/17/2007	Alex Mitchell

Manchester Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
159 Cartier Street, Manchester, NH	06/10/2005	Carmen Favuzza
266 Fremont Street, Manchester, NH	04/26/2005	Michael and Lisa Therrien

East Providence Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
36 Jastram Street, Providence, RI	05/12/2005	Mark Branda and Lori Ingraham Branda

38. CBRES's failure to either ensure that each seller or lessor of the target housing described in Paragraph 36 above, provided the purchaser or lessee with an EPA-approved lead hazard information pamphlet before the purchaser or lessee became obligated under a contract to purchase or lease said housing, or personally ensure that such purchaser or lessee received such a pamphlet before the purchaser or lessee became obligated under such contract to purchase or lease said housing, constitutes twenty (20) violations of 40 C.F.R §§ 745.115(a)(2) and 745.107(a)(1), and Section 409 of TSCA.

39. NRT NE's' failure to either ensure that each seller of the target housing described in Paragraph 37 above, provided the purchaser or lessee with an EPA-approved lead hazard information pamphlet before the purchaser or lessee became obligated under a contract to purchase or lease said housing, or personally ensure that such purchaser received such a pamphlet

before the purchaser became obligated under such contract to purchase said housing, constitutes seven (7) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.107(a)(1), and Section 409 of TSCA.

**Count 2 - Failure to Include Lead Warning Statement**

40. Paragraphs 1 through 39 above are incorporated by reference as if fully set forth herein.

41. Pursuant to 40 C.F.R. § 745.113(a)(1), each contract to sell target housing must include the Lead Warning Statement in an attachment to the contract.

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

43. Pursuant to 40 C.F.R. § 745.115(a), an agent shall ensure compliance with all of the requirements of the Disclosure Rule. Pursuant to 40 C.F.R. § 745.115(a)(2), to ensure compliance, an agent must, among other things, ensure that the seller or lessor has performed the activity required by 40 C.F.R. § 745.113(a)(1) or (b)(1), or personally ensure compliance with the requirements of these regulations.

44. For each sale of target housing indicated below, CBRES failed to either ensure that the seller included the Lead Warning Statement in an attachment to the contract to sell the target housing before the purchaser became obligated under the contract to purchase said housing, or personally ensure that the Lead Warning Statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:



North Haven Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
145 Norfolk Street, West Haven, CT	02/17/2005	Walter Henry
53 Fourth Street, Hamden, CT	03/17/2005	Germaine Macklin
822 Forest Road, Northford, CT	01/30/2005	Lawrence and Christine Cordova
60 Sagamore Road, Meriden, CT	02/28/2005	Christina Puglisi
36 Oak Ridge Drive, #19, New Haven, CT	04/21/2005	Nury Amador & Roberto Fernandez

Fairfield Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
68 Grove Point Road, Westport, CT	03/11/2005	Carolyn Olsen
296 Alexander Avenue, Bridgeport, CT	05/08/2005	Luis and Andriana Pelaez
162 Greens Farms Road, Westport, CT	03/10/2005	Jill O'Shea
22 Pleasant Hill Road, Newtown, CT	05/03/2005	Fatbardha and Harun Kodzodziku
135 Morning Glory Drive, Easton, CT	02/28/2005	Christopher and Stacey Thomas

45. For each lease of target housing indicated below, NRT NE failed to either ensure that the lessor included the Lead Warning Statement within, or as an attachment to, the contract to

lease said housing before the lessee became obligated under the contract to lease said housing, or personally ensure that the Lead Warning Statement was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing:

Somerville Office

Leases:

Address/Unit	Contract Date	Tenant Name(s)
57 Victoria Street, Somerville, MA	05/18/2005	Kathryn Morrow and Stephanie Truesdell
16 Chauncy Street, #31, Cambridge, MA	05/18/2005	Elizabeth Olney
24 Gordon Street, #2, Somerville, MA	08/09/2005	Jennifer Lake and Michael Ducat
23 Hall Street, #1, Somerville, MA	04/23/2005	Dayna Parr and Dan McAdams
5 Lamont Avenue, #1, Cambridge, MA	04/27/2005	Ron Zalkind and Karin Sharav-Zalkind

46. For each sale of target housing indicated below, NRT NE failed to either ensure that the seller included the Lead Warning Statement in an attachment to the contract to sell said housing before the purchaser became obligated under the contract to purchase said housing, or personally ensure that the Lead Warning Statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:

Dover Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
53 Summit Avenue, Portsmouth, NH	10/10/2007	Lauren Wood and Jeffrey Bower
19 McKinley Street, Rochester, NH	12/02/2006	Melissa Sousa
6 Roosevelt Avenue, Dover, NH	09/17/2007	Alex Mitchell

Manchester Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
159 Cartier Street, Manchester, NH	06/10/2005	Carmen Favuzza
266 Fremont Street, Manchester, NH	04/26/2005	Michael and Lisa Therrien

47. CBRES's failure to either ensure that the seller included the Lead Warning Statement in an attachment to each contract to sell the target housing described in Paragraph 44 above, before the purchaser became obligated under such contract to purchase said housing, or personally ensure that the Lead Warning Statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes ten (10) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(1), and Section 409 of TSCA.

48. NRT NE's failure to either ensure that the lessor included the Lead Warning

Statement within, or as an attachment to, each contract to lease the target housing described in Paragraph 45 above, before the lessee became obligated under such contract to lease said housing, or personally ensure that the Lead Warning Statement was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing, constitutes five (5) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(b)(1), and Section 409 of TSCA

49. NRT NE's failure to either ensure that the seller included the Lead Warning Statement in an attachment to each contract to sell the target housing described in Paragraph 46 above, before the purchaser became obligated under such contract to purchase said housing, or personally ensure that the Lead Warning Statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes five (5) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(1), and Section 409 of TSCA.

**Count 3 - Failure to Include Disclosure Statement Regarding Lead-Based Paint/Hazards**

50. Paragraphs 1 through 49 above are incorporated by reference as if fully set forth herein.

51. Pursuant to 40 C.F.R. § 745.113(a)(2), a contract to sell target housing must include, in an attachment to the sales contract, a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

52. Pursuant to 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include

within, or as an attachment to, 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.

53. Pursuant to 40 C.F.R. § 745.115(a), an agent shall ensure compliance with all of the requirements of the Disclosure Rule. Pursuant to 40 C.F.R. § 745.115(a)(2), to ensure compliance, an agent must, among other things, ensure that the seller or lessor has performed the activity required by 40 C.F.R. § 745.113(a)(2) or (b)(2), or personally ensure compliance with the requirements of these regulations.

54. For each sale of target housing indicated below, CBRES failed to either ensure that the seller included in an attachment to the contract to sell the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating no knowledge of the same before the purchaser became obligated under the contract to purchase said housing, or personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:

North Haven Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
145 Norfolk Street, West Haven, CT	02/17/2005	Walter Henry
53 Fourth Street, Hamden, CT	03/17/2005	Germaine Macklin

822 Forest Road, Northford, CT	01/30/2005	Lawrence and Christine Cordova
60 Sagamore Road, Meriden, CT	02/28/2005	Christina Puglisi
36 Oak Ridge Drive, #19, New Haven, CT	04/21/2005	Nury Amador & Roberto Fernandez

Fairfield Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
68 Grove Point Road, Westport, CT	03/11/2005	Carolyn Olsen
296 Alexander Avenue, Bridgeport, CT	05/08/2005	Luis and Andriana Pelaez
162 Greens Farms Road, Westport, CT	03/10/2005	Jill O'Shea
22 Pleasant Hill Road, Newtown, CT	05/03/2005	Fatbardha and Harun Kodzodziku
135 Morning Glory Drive, Easton, CT	02/28/2005	Christopher and Stacey Thomas

55. For each lease of target housing indicated below, NRT NE failed to either ensure that lessor included within, or as an attachment to, the contract to lease the target housing, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating no knowledge of the same before the lessee became obligated under the contract to lease said housing, or personally ensure that such a statement was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing:



Somerville Office

Leases:

Address/Unit	Contract Date	Tenant Name(s)
57 Victoria Street, Somerville, MA	05/18/2005	Kathryn Morrow and Stephanie Truesdell
16 Chauncy Street, #31, Cambridge, MA	05/18/2005	Elizabeth Olney
24 Gordon Street, #2, Somerville, MA	08/09/2005	Jennifer Lake and Michael Ducat
23 Hall Street, #1, Somerville, MA	04/23/2005	Dayna Parr and Dan McAdams
5 Lamont Avenue, #1, Cambridge, MA	04/27/2005	Ron Zalkind and Karin Sharav-Zalkind

56. For each sale of target housing indicated below, NRT NE failed to either ensure that the seller included in an attachment to the contract to sell the target housing a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in said housing or a statement indicating no knowledge of the same the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:

Dover Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
53 Summit Avenue, Portsmouth, NH	10/10/2007	Lauren Wood and Jeffrey Bower

19 McKinley Street, Rochester, NH	12/02/2006	Melissa Sousa
6 Roosevelt Avenue, Dover, NH	09/17/2007	Alex Mitchell

Manchester Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
159 Cartier Street, Manchester, NH	06/10/2005	Carmen Favuzza
266 Fremont Street, Manchester, NH	04/26/2005	Michael and Lisa Therrien

East Providence Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
36 Jastram Street, Providence, RI	05/12/2005	Mark Branda and Lori Ingraham Branda

57. CBRES's failure to either ensure that the seller included in an attachment to each contract to sell the target housing described above in Paragraph 54, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating no knowledge of the same before the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes ten (10) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(2), and Section 409 of TSCA.

58. NRT NE's failure to either ensure that the lessor included within, or as an attachment to, each contract to lease the target housing described in Paragraph 55 above, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating no knowledge of the same before the lessee became obligated under such contract to lease said housing, or personally ensure that such a statement was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing, constitutes five (5) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(b)(2), and Section 409 of TSCA.

59. NRT NE's failure to either ensure that seller included in an attachment to each contract to sell the target housing described in Paragraph 56 above, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating no knowledge of the same before the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes six (6) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(2), and Section 409 of TSCA.

**Count 4 - Failure to Include List of or Disclosure Statement Regarding Reports of Lead-Based Paint/Hazards**

60. Paragraphs 1 through 59 above are incorporated by reference as if fully set forth herein.

61. Pursuant to 40 C.F.R. § 745.113(a)(3), a contract to sell target housing must include, in an attachment to the sales contract, a list of any records or reports available to the seller

regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

62. Pursuant to 40 C.F.R. § 745.113(b)(3), a contract to lease target housing must include, as an attachment to or within the lease contract, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee. If no such records or reports are available, the lessor shall so indicate.

63. Pursuant to 40 C.F.R. § 745.115(a), an agent shall ensure compliance with all of the requirements of the Disclosure Rule. Pursuant to 40 C.F.R. § 745.115(a)(2), to ensure compliance, an agent must, among other things, ensure that the seller or lessor has performed the activity required by 40 C.F.R. § 745.113(a)(3) or (b)(3), or personally ensure compliance with the requirements of these regulations.

64. For each sale of target housing indicated below, CBRES failed to either ensure that the seller included, in an attachment to the sales contract, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the purchaser or a statement that no such records or reports were available before the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a list or statement was included, in an attachment to such contract, before the purchaser became obligated under the contract to purchase said housing:

North Haven Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
145 Norfolk Street, West Haven, CT	02/17/2005	Walter Henry
53 Fourth Street, Hamden, CT	03/17/2005	Germaine Macklin
822 Forest Road, Northford, CT	01/30/2005	Lawrence and Christine Cordova
60 Sagamore Road, Meriden, CT	02/28/2005	Christina Puglisi
36 Oak Ridge Drive, #19, New Haven, CT	04/21/2005	Nury Amador & Roberto Fernandez

Fairfield Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
68 Grove Point Road, Westport, CT	03/11/2005	Carolyn Olsen
296 Alexander Avenue, Bridgeport, CT	05/08/2005	Luis and Andriana Pelaez
162 Greens Farms Road, Westport, CT	03/10/2005	Jill O'Shea
22 Pleasant Hill Road, Newtown, CT	05/03/2005	Fatbardha and Harun Kodzodziku
135 Morning Glory Drive, Easton, CT	02/28/2005	Christopher and Stacey Thomas

65. For each lease of target housing indicated below, NRT NE failed to either ensure that the lessor included within, or as an attachment to, the lease contract, a list of any records or

reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee or a statement that no such records or reports were available before the lessor became obligated under the contract to lease said housing, or personally ensure that such a list or statement was included within, or as an attachment to, such contract before the lessor became obligated under the contract to lease said housing:

Somerville Office

Leases:

Address/Unit	Contract Date	Tenant Name(s)
57 Victoria Street, Somerville, MA	05/18/2005	Kathryn Morrow and Stephanie Truesdell
16 Chauncy Street, #31, Cambridge, MA	05/18/2005	Elizabeth Olney
24 Gordon Street, #2, Somerville, MA	08/09/2005	Jennifer Lake and Michael Ducat
23 Hall Street, #1, Somerville, MA	04/23/2005	Dayna Parr and Dan McAdams
5 Lamont Avenue, #1, Cambridge, MA	04/27/2005	Ron Zalkind and Karin Sharav-Zalkind

66. For each sale of target housing indicated below, NRT NE failed to either ensure that the seller included, in an attachment to the sales contract, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the purchaser or a statement that no such records or reports were available before the purchaser became obligated under the contract to purchase said housing, or to personally ensure that such a list or statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:



Dover Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
53 Summit Avenue, Portsmouth, NH	10/10/2007	Lauren Wood and Jeffrey Bower
19 McKinley Street, Rochester, NH	12/02/2006	Melissa Sousa
6 Roosevelt Avenue, Dover, NH	09/17/2007	Alex Mitchell

Manchester Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
159 Cartier Street, Manchester, NH	06/10/2005	Carmen Favuzza
266 Fremont Street, Manchester, NH	04/26/2005	Michael and Lisa Therrien

East Providence Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
36 Jastram Street, Providence, RI	05/12/2005	Mark Branda and Lori Ingraham Branda

67. CBRES's failure to either ensure that seller included, in an attachment to each contact to sell the target housing described in Paragraph 64 above, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating that no such records or reports were available before the

purchaser became obligated under such contract to purchase said housing, or personally ensure that such a list of records or reports or a statement indicating that no such records or reports were available was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes ten (10) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(3), and Section 409 of TSCA.

68. NRT NE's failure to either ensure that the lessor included within, or as an attachment to, each contract to lease the target housing described in Paragraph 65 above, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating that no such records or reports were available before the lessee became obligated under such contract to lease said housing, or personally ensure that such a list of records or reports or a statement indicating that no such records or reports were available was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing, constitutes five (5) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(b)(3), and Section 409 of TSCA.

69. NRT NE's failure to either ensure that the seller included, in an attachment to each contract to sell the target housing described in Paragraph 66 above, a list of any records or reports available to the seller regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement indicating that no such records or reports were available before the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a list of records or reports or a statement that indicating no such records or reports were available was included in an attachment to such contract before the purchaser became obligated

under the contract to purchase said housing, constitutes six (6) violations of 40 C.F.R.

§§ 745.115(a)(2) and 745.113(a)(3), and Section 409 of TSCA.

**Count 5 - Failure to Include Acknowledgment of Receipt of Information**

70. Paragraphs 1 through 69 above are incorporated by reference as if fully set forth herein.

71. Pursuant to 40 C.F.R. § 745.113(a)(4), a contract to sell target housing must include, in an attachment to the sales contract, a statement by the purchaser affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3) and the EPA-approved lead hazard information pamphlet.

72. Pursuant to 40 C.F.R. § 745.113(b)(4), a contract to lease target housing must include within, or in an attachment to, the lease contract, a statement by the lessee affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(b)(2) and (3) and the EPA-approved lead hazard information pamphlet.

73. Pursuant to 40 C.F.R. § 745.115(a), an agent shall ensure compliance with all of the requirements of the Disclosure Rule. Pursuant to 40 C.F.R. § 745.115(a)(2), to ensure compliance, an agent must, among other things, ensure that the seller or lessor has performed the activity required by 40 C.F.R. § 745.113(a)(4) or (b)(4), or personally ensure compliance with the requirements of these regulations.

74. For each sale of target housing indicated below, CBRES failed to either ensure that the seller included, in an attachment to the sales contract for the target housing, a statement by the purchaser affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3)

and the EPA-approved lead hazard information pamphlet before the purchaser became obligated under the contract to purchase said housing, or to personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:

Fairfield Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
140 Hurd Road, Trumbull, CT	04/16/2005	Dan Stryker and Nina McKinney
92 Grove Street, #D-1, Stamford, CT	04/03/2005	Nana Adae
136 Benham Avenue, #138, Bridgeport, CT	03/31/2005	Miguel Santos
596 Burnsford Avenue, Bridgeport, CT	04/10/2005	Carlos Conceicao
45 Valley View Road, Fairfield, CT	04/04/2005	Byungkyu and Songhee Jeon
165 Toll House Lane, Fairfield, CT	04/08/2005	John Tiago
96 Kent Lane, Trumbull, CT	03/20/2005	Jason and Samantha Blazer
30 Saxton Drive, Bridgeport, CT	02/26/2005	Peter and Margaret Maresco
188 Sterling Road, Trumbull, CT	05/22/2005	James Boccuzzi
56 Wakelee Avenue Ext., #39, Shelton, CT	05/21/2005	Judith Cervini

75. For each lease of target housing indicated below, CBRES failed to either ensure that the lessor included within, or as an attachment to, the lease contract for the target housing, a

statement by the lessee affirming receipt of the information set forth in 40 C.F.R.

§§ 745.113(b)(2) and (3) and the EPA-approved lead hazard information pamphlet before the lessee became obligated under the contract to lease said housing, or to personally ensure that such a statement was included within, or as an attachment to, such contract before the lessee became obligated under the contract to lease said housing:

Fairfield Office

Lease:

Address/Unit	Contract Date	Tenant Name(s)
230 Toll House Lane, Fairfield, CT	06/11/2005	Seth Kaplan and Dawn Doucette

76. For each sale of target housing indicated below, NRT NE failed to either ensure that the seller included in an attachment to the sales contract for the target housing, a statement by the purchaser affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3) and the EPA-approved lead hazard information pamphlet before the purchaser became obligated under the contract to purchase said housing, or to personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing:

Lincoln Office

Sales:

Address/Unit	Contract Date	Buyer Name(s)
112 Codman Road, Lincoln, MA	07/08/2005	David Crisafi

Somerville Office

Sales:

Address/Unit	Contract Date	Tenant Name(s)
25 Atherton Street, #12, Somerville, MA	06/07/2005	Louis and Jennifer Grimaldi

77. CBRES's failure to either ensure the seller included in an attachment to each contract to sell the target housing described in Paragraph 74 above, a statement by the purchaser affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3), and the EPA-approved lead hazard information pamphlet before the purchaser became obligated under such contract to purchase said housing, or personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes ten (10) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(4), and Section 409 of TSCA.

78. CBRES's failure to either ensure that the lessor included within, or as an attachment to, each contract to lease the target housing described in Paragraph 75 above, a statement by the lessee affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(b)(2) and (3), and the EPA-approved lead hazard information pamphlet before the lessee became obligated under such contract to lease said housing, or personally ensure that such a statement was included within, or in an attachment to, such contract before the lessee became obligated under the contract to lease said housing, constitutes one (1) violation of 40 C.F.R. §§ 745.115(a)(2) and 745.113(b)(4), and Section 409 of TSCA.

79. NRT NE's failure to either ensure that the seller included in an attachment to each contract to sell the target housing described in Paragraph 76 above, a statement by the purchaser affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3) and the EPA-approved lead hazard information pamphlet before the purchaser became obligated under such contract to purchase said housing, or to personally ensure that such a statement was included in an attachment to such contract before the purchaser became obligated under the contract to purchase said housing, constitutes two (2) violations of 40 C.F.R. §§ 745.115(a)(2) and 745.113(a)(4), and Section 409 of TSCA.

## **VI. PROPOSED PENALTY**

80. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires that Complainant consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. To assess a penalty for the alleged violations in this Complaint, 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* (the "ERPP"), a copy of which is enclosed with this Complaint. The ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. Any proposed penalty is developed based upon the best information available to Complainant but may be adjusted if Respondent establishes a *bona fide* claim of ability to pay or other issues relevant to determining



an appropriate penalty.

81. By this Complaint, Complainant seeks to assess CBRES and NRT NE civil penalties of up to \$11,000 per day per violation for:

a. Twenty (20) violations by CBRES and seven (7) violations by NRT NE for failing to ensure or to personally ensure that purchaser and/or lessee of target housing was provided with an EPA-approved lead hazard information pamphlet prior to the purchaser or lessee becoming obligated to purchase or lease said housing: A seller's, lessor's or agent's failure to provide a purchaser or lessee with an EPA-approved lead hazard information pamphlet has a high probability of impairing the purchaser's or lessor's ability to assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information when purchasing or leasing target housing. The pamphlet describes the hazards associated with lead-based paint and provides information about how purchasers or lessees can protect themselves and their families against potential lead exposure. The pamphlet also explains that lead exposure is especially harmful to young children and pregnant women.

b. Ten (10) violations by CBRES and ten (10) violations by NRT NE for failing to ensure or to personally ensure that the Lead Warning Statement was included within a contract to lease target housing or in an attachment to a contract to sell or lease target housing prior to the purchaser or lessee becoming obligated to purchase or lease said housing: A seller's, lessor's or agent's failure to include a Lead Warning Statement within a lease contract or in an attachment to a sales or lease contract has a high probability of impairing the purchaser's or lessor's ability to assess information regarding the risks associated with exposure to lead-based paint and/or lead-

based paint hazards and to weigh this information when purchasing or leasing target housing. The Lead Warning Statement also explains that lead exposure is especially harmful to young children and pregnant women.

c. Ten (10) violations by CBRES and eleven (11) violations by NRT NE for failing to ensure or to personally ensure that a statement by the seller or lessor either disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the same was included within a contract to lease target housing or in an attachment to a contract to sell or lease target housing prior to the purchaser or lessee becoming obligated to purchase or lease said housing: A seller's, lessor's or agent's failure to include a statement disclosing knowledge of lead-based paint and/or lead-based paint hazards, or the lack thereof, in target housing has a medium probability of impairing the purchaser's or lessor's ability to assess the risks associated with purchasing or leasing target housing. The intent of this provision is to put potential purchasers and lessees on notice of specific information relating to the presence of lead in the target housing and violations of this provision deprive purchasers and lessees of their ability to make a decision based upon risk of lead exposure. Without such a statement, a purchaser or lessee may unwittingly purchase or lease a residence that is known to contain lead-based paint and/or lead-based paint hazards.

d. Ten (10) violations by CBRES and eleven (11) violations by NRT NE for failing to ensure or to personally ensure that a list of any records or reports available to the seller or lessor regarding lead-based paint and/or lead paint hazards in the target housing, or that a statement indicating no such records or reports were available was included within a contract to lease target

housing, or in an attachment to a contract to sell or lease target housing prior to the purchaser or lessee becoming obligated to purchase or lease said housing: A seller's, lessor's or agent's failure to provide a potential purchaser or lessee with a list of records or reports regarding lead-based paint and/or lead-based paint hazards has a low probability of impairing the purchaser's or lessor's ability to assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards. The purpose of this regulation is to ensure that potential purchasers or lessees are aware of the existence of all records or reports available to the seller, lessor or agent pertaining to lead-based paint and/or lead-based paint hazards in target housing.

e. Eleven (11) violations by CBRES and two (2) violations by NRT NE for failing to ensure or to personally ensure that a statement by the purchaser or lessee affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3) or (b)(2) and (3), and an EPA-approved lead hazard information pamphlet was included in, or attached to, the contracts to sell or lease target housing prior to the purchaser or lessee becoming obligated to purchase or lease said housing: A seller's, lessor's or agent's failure to confirm that a purchaser or lessee has received all of the information set forth in 40 C.F.R. §§ 745.113(a)(2) and (3) or (b)(2) and (3) as well as an EPA-approved lead hazard pamphlet has a medium probability of impairing the purchaser's or lessor's ability to assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards. The purpose of this regulation is to ensure that potential purchasers or lessees have received general information regarding the hazards of lead-based paint as well as specific information regarding the presence of lead-based paint and/or lead-based paint hazards in the target housing.

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

82. 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, 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, 40 C.F.R. Part 22, a copy of which is enclosed with this Complaint. **In the event that Respondent intends to request a hearing, Respondent must file a 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:

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, Massachusetts 02114-2023

Respondent shall also serve copies of the Answer and any other documents filed in this matter to counsel for Complainant, at the following address:

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, Massachusetts 02114-2023

In the 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

defense; (2) the facts Respondent intends to place at issue; and, (3) 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 of the Consolidated Rules of Practice for the required contents of an Answer.

### **VIII. DEFAULT ORDER**


83. If Respondents fail to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondents constitutes an admission of all facts alleged in the Complaint and a waiver of Respondents' 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 Respondents, without further proceedings, thirty (30) days after the default order becomes final.

### **IX. SETTLEMENT CONFERENCE**

84. Whether or not a hearing is requested upon filing an Answer, Respondents may confer informally with Complainant or his designee concerning the violations alleged in this Complaint. 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 approved by the Regional Judicial Officer, EPA Region 1.

85. 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, Respondents or Respondents' counsel should contact EPA attorney William D. Chin, at the address cited above or by calling (617) 918-1728. Mr. Chin has been designated to represent Complainant in this matter and authorized, under 40 C.F.R. § 22.5(c)(4), to receive service on behalf of Complainant.

  
Joel Blumstein, Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

9/25/08  
Date

*In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services LLC, Docket No. TSCA-01-2008-0107*

### **CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing Administrative Complaint and Notice of Opportunity for Hearing to be sent to the following persons on the date noted below.

Original and one copy, by hand-delivery, to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: RAA)  
Boston, MA 02114-2023

One copy (along with the Consolidated Rules of Practice and the ERPP) by Certified Mail, Return Receipt Requested, to:

Rick Loughlin  
President  
NRT New England LLC  
d/b/a Coldwell Banker Residential Brokerage  
Reservoir Place  
1601 Trapelo Road, Suite 24  
Waltham, MA 02451

Robert McCauley, Esq.  
NRT New England LLC  
d/b/a Coldwell Banker Residential Brokerage  
Reservoir Place  
1601 Trapelo Road, Suite 24  
Waltham, MA 02451

Kate Rossi  
President and Chief Operating Officer  
Coldwell Banker Real Estate Services LLC  
d/b/a Coldwell Banker Residential Brokerage  
51-53 Kenosia Avenue  
Danbury, CT 06810



**CERTIFICATE OF SERVICE**

One copy (along with the Consolidated Rules of Practice and the ERPP) by Certified Mail,  
Return Receipt Requested, to:

Ken Hoffert, Esq.  
General Counsel  
NRT LLC  
1 Campus Drive  
Parsippany, NJ 07054

Dated: 9/26/08

William D. Chin

William D. Chin  
Enforcement Counsel  
U.S. EPA, Region 1  
One Congress Street  
Suite 1100 (Mail Code: SEL)  
Boston, MA 02114-2023  
Phone: 617-918-1728  
Fax: 617-918-0728