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8 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

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11 In the matter of:) Docket No. TSCA-09-2020-0009
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Home Remodeling Center Inc.,)
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14 Respondent.)
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CONSENT AGREEMENT
AND FINAL ORDER
pursuant to 40 C.F.R. §§ 22.13(b),
22.18(b)(2), and 22.18(b)(3)

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I. CONSENT AGREEMENT
The United States Environmental Protection Agency, Region IX (“EPA”), and Home Remodeling Center Inc. (the “Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”). This CAFO simultaneously initiates and concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

A. AUTHORITY AND PARTIES

1. This 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 TSCA, 15 U.S.C. §§ 2682 and 2686, and their implementing federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

1 2. Complainant is the Manager of the Toxics Section in the Enforcement and
2 Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to
3 bring this action and to sign a consent agreement settling this action.

4 3. Respondent, a Nevada corporation located in San Marcos, California, is a residential
5 property renovator.

6 B. STATUTORY AND REGULATORY BASIS

7 4. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), 40 C.F.R. Part 745,
8 Subpart E requires a person who performs for compensation a renovation of target housing and
9 child-occupied facilities to provide a lead hazard information pamphlet to the owner and
10 occupant before beginning the renovation.

11 5. Pursuant to Sections 402(a) and (c) of TSCA, 15 U.S.C. §§ 2682(a) and (c), 40 C.F.R.
12 Part 745, Subpart E provides requirements for certification of individuals and firms engaged in
13 lead-based paint activities and work practice standards for renovation, repair, and painting
14 activities in target housing and child-occupied facilities.

15 6. “Target housing” means any housing constructed prior to 1978, except housing for the
16 elderly or persons with disabilities (unless any child who is less than six years of age resides or is
17 expected to reside in such housing) or any 0-bedroom dwelling. Section 401 of TSCA, 15
18 U.S.C. § 2681.

19 7. “Person” means any natural or judicial person including any individual, corporation,
20 partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate
21 body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. §
22 745.83.

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

26 9. “Renovation” means the modification of any existing structure, or portion thereof, that
27 results in the disturbance of painted surfaces, unless that activity is part of an abatement as
28 defined by 40 C.F.R. § 745.223. The term “renovation” includes (but is not limited to): the

1 removal, modification or repair of painted surfaces or painted components (*e.g.*, modification of
2 painted doors, surface restoration, window repair, surface preparation activity (such as sanding,
3 scraping, or other such activities that may generate paint dust); the removal of building
4 components (*e.g.*, walls, ceilings, plumbing windows); weatherization projects (*e.g.*, cutting
5 holes in painted surfaces to install blown-in insulation or to gain access to attics planning
6 thresholds to install weatherstripping), and interim controls that disturb painted surfaces

7 The term “renovation” does not include minor repair and maintenance activities. 40 C.F.R. §
8 745.83.

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

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

17 12. “Renovator” means any individual who either performs or directs workers who
18 perform renovations. A certified renovator is a renovator who has successfully completed a
19 renovator course accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. §
20 745.83.

21 13. “Pamphlet” means the EPA pamphlet titled, “Renovate Right: Important Lead
22 Hazard Information for Families, Child Care Providers and Schools,” developed under Section
23 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal
24 pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same
25 purpose. 40 C.F.R. § 745.83.

26 14. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty
27 Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties
28 Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to

1 exceed \$38,892 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that
2 occurred on or after November 2, 2015 where penalties were assessed on or after January 15,
3 2018.

4 C. ALLEGED VIOLATIONS

5 15. Respondent is a “person,” as that term is defined at 40 C.F.R. § 745.83.

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

8 17. In or around 2016 and 2017, respectively, Respondent performed “renovations,” as
9 that term is defined at 40 C.F.R. § 745.83, for compensation at the residential properties located
10 at 16415 Gadarba Road in San Diego, California, and 365 Trailview Road in Encinitas,
11 California (collectively, the “Properties”).

12 18. At all times relevant to this CAFO, the Properties were “target housing,” as that term
13 is defined at 40 C.F.R. § 745.83.

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

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

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

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

24 23. Respondent’s performance of renovations for compensation at the Properties without
25 certification from EPA under 40 C.F.R. § 745.89(a) constitutes one violation of 40 C.F.R. §
26 745.81(a)(2)(ii) and Section 409 of TSCA, 15 U.S.C. § 2689.

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

1 unit with the “pamphlet,” as that term is defined at 40 C.F.R. § 748.83, and either obtain from the
2 owner a written acknowledgment that the owner has received the “pamphlet” or obtain a
3 certificate of mailing at least 7 days prior to the renovation. 40 C.F.R. § 745.84(a)(1).

4 25. Respondent did not either obtain from the owners a written acknowledgment that the
5 owners have received the “pamphlet” or obtain a certificate of mailing at least 7 days prior to the
6 renovations at the Properties.

7 26. Respondent’s failures to either obtain from the owners a written acknowledgment that
8 the owners have received the “pamphlet” or obtain a certificate of mailing at least 7 days prior to
9 the renovations at the Properties constitute two violations of 40 C.F.R. § 745.84(a)(1) and Section
10 409 of TSCA, 15 U.S.C. § 2689.

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

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

22 29. Respondent’s failures to retain documentation for the renovations performed at the
23 Properties that: a certified renovator was assigned to the project; a certified renovator provided
24 on-the-job training for workers used on the project; a certified renovator performed or directed
25 workers who performed all of the work practice tasks described in § 745.85(a); and a certified
26 renovator performed the post-renovation cleaning verification described in § 745.85(b) constitute
27 eight violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

28 30. Firms performing renovations must ensure that a certified renovator is assigned to

1 each renovation performed by the firm and discharges all of the certified renovator
2 responsibilities identified in § 745.90. 40 C.F.R. § 745.89(d)(2).

3 31. Respondent did not ensure that a certified renovator discharged all of the certified
4 renovator responsibilities identified in § 745.90 for the renovations performed at the Properties.

5 32. Respondent's failures to ensure that a certified renovator discharged all of the
6 certified renovator responsibilities identified in § 745.90 for the renovations performed at the
7 Properties constitute two violations of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA, 15
8 U.S.C. § 2689.

9 D. RESPONDENT'S ADMISSIONS

10 33. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
11 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
12 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section
13 I.C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the
14 assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any
15 right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the
16 proposed Final Order contained in this CAFO.

17 E. CIVIL ADMINISTRATIVE PENALTY

18 34. In settlement of the violations specifically alleged in Section I.C of this CAFO,
19 Respondent shall pay a civil administrative penalty of TWENTY-TWO THOUSAND, TWO
20 HUNDRED, AND SEVENTY-FIVE DOLLARS (\$22,275). Respondent shall pay this civil
21 penalty within thirty (30) days of the effective date of this CAFO. The civil penalty shall be paid
22 by remitting a certified or cashier's check, including the name and docket number of this case,
23 for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other
24 methods listed below) and sent as follows:

25 Regular Mail:

26 U.S. Environmental Protection Agency
27 Fines and Penalties
28 Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

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Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary = U.S. Environmental Protection Agency

Certified or Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

ACH (also known as Remittance Express or REX):

Automated Clearinghouse (ACH) payments to EPA can be made through the U.S. Treasury using the following information:

U.S. Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account = 31006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX) = (866) 234-5681

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov
Enter "SFO 1.1" in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a

1 transmittal letter, indicating Respondent's name, the case title, and docket number, to the
2 following addresses:

3
4 Regional Hearing Clerk
5 Office of Regional Counsel (ORC-1)
6 U.S. Environmental Protection Agency, Region IX
7 75 Hawthorne Street
8 San Francisco, CA 94105

9
10 Rick Sakow
11 Hazardous Waste and Chemical Section
12 Enforcement and Compliance Assurance Division (ENF-2-2)
13 U.S. Environmental Protection Agency, Region IX
14 75 Hawthorne Street
15 San Francisco, CA 94105

16
17 35. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
18 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to
19 use such payment as a tax deduction.

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21 36. If Respondent fails to pay the assessed civil administrative penalty of TWENTY-
22 TWO THOUSAND, TWO HUNDRED, AND SEVENTY-FIVE DOLLARS (\$22,275), as
23 identified in Paragraph 34, by the deadline specified in that Paragraph, then Respondent shall pay
24 a stipulated penalty to EPA of \$500 per day in addition to the assessed penalty. Stipulated
25 penalties shall accrue until such time as the assessed penalty and all accrued stipulated penalties
26 are paid and shall become due and payable upon EPA's written request. Failure to pay the civil
27 administrative penalty specified in Paragraph 34 by the deadline specified in that Paragraph may
28 also lead to any or all of the following actions:

(1) EPA may refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 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.

(2) The U.S. Government may collect 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 U.S. Government), which includes, but is not

1 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
2 C.F.R. §§ 13(C) and 13(H).

3 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
4 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
5 business with EPA or engaging in programs EPA sponsors or funds.

6 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
7 Government may assess interest, administrative handling charges, and nonpayment penalties
8 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
9 civil administrative penalty specified in Paragraph 34 by the deadline specified in that Paragraph.

10 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R.
11 §13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
12 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
13 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
14 (30) days of the effective date of this CAFO.

15 (b) Administrative Handling Charges. Pursuant to 31 U.S.C.
16 Section 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge,
17 based on either actual or average cost incurred (including both direct and indirect costs), for
18 every month in which any portion of the assessed penalty is more than thirty (30) days past due.

19 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
20 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
21 may be assessed on all debts more than ninety (90) days delinquent.

22 F. CERTIFICATION OF COMPLIANCE

23 37. In executing this CAFO, Respondent certifies that it is now fully in compliance with
24 the federal regulations promulgated at 40 C.F.R. Part 745, Subpart E.

25 G. RETENTION OF RIGHTS

26 38. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
27 liabilities for federal civil penalties for the violation and facts specifically alleged in Section I.C
28 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil

1 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
2 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal
3 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
4 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
5 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

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

9 H. ATTORNEYS' FEES AND COSTS

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

12 I. EFFECTIVE DATE

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

16 J. BINDING EFFECT

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

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

1 FOR RESPONDENT HOME REMODELING CENTER INC.:

2
3 12/2/19

4 DATE

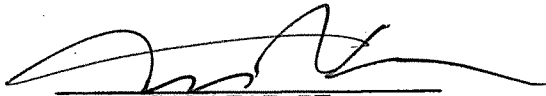


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LONNIE MOLINE
President
Home Remodeling Center Inc.

FOR COMPLAINANT EPA:

12.12.19

DATE



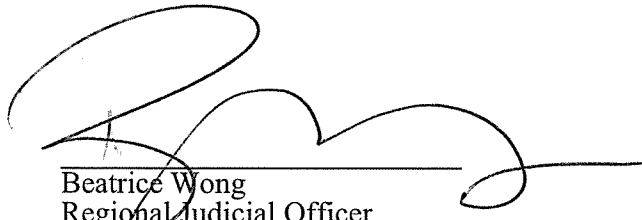
MATT SALAZAR, PE
Manager, Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

1 II. FINAL ORDER

2 EPA and Home Remodeling Center Inc. having entered into the foregoing Consent
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2020-0009) be
5 entered, and Respondent shall pay a civil administrative penalty in the amount of TWENTY-
6 TWO THOUSAND, TWO HUNDRED, AND SEVENTY-FIVE DOLLARS (\$22,275), and
7 comply with the terms and conditions set forth in the Consent Agreement.

8
9
10 12/16/2019
11 DATE

12 
13 Beatrice Wong
14 Regional Judicial Officer
15 U.S. Environmental Protection Agency, Region IX
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CERTIFICATE OF SERVICE

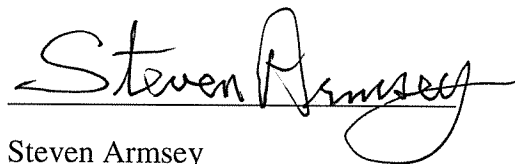
I hereby certify the attached Consent Agreement and Final Order in the matter of Home Remodeling Center, Docket Number: TSCA-09-2020-0009 has been filed by the Regional Hearing Clerk, and was served on the following parties as indicated below:

Certified Mail: 7019 0700 0001 7652 9350

Respondent(s): Lonnie Moline
Home Remodeling Center
830 Los Vallecitos Blvd, #A
San Marcos, CA 92069

Complainant: Edgar Coral
Assistant Regional Counsel
U.S. EPA Region IX (ORC-2)
75 Hawthorne Street
San Francisco, CA 94105

Dated at San Francisco, California, this 17 of December 2019



Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region IX
75 Hawthorne Street, 12th Floor (ORC)
San Francisco, CA 94105