

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

8/23/23

IN THE MATTER OF:)		
)		
)		
)		
Charles Bridge, LLC)	EPA Docket No.	Received by
P.O. Box 628)	TSCA-01-2022-0027	EPA Region 1
Old Lyme, CT 06371)		Hearing Clerk
)		
Respondent.)		
)		
Proceeding under Section 16(a))		
of the Toxic Substances Control)		
Act, 15 U.S.C. § 2615(a))		
)		

INITIAL DECISION AND DEFAULT ORDER

This civil administrative proceeding was commenced under the authority of Section 16 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615, and is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”) found at 40 C.F.R. Part 22.

This proceeding was initiated by an Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) filed by Complainant, the United States Environmental Protection Agency, Region 1 (“EPA” or “Complainant”) against Respondent, Charles Bridge, L.L.C. (“Charles Bridge” or “Respondent”) on or about February 22, 2022. The Complaint alleges that Respondent violated Section 409 of TSCA, 15 U.S.C. § 2689, as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“Title X”), 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 (the “Disclosure Rule”).

In the currently pending Motion for Default Order (“Motion for Default”), Complainant alleges that Respondent is in default for failure to file an Answer to the Complaint. Based upon the record for this matter and the following Findings of Fact and Conclusions of Law, Complainant’s Motion for Default is hereby **GRANTED**. Respondent is hereby found in default and held liable for the violations of TSCA and Title X alleged by Complainant.

Complainant has requested that a penalty of fifty-six thousand one hundred and nine dollars (\$56,109.00) be assessed. As explained in more detail below, because I have determined that the requested penalty is appropriate, I will assess a penalty at the amount of **\$56,109.00**.

BACKGROUND

Pursuant to Section 409 of the TSCA, 15 U.S.C. § 2689, 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder at 40 C.F.R. Part 745, Subpart F, this civil administrative proceeding was initiated by EPA through the issuance of a Complaint on or about February 22, 2022 against Charles Bridge. The Complaint charged Respondent with four violations of Section 409 of TSCA for failing to: provide an EPA-approved lead hazard information pamphlet; provide a Lead Warning Statement; disclose the presence of known lead-based paint/hazards or indicate no knowledge thereof; and include a list of records/reports pertaining to lead-based paint or lead-based paint hazards in the housing or indicate that no such records exist, as required by 40 C.F.R. §§ 745.107(a)(1), 745.113(b)(1), 745.113(b)(2), and 745.113(b)(3) of the Disclosure Rule.

In relevant part, the Complaint explicitly states on page 10, section VIII, paragraph 41, *Notice of Opportunity to Request a Hearing*, that:

As provided by Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with 5 U.S.C. § 554, Respondent has the right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with Part 22, a copy of which is enclosed with this Complaint. **To avoid being found in default, Respondent must file a written Answer within thirty (30) days of Respondent's receipt of this Complaint.** . . . Failure to deny an allegation constitutes an admission.

Under 40 C.F.R § 22.15(a) of the Consolidated Rules, an Answer to the Complaint must be filed with the Regional Hearing Clerk within thirty days after service of the Complaint. Under 40 C.F.R. § 22.17(a), a party may be found in default by failing to file a timely Answer to a Complaint. This default “constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent’s right to contest such factual allegations.” 40 C.F.R. § 22.17(a). Therefore, if a Respondent was properly served, the facts alleged by the Complainant are admitted against the defaulting Respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to 40 C.F.R. §§ 22.17(c) and 22.27(a), and based upon my review of the record for this matter, I make the following findings and conclusions of law:

1. Complainant is the United States Environmental Protection Agency, Region 1.
2. Respondent is Charles Bridge, LLC.

Service of the Complaint

3. The Complaint was sent by express mail hand-delivery via United Parcel Service of America, Inc., to Respondent’s attorney, Nolan H. Tanous, Esq., on or about February 22, 2022.¹
4. EPA received a delivery receipt stating the Complaint package was signed for by a Ms. or Mr. Johanson at the front desk of Attorney Tanous’s office on February 23, 2022.

¹ The Complaint was also sent to Attorney Tanous via electronic mail on February 22, 2022. While the Standing Order authorizing electronic filing and service of some document types does not allow for the electronic service of complaints, the electronic message provides additional evidence that Respondent was on notice of service of the Complaint. *See* Standing Order: Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents (June 19, 2020).

4. Service was complete as to Respondent as of February 23, 2022.
5. To date, Respondent has not settled the matter, filed a written Answer, requested a hearing, or requested an extension of time to file an Answer.
6. On June 13, 2022, Complainant filed a Motion for Default Order.
7. In accordance with 40 C.F.R. 22.17(a), Respondent is in DEFAULT and the facts alleged by Complainant shall be deemed admitted against Respondent.

Violations of the Toxic Substances Control Act Regulations

8. Congress passed Title X in 1992, amending TSCA in response to findings that low-level lead poisoning was widespread among children in America, disproportionately affecting minority low-income communities. *See* Title X, Pub. L. No. 102-550, 106 Stat. 3672 (codified as amended at 15 U.S.C. §§ 2681-2692).
9. In 1996, EPA promulgated regulations to implement Title X, known as the Disclosure Rule. 40 C.F.R. Part 745, Subpart F.
10. Pursuant to Section 401(17) of TSCA, as amended, 15 U.S.C. § 2681(17), the Disclosure Rule addresses “target housing,” defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0- bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing). 40 C.F.R. § 745.103.
11. The Disclosure Rule sets forth procedures and requirements for a lessor to provide to a lessee, among other things, an EPA-approved lead hazard information pamphlet; a Lead Warning Statement; disclosure of the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indication of no knowledge of the presence of lead-based paint and/or lead-based paint hazards; and disclosure of any records or reports available

pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased or indication that no such records or reports are available.

12. Respondent is a Maine limited liability company that owns and manages multiple residential buildings in Bangor, Maine. Attachment 1. At times relevant to the allegations in the Complaint, Respondent owned and offered for lease a residential apartment unit located at 308 Union Street, Bangor, Maine. One child, age 1, was a resident.

13. Respondent was and is the “lessor” of the unit located at 308 Union Street, Bangor, Maine, as defined in 40 C.F.R. § 745.103.

14. The 308 Union Street property is target housing as defined in Section 401(17) of TSCA and 40 C.F.R. § 745.103. This residential unit does not satisfy the requirements for an exemption under the provisions of TSCA (including 15 U.S.C. § 2681(17)).

15. On September 16, 2020, EPA issued an Information Request Letter (“IRL”) to Respondent. The IRL sought records and other information relating to Respondent’s compliance with Disclosure Rule requirements.

16. On September 30, 2020, in response to the IRL, Respondent submitted information regarding the 308 Union Street residential property. Respondent also provided EPA with leases, inspection reports, and disclosure forms for Respondent’s other properties. Further EPA investigation indicated a child, age 1, resided in the 308 Union Street residential property at the time of Respondent’s response to the IRL.

17. On or about March 24, 2020, a lessee became obligated to rent an apartment at 308 Union Street. This lease was attached to Complainant’s Memorandum in Support of Motion for Default Order as Exhibit 5.

18. In a notarized affidavit submitted as an attachment to Complainant’s Memorandum in

Support of Motion for Default Order, the lessee states that Respondent failed to provide the lessee with an EPA-approved lead hazard information pamphlet and information pertaining to lead-based paint in the target housing before the lessee entered into a contract to lease the target housing.

19. Respondent's failure to provide the lessee who became obligated to rent the 308 Union Street property with an EPA-approved lead hazard information pamphlet before the lessee entered into a contract to lease target housing, as required by 40 C.F.R. § 745.107(a)(1), constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689.

20. Respondent's failure to include a Lead Warning Statement within or attached to its contract with the lessee who became obligated to rent the 308 Union Street property, as required by 40 C.F.R. § 745.113(b)(1), constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689.

21. Respondent's failure to include, as an attachment to or within the lease contract with the lessee who became obligated to rent the 308 Union Street property, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating the lack of knowledge of the presence of lead-based paint and/or lead-based paint hazards, as required by 40 C.F.R. § 745.113(b)(2), constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689.

22. Respondent's failure to include, within or attached to the contract to lease the 308 Union Street property, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available, as required by 40 C.F.R. §745.113(b)(3), constitutes one violation of TSCA Section 409, 15 U.S.C. § 2689.

DETERMINATION OF THE TSCA PENALTY AMOUNT

Service to Respondent was complete on February 23, 2022. The Answer was due on or

before March 25, 2022. *See* 40 C.F.R. § 22.15(a). As of the date Complainant filed the Motion for Default Order, June 13, 2022, Complainant had neither received an Answer nor received a request for an extension of time to file an Answer. Therefore, the facts alleged by the Complainant shall be deemed admitted against Respondent, and the Respondent may be found in default. 40 C.F.R. § 22.17(a).

Section 16(a) of TSCA authorizes the assessment of a civil penalty up to \$37,500 per day for each violation of the Disclosure Rule. Under the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461 note, and EPA’s Civil Monetary Penalty Inflation Adjustment Rule (“Penalty Inflation Rule”), 40 C.F.R. Part 19, the \$37,500 maximum penalty was raised to \$43,611 for each violation that occurs after November 2, 2015, for penalties assessed on or after January 12, 2022, but before January 6, 2023. 87 Fed. Reg. 1676 (Jan. 12, 2022); 88 Fed. Reg. 986 (Jan. 6, 2023).

In determining the amount of any penalty assessed for violations of TSCA, Section 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), requires EPA to consider “the nature, circumstances, extent, and gravity of the violation of violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and other such matters as justice may require.” In addition, when assessing a penalty for violations of the Disclosure Rule, EPA must take into account the particular facts and circumstances of each case with specific reference to EPA’s December 2007 Section 1018-Disclosure Rule Enforcement Response and Penalty Policy (“ERPP”) (<https://www.epa.gov/sites/default/files/documents/1018erpp-1207.pdf>).

The ERPP sets forth EPA's analysis of the TSCA statutory factors as they apply to, *inter alia*, violations of the Disclosure Rule and provides a calculation methodology for applying the

statutory factors to particular cases. ERPP at p. 11. As a result, the ERPP provides a consistent and equitable penalty calculation methodology for applying the TSCA statutory penalty factors to Disclosure Rule violations in civil enforcement matters.

Under the ERPP, there are two components of a penalty calculation: (1) a determination of a gravity-based penalty based on the nature, circumstances, and extent of harm that may result from a respondent's violations, and (2) an upward or downward adjustment of the gravity-based penalty component in light of a respondent's ability to pay the penalty, effect of the penalty on a respondent's ability to continue doing business, any prior history of such violations, the degree of a respondent's culpability, voluntary disclosure of violations by the violator, and other factors as justice may require. *Id.*

The gravity-based penalty component is based on the nature and circumstances of a violation and the extent of harm that may result. *Id.* The essential character of a violation is characterized as being of a “chemical control,” “control-associated data gathering,” or “hazard assessment” nature. *Id.* A “hazard assessment” requirement is designed to provide lessees of target housing with information that will allow them to weigh and assess the risks presented by leasing the target housing. *Id.* at p. 12. The Disclosure Rule requirements, when properly fulfilled, provide potential lessees with information about the actual or possible presence of lead-based paint and/or lead-based paint hazards in the target housing they might lease, allowing them to make an informed decision about residing in target housing in light of the potential risks to all inhabitants, but especially potential risks to young children and pregnant inhabitants. *Id.* The classification of the nature of a violation has a direct impact on the measures used to determine the circumstance and extent of harm classifications of a violation under the ERPP. *Id.*

The Circumstance Level reflects the probability that an inhabitant of target housing will

suffer harm based on a particular violation. “The greater the deviation from the regulations (such as no disclosure), the greater the likelihood that the purchaser or lessee will be uninformed about the hazards associated with lead-based paint and, consequently, the greater the likelihood of harm due to exposure to lead-based paint and/or lead-based paint hazards.” *Id.* Under the ERPP, Circumstance Levels range from a 1 to 6, with Levels 1 and 2 having the highest probability of harm, Levels 3 and 4 posing a medium probability of harm, and Levels 5 and 6 posing a low probability of harm. *Id.* Appendix B of the ERPP sets forth the Circumstance Levels for particular violations of the Disclosure Rule. *Id.* at pp. 27-29.

The extent of harm level of a violation may be characterized as either Major, Significant, or Minor, depending on the degree, range, and scope of a violation's potential for childhood lead poisoning. *Id.* at pp. 12-13. Major violations pose the potential for serious damage to human health and the environment; Significant violations have the potential for significant damage to human health and the environment; and Minor violations pose the potential for lesser damage to human health and the environment. *Id.* at p. 13. For housing units occupied by a pregnant person and/or a child of less than six years of age, a Major classification is deemed appropriate. *Id.* For housing units occupied by a child between six years of age and eighteen years of age, the extent of harm for violations under the ERPP is Significant. *Id.* For housing units that are not occupied by children less than eighteen years of age, the appropriate extent of harm is Minor. *Id.*

Note, however, that the initial calculation of the gravity-based penalty under the ERPP does not include an adjustment for inflation. To account for inflation, the initial penalty calculation must then be adjusted using the appropriate multiplier. The appropriate multiplier for this Complaint is found in Amendments to EPA’s Civil Penalty Policies to Account for Inflation (effective January 15, 2022) and Transmittal of the 2022 Civil Monetary Penalty Inflation

Adjustment Rule (“Inflationary Guidance”) (https://www.epa.gov/system/files/documents/2022-01/2022amendmentstopenaltypoliciesforinflation_0.pdf). This guidance specifies a multiplication factor of 1.77336 for Disclosure Rule violations. Inflationary Guidance, Table A, p. 12.

Analysis of the Penalty Calculation

Pursuant to Rule 22.17(c) of the Consolidated Rules, 40 C.F.R. § 22.17(c), regarding the issuance of a Default Order, the relief proposed in the Complaint on Motion for Default shall be ordered unless it is "clearly inconsistent with the record of the proceeding or the Act." This provision also states that if a Default Order resolves all outstanding issues and claims in a proceeding, it shall constitute an Initial Decision.

For purposes of calculating a civil penalty to be assessed in an Initial Decision, a Presiding Officer is required to determine the penalty based on the evidence in the record of the case and in accordance with any penalty criteria set forth in the underlying statute. 40 C.F.R. § 22.27(b). A Presiding Officer is also required to consider any applicable civil penalty guidelines. *Id.*

The following analysis of the penalty calculation for this matter is based upon the statutory factors, case-specific facts, and the ERPP. The ERPP provides rational, consistent, and equitable methodologies for applying the TSCA statutory factors to the facts and circumstances of this matter.

Count I: Failure to Provide Lessee with an EPA-Approved Lead Hazard Information Pamphlet

Under 40 C.F.R. § 745.107(a)(1), a lessor is required to provide a lessee, before the lessee is obligated under any contract to lease target housing, with an EPA-approved lead hazard information pamphlet (*Protect Your Family from Lead in Your Home*) or an equivalent pamphlet

that has been approved for use in particular states by EPA. Respondent's failure to provide the lessee who became obligated to rent the 308 Union Street property with an EPA-approved lead hazard information pamphlet before the lessee entered into a contract to lease target housing was a violation of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409, 15 U.S.C. § 2689. Penalties for this violation may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In accordance with the ERPP, violations of 40 C.F.R. § 745.107(a)(1) are assigned a Circumstance Level of 1 (high). ERPP at 27, 30. Because the target housing was occupied by a child under the age of six at times relevant to the violation, the appropriate extent of harm for Respondent's failure to provide an EPA-approved lead hazard information pamphlet before the lessee entered into a contract to lease target housing is Major. *See Id.* at p. 29. Accordingly, under the ERPP, the penalty for a Major, Level 1 violation is \$11,000. *Id.* at p. 30. When this penalty is adjusted for inflation in accordance with the 1.77336 penalty adjustment required by the Inflationary Guidance, the penalty amount for this violation totals \$19,507.

I conclude that a \$19,507 penalty, which reflects the legal requirements and policy considerations discussed above, is an appropriate maximum penalty for Respondent's 40 C.F.R. § 745.107(a)(1) violation.

Count II: Failure to Include a Lead Warning Statement

Pursuant to 40 C.F.R. § 745.113(b)(1), a lessor must ensure that before the lessee is obligated under any contract to lease target housing, each contract to lease target housing includes a Lead Warning Statement within, or as an attachment to, the contract. Respondent's failure to include a Lead Warning Statement within or attached to its contract with the lessee who became obligated to rent the 308 Union Street property was a violation of 40 C.F.R. § 745.113(b)(1) and TSCA Section 409 and is a violation for which penalties may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In accordance with the ERPP, violations of 40 C.F.R. § 745.113(b)(1) are assigned a Circumstance Level of 2 (high). ERPP at 27, 30. Because the target housing was occupied by a child under the age of six at times relevant to the violation, the appropriate extent of harm for Respondent's failure to provide Lead Warning Statement before the lessee entered into a contract to lease target housing is Major. *See Id.* at p. 29. Accordingly, the penalty for a Major, Level 2 violation of 40 C.F.R. § 745.113(b)(1) is \$10,320. *Id.* at p. 30. In accordance with the 1.77336 penalty adjustment required by the Inflationary Guidance, the penalty amount for this violation totals \$18,301.

I conclude that an \$18,301 penalty, which reflects the legal requirements and policy considerations discussed above, is an appropriate maximum penalty for Respondent's 40 C.F.R. § 745.113(b)(1) violation.

Count III: Failure to Disclose the Presence of Known Lead-Based Paint/Hazards or Indicating No Knowledge Thereof

Under 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include as an attachment to or within 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 indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. Respondent's failure to include, as an attachment to or within the lease contract with the lessee who became obligated to rent the 308 Union Street property, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating the lack of knowledge of the presence of lead-based paint and/or lead-based paint hazards was a violation of 40 C.F.R. § 745.113(b)(2), and TSCA Section 409. Penalties for this violation may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In accordance with the ERPP, violations of 40 C.F.R. § 745.113(b)(2) are assigned a

Circumstance Level of 3 (medium). ERPP at p. 27. Because the target housing was occupied by a child under the age of six at times relevant to the violation, the appropriate extent of harm for Respondent's failure to disclose the presence of known lead-based paint/hazards or indicating no knowledge thereof before the lessee entered into a contract to lease target housing is Major. *See Id.* at p. 29. Accordingly, the penalty for a Major, Level 3 violation of 40 C.F.R. § 745.113(b)(2) is \$7,740. *Id.* at p. 30. In accordance with the 1.77336 penalty adjustment required by the Inflationary Guidance, the penalty amount for this violation totals \$13,726.

I conclude that a \$13,726 penalty, which reflects the legal requirements and policy considerations discussed above, is an appropriate maximum penalty for Respondent's 40 C.F.R. § 745.113(b)(2) violation.

Count IV: Failure to Include a List of Records/Reports Pertaining to Lead-Based Paint or Lead-Based Paint Hazards in the Housing, or Failure to Indicate That No Such Records Exist

Pursuant to 40 C.F.R. § 745.113(b)(3), a lessor must ensure that before a lessee is obligated under any contract to lease target housing, the contract to lease target housing includes within or as an attachment to the contract a list of any records or reports available pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased or, if no such records or reports are available, the lessor shall so indicate. Respondent's failure to include, within or attached to the contract to lease the 308 Union Street property, a list of available records or reports pertaining to lead-based paint and/or lead-based paint hazards or an indication that no such records or reports are available was a violation of 40 C.F.R. § 745.113(b)(3), and TSCA Section 409. Penalties for this violation may be assessed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In accordance with the ERPP, violations of 40 C.F.R. § 745.113(b)(3) are assigned a Circumstance Level of 5 (low). ERPP at p. 27. Because the target housing was occupied by a

child under the age of six at times relevant to the violation, the appropriate extent of harm for Respondent's failure to include a list of records/reports pertaining to lead-based paint or lead-based paint hazards in the housing, or failure to indicate that no such records exist before the lessee entered into a contract to lease target housing is Major. *See Id.* at p. 29. Accordingly, the penalty for a Major, Level 5 violation of 40 C.F.R. § 745.113(b)(3) is \$2,580. *Id.* at p. 30. In accordance with the 1.77336 penalty adjustment required by the Inflationary Guidance, the penalty amount for this violation totals \$4,575.

I conclude that a \$4,575 penalty, which reflects the legal requirements and policy considerations discussed above, is an appropriate maximum penalty for Respondent's 40 C.F.R. § 745.113(b)(3) violation.

Determination of the Adjusted Penalty

The ERPP states that upward or downward adjustments may be made to the gravity-based penalty by considering other factors, including but not limited to Respondent's ability to pay, degree of culpability, prior history and voluntary disclosures or violations. The record does not contain any information to indicate that Respondent has a prior history of TSCA violations or received an economic benefit from the violations. In addition, there is no information in the record that indicates Respondent's degree of culpability, shows voluntary disclosures, or supports other mitigating factors. Accordingly, the Complainant did not make either upward or downward adjustments to the gravity-based penalty.

Complainant's Penalty Calculation

As discussed in detail above, by utilizing the penalty matrix in the ERPP, the proposed penalties for Counts I through 4 are as follows:

Count I: Failure to provide lessee with an EPA-approved lead hazard information pamphlet = \$11,000

Count II: Failure to include as an attachment, or within the contract to lease target housing, the Lead Warning Statement = \$10,320

Count III: Failure to disclose the presence of known lead-based paint/hazards or indicate no knowledge thereof = \$7,740

Count IV: Failure to include a list of records/reports pertaining to lead-based paint or lead-based paint hazards in the housing, or failure to indicate that no such records exist = \$2,580

In accordance with the EPA Inflationary Guidance in effect at the time the Complaint was filed, a multiplication factor of 1.77336 must be applied to the penalty amounts.

Accordingly, the total penalty for each count increases to the following amounts:

Count I: Failure to provide lessee with an EPA-approved lead hazard information pamphlet = \$19,507

Count II: Failure to include as an attachment, or within the contract to lease target housing, the Lead Warning Statement = \$18,301

Count III: Failure to disclose the presence of known lead-based paint/hazards or indicate no knowledge thereof = \$13,726

Count IV: Failure to include a list of records/reports pertaining to lead-based paint or lead-based paint hazards in the housing, or failure to indicate that no such records exist = \$4,575

As noted above, the Consolidated Rules provide that upon issuing a default order “[t]he relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or [the statute authorizing the proceeding].” 40 C.F.R. § 22.17(c). I find the rationale for the penalty calculation, as set forth in the Complaint and in the Complainant’s Motion for Default, provides the factual, legal, and policy bases for the assessed penalty and is consistent with the record of this proceeding. I therefore assess a total penalty of \$56,109.00.

ORDER

In accordance with Section 22.17 of the Consolidated Rules, 40 C.F.R. § 22.17, and

based on the record, the findings of fact and conclusions of law set forth above. I hereby find that Respondent is in **DEFAULT** and liable for a total penalty of **\$56,109.00**.

IT IS THEREFORE ORDERED that Respondent, Charles Bridge, shall, within thirty days after this Order becomes final under 40 C.F.R. § 22.27(c), submit by cashier's or certified check, payable to the United States Treasurer, payment in the amount of **\$56,109.00** in one of the following ways:

CHECK PAYMENTS:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 630101

Contact: 314-418-1818

ON-LINE PAYMENT:

<https://www.pay.gov>

Enter sfo 1.1 in the search field. Open the form and follow the on-screen instructions.

Additional payment guidance is available at <https://www.epa.gov/financial/makepayment>.

Respondent shall note on the check or payment form the title and docket number of this administrative action. Respondent shall serve photocopies of any check or written notification confirming electronic fund transfer or on-line payment to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, MA 02109-3912
r1_hearing_clerk_filings@epa.gov

and

Peter DeCambre
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORC 04-3)
Boston, MA 02190-3912
decambre.peter@epa.gov

Each party shall bear its own costs in bringing or defending this action.

Should Charles Bridge fail to pay the penalty specified above in full by its due date, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. Pursuant to the Debt Collection Act, 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will be assessed at the rate of the United States Treasury tax and loan rate, in accordance with 40 C.F.R. § 102.13(e).

In accordance with 40 C.F.R. § 22.27(a) of the Consolidated Rules, this Default Order constitutes an Initial Decision. This Initial Decision shall become a Final Order forty-five days after its service upon a party, and without further proceedings unless: (1) a party moves to reopen

the hearing within twenty days after service of this Initial Decision, pursuant to 40 C.F.R. § 22.28(a); (2) a party appeals the Initial Decision to the Environmental Appeals Board within thirty days after this Initial Decision is served upon the parties; (3) a party moves to set aside a Default Order that constitutes an Initial Decision; or (4) the Environmental Appeals Board elects, upon its own initiative, to review this Initial Decision, pursuant to 40 C.F.R. § 22.30(b).

Within thirty days after the Initial Decision is served, any party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board. 40 C.F.R.

§ 22.27(a). If a party intends to file a notice of appeal to the Environmental Appeals Board through the U.S. Postal Service (except for Express Mail), it must be sent to the following address:

Clerk of the Board
U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board
1200 Pennsylvania Avenue, N.W.
Mail Code 1103M
Washington, D.C. 20460-0001

Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) must be delivered to:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
WJC East, Room 3334
Washington, DC 20004

Where a Respondent fails to appeal an Initial Decision with the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30 of the Consolidated Rules, and that Initial Decision

becomes a Final Order pursuant to 40 C.F.R. § 22.27(c) of the Consolidated Rules, Respondent waives its right to judicial review.

SO ORDERED this 23rd Day of August 2023.

LeAnn Jensen
EPA Region 1 Judicial Officer/Presiding Officer