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November 17, 2011

United States Environmental Protection Agency  
Regional Hearing Clerk (E-19J)  
Region 5  
77 West Jackson Boulevard  
Chicago, ILL 60604

**RECEIVED**  
NOV 23 2011

**Re: US EPA Complaint  
Cindy Draher, Docket No. TSCA-05-2012-0001**

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

Dear Hearing Clerk:

Enclosed please find the Answer of Respondent, Cindy Draher, to the Complaint in the case referenced above.

Should you need any additional information or wish to discuss this matter, please feel free to contact me.

Very truly yours,

**SKIDMORE & ASSOCIATES**

Archie W. Skidmore

AWS:dlb  
Enclosure

cc: Jeffery Trevion, Office of Regional Counsel (C-14J)  
U.S. EPA  
77 West Jackson Boulevard  
Chicago IL 60604

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REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the matter of:

Docket No. TSCA-05-2010-0001

Cindy Draher  
Akron, Ohio

Respondent's Answer to Proceeding to  
Assess a Civil Penalty Under Section 16(a)  
of the Toxic Substances Control Act, 15  
U.S.C. §2615(a)

Respondent

Now comes Respondent, Cindy Draher, and in response to the Proceeding to Assess a Civil Penalty Under Section 16(a) of the Toxic Substance Control Act, 15 U.S.C. §2615(a) states as follows:

SKIDMORE & ASSOCIATES

Complaint

1. Admits the allegation in Paragraph 1 of the Complaint.
2. Admits the allegation in Paragraph 2 of the Complaint.
3. Admits the allegation in Paragraph 3 of the Complaint.

Statutory and Regulatory Background

4. Admits the allegations in Paragraph 4 of the Complaint.
5. Admits the allegations in Paragraph 5 of the Complaint.
6. Admits the allegations in Paragraph 6 of the Complaint.
7. Admits the allegations in Paragraph 7 of the Complaint.
8. Admits the allegations in Paragraph 8 of the Complaint.
9. Admits the allegations in Paragraph 9 of the Complaint.
10. Admits the allegations in Paragraph 10 of the Complaint.
11. Admits the allegations in Paragraph 11 of the Complaint.

- 12. Admits the allegations in Paragraph 12 of the Complaint.
- 13. Admits the allegations in Paragraph 13 of the Complaint.

**General Allegations**

- 14. Admits the allegations in Paragraph 14 of the Complaint.
- 15. Admits the allegations in Paragraph 15 of the Complaint.
- 16. Admits the allegations in Paragraph 16 of the Complaint.
- 17. Admits the allegations in Paragraph 17 of the Complaint.
- 18. Admits the allegations in Paragraph 18 of the Complaint.
- 19. This document is in the process of being located.
- 20. Admits the allegations in Paragraph 20 of the Complaint.
- 21. Admits the allegations in Paragraph 21 of the Complaint.
- 22. Admits the allegations in Paragraph 22 of the Complaint.
- 23. Admits the allegations in Paragraph 23 of the Complaint.
- 24. Admits the list of leases is correct in Paragraph 24 of the Complaint
- 25. Admits the allegations in Paragraph 25 of the Complaint.
- 26. Admits the allegations in Paragraph 26 of the Complaint.
- 27. Admits the allegations in Paragraph 27 of the Complaint.

**Count 1**

- 28. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.
- 29. Respondent is in the process of that review.
- 30. Counsel is in the process of that review.

**Counts 2 – 6**  
**August 1, 2007; Target Housing at 523 Edgewood, Akron, Ohio**

31. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

32. Respondent is in the process of that review.

33. Respondent is in the process of that review.

34. Respondent is in the process of that review.

35. Respondent is in the process of that review.

36. Respondent is in the process of that review.

37. Counsel is in the process of that review.

**Count 7**  
**December 10, 2007; Target Housing at 161 Portage Path, Akron, Ohio**

38. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

39. Respondent is in the process of that review.

40. Counsel is in the process of that review.

**Count 8**  
**January 11, 2008; Target Housing at 824 Stadleman, Akron, Ohio**

41. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

42. Respondent is in the process of that review.

43. Counsel is in the process of that review.

**Count 9 – 12**

**June 1, 2008; Target Housing at 904 Aberdeen, Akron, Ohio**

44. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

45. Respondent is in the process of that review.

46. Respondent is in the process of that review.

47. Respondent is in the process of that review.

48. Respondent is in the process of that review.

49. Counsel is in the process of that review.

**Counts 13 – 15**

**September 18, 2008; Target Housing at 200 Kenwood, Akron, Ohio**

50. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

51. Respondent is in the process of that review.

52. Respondent is in the process of that review.

53. Respondent is in the process of that review.

54. Counsel is in the process of that review.

**Count 16**

**September 18, 2008; Target Housing at 4 Manila Place, Akron, Ohio**

55. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

56. Respondent is in the process of that review.

57. Counsel is in the process of that review.

**Count 17**

**November 1, 2008; Target Housing at 1027 Diagnol, Akron, Ohio**

58. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

59. Respondent is in the process of that review.

60. Counsel is in the process of that review.

**Count 18**

**January 30, 2009; Target Housing at 1298 Hawkins, Akron, Ohio**

61. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

62. Respondent is in the process of that review.

63. Counsel is in the process of that review.

**Count 19 – 21**

**February 1, 2009; Target Housing at 1001 Dover, Akron, Ohio**

64. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

65. Respondent is in the process of that review.

66. Respondent is in the process of that review.

67. Respondent is in the process of that review.

68. Counsel is in the process of that review.

**Count 22 – 24**

**April 2, 2009; Target Housing at 378 Thorton, Akron, Ohio**

69. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

70. Respondent is in the process of that review.

71. Respondent is in the process of that review.

72. Respondent is in the process of that review.

73. Counsel is in the process of that review.

**Count 25**

**May 1, 2009; Target Housing at 206 Denver, Akron, Ohio**

74. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

75. Respondent is in the process of that review.

76. Counsel is in the process of that review.

**Count 26**

**May 15, 2009; Target Housing at 847 5<sup>th</sup> Avenue, Akron, Ohio**

77. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

78. Respondent is in the process of that review.

79. Counsel is in the process of that review.

**Count 27 – 30**

**June 15, 2009; Target Housing at 1294 Hawkins, Akron, Ohio**

80. Respondent incorporates responses into this Count, paragraphs 1 – 27 above as if fully rewritten herein.

81. Respondent is in the process of that review.

82. Respondent is in the process of that review.

83. Respondent is in the process of that review.

84. Respondent is in the process of that review.

85. Counsel is in the process of that review.

In order to respond to the rules for lack of knowledge, Respondent denies the charges contained in Count 1 to 30 not admitted; however, Respondent request that Respondent be permitted to amend the responses as the research and review continues.

The leases provide warnings, but apparently not in the form required by the Agency.

Respondent submits that a settlement conference would be the best solution for as the Respondent's husband is disabled and from what I have seen as counsel, so is the Respondent. Counsel has asked for tax returns and operating statements, which will be made available as part of the settlement conference. These are not bad people – the world is leaving them behind. We will make every effort to solve the complaint.

#### **Proposed Civil Penalty**

The Respondent for the most part has never entered the premises and the knowledge of the material components stated in the Complaint are by the most part not within the actual knowledge or experience of the Respondent.

The Respondent submits that it will do whatever it takes to be cooperative and in compliance with the United States Environmental Protection Agency (“US EPA”).

The Respondent has never experienced a complaint of any description from the tenants in regard to those matters stated in the Complaint and did not understand the nature of the circumstances and the extent of the gravity of the alleged violations and submits that the maintenance and repair demands of the units make a vey modest rate of return.

The buildings are very old and the Respondent would ask that on the commitment that the regulatory requirements would henceforth be fully in compliance that there be no penalty.



The Respondent has always made a genuine effort to provide affordable housing and through time has been in close cooperation with the Section 8 Agency.

The Respondent would like to stay in operation and continue in good faith to stay in business as a dedicated landlord for low-cost housing.

A fine or sanction will put the Respondent out of business. The Respondent may be an alleged violator, but not a knowingly willful one.

At present, counsel is in the process to confirm that each unit may or may not be the subject of lead-based paint and, if so, to what extent.

In addition, weather or not counsel finds any or all units with the condition alleged in the Complaint, counsel is in the process of preparing a supplement to the present leases and will include the literature to be in compliance.

It is the belief of counsel that the Complaint would not have been filed if the Respondent was in full compliance.

From counsel's point of view there is nothing that could be found in our review with Respondent that would be considered willful, devious or intentional. Respondent wants to do the right thing. Counsel would comment that you have a longtime landlord that has no experience with modern day demands. We have asked, even at her age, to attend seminars to familiarize herself with the up-to-date methods of doing business as a landlord and property owner .

We have ask the secretary to watch out for future notices such as the search we were making for the one stated from the City of Akron.

**Rules Governing This Proceeding**

We acknowledge the rules and we are making arrangements to review the same with the Respondent and her secretary.

**Filing and Service of Documents**

We will be in compliance. I understand in the review process all the leases were turned over to counsel. I would believe the turnover documents could be submitted as joint exhibits. I am not certain that the reports as the site inspections relative to the condition of any units timeframe. In addition, I would prefer to have a supplement to the leases and the publications delivered to each tenant as part of the record.

**Penalty Payment**

Let us hope with the financial disclosure and the good-faith effort to solve the conflict and be in compliance now and in the future that their will no penalty.

**Settlement Conference**

Respondent requests an informal settlement conference to discuss facts of the proceeding to arrive at a settlement.

Counsel contacted Jeffery M. Trevino the day the Complaint was delivered to this office and indicated that settlement should be the solution.

**Continuing Obligation to Comply**

Since the Complaint was filed and counsel retained for a solution to the Complaint, the Respondent has cooperated and agreed to be educated and implement the TSCA and any other applicable federal, state or local regulations relating to this Complaint.

SKIDMORE & ASSOCIATES

**Consent Agreement and Final Order**

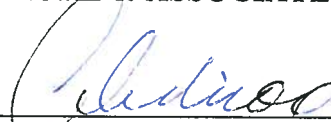
Counsel would request that Complainant take in consideration the facts and circumstances relating to the complaints against this Respondent. I am very much aware that ignorance of regulations and the law and the consequences are no legal excuse; however, after 56 years of law practice, I have found that the age factor as it applies to modern day business practice and operation are two different worlds.

I would ask that as we implement Respondent's education as a landlord, proper lease amendments, and with the proper paper publication that these people be allowed to continue as they have these many years, only this time with regulatory compliance and not with a penalty they cannot afford and will not be able to continue.

Should additional research and progress result in being able to provide additional or definitive responses, the Respondent would request that an amendment be permitted to the responses.

Respectfully submitted,

**SKIDMORE & ASSOCIATES**



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*Attorney for Respondent, Cindy Draher,  
C & D Properties*

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