

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Laura J. Berry 4/20/12
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2012-0006

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Northeast Housing, LLC and
Balfour Beatty Military
Housing Management, LLC

Total Dollar Amount of Receivable \$ 89,300 Due Date: 4/19/12

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

RECEIVED

2012 APR 19 P 1:08 WS

Reply to: (617) 918-1148

Fax: (617) 918-0148

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
Mail Code: OES 04-2

April 19, 2012

BY HAND

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: *In re Northeast Housing, LLC, et al.*, Docket No. TSCA-01-2012-0006

Dear Ms. Santiago:

Enclosed for filing are the following original documents, and one copy of each, relating to the above-referenced matter:

1. Consent Agreement and Final Order; and
2. Certificate of Service.

Kindly file the documents in the usual manner. Thanks very much for your help.

Very truly yours,

Laura J. Berry
Enforcement Counsel

Enclosures

cc: Leslie Cohn, Esq. (Respondents' counsel)
E. A. Skip Kazmarek, Esq. (Respondents' counsel)
Molly Magoon, OES, EPA Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

2012 APR 19 P 1:09

WS

IN THE MATTER OF)
)
NORTHEAST HOUSING, LLC AND)
BALFOUR BEATTY MILITARY)
HOUSING MANAGEMENT, LLC)
)
Respondents.)

Docket No. TSCA-01-2012-0006
EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency (“EPA”), having filed a Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondents, Northeast Housing, LLC (“Northeast”) and Balfour Beatty Military Housing Management, LLC (“BBMHM”) (collectively, “Respondents”), the Parties herein, on December 14, 2011;

Respondents having received extensions to file an Answer and Request for Hearing until April 6, 2012; and

Complainant and Respondents having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter,

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of monetary penalties brought 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.

2. EPA alleged in its Complaint that Respondents 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 federal regulations promulgated thereunder, entitled *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”). The Complaint alleges that when leasing various housing units in buildings constructed before 1978 (“target housing”), instances occurred when Respondents failed to:

a. provide lessees with all records or reports available to Respondents pertaining to lead based paint and/or lead-based paint hazards in the target housing being leased, in violation of 40 C.F.R. § 745.107(a)(4); and

b. include a list of any records or reports available to Respondents pertaining to lead-based paint and/or lead-based paint hazards in the housing either as an attachment to or within the body of each contract to lease target housing, in violation of 40 C.F.R. § 745.113(b)(3).

TERMS OF SETTLEMENT

3. The provisions of this CAFO shall apply to and be binding on Respondents, their officers, directors, successors and assigns.

4. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against

Respondents. Respondents waive any defenses they might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consent to the terms of this CAFO.

5. Respondents hereby waive the right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and the right to appeal the Final Order.

6. Respondents hereby certify that they are currently acting in compliance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.*, and the federal regulations set forth in 40 C.F.R. Part 745 Subparts E and F at Portsmouth Naval Shipyard located in Kittery, Maine, and at the United States Naval Submarine Base located in New London and Groton, Connecticut.

7. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in light of the nature of the violations and taking into account the relevant statutory penalty criteria, EPA has determined that it is fair and proper to assess a civil penalty of eighty-nine thousand three hundred dollars (\$89,300) for the violations alleged in this matter.

8. Respondents consent to the issuance of this CAFO hereinafter recited and consent for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

9. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

10. Within thirty (30) days of the effective date of this CAFO, Respondents shall submit a cashier's or certified check in the amount of eighty-nine thousand three hundred dollars (\$89,300), payable to the order of the "Treasurer, United States of America," referencing the case name and the docket number of this action on the face of the check, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

In addition, at the time of payment, Respondents shall simultaneously send notice of the payment and copies of the check to:

Wanda Santiago
Regional Hearing Clerk (Mail Code ORA 18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Laura J. Berry
Enforcement Counsel (Mail Code OES 04-2)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

11. If Respondents fail to make the payment required by paragraph 10 by the required due date, the total penalty amount of \$89,300, plus all accrued interest as calculated pursuant to paragraph 13 (less payments already made, if any), shall become immediately due to the United States upon such failure. Interest shall continue to accrue on all unpaid amounts until the total amount due has been received by the United States. Respondents shall be liable for such amounts regardless of whether EPA has notified Respondents of their failure to pay or made demand for payment. All payments to the United States under this paragraph shall be made by cashier's or certified check as described in paragraph 10.

12. Pursuant to 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 costs of processing and handling a delinquent claim.

13. Interest shall be payable at the rate of the United States Treasury tax and load rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

14. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) for the violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondents to comply with all applicable provisions of federal, state or local law.

16. This CAFO in no way relieves Respondents or their employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the

authority to seek injunctive relief and the authority to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

17. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondents' violation of any applicable provision of law.

18. This CAFO shall not relieve Respondents of their obligations to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

19. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

20. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

U.S. Environmental Protection Agency:



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 4/17/12

Respondent Northeast Housing, LLC

By: BBC Military Housing – Navy Northeast, LLC, as managing member

By: Balfour Beatty Military Housing Investments LLC



Leslie S. Cohn
Senior Vice President

Date: 4/10/12

Respondent Balfour Beatty Military Housing Management, LLC




Leslie S. Cohn
Senior Vice President

Date: 4/10/12

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondents are hereby ordered to comply with the terms of the above Consent Agreement, which will be effective on the date it is filed with the Regional Hearing Clerk.

Date: 4/18/12



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF)
)
)

NORTHEAST HOUSING, LLC AND)
BALFOUR BEATTY MILITARY)
HOUSING MANAGEMENT, LLC)

Respondents.)
)
)

Docket No. TSCA-01-2012-0006

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy,
hand-delivered:

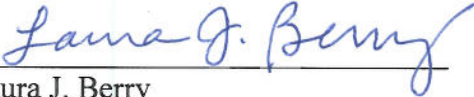
Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, by Certified Mail,
Return Receipt Requested:

Northeast Housing, LLC
c/o Leslie Cohn, Esq.
Senior Vice President and General Counsel
Balfour Beatty Communities, LLC
10 Campus Boulevard
Newtown Square, PA 19073

Balfour Beatty Military Housing Management, LLC
c/o Leslie Cohn, Esq.
Senior Vice President and General Counsel
Balfour Beatty Communities, LLC
10 Campus Boulevard
Newtown Square, PA 19073

Dated: 4/19/12



Laura J. Berry
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912
Tel (617) 918-1148
Fax (617) 918-0148