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EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	
)	
College Works Painting)	Docket No. TSCA-10-2011-0052
)	
Irvine, California)	CONSENT AGREEMENT AND FINAL
)	ORDER
)	
Respondent.)	
)	
)	
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)	

I. AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 16(a) of the Toxic Substances Control Act (TSCA), 42 U.S.C. § 2615(a). The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.2. Pursuant to Section 16(a) of TSCA, and in accordance with of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,”

40 C.F.R. Part 22, EPA hereby issues and College Works Painting (“Respondent”) hereby agrees to issuance of the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. § 22.13(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. A concise statement of the factual basis for alleging violations of TSCA, together with specific references to the provisions of the Act and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

III. ALLEGATIONS

- 3.1. Respondent is located at 1682 Langley Avenue, Irvine, California 92614.
- 3.2. Respondent is a “person” within the meaning of TSCA.
- 3.3. Respondent is a “firm” as defined by 40 C.F.R. § 745.83.
- 3.4. Respondent is a “renovator” who performed “renovations” as defined by 40 C.F.R. § 745.83 for compensation.
- 3.5. Respondent performed renovations on properties located at the following locations:

627 NE 14 th , McMinnville, OR	Built 1948
1240 NE 16 th , McMinnville, OR	Built 1967
1405 NE 16 th , McMinnville, OR	Built 1968
1919 NW 19 th Avenue, Portland, OR	Built 1911
3510 SE Alder St., Portland, OR	Built 1908
206-208 SE 30 th Place, Portland, OR	Built 1968
3924 NE Royal Ct., Portland, OR	Built 1928

13390 SW River Rd., Hillsboro, OR
11291 SE Pine Ct., Portland, OR

Built 1910
Built 1949

3.6. The properties listed in Paragraph 3.5. are “target housing” as defined by 40 C.F.R. § 745.103.

3.7. Under 40 C.F.R. § 745.86(a), firms performing renovations at target housing must retain and if requested make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E.

3.8. Under 40 C.F.R. § 745.87(a), failure to comply with any provision of 40 C.F.R. Part 745, Subpart E is a violation of Section 409 of TSCA, 15 U.S.C. § 2689.

3.9. 40 C.F.R. § 745.87(b) states that failure to establish and maintain records required by 40 C.F.R. Part 745, Subpart E is a violation of Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689.

3.10. Respondent failed to establish and maintain records as required by the Pre-Renovation Lead Education Rule, 40 C.F.R. Part 745, Subpart E for the renovations of target housing conducted at the properties identified in Paragraph 3.5. above,

3.11. Under Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a), EPA may assess penalties against any person who violates any provision of TSCA Section 409, 15 U.S.C. § 2689.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.

4.4. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.5. Except as provided in Paragraph 4.10., below, each party shall bear its own costs in bringing or defending this action.

4.6. Based on Respondent's willingness to settle this matter without litigation and in accordance with Section 16(b) of TSCA, taking into account the nature, circumstances, extent, gravity of the violations, Respondent's ability to pay, the effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and any such matter as justice may require, EPA and Respondent agree that an appropriate penalty to settle action is \$32,508.

4.7. Respondent consents to the issuance of the Final Order recited herein and to payment of the penalty cited in Paragraph 4.6. above. Respondent shall pay \$5,000 within 30 days of the effective date of the Final Order, and \$27,691 on August 1, 2011. If the business of College Works Painting is sold or ownership interests are transferred during the period of the above-described payment schedule, the remaining principal and accrued interest shall be due and payable as of the effective date of the sale or transfer.

4.8. Payments under this CAFO shall be made by cashier's check or certified check, made payable to the order of "U.S. Treasury" and mailed to the addresses below:

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

Respondent shall note on the check the title and docket number of this case. Respondent also may make the penalty payment by wire transfer or credit card in accordance with instructions provided by EPA.

4.9. Respondent shall submit a photocopy of the check described above to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Suite 900
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, Washington 98101

Barbara Ross
U.S. Environmental Protection Agency
Region 10, Suite 900
1200 Sixth Avenue, Mail Stop AWT-128
Seattle, Washington 98101

4.10. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due dates, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action under TSCA Section 16(a)(4), 15 U.S.C. § 2615(a)(4), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.11. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.


c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the date the underlying penalty first becomes past due.

4.12. This CAFO shall not relieve Respondent of its obligation 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.

4.13. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO.

4.14. Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in Section III above.

STIPULATED AND AGREED:
FOR COLLEGE WORKS PAINTING



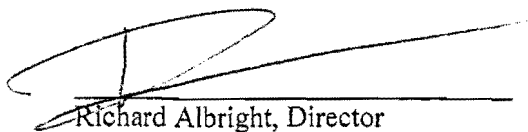
Signature

Print Name: Tracy Meneses

Title: Treasurer

Dated: 3/23/11

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10



Richard Albright, Director
Office of Air Waste and Toxics

Dated: 3/29/11

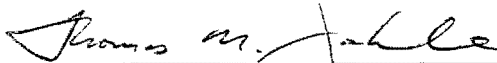
V. FINAL ORDER

5.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of settlement contained in the Consent Agreement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to TSCA for the particular violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

This Final Order shall become effective upon filing.

SO ORDERED this 31st day of March, 2011



Thomas M. Jahnke
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: College Works Painting, Docket No.: TSCA-10-2011-0052**, was filed with the Regional Hearing Clerk on April 1, 2011.

On April 1, 2011 the undersigned certifies that a true and correct copy of the document was delivered to:

Robert E. Hartman, Esquire
U.S. EPA
Region 10, Suite 900
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on April 1, 2011 to:

Helen Tovar
College Works Painting
1682 Langley Avenue
Irvine, CA 92614

DATED this 1st day of April 2011.

Sharon Eng
Signature
Print Name: Sharon Eng
Regional Hearing Clerk
EPA Region 10