



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 21 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Howard Yeager
Broker
Alabama Realty, LLC
210 LeMoyne Drive
Dauphin Island, Alabama 36528

Re: Alabama Realty, LLC
Ratified Consent Agreement and Final Order
Docket No.: TSCA-04-2012-2613(b)

Dear Mr. Yeager:


Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$2,618 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case. Penalty payment questions should be directed to Ms. Heather Russell either by telephone at (513) 487-2044 or by written correspondence to her attention at the U.S. Environmental Protection Agency's Cincinnati Accounting Operation address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call Mr. W. Curtis Richardson at (404) 562-8987.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of

your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the EPA. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Sincerely,


Kimberly L. Bingham
Acting Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:

Alabama Realty, LLC

Respondent.

Docket No.: TSCA-04-2012-269(b)

RECEIVED
EPA REGION IV
2011 DEC 21 AM 6:50
HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, U. S. Environmental Protection Agency, Region 4. Respondent is Alabama Realty, LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of the EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, also known as Title X of the Housing and Community Development Act of 1992. Pursuant to Title X, it is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, for any person to fail or refuse to comply with a provision of Title X or any rule or order issued under Title X.
4. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, the penalty for each violation of Title X of TSCA shall not exceed \$10,000. The Debt Collection Improvement Act of 1996 requires EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation of Title X occurring after January 30, 1997, through January 12, 2009, is \$11,000 and for each violation occurring after January 12, 2009, the maximum penalty is \$16,000.
5. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 12-2-A. Pursuant to the aforementioned Delegations, the Director of Air, Pesticides and Toxics Management Division has authority to commence an enforcement action as the Complainant in this matter.

6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

W. Curtis Richardson
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8987

III. Specific Allegations

7. Respondent is a Seller, as defined at 40 C.F.R. § 745.103, of residential housing located at 210 LeMoyne Drive Dauphin Island, Alabama. These residential units are "target housing," as defined at 40 C.F.R. § 745.103.
8. Based on information obtained by EPA on or about January 20, 2010, relating to Respondent's contracts to sell or lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and 40 C.F.R. Part 745, Subpart F as follows:
- a. Pursuant to 40 C.F.R. § 745.107(a)(3), a Seller shall disclose to each Agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing, and the existence of any available records or reports pertaining to lead-based paint. Respondent failed to disclose to the Agent the presence of any known lead-based paint and the existence of any records or reports in at least one contract.
 - b. Pursuant to 40 C.F.R. § 745.113(a)(2), each contract for target housing shall include, as an attachment to or within the contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold, or a statement indicating no knowledge of the presence of

lead-based paint and/or lead-based paint hazards. Respondent failed to include an appropriate statement in at least one contract.

- c. Pursuant to 40 C.F.R. § 745.113(a)(3), each contract for target housing shall include, as an attachment to or within the contract, a list of any records or reports available to the Purchaser that pertain to lead hazard information, or an indication that no such list exists. Respondent failed to include the appropriate information in at least one contract.
- d. Pursuant to 40 C.F.R. § 745.113(c)(1), an Agent shall retain a copy of the completed disclosure records for no less than three years from the completion date of the contract. Respondent failed to retain a copy of the completed disclosure records.

IV. Consent Agreement

- 9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
- 10. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
- 11. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
- 12. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of 40 C.F.R. Part 745, Subpart F.
- 13. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state

statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

14. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

15. Respondent is assessed a civil penalty of **TWO THOUSAND SIX HUNDRED AND EIGHTEEN DOLLARS (\$2,618)** which shall be paid within thirty (30) days of the effective date.
16. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America."

The Respondent shall note on the face of the check the Respondent's Name and the Docket Number associated with this CAFO.

The penalty payment shall be sent by one of the following methods to the address identified for the method chosen:

Address for payment submittal using the United States Postal Service:

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

Address for payment submittal using other mail service (e.g., Federal Express, United Parcel Service (UPS), DHL, etc.):

U.S. Bank
1005 Convention Plaza
Mail Station SI.-MO-C2GL
St. Louis, Missouri 63101

Contact Person: Natalie Pearson (314) 418-4087.

17. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

W. Curtis Richardson
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

Saundi J. Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

18. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
19. 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 cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

20. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
21. This CAFO shall be binding upon the Respondent, its successors and assigns.
22. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.


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VI. Effective Date

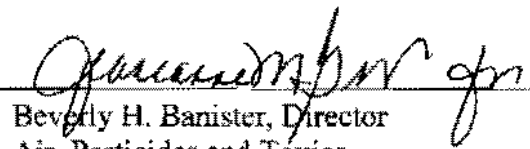
23. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Alabama Realty, LLC
Docket No.: TSCA-04-2012-2613(b)

By:  Date: 11/14/11
Name: HOWARD A. YEAGER
Title: PRESIDENT

Complainant: U.S. ENVIRONMENTAL PROTECTION AGENCY

By:  Date: 12-14-11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 20th day of December, 2011.

By:  Date: 12/20/11
Susan B. Schub
Regional Judicial Officer

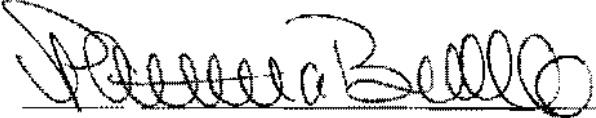
CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Alabama Realty, LLC, Docket Number: TSCA-04-2012-2613(b), to the addressees listed below:

Mr. Howard Yeager (via Certified Mail, Return Receipt Requested)
Broker
Alabama Realty, LLC
210 LeMoyne Drive
Dauphin Island, Alabama 36528

W. Curtis Richardson (via EPA's internal mail)
Lead and Children's Health Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan, Senior Attorney (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

By: 
Patricia Bullock, Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9511

Date: 12-21-11