

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE ADMINISTRATOR**

<b>IN RE MATTER OF</b>	)	
	)	
<b>CAS EQUITY INC.,</b>	)	<b>DOCKET NO. TSCA-3-2000-0019</b>
	)	
	)	
<b>RESPONDENT</b>	)	

**INITIAL DECISION**

This civil administrative penalty proceeding arises under the authority of Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615 (a). This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-22.32.

The United States Environmental Protection Agency (the “EPA” or “Complainant”) initiated this administrative enforcement proceeding by filing a Complaint against CAS Equity Inc., Respondent (“Respondent”), on July 5, 2000.<sup>1/</sup> The Complaint charges Respondent with four (4) violations of TSCA, as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“RLBPHRA”), 42 U.S.C. §§ 4851, *et seq.*, and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F, which are known as the “Disclosure Rule”.<sup>2/</sup> More specifically, the EPA charges that Respondent, a Pennsylvania corporation, is the owner and lessor of a residential dwelling unit in “target housing” within the meaning of Section 1004(27) of the RLBPHRA, 42 U.S.C. § 4851b (27), and that Respondent failed to provide its lessee with the required lead hazard information and/or obtain the lessee’s affirmation of having received such information in violation of Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d (b)(5); Section 409 of TSCA, 15 U.S.C. § 2689, and 40 C.F.R. §§ 745.107(a)(1), 745.113(b)(1), (2), (4). Complainant seeks a civil

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<sup>1/</sup> The Complaint was filed with the Regional Hearing Clerk on June 30, 2000, but the certificate of service for the Complaint was not filed until July 5, 2000. *See* Sections 22.5(a)(3), 22.6 of the Rules of Practice, 40 C.F.R. §§ 22.5(a)(3), 22.6.

<sup>2/</sup> Congress passed Title X of the Housing and Community Development Act of 1992 under the common name of the “Residential Lead-Based Paint Hazard Reduction Act of 1992,” Pub. L. No. 102-550-, 106 Stat. 3672 (1992).

administrative penalty in the amount of \$30,800 for these alleged violations.

Respondent filed its Answer and Request for Hearing on February 13, 2001. Respondent denied liability as charged.

On March 20, 2001, a Prehearing Order was entered directing the parties to file their prehearing exchange information. The parties submitted their respective prehearing exchanges pursuant to that Order.<sup>3/</sup> A hearing in this matter was scheduled for October 25, 2001, but was cancelled during a telephonic conference call with both parties.<sup>4/</sup>

On November 20, 2001, an Order was entered granting Respondent's counsel's motion to withdraw as attorney of record for Respondent.<sup>5/</sup> In support of this motion, Respondent's counsel submitted a signed letter from Respondent dated October 11, 2001. In this letter, Respondent states:

As you are aware, I have requested that the litigation concerning this matter be terminated, as I no longer have the desire to continue the defense of CAS Equity's potential liability and the amount of damages that might ultimately be assessed. ... Additionally, as I had previously mentioned to you, I do not intend to contest liability or damages in this matter and authorize you to advise counsel for EPA and the administrative judge handling the matter of this fact.

Inasmuch as Respondent requests that the litigation concerning this matter be terminated because he no longer contests liability or the amount of damages and there remains no issue or claim for resolution, Respondent is found liable as charged and assessed a civil administrative penalty of \$30, 800.<sup>6/</sup>

## ORDER

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<sup>3/</sup> Complainant's Motion Regarding Deadline for Complainant's Rebuttal Prehearing Exchange was denied in an Order entered August 6, 2001.

<sup>4/</sup> During the conference call, counsel for Respondent orally moved to withdraw as attorney of record. Respondent's counsel was advised to file a written motion.

<sup>5/</sup> The written motion dated October 17, 2001, was not received by the Office of Administrative Law Judges until November 19, 2001, due to the delay of mail delivery on account of anthrax in Washington, D.C. during this time.

<sup>6/</sup> Complainant's Motion for Accelerated Decision is now moot.

1. Respondent, CAS Equity Inc., is assessed a civil administrative penalty of \$30,800.
2. Payment of the full amount of this civil penalty shall be made within thirty (30) days of

the service date of the final order by submitting a cashier's check or certified check in the amount of \$30,800, payable to the "Treasurer, United States of America," and mailed to:

Attn: Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 3  
P.O. Box 360515  
Pittsburgh, PA 15251-6515

3. A transmittal letter identifying the subject case and EPA docket number, and Respondent's name and address, must accompany the check.

4. If Respondent fails to pay the penalty within the prescribed statutory period after the entry of the Order, interest on the civil penalty may be assessed. 31 U.S.C. § 3717; 40 C.F.R. § 102.13(b),(c),(e).

#### Appeal Rights

Pursuant to Sections 22.27(c) and 22.30 of the Rules of Practice, 40 C.F.R. §§ 22.27(c) and 22.30, this Initial Decision shall become the Final Order of the Agency, unless an appeal is filed with the Environmental Appeals Board within thirty (30) days after the service of this Order, or the Environmental Appeals Board elects, *sua sponte*, to review this decision.

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Barbara A. Gunning  
Administrative Law Judge

Dated: November 26, 2001  
Washington, DC

In the Matter of Cas Equity, Inc., Respondent  
Docket No. TSCA-3-2000-0019

CERTIFICATE OF SERVICE

I certify that the foregoing **Initial Decision**, dated November 26, 2001, was sent this day in the following manner to the addressees listed below.

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Maria Whiting-Beale  
Legal Staff Assistant

Dated: November 26, 2001

Original and one copy by Pouch Mail to:

Lydia A. Guy  
Regional Hearing Clerk  
U.S.EPA  
1650 Arch Street  
Philadelphia, PA 19103-2029

Copy by Pouch Mail to:

Benjamin D. Fields, Esquire  
Assistant Regional Counsel (3RC30)  
U.S.EPA  
1650 Arch Street  
Philadelphia, PA 19103-2029

Copy by Certified Mail Return Receipt to:

Jordan M. Carlucci, President  
Cas Equity, Inc.  
438 Walnut Street  
Reading, PA 19601-3930