



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

March 31, 2022

VIA ELECTRONIC EMAIL

Jay R. Langenbahn
Attorney
Lindhorst & Dreidame Co., L.P.A.
312 Walnut Street, Suite 3100
Cincinnati, Ohio 45202-4048
jlangenbahn@lindhorstlaw.com

Consent Agreement and Final Order – In the Matter of: TWDS, Inc., d/b/a Windows
Direct USA of Cincinnati, Docket No. **TSCA-05-2021-0013**

Dear Mr. Langenbahn:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in
resolution of the above case. This document was filed on March 31, 2022 with the Regional
Hearing Clerk.

The civil penalty in the amount of \$93,935 is to be paid in the manner described in paragraphs
11 and 12. Please be certain that the docket number is written on both the transmittal letter and
on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

CHRISTINA
SALDIVAR

Digitally signed by
CHRISTINA SALDIVAR
Date: 2022.03.24
09:11:02 -05'00'

Christina Saldivar
Pesticides and Toxics Compliance Section

Enclosure

cc: Mary McAuliffe, (C-14J)
Sophie Grueterich, (C-14J)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. TSCA-05-2021-0013
)	
TWDS, Inc., d/b/a Windows Direct USA of Cincinnati,)	Proceeding to Assess a Civil Penalty Under Section 16(a) of the Toxic Substance Control Act, 15 U.S.C. § 2615(a)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

1. Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. On September 30, 2021, EPA filed the Complaint in this matter against TWDS, Inc., a/k/a My Last Bath, Windows Direct of Cincinnati, d/b/a Windows Direct USA of Cincinnati, and Windows Direct, subsequently clarified to TWDS, Inc., d/b/a Windows Direct USA of Cincinnati (Respondent).

3. The Complaint alleges that Respondent violated Sections 11 and 409 of TSCA, 15 U.S.C. §§ 2610 and 2689, and 40 C.F.R. § 745.81(a)(2)(ii), 40 C.F.R. § 745.84(a)(2), 40 C.F.R. § 745.86, 40 C.F.R. § 745.87(c), and 40 C.F.R. § 745.89(d)(1), at eighteen renovations performed in the Cincinnati, Ohio area.

4. Respondent filed an Answer and requested a hearing under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

Stipulations

5. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint other than those factual allegations admitted in its Answer.

6. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

7. Respondent certifies that it is complying fully with 40 C.F.R. Part 745, Subpart E, Residential Property Renovation.

8. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

9. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

10. In consideration of the nature, circumstances, extent and gravity of the violations alleged and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require, Complainant agrees to mitigate the proposed penalty of \$104,372 to \$93,935.

11. Within 30 days after the effective date of this CAFO, Respondent must pay the \$93,935 civil penalty by sending a cashier's or certified check, by express mail, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza

Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

12. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Christina Saldivar
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
saldivar.christina@epa.gov

Mary McAuliffe
Sophie Grueterich
Office of Regional Counsel
U.S. EPA, Region 5
mcauliffe.mary@epa.gov
grueterich.sophie@epa.gov

13. This civil penalty is not deductible for federal tax purposes.

14. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

15. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

16. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: mcauliffe.mary@epa.gov and grueterich.sophie@epa.gov (for Complainant), and jlangenbahn@lindhorstlaw.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

17. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

18. The effect of the settlement described in paragraph 17, above, is conditional upon the accuracy of the Respondent's representations to EPA, as set forth in paragraph 7 of this CAFO and as memorialized in Respondent's letter to EPA dated March 7, 2022.

19. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

20. This CAFO does not affect Respondent's responsibility to comply with TSCA, 15 U.S.C. § 2601 *et seq.*, its implementing regulations, and other applicable federal, state and local laws.

21. Except as provided in paragraph 17, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

22. This CAFO constitutes a "prior such violation" as that term is used in EPA's Interim Final Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule to determine Respondent's "history of prior such violations" under Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B).

23. The terms of this CAFO bind Respondent, its successors and assigns.

24. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
25. Each party agrees to bear its own costs and attorney's fees in this action.
26. This CAFO constitutes that entire agreement between the parties.

**In the Matter of: TWDS, Inc., d/b/a Windows Direct USA of Cincinnati,
Docket No. TSCA-05-2021-0013**

TWDS, Inc., d/b/a Windows Direct USA of Cincinnati, Respondent

3-16-22

Date

Raymond Christopher Carey
Chief Executive Officer



**In the Matter of: TWDS, Inc., d/b/a Windows Direct USA of Cincinnati,
Docket No. TSCA-05-2021-0013**

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS Digitally signed by MICHAEL
HARRIS
Date: 2022.03.25 09:50:11 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: TWDS, Inc., d/b/a Windows Direct USA of Cincinnati,
Docket No. TSCA-05-2021-0013

Final Order

This Consent Agreement and Final Order, as agreed to by parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN COYLE
Date: 2022.03.25 12:03:34 -05'00'

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: TWDS, Inc., d/b/a Windows Direct USA of Cincinnati
Docket Number: TSCA-05-2021-0013

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on March 31, 2022, this day in the following manner to the addressees:

Copy by e-mail to

Attorneys of Respondent:

Mr. Jay Langenbahn
Lindhorst & Dreidame Co., L.P.A.
jlangenbahn@lindhorstlaw.com

Copy by e-mail to

Attorney of Complainant:

Mary McAuliffe
mcauliffe.mary@epa.gov

Sophie Grueterich
grueterich.sophie@epa.gov

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: _____

Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov