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U.S. EPA REGION 5
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. TSCA-05-2024-0013
)
Paladin 6 Painting Company) Proceeding to Assess a Civil Penalty Under
d/b/a LIME Painting of Cincinnati) Section 16(a) of the Toxic Substances
Mason, Ohio,) Control Act, 15 U.S.C. § 2615(a)
)
Respondent.)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and Section 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3) of 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. § 22.1(a)(5), 22.13(b), and 22.18(b)(2)-(3).
2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 5.
3. Respondent is Paladin 6 Painting Company, d/b/a LIME Painting of Cincinnati, a corporation with a place of business located at 3923 Marquis Lane, Mason, Ohio 45040.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the terms of this CAFO, including the assessment of the civil

penalty specified below.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional and factual allegations in this CAFO.
8. Respondent waives its right to request a hearing as provided in 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992, Pub. L. No. 102-550, Oct. 28, 1998 (Title X), Congress found, among other things, that low-level lead poisoning was widespread among American children, afflicting as many as 3,000,000 children under age six; at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. A key component of the national strategy to reduce and eliminate the threat of childhood lead poisoning is to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

10. Section 1021 of Title X amended TSCA by adding Sections 401-12, entitled Lead Exposure Reduction, at 15 U.S.C. §§ 2681-92.

11. Section 402(a) of TSCA, 15 U.S.C. § 2682, requires the Administrator of EPA to promulgate regulations to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; and that such regulations contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.

12. Section 402(c) of TSCA, 15 U.S.C. § 2682, requires the Administrator of EPA to

promulgate guidelines for the conduct of renovation and remodeling activities to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing and public buildings built before 1978, and commercial buildings, and to revise the regulations under Section 402(a) of TSCA to apply those regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards.

13. Section 406(b) of TSCA, 15 U.S.C. § 2686(b), requires the Administrator of EPA to promulgate regulations to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

14. Section 407 of TSCA, 15 U.S.C. § 2687, requires the regulations promulgated by the Administrator of EPA under Subchapter IV to include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of the TSCA Lead Exposure Reduction requirements, 15 U.S.C. §§ 2681 through 2692.

15. Under Section 409 of TSCA, 15 U.S.C. § 2689, it shall be unlawful for any person to fail or refuse to comply with any rule or order issued under Subchapter IV – Lead Exposure Reduction, 15 U.S.C. §§ 2681 through 2692. *See also* 40 C.F.R. § 745.87.

16. Under Section 15 of TSCA, 15 U.S.C. § 2614, it shall be unlawful for any person to fail or refuse to establish and maintain records, submit reports, notices, or other information, or permit access to or copying of records, as required by TSCA or a rule thereunder. *See also* 40 C.F.R. § 745.87.

17. Pursuant to Sections 402, 406, and 407 of TSCA, 15 U.S.C. §§ 2682 and 2686, and 2687, EPA promulgated the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E, prescribing procedures and requirements for: the accreditation of renovator training programs; certification of individuals and firms; work practice standards for renovation, repair and painting

activities in target housing and child-occupied facilities; and recordkeeping to demonstrate compliance with work practice standards. 73 *Fed. Reg.* 21691 (April 22, 2008).

18. 40 C.F.R. § 745.82(a) provides that Subpart E applies to all renovations performed in target housing and child-occupied facilities, with certain exceptions not relevant here.

19. 40 C.F.R. § 745.83 defines *firm* to mean a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

20. 40 C.F.R. § 745.83 defines *pamphlet* to mean the EPA pamphlet titled Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools developed under Section 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revisions or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

21. 40 C.F.R. § 745.83 defines *renovation* to mean the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. Part 745 (40 C.F.R.

§ 745.223). The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, and surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping), and interim controls that disturb painted surfaces.

22. 40 C.F.R. § 745.83 defines *renovator* to mean an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.

23. 40 C.F.R. § 745.103 defines *target housing* to mean any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

24. 40 C.F.R. § 745.84(a)(1) requires firms to provide the owner of the unit with the EPA-approved lead hazard information pamphlet no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing and either (i) obtain, from the owner, a written acknowledgment that the owner has received the pamphlet, or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.

25. Section 16(a) of TSCA, 42 U.S.C. § 2615(a), 40 C.F.R. § 745.87(d), and 40 C.F.R. Part 19, authorize the Administrator of EPA to assess a civil penalty of up to \$48,512 per violation for each day of violation of Sections 15 and 409 of TSCA that occurred after November 2, 2015.

Factual Allegations

26. At all times relevant to this Complaint, Respondent was a corporation with a place of business located at 3923 Marquis Lane, Mason, Ohio 45040, and was therefore a *firm* as defined by 40 C.F.R. § 745.83.

27. On January 17, 2024, EPA sent an information request letter (IRL) to Respondent. The IRL requested Respondent to provide information regarding its compliance with the residential property renovation requirements at 40 C.F.R. Part 745, Subpart E.

28. On February 6, 2024, and March 2, 2024, Respondent replied to the IRL via email and provided certain records. According to the information and records provided, Respondent performed or

directed its employees to perform painting and other work at each of the properties identified in the table below:

Table 1 – Renovation Work Performed at Target Housing

Housing Address	Year Built	Contracted Work	Contract Date
3656 Aikenside Avenue Cincinnati, Ohio 45213	1911	Exterior painting	September 13, 2022
6306 Euclid Road Cincinnati, Ohio 45236	1930	Exterior painting	February 15, 2022

29. The exterior painting that Respondent performed at each of the properties listed in paragraph 2328, above, were modifications of each building’s existing structure that resulted in disturbance of painted surfaces, and were therefore *renovations* as defined in 40 C.F.R. § 745.83.

30. In its IRL, EPA also requested all records concerning the renovations that Respondent had performed from January 1, 2021, to January 17, 2024. Respondent provided contracts for the renovations identified in Table 1 of paragraph 28, above, but did not provide all of the records necessary to demonstrate compliance with the work practice standards in 40 C.F.R. § 745.85.

31. The buildings listed at the addresses in Table 1 of paragraph 28, above, are residential housing built prior to 1978, and therefore are *target housing* as defined in 40 C.F.R. § 745.103.

32. Respondent either performed or directed workers to perform the renovations described in paragraph 28, above, and is therefore a *renovator* as defined in 40 C.F.R. § 745.83.

Counts 1 – 2

**40 C.F.R. § 745.84(d)(1): Failure to Include a Statement Recording
the Owner or Occupant’s Name and Acknowledging Receipt
of the Pamphlet Prior to the Start of the Renovation**

33. Complainant incorporates paragraphs 1 through 32 of this CAFO as if set forth in this paragraph.

34. 40 C.F.R. § 745.84(d)(1) requires that the firm performing renovations include, in a written acknowledgment required by 40 C.F.R. § 745.84(a)(1), a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.

35. For each of the renovation projects described in Table 1 of paragraph 28, Respondent failed to include, in a written acknowledgment required by 40 C.F.R. § 745.84(a)(1), a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature, in violation of 40 C.F.R. § 745.84(d)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 3 – 4

40 C.F.R. § 745.86(a): Failure to Retain Records

36. Complainant incorporates paragraphs 1 through 32 of this CAFO as if set forth in this paragraph.

37. 40 C.F.R. § 745.86(a) requires firms performing renovations to retain and, if requested, make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E for a period of three years following completion of the renovation.

38. For each of the renovation projects described in Table 1 of paragraph 28, Respondent failed to retain and make available to EPA all records necessary to demonstrate compliance with 40 C.F.R. Part 745, Subpart E, for a period of three 3 years following completion of the renovations, in violation of 40 C.F.R. § 745.86(a) and Section 409 of TSCA, 15 U.S.C. § 2689.

Civil Penalty

39. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an

appropriate civil penalty to settle this action was \$10,446. In determining the penalty amount, Complainant considered 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 also considered 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*, Revised April 5, 2013.

43. Respondent agrees to pay a civil penalty in the amount of \$10,446 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date"). Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

44. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-05-2024-0013,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

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

Craig Meredith (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. Environmental Protection Agency, Region 5
meredith.craig@epa.gov
and
R5LE CAB@epa.gov

Christopher Grubb
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
grubb.christopher@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

45. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would

fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed each subsequent thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty, as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days.

46. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions may include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.
- d. Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

General Provisions

46. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: grubb.christopher@epa.gov (for Complainant), jharris@limepainting.com (for Respondent).

Respondent understands that the CAFO will become publicly available upon filing.

47. This CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

48. 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 violations of law.

49. This CAFO does not affect Respondent's responsibility to comply with TSCA, the Residential Lead-Based Paint Hazard Reduction Act of 1992, the Lead Residential Lead-Based Paint Disclosure Program, and other applicable federal, state, or local laws and permits.

50. Respondent certifies that it is complying with and the residential property renovation regulations at 40 C.F.R. Part 745, Subpart E.

51. 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).

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

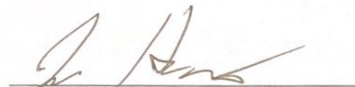
53. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

54. Each party agrees to bear its own costs and attorney’s fees in this action.

55. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order
In the Matter of: Paladin 6 Painting Company
d/b/a LIME Painting of Cincinnati, Respondent
Docket No.: TSCA-05-2024-0013**

Paladin 6 Painting Company d/b/a LIME Painting of Cincinnati, Respondent



Mr. Jonathan B. Harris
Registered Agent
Paladin 6 Painting Company
d/b/a LIME Painting of Cincinnati

July 9 2024
Date

**Consent Agreement and Final Order
In the Matter of: Paladin 6 Painting Company
d/b/a LIME Painting of Cincinnati, Respondent
Docket No.: TSCA-05-2024-0013**

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order
In the Matter of: Paladin 6 Painting Company
d/b/a LIME Painting of Cincinnati, Respondent
Docket No.: TSCA-05-2024-0013**

Final Order

This Consent Agreement and Final Order, as agreed to by the 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 L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5