U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 N. 5th STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
JADE INVESTMENT, LLC	)	**Docket No. TSCA-07-2008-0006**
Chesterfield, Missouri	)	
	)	
Respondent	)	

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and Jade Investment, LLC (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F, *Disclosure of Known*

Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property, promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, is the Chief, Toxics and Pesticides Branch, EPA, Region 7.

4. The Respondent is Jade Investment, LLC, located at 16633 Chesterfield Manor Drive, Chesterfield, Missouri 63005. It is authorized to do business in the State of Missouri.

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851 to 4856, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding Sections 401 to 412, 15 U.S.C. §§ 2681 to 2692. Section 1018 of the Act required EPA and the Department of Housing and Urban Development (HUD) to jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978. The regulations, issued March 6, 1996, and codified at 40 C.F.R. Part 745, Subpart F, require that sellers and lessors of most residential housing built before 1978: a) disclose the presence of known lead-based paint and/or lead-based paint hazards in the target housing; b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; c) provide purchasers and lessees with a federally approved lead hazard information pamphlet; d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence

of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; and e) include certain disclosure and acknowledgment language in the sales or leasing contract. The failure or refusal to comply with the regulations is a violation of Section 1018 of the Act and Section 409 of TSCA.

Alleged Violations

6. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

Count 1

7. Respondent is, and was at all times referred to herein, a "person" within the meaning of TSCA.

8. Respondent is the lessor, as that term is defined by 40 C.F.R. § 745.103, of property located at 8234 Montreal Drive, University City, Missouri 63132.

9. The property referenced above was constructed before 1978; therefore, it is "target housing" as that term is defined by 40 C.F.R. § 745.103.

10. Information collected shows that Respondent entered into a contract to lease 8234 Montreal Drive, University City, Missouri 63132, on or about January 25, 2006.

11. Information collected shows that Respondent failed to provide the lessee with an EPA-approved lead hazard information pamphlet before lessee was obligated under a contract to lease target housing.

12. Respondent's failure to provide an EPA-approved lead hazard information pamphlet is a violation of 40 C.F.R. § 745.107(a)(1), and in accordance with 40 C.F.R. § 745.118(e), a violation of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C.

§ 2689, and thus Respondent is subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

CONSENT AGREEMENT

13. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

14. Respondent admits the factual allegations set forth above.

15. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

16. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

17. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, it is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F, and that there are no outstanding abatement orders pending on any other target housing owned by the Respondent.

18. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of $1000 to be paid within thirty (30) days of the effective date of the Final Order.

19. Respondent understands that its failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 18, above, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties, late payment handling charges, and accumulated interest. In such case, interest shall accrue thereon at the

applicable statutory rate on the unpaid balance until such civil penalty and any accrued interest are paid in full. A late payment handling charge of $15 will be imposed after thirty (30) days and an additional $15 will be charged for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of $1000 within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "Treasurer, United States of America" and sent to:

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

2. A copy of the check shall simultaneously be sent to the following:

   Regional Hearing Clerk
   U.S. Environmental Protection Agency, Region 7
   901 N. 5th Street
   Kansas City, Kansas 66101; and

   Deanna Smith, Office of Regional Counsel
   U.S. Environmental Protection Agency, Region 7
   901 N. 5th Street
   Kansas City, Kansas 66101.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT
JADE INVESTMENT, LLC

Date: Dec 24, 2007 By: _____

Jade Investment, LLC
Printed Name

Owner
Title:

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 1/3/08 By: _____
Jamie Green, Branch Chief
Toxics and Pesticides Branch
Water, Wetlands, and Pesticides Division

Date: 1/3/08 By: _____
Kent Johnson, Senior Assistant Regional Counsel
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: Jan. 8, 2008

ROBERT L. PATRICK
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Jade Investment, LLC, Respondent
Docket No. TSCA-07-2008-0006

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kent Johnson
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Jade Tsui
Jade Investment, LLC
16633 Chesterfield Manor Drive
Chesterfield, Missouri 63005

Dated: 1/8/08

Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7