

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD
WASHINGTON, D.C.**

)	
In the Matter of:)	
)	
Apartment Investment and Management Company,)	Docket No. TSCA HQ-2002-0003
)	
Respondent.)	
)	

CONSENT AGREEMENT

The United States Environmental Protection Agency (“EPA”), and the Department of Housing and Urban Development (“HUD”), as Complainant, and Apartment Investment and Management Company and its Affiliates identified in Appendix 1 of this Consent Agreement (collectively “AIMCO”), as Respondent, (all of the foregoing entities hereafter collectively referred to as the “Parties”), enter into this Consent Agreement to settle all matters pertaining to this case. This case was initiated pursuant to EPA’s Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 60 F.R. 66706 (December 22, 1995)(“Audit Policy) updated by 65 F.R. 19617 (April 11, 2000). Using EPA’s Audit Policy, AIMCO proposed auditing its pre-1978 properties to determine its compliance with the *Residential Lead-Based Paint Hazard Reduction Act of 1992* (“Act”), 42 United States Code (“U.S.C.”) §§4851, et. seq. The Parties consent to the entry of this Consent Agreement and the attached proposed Final Order prior to the offering of any testimony or other evidence and without adjudication of any issues of law or fact. The Parties agree to commence and conclude this proceeding by issuing this Consent Agreement and proposed Final Order as prescribed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22. More specifically, in accordance with 40 C.F.R. Section 22.18, the Parties consent to the entry of this Consent Agreement and the proposed Final Order and agree to comply with its terms. This Consent Agreement provides AIMCO the opportunity to achieve compliance with Section 1018 and to reduce the risk of childhood lead poisoning.

I
PRELIMINARY STATEMENT

1. AIMCO owns and manages multifamily properties throughout the United States.
2. EPA and HUD allege that AIMCO violated Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act, 42 U.S.C. §4852d, and Section 409 of the Toxic Substance Control Act (“TSCA”), 15 U.S.C. §2689, by failing to comply with the requirements of Title 40 of the Code of Federal Regulations (“C.F.R.”) Part 745, Subpart F, and 24 C.F.R. Part 35, Subpart A, as promulgated under the Act.
3. The Parties agree that settlement of this action without further litigation is in the best interest of the Parties and in the public interest.
4. The Parties consent to entry of this Consent Agreement and the proposed Final Order without a hearing on any issues.
5. AIMCO stipulates that EPA and HUD have jurisdiction over the subject matter of this Consent Agreement. AIMCO waives any defenses it might have as to jurisdiction.
6. AIMCO neither admits nor denies the factual allegations or conclusions of law contained in this Consent Agreement as set forth in Counts 1 - 6 in Section IV of this Consent Agreement.
7. AIMCO hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this Consent Agreement.
8. AIMCO consents to the assessment of the civil penalty contained herein.
9. AIMCO waives its right to appeal the proposed Final Order accompanying this Consent Agreement.
10. EPA and HUD initiate this proceeding against AIMCO for the assessment of a civil penalty of one-hundred twenty-nine thousand five-hundred eighty dollars (\$129,580) pursuant to Section 16 of TSCA, as amended, 15 U.S.C. §2615, and Section 1018(b)(1), 42 U.S.C. §4852d(b)(1), through this Consent Agreement.

II

DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in the text of this Consent Agreement have the same meaning as 42 U.S.C. §§4851*b*, Section 1018, 42 U.S.C. §§4852*d* and the regulations at 40 C.F.R. Part 745, Subpart F and 24 C.F.R. Part 35, Subpart A. Whenever the terms listed below are used in this Consent Agreement the following definitions apply:
- a. **“AIMCO”** means the Apartment Investment and Management Company and its affiliates identified on the AIMCO Affiliates List in Appendix 1 of this Consent Agreement. The AIMCO Affiliates List in Appendix 1 includes Casden Properties, Inc. (“Casden”), and its subsidiary National Partnership Investments Corporation (“NAPICO”). The inclusion of affiliates of Casden and NAPICO, who are owners of target housing, on the AIMCO Affiliates List in Appendix 1 is conditioned on AIMCO’s acquisition of Casden and NAPICO. See Paragraph 43 for further information regarding the acquisition of Casden and NAPICO as it relates to this Consent Agreement.
 - b. **“Appendix 1”** means the list of AIMCO Affiliates titled “Appendix 1: AIMCO Affiliates List” attached to this Consent Agreement.
 - c. **“Appendix 2”** means the Currently Owned or Managed Property List titled “Appendix 2: Currently Owned or Managed Property List” attached to this Consent Agreement.
 - d. **“Appendix 3”** means the Previously Owned or Managed Property List titled “Appendix 3: Previously Owned or Managed Property List” attached to this Consent Agreement.
 - e. **“Clearance examination”** means an activity conducted following lead-based paint hazard reduction activities pursuant to Chapter 15 of the HUD Guidelines, to determine that the activities are completed and that no soil-lead hazards or settled dust-lead hazards exist in the dwelling unit or worksite. The clearance process includes a visual

assessment and collection and analysis of environmental samples. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by the EPA TSCA section 403 regulations (Lead: Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1205-1240 (January 5, 2001)(to be codified at 40 C.F.R. Part 745)).

- f. **“Currently Owned or Managed Property List”** shall mean the list of target housing properties in Appendix 2. The Currently Owned or Managed Property List includes all target housing properties owned and/or managed by AIMCO on the date AIMCO signs this Consent Agreement. The target housing properties owned or managed by Casden and NAPICO are included in the Currently Owned or Managed Property List conditioned on AIMCO’s acquisition of Casden and NAPICO. See Paragraph 43 for further information regarding the acquisition of Casden and NAPICO as it relates to this Consent Agreement.
- g. **“Days”** shall mean calendar days, including Saturday, Sunday and holidays.
- h. **“Group 1”** shall mean all Subject Properties in the Currently Owned or Managed Property List (Appendix 2) that do not receive Project-Based HUD-Assistance or that receive Project-Based HUD-Assistance and whose owners have not requested HUD Assistance with the lead-based paint inspections.
- i. **“Group 2”** shall mean all Subject Properties in the Currently Owned or Managed Property List (Appendix 2) that receive Project-Based HUD Assistance whose owners have requested HUD assistance with the lead-based paint inspections.
- j . **“HUD Guidelines”** shall mean the edition of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (HUD-1539-LBP) in effect at the time the work required in Paragraphs 51 through 75 of this Consent Agreement is commenced, on a property by property basis. The specific chapters of the HUD Guidelines referenced in this Consent Agreement are those chapters in effect on the date AIMCO signs this Consent Agreement. Should the number of the appropriate

chapter change in future editions of the HUD Guidelines, prior to AIMCO commencing any work on a property by property basis, then the corresponding chapter to the chapter listed in this Consent Agreement should be substituted. If a revision of the HUD Guidelines results in a change in work practices, AIMCO shall comply with the revised HUD Guidelines. At any time, AIMCO shall employ work practices that are more stringent than those contained in the HUD Guidelines if state laws applicable in the jurisdiction where the work is being performed dictate so.

- k. **“Lead-Based Paint”** shall mean paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight. If housing subject to this Consent Agreement is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety standard, such as the 0.7 milligrams of lead per square centimeter standard in Los Angeles County, “Lead-Based Paint,” as used herein, shall mean paint or other surface coatings that meet the more stringent standard.
- l. **“Lead-Based Paint Free”** shall mean housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight. If housing subject to this Consent Agreement is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety standard, such as the 0.7 milligrams of lead per square centimeter standard in Los Angeles County, “Lead-Based Paint Free,” as used herein, shall mean housing that meets the more stringent standard.
- m. **“Lead-Based Paint Free Certification”** shall mean a certification provided by the Lead-Based Paint inspector that states:

The results of this inspection, using the inspection protocol in Chapter 7 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (1997 Revision), indicate that no lead in amounts greater than what is defined as lead-based paint by the more protective definition of either the jurisdiction where the property is

located or in amounts greater than or equal to 1.0 mg/cm² or 0.5 percent by weight. Therefore, this dwelling qualifies for the exemption in 40 CFR part 745 and 24 CFR part 35 for target housing being leased that is Lead-Based Paint Free.

- n. **“Lead-Based Paint Hazards”** shall be defined by the more stringent definition of either the jurisdiction where the property is located or the standards promulgated by EPA pursuant to Section 403 of TSCA, 15 U.S.C. §2601, *et seq.*, 40 C.F.R. §745.65.
- o. **“Lead-Based Paint Inspection Report”** shall mean the report prepared by the certified inspector pursuant to Chapter 7 of the HUD Guidelines at the conclusion of the Lead-Based Paint inspection of a Subject Property.
- p. **“Paragraph”** shall mean a portion of this Consent Agreement identified by an arabic numeral.
- q. **“Permanent”** shall mean an expected design life of at least 20 years.
- r. **“Previously Owned or Managed Property List”** shall mean all target housing properties listed in Appendix 3 of this Consent Agreement. The Previously Owned or Managed Property List includes all target housing properties sold by AIMCO during the period from January 1, 1996 through the date AIMCO signs this Consent Agreement and all target housing properties for which AIMCO stopped providing management services during the period from January 1, 1996 through the date AIMCO signs this Consent Agreement. By adding a target housing property to the Previously Owned or Managed Property List, AIMCO declares that it does not have any remaining or current ownership interest in the target housing property.
- s. **“Reduction”** shall mean measures designed to reduce or eliminate human exposure to Lead-Based Paint Hazards through interim controls, pursuant to Chapter 11 of the HUD Guidelines, or abatement, pursuant to Chapter 12 of the HUD Guidelines.
- t. **“Risk Assessment Report”** shall mean the report prepared by the risk assessor pursuant to Chapter 5 of the HUD Guidelines at the conclusion of the Risk Assessment of a Subject Property.

- u. **“Section 1018”** shall mean Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §4852d.
- v. **“Subject Property”** shall mean any target housing property listed in Appendix 2 (the “Currently Owned or Managed Property List”) of this Consent Agreement.
- w. **“Submit”** shall mean to dispatch via first class United States mail or other delivery service of demonstrated reliability and equivalent or better speed.
- x. **“Subparagraph”** shall mean a portion of a Paragraph of this Consent Agreement identified by a letter.
- y. **“Synopsis Lead-Based Paint Inspection Report”** shall mean a summary of the information contained in the lead-based inspection reports that is prepared by AIMCO. The Synopsis Lead Based Paint Inspection Reports shall: (i) include the name of each Subject Property inspected; (ii) include the address of each Subject Property; (iii) identify whether AIMCO or another entity is the owner of the Subject Property; (iv) state the number of units in the Subject Property; (v) identify all areas, including units and common areas, where Lead-Based Paint was identified.
- z. **“Synopsis Risk Assessment Report”** shall mean a summary of the information contained in the risk assessment reports that is prepared by AIMCO. The Synopsis Risk Assessment Report shall: (i) include the name of each Subject Property inspected; (ii) include the address of each Subject Property; (iii) identify whether AIMCO or another entity is the owner of the Subject Property; (iv) state the number of units in the Subject Property; (v) identify all areas, including units and common areas, where Lead-Based Paint Hazards were identified.
- aa. **“Target Housing”** shall mean properties built before 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 for the elderly or persons with disabilities) or any zero-bedroom dwelling as defined in 40 C.F.R. §745.103 and 24 C.F.R. §35.86.

III **APPLICABILITY**

12. The provisions of this Consent Agreement, including, but not limited to, paragraph 36, shall apply to and be binding upon EPA, HUD and AIMCO, as well as AIMCO's officers, employees, agents, successors and assigns, and shall apply to AIMCO's Subject Properties for the duration of this Consent Agreement. In the event that AIMCO proposes to sell or transfer any of the properties subject to this Consent Agreement, it shall give notice in writing to such proposed purchaser or successor-in-interest of the existence of this Consent Agreement and provide a copy of this Consent Agreement. AIMCO shall send a copy of such written notification by certified mail, return receipt requested, to EPA and HUD before such sale or transfer, if possible, but no later than the closing date of sale or transfer. AIMCO shall remain responsible for all work required by this Consent Agreement for all properties in the Currently Owned or Managed Property List until such work is complete, even if AIMCO transfers its ownership interest in a property after the date the AIMCO signs this Consent Agreement. Any transfer is to be conditioned upon the transferee agreeing to undertake the obligations required by this Consent Agreement. This provision does not relieve AIMCO from having to comply with any applicable federal, state or local regulatory requirement regarding notice and transfer of properties.
13. The properties and units covered by this Consent Agreement are limited to:
 - a. the Subject Properties in Groups 1 and 2 listed in the Currently Owned or Managed Property List (Appendix 2); and
 - b. the Subject Properties listed in the Previously Owned or Managed Property List (Appendix 3), although no work is required under this Consent Agreement on those properties.

IV
FINDINGS OF FACTS AND CONCLUSIONS OF LAW

14. AIMCO is a corporation formed under the laws of the State of Maryland. AIMCO does business in at least forty-seven (47) states and the District of Columbia.
15. AIMCO owns and/or manages more than 600 target housing properties with more than 110,000 dwelling units subject to Section 1018.
16. For settlement purposes only, it is assumed and the Parties stipulate that AIMCO failed to comply with six (6) different provisions of Section 1018, and the implementing regulations found at 40 C.F.R. Part 745 and 25 C.F.R. Part 35, when it leased nineteen (19) units located in one or more of the Subject Properties it owns or manages.

Count 1

17. AIMCO, as lessor, failed to provide an EPA-approved lead hazard information pamphlet to the lessees of nineteen (19) units in one or more of the Subject Properties it owned or managed prior to leasing the units.
18. Under 40 C.F.R. §745.107(a)(1) and 24 C.F.R. §35.88(a)(1), before a lessee is obligated under a contract to lease target housing, the lessor must provide the lessee with a lead hazard information pamphlet, created pursuant to Section 406(a) of TSCA, 15 U.S.C. §2686(a).
19. AIMCO's failure to provide lead hazard information pamphlets to the lessees as required by 40 C.F.R. §745.107(a)(1) and 24 C.F.R. §35.88(a)(1) constitutes nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

Count 2

20. AIMCO, as lessor, failed to include a lead warning statement as attachments to or within the contracts to lease for nineteen (19) units in one or more of the Subject Properties it owned or managed.
21. Under 40 C.F.R. §745.113(b)(1) and 24 C.F.R. §35.92(b)(1), the lessor must include a lead warning statement as an attachment to or within the contract to lease target housing.
22. AIMCO's failure to include lead warning statements as attachments to or within the contracts to lease as required by 40 C.F.R. §745.113(b)(1) and 24 C.F.R. §35.92(b)(1) constitutes

nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

Count 3

23. AIMCO, as lessor, failed to include statements disclosing the presence of Lead-Based Paint and/or Lead-Based Paint Hazards or indicating no knowledge of the presence of Lead-Based Paint and/or Lead-Based Paint Hazards as attachments to or within the contracts to lease nineteen (19) units in one or more of the Subject Properties it owned or managed.
24. Under 40 C.F.R. §745.113(b)(2) and 24 C.F.R. §35.92(b)(2), the lessor must include a statement disclosing the presence of known Lead-Based Paint and/or Lead-Based Paint Hazards or a statement indicating no knowledge of the presence of Lead-Based Paint and/or Lead-Based Paint Hazards as an attachment to or within the contract to lease target housing.
25. AIMCO's failure to include statements disclosing the presence of known Lead-Based Paint and/or Lead-Based Paint Hazards or indicating no knowledge of the presence of Lead-Based Paint and/or Lead-Based Paint Hazards as an attachment to or within the contracts to lease target housing as required by 40 C.F.R. §745.113(b)(2) and 24 C.F.R. §35.92(b)(2) constitutes nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

Count 4

26. AIMCO, as lessor, failed to include lists of any records or reports available to AIMCO that pertain to lead hazard information, or statements that such records and reports do not exist, as attachments to or within the contracts to lease nineteen (19) units in one or more of the Subject Properties AIMCO owned or managed.
27. Under 40 C.F.R. §745.113(b)(3) and 24 C.F.R. §35.92(b)(3) the lessor must include a list of any records or reports available to the lessor that pertain to lead hazard information or to indicate that no such list exists as an attachment to or within the contract to lease target housing.
28. AIMCO's failure to include lists of any records or reports available to AIMCO that pertain to lead hazard information or to indicate that no such lists exist as attachments to or within the contracts to lease as required by 40 C.F.R. §745.113(b)(3) and 24 C.F.R. §35.92(b)(3) constitutes nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

Count 5

29. AIMCO, as lessor, failed to include statements by the lessees affirming the receipt of a statement disclosing the presence of Lead-Based Paint and/or Lead-Based Paint Hazards and a list of any records or reports available to AIMCO pertaining to lead hazard information as attachments to or within the contracts to lease nineteen (19) units in one or more of the Subject Properties AIMCO owned or managed.
30. Under 40 C.F.R. §745.113 (b)(4) and 24 C.F.R. §35.92(b)(4), the lessor must include a statement by the lessee affirming receipt of a statement disclosing the presence of Lead-Based Paint and/or Lead-Based Paint Hazards and a list of any records or reports available to the lessor pertaining to lead hazard information as an attachment to or within the contract to lease target housing.
31. AIMCO's failure to include statements by the lessee affirming the receipt of a statement disclosing the presence of Lead-Based Paint and/or Lead-Based Paint Hazards and a list of any records or reports available to the lessor pertaining to lead hazard information as attachments or within the contracts to lease as required by 40 C.F.R. §745.113(b)(4) and 24 C.F.R. §35.92(b)(4) constitutes nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

Count 6

32. AIMCO, as lessor, failed to include the signatures of AIMCO, as lessor, its agents and the lessees certifying the accuracy of their statements, as well as the dates, as attachments to or within the contracts to lease nineteen (19) units in one or more of the Subject Properties AIMCO owned or managed.
33. Under 40 C.F.R. §745.113 (b)(6) and 24 C.F.R. §35.92(b)(6), the Lessor must include the signatures of the lessors, agents and lessees, certifying the accuracy of the statements, to the best of their knowledge, as an attachment to or within the contract to lease Target Housing.
34. AIMCO's failure to include the signatures of the lessors, agents and lessees, certifying the accuracy of the statements, to the best of their knowledge, as attachments to or within the

contracts to lease as required by 40 C.F.R. §745.113(b)(6) and 24 C.F.R. §35.92(b)(6) constitutes nineteen (19) violations of Section 409 of TSCA and Section 1018 of the Act.

V

TERMS OF SETTLEMENT

35. EPA and HUD conclude that AIMCO's past actions, as stipulated in the Findings of Facts and Conclusions of Law in Section IV above, constitute violations of the rules promulgated under Section 1018 and TSCA §409, 15 U.S.C. §2689, for which a penalty may be assessed pursuant to 42 U.S.C. §4852d (b)(1), 42 U.S.C. §3545, and TSCA Section 16, 15 U.S.C. §2615.
36. The payment of the civil penalty and the full performance of the acts required under this Consent Agreement resolve EPA and HUD's civil and administrative claims above against AIMCO for violations of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act, and the regulations promulgated thereunder, occurring prior to the date AIMCO signs this Consent Agreement with respect to the Subject Properties in Groups 1 and 2 listed on the Currently Owned or Managed Property List (Appendix 2) and the properties listed on the Previously Owned or Managed Property List (Appendix 3). The foregoing sentence does not apply to any similar violations at a property on the Currently Owned or Managed Property List or the Previously Owned or Managed Property List subject to any federal, state or local investigation commencing prior to April 7, 2000. EPA and HUD further agree that, with respect to any Subject Property owned by Casden and NAPICO that is acquired by AIMCO, and listed on the Currently Owned or Managed Property List (Appendix 2), which has its Section 1018 compliance resolved in accordance with this Consent Agreement, AIMCO will not be subject to any additional penalty, other than stipulated penalties for failure to comply with this agreement, for violations occurring prior to the date AIMCO acquires (either as owner or fee manager) the property.
37. The AIMCO Affiliates List (Appendix 1), the Currently Owned or Managed Property List (Appendix 2), and the Previously Owned or Managed Property List (Appendix 3) are

incorporated by reference into this Consent Agreement. AIMCO shall have 90 days to modify the AIMCO Affiliate List (Appendix 1), the Currently Owned or Managed Property List (Appendix 2), or the Previously Owned or Managed Property List (Appendix 3). AIMCO shall notify EPA and HUD in writing of its proposed modifications to any one of the three lists. EPA and HUD will make the final determination of whether to modify the lists. All written requests under this paragraph shall be made pursuant to Paragraph 92 of this Consent Agreement.

A. Civil Penalty

38. Section 16 of TSCA, 15 U.S.C. §2615 and Section 1018 of the Act, 42 U.S.C. §4852d (b)(1), the Civil Monetary Penalty Inflation Rule, 40 C.F.R. Part 19, and 24 C.F.R. §35.45, authorize the assessment of a civil penalty of up to \$11,000 for each violation of Section 1018. Based on the violations set forth in Section IV above and after consideration of: (i) nature of the violations, (ii) the circumstances surrounding the violations, (iii) the extent of the violations, (iv) the gravity of the violation, (v) AIMCO's ability to pay, (vi) the effect of the penalty on the AIMCO's ability to continue in business, (vii) AIMCO's history of prior such violations, and (viii) such other matters as justice may require, pursuant to Section 16 of TSCA and Section 1018 of the Act, EPA and HUD propose to assess a civil penalty in the amount of one-hundred twenty-nine thousand five-hundred eighty (\$129,580) dollars against AIMCO. This civil penalty is proposed in accordance with EPA's Lead-Based Paint Disclosure Rule Enforcement Response Policy dated February 2000 and *Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act* (AGuidelines@), 45 Fed. Reg. 59770 (September 10, 1980). The proposed penalty for each violation is assessed as follows:

<u>Count 1</u>	\$11,000
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Failure to provide lessee the EPA approved lead hazard information pamphlet pursuant to 40 CFR §745.107 (a)(1) and 24 C.F.R. §35.88(a)(1).

<u>Count 2</u>	\$8,800
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Failure to include as an attachment or within the contract to lease target housing, a lead warning

statement pursuant to 40 CFR §745.113 (b)(1) and 24 C.F.R. §35.92(b)(1).

Count 3 \$6,600

Failure to include as an attachment or within the contract to lease target housing, a statement by the lessor disclosing the presence of known Lead-Based Paint and/or Lead-Based Paint Hazards or indicating no knowledge of the presence of Lead-Based Paint and/or Lead-Based Paint Hazards pursuant to 40 CFR §745.113 (b)(2) and 24 C.F.R. §35.92(b)(2).

Count 4 \$2,200

Failure to include as an attachment or within the contract a list of any records or reports available to the lessor that pertain to lead hazard information or the failure to indicate that no such records or reports exists pursuant to 40 CFR §745.113 (b)(3) and 24 C.F.R. §35.92(b)(3).

Count 5 \$4,400

Failure to include in the contract for lease a statement by the lessee affirming receipt of the information required by 40 CFR §745.113 (b)(2) and (3) and 24 C.F.R. §33.92(b)(2) and (3), and the lead hazard pamphlet required under 40 CFR §745.107 (a)(1) and 24 C.F.R. §35.88(a)(1), as specified in 40 CFR §745.113(b)(4) and 24 C.F.R. §35.92(b)(4).

Count 6 \$1,100

Failure to include in the contract for lease signatures of the lessor, agent and lessee certifying to the accuracy of their statements, as well as dates, pursuant to 40 CFR §745.113 (b)(6) and 24 C.F.R. §35.92(b)(6).

Total Penalty per Unit: \$34,100

Multiplied by 19 Units: x 19

Total Penalty : \$647,900

Reduction of 30% for attitude -

Reduction of 50% for voluntary disclosure -

TOTAL CIVIL PENALTY **\$129,580**

39. AIMCO shall send a cashier's or certified check in the amount of one-hundred twenty-nine thousand five-hundred eighty (\$129,580) no later than thirty (30) calendar days following the date the Environmental Appeals Board ("EAB") signs the Final Order. Payment shall be made payable to the order of the *"Treasurer of the United States of America"* and mailed to:

U.S. Environmental Protection Agency
Headquarters Hearing Clerk
P.O. Lockbox 360277
Pittsburgh, PA 15251-6277

The check shall bear the case docket number TSCA HQ-2002-0003.

40. To ensure a record of compliance with this Consent Agreement, AIMCO shall send a copy of the check to EPA and HUD to the attention of:

Brian T. Dyer
Toxics and Pesticides Enforcement Division (2245A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460-0001

and

Matthew Ammon
U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 7th Street, SW
Room P-3206
Washington, D.C. 20410

B. Report of Lead Poisoned Children and Abatement Orders Received From Local Health Departments

41. AIMCO shall search its files pertaining to the Subject Properties in the Currently Owned or Managed Property List for any order to remediate a lead-based paint condition issued by the local health department or other state or local government unit in response to a confirmed instance of a lead poisoned child.
42. a. Within thirty (30) days of the date AIMCO signs this Consent Agreement, AIMCO shall provide EPA and HUD a list of the Subject Properties and their addresses, except

for Subject Properties currently owned by Casden or NAPICO, where AIMCO has received an order identified in Paragraph 41.

- b. Within thirty (30) days of the date AIMCO acquires Casden and NAPICO, AIMCO shall provide EPA and HUD a list of the Subject Properties currently owned by Casden and NAPICO, and their addresses where AIMCO has received an order identified in Paragraph 41.
- c. When submitting the lists required in subparagraphs a and b above, AIMCO shall include a written certification stating the following:

AIMCO certifies that it searched its files pertaining to the Subject Properties in the Currently Owned or Managed Property List for any order to remediate a lead-based paint condition issued by the local health department or other state or local government unit in response to a confirmed instance of a lead poisoned child, and the only Subject Properties that have received such an order are listed on the attached list.

- d. The written certification required in subparagraph c above shall be signed by an officer of AIMCO. AIMCO shall submit the list of Subject Properties and the written certification pursuant to Paragraph 92 of this Consent Agreement.

C. Acquisition of Casden Properties and National Partnership Investments Corporation

- 43. During its normal course of business, AIMCO states that it anticipates acquiring Casden Properties (“Casden”) and National Partnership Investments Corporation (“NAPICO”) by February 2002. The target housing properties currently owned by Casden and NAPICO that are acquired by AIMCO will be subject to the requirements of Paragraphs 46 through 75 of this Consent Agreement. The listing of Casden and NAPICO on the AIMCO Affiliates List (Appendix 1), and listing Casden and NAPICO currently owned target housing properties on the Currently Owned or Managed Property List (Appendix 2) is conditioned on AIMCO’s acquisition of Casden and NAPICO. AIMCO shall provide EPA and HUD written notice on the date that the acquisition of Casden and NAPICO becomes final. That notice shall be submitted pursuant to Paragraph 92 of this Consent Agreement. Should AIMCO not acquire Casden and NAPICO, Casden and NAPICO will not receive relief for violations of Section

1018 as described in Paragraph 36 of this Consent Agreement, and AIMCO will not be required to perform the work required in Paragraphs 47 through 71 of this Consent Agreement on the target housing properties currently owned by Casden and NAPICO listed on the Currently Owned or Managed Property List (Appendix 2). AIMCO, however, agrees to pay a stipulated penalty as stated in Paragraph 79 if it does not acquire Casden and NAPICO within one year of the date AIMCO signs this Consent Agreement. Finally, should AIMCO's proposed acquisition of Casden and NAPICO be canceled for any reason, AIMCO shall provide EPA and HUD written notice of such cancellation within thirty days of date the transaction is canceled.

D. Declaration of No Ownership Interest In Properties on Previously Owned or Managed Property List

44. AIMCO shall not have any current or remaining ownership interest in any property listed on the Previously Owned or Managed Property List.
45. On the date AIMCO signs this Consent Agreement, AIMCO shall provide EPA and HUD the following statement signed by an Officer of AIMCO:

“AIMCO, and its Affiliates, do not have any current or remaining ownership interest in any property on the Previously Owned or Managed Property List.”

E. Compliance with Section 1018

46. AIMCO shall comply with all provisions of Section 1018 and its implementing regulations.
47. To the extent not previously accomplished, no later than thirty (30) days after the date AIMCO signs this Consent Agreement, or with respect to Subject Properties currently owned by Casden and NAPICO no later than thirty (30) days after the date AIMCO acquires Casden and NAPICO, AIMCO shall provide to each tenant living in the Subject Properties in the Currently Owned or Managed Property List (Appendix 2), except for any Subject Property in the Currently Owned or Managed Property List that has been certified as Lead-Based Paint Free the following information:
 - a. A copy of the Lead Warning Statement;

b. A copy of EPA's Lead Hazard Information Pamphlet, entitled *Protect Your Family From Lead in Your Home* (EPA #747-K-94-001); and

c. A cover letter that contains the following paragraph:

AIMCO is conducting a review as to the presence of Lead-Based Paint in its properties. To the extent that any Lead-Based Paint exists in a particular property, AIMCO will reduce Lead-Based Paint Hazards as defined by the applicable federal regulations. As part of its review, AIMCO is providing the attached information on Lead-Based Paint and its effects on human health and the environment. If you have any questions regarding lead hazards, please call your local health department or 1-800-424-LEAD.

48. No later than sixty (60) days after the date AIMCO signs this Consent Agreement, or with respect to Subject Properties currently owned by Casden and NAPICO no later than sixty (60) days after the date AIMCO acquires Casden and NAPICO, AIMCO shall provide to each tenant living in the Subject Properties in the Currently Owned or Managed Property List, except for any Subject Property in the Currently Owned or Managed Property List that has been certified as Lead-Based Paint Free a statement regarding the knowledge about and reports regarding the presence of Lead-Based Paint or Lead-Based Paint Hazards in the unit.

49. Within eighty (80) days after the date the AIMCO signs this Consent Agreement, or with respect to Subject Properties currently owned by Casden and NAPICO no later than eighty (80) days after the date AIMCO acquires Casden and NAPICO, AIMCO shall provide written notice to EPA and HUD that it has complied with the requirements of Paragraphs 47 and 48 of this Consent Agreement. AIMCO shall submit the written notice pursuant to Paragraph 92 of this Consent Agreement.

F. Qualification Of Lead Inspectors and Lead Hazard Control Workers

50. AIMCO shall ensure that all work required by this Consent Agreement is executed by individuals authorized to perform such work in accordance with the state and federal laws applicable in the jurisdiction where the work is being performed. Clearance examinations shall

be performed by persons or entities independent of those performing hazard reduction or maintenance activities, unless the designated party uses qualified in-house employees to conduct clearance. The same in house employee shall not conduct both a hazard reduction or maintenance activity and clearance examination.

G. Work to be Performed On Group 1

51. AIMCO shall perform lead-based paint inspections on all Subject Properties in Group 1. AIMCO shall commence the lead-based paint inspections of all Subject Properties in Group 1, to the extent not already accomplished by the date AIMCO signs this Consent Agreement, no later than seventy-five (75) days after the date AIMCO sign this Consent Agreement, or with respect to Subject Properties in Group 1 currently owned by Casden and NAPICO no later than seventy-five (75) days after the date AIMCO acquires Casden and NAPICO. AIMCO shall complete the lead-based paint inspections of the Subject Properties in Group 1 no later than three-hundred thirty-five (335) days after the date AIMCO signs this Consent Agreement, or with respect to Subject Properties in Group 1 currently owned by Casden and NAPICO no later than three-hundred thirty-five (335) days after the date AIMCO acquires Casden and NAPICO.
52. AIMCO shall provide EPA and HUD two (2) Synopsis Lead-Based Paint Inspection Reports for the Subject Properties in Group 1. The first Synopsis Lead-Based Paint Inspection Report shall include all of the Subject Properties in Group 1 except for those Subject Properties in Group 1 currently owned by Casden and NAPICO. AIMCO shall provide EPA and HUD the first Synopsis Lead-Based Paint Inspection Report for the Subject Properties in Group 1 no later than three-hundred sixty-five (365) days after AIMCO signs this Consent Agreement. The second Synopsis Lead-Based Paint Inspection Report shall include all the Subject Properties in Group 1 currently owned by Casden and NAPICO. AIMCO shall provide EPA and HUD the second Synopsis Lead-Based Paint Inspection Report for the Subject Properties in Group 1 no later than three-hundred sixty-five (365) days after AIMCO acquires Casden and NAPICO. AIMCO shall submit the Synopsis Lead-Based Paint Reports pursuant to Paragraph 92 of this Consent Agreement.

53. EPA and HUD reserve the right to request a copy of the certified inspector's Lead-Based Paint Inspection Report for any Subject Property in Group 1. AIMCO shall provide EPA and HUD copies of the requested Lead-Based Paint Inspection Reports within fifteen (15) days of the date such a request is received. EPA and HUD shall request and AIMCO shall submit requested copies of the Lead-Based Paint Inspection Reports pursuant to Paragraph 92 of this Consent Agreement.
54. For each of the Subject Properties in Group 1 inspected prior to the date AIMCO signs this Consent Agreement that are certified lead-based paint free, AIMCO shall provide EPA and HUD a Lead-Based Paint Free Certification no later than forty-five (45) days following the date AIMCO signs this Consent Agreement. No later than three-hundred sixty-five (365) days following the date AIMCO signs this Consent Agreement, AIMCO shall submit Lead-Based Paint Free Certifications for all Subject Properties in Group 1 inspected following the date AIMCO signs this Consent Agreement that are certified lead-based paint free. No later than three-hundred sixty-five (365) days after AIMCO acquires Casden and NAPICO, AIMCO shall submit Lead-Based Paint Free Certifications for all Subject Properties in Group 1 currently owned by Casden and NAPICO that are certified lead-based paint free. AIMCO shall submit the certifications pursuant to Paragraph 92 of this Consent Agreement.
55. AIMCO shall perform a risk assessment to determine if Lead-Based Paint Hazards exist in each of the Subject Properties in Group 1 that are not certified Lead-Based Paint Free. The risk assessments shall be performed pursuant to the HUD Guidelines, Chapter 5, except that the sampling protocol set forth in the HUD Guidelines, Chapter 7, shall be followed.
56. AIMCO shall commence the risk assessments of Subject Properties in Group 1 no later than seventy-five (75) days after the date AIMCO signs this Consent Agreement or with respect to Subject Properties in Group 1 currently owned by Casden and NAPICO no later than seventy-five (75) days after the date AIMCO acquires Casden and NAPICO. AIMCO shall complete the risk assessments of Subject Properties in Group 1 no later than three-hundred ninety (390) days after AIMCO signs this Consent Agreement, or with respect to Subject Properties in Group 1 currently owned by Casden and NAPICO no later than three-hundred ninety (390)

days after the date AIMCO acquires Casden and NAPICO.

57. AIMCO shall provide EPA and HUD two Synopsis Risk Assessment Reports for the Subject Properties in Group 1. The first Synopsis Risk Assessment Report will include all Subject Properties in Group 1 except those Subject Properties currently owned by Casden or NAPICO. AIMCO shall provide EPA and HUD the first Synopsis Risk Assessment Report for the Subject Properties in Group 1 no later than four-hundred ten (410) days after AIMCO signs this Consent Agreement. The second Synopsis Risk Assessment Report shall include all the Subject Properties in Group 1 currently owned by Casden and NAPICO. AIMCO shall provide EPA and HUD the second Synopsis Risk Assessment Report for the Subject Properties in Group 1 no later than four-hundred ten (410) days after AIMCO acquires Casden and NAPICO. AIMCO shall submit the Synopsis Risk Assessment Reports pursuant to Paragraph 92 of this Consent Agreement.
58. EPA and HUD reserve the right to request a copy of the Risk Assessment Report for any Subject Property in Group 1. AIMCO shall provide EPA or HUD copies of the requested Risk Assessment Reports within fifteen (15) days of the date such a request is received. EPA or HUD shall request and AIMCO shall submit the requested copies of the Risk Assessment Reports in accordance with Paragraph 92 of this Consent Agreement.
59. For each of the Subject Properties in Group 1 included in the list provided to EPA and HUD pursuant to Paragraph 42 of this Consent Agreement, AIMCO shall eliminate, through abatement, pursuant to Chapter 12 of the HUD Guidelines, the Lead-Based Paint Hazards identified by the risk assessments. Except as provided within Subparagraph c, AIMCO shall perform the abatement work within sixty (60) days of the date AIMCO receives the Risk Assessment Report for the Subject Property unless the order to remediate or otherwise correct a lead-based paint condition requires a more restrictive time frame. At a minimum, the abatement work shall include measures to permanently eliminate all Lead-Based Paint Hazards pursuant to the HUD Guidelines, Chapter 12, excepted as stated in Subparagraph d., and shall include:
 - a. Conducting daily and final cleanups that consist of cleaning procedures in accordance

- with Chapter 14 of the HUD Guidelines;
 - b. Clearance examinations in accordance with Chapter 15 of the HUD Guidelines. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by the EPA TSCA section 403 regulations (Lead: Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1205-1240 (Jan. 5, 2001)(to be codified at 40 C.F.R. Part 745);
 - c. Covering any bare soil on the grounds of each Subject Property with a vegetative ground covering, mulch or other appropriate covering pursuant to Chapter 11 of the HUD Guidelines, within six (6) months from the date AIMCO receives the Risk Assessment Report; and
 - d. Resident protection measures in accordance with Chapter 8 of the HUD Guidelines.
60. For each of the Subject Properties in Group 1 that are not included in the list provided to EPA and HUD pursuant to Paragraph 42 of this Consent Agreement, AIMCO shall conduct lead-based paint hazard reduction on all Lead-Based Paint Hazards. At a minimum, performance of the work under this Paragraph shall include lead-based paint hazard reduction measures, and shall include:
- a. Conducting daily and final cleanups that consist of cleaning procedures in accordance with Chapter 14 of the HUD Guidelines;
 - b. Clearance examinations in accordance with Chapter 15 of the HUD Guidelines. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by the EPA TSCA section 403 regulations (Lead: Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1205-1240 (Jan. 5, 2001)(to be codified at 40 C.F.R. Part 745);
 - c. Covering any bare soil on the grounds of each Subject Property with a vegetative ground covering, mulch or other appropriate covering pursuant to Chapter 11 of the HUD Guidelines, within six (6) months from the date AIMCO receives the Risk Assessment Report; and
 - d. Resident protection measures in accordance with Chapter 8 of the HUD Guidelines.

61. The lead-based paint hazard reduction activities required by Paragraph 60 of this Consent Agreement must be conducted in the timeframes specified below:
- a. Bare soil on the grounds of each Subject Property shall be covered within six (6) months from the date AIMCO receives the Risk Assessment Report for the Subject Property;
 - b. Completion of the lead-based paint hazard reduction work in all common areas of the Subject Properties within sixty (60) days of the date AIMCO receives the Risk Assessment Report for the Subject Property;
 - c. Regardless of unit turnover, the work set forth in Paragraph 60 shall be completed for units in the Subject Properties in which a child under the age of six years or a pregnant woman, or a child under the age of six years is a who is expected to reside in the unit, as defined by 24 C.F.R. §35.110, within sixty (60) days of the date AIMCO receives the Risk Assessment Report for the Subject Property;
 - d. For units where there is a tenant turnover following the performance of a risk assessment, AIMCO shall complete the work set forth in Paragraph 60 before a new tenant occupies the unit; and
 - e. Regardless of the tenant turnover, AIMCO shall complete the work set forth in Paragraph 60 within two (2) years of the date AIMCO signs this Consent Agreement, or, with respect to Subject Properties in Group 1 currently owned by Casden and NAPICO, within two (2) years of the date AIMCO acquires Casden and NAPICO.

H. Work To Be Performed on Group 2

62. No later than thirty (30) days after AIMCO signs this Consent Agreement, or with respect to Subject Properties currently owned by Casden and NAPICO no later than thirty (30) days after the date AIMCO acquires Casden and NAPICO, AIMCO shall provide EPA and HUD a list of all the Subject Properties to be included in Group 2. The lists shall: (i) include the Subject Property name; (ii) include the address of the Subject Property; and (iii) state whether AIMCO is the owner of the Subject Property. AIMCO shall provide the lists pursuant to

Paragraph 92 of this Consent Agreement.

63. The lead-based paint inspections and the risk assessments for the Subject Properties in Group 2 shall be performed in accordance with the timeframes established by HUD.
64. AIMCO shall provide EPA and HUD a Synopsis Lead-Based Paint Inspection Report for the Subject Properties in Group 2. The Synopsis Lead-Based Paint Inspection Report shall include all of the Subject Properties in Group 2. AIMCO shall provide EPA and HUD the Synopsis Lead-Based Paint Inspection Report no later than thirty (30) days after AIMCO receives the Lead-Based Paint Inspection Report for the last Subject Property in Group 2 inspected by HUD. AIMCO shall submit the Synopsis Lead-Based Paint Inspection Report pursuant to Paragraph 92 of this Consent Agreement.
65. EPA and HUD reserve the right to request a copy of the certified Inspector's Lead-Based Paint Inspection Report for any of the Subject Properties in Group 2. AIMCO shall provide EPA or HUD copies of the requested Lead-Based Paint Inspection Reports within fifteen (15) days of the date such a request is received. EPA or HUD shall request and AIMCO shall submit requested copies of the Lead-Based Paint Inspection Reports pursuant to Paragraph 92 of this Consent Agreement.
66. No later than thirty (30) days following the date after AIMCO receives the Lead-Based Paint Inspection Report for the last Subject Property in Group 2 inspected by HUD, AIMCO shall provide EPA and HUD Lead-Based Paint Free Certifications for each Subject Property in Group 2 that is certified Lead-Based Paint Free. AIMCO shall submit such reports pursuant to Paragraph 92 of this Consent Agreement.
67. No later than thirty (30) days after AIMCO receives the Risk Assessment Report for the last Subject Property in Group 2 inspected by HUD, AIMCO shall provide EPA and HUD a Synopsis Risk Assessment Report for the Subject Properties in Group 2. The Synopsis Risk Assessment Report shall include all of the Subject Properties in Group 2. AIMCO shall submit the Synopsis Risk Assessment Report in accordance with Paragraph 92 of this Consent Agreement.
68. EPA and HUD reserve the right to request a copy of the Risk Assessment Report for any

Subject Property in Group 2. AIMCO shall provide EPA or HUD copies of the requested Risk Assessment Reports within fifteen (15) days of the date such a request is received. EPA or HUD shall request and AIMCO shall submit the requested Risk Assessment Reports in accordance with Paragraph 92 of this Consent Agreement.

69. For each Subject Property in Group 2 included in the list provided to EPA and HUD pursuant to Paragraph 42 of this Consent Agreement, AIMCO shall eliminate, through abatement, pursuant to Chapter 12 of the HUD Guidelines, the Lead-Based Paint Hazards identified by the risk assessments. Except as provided in Subparagraph c, AIMCO shall perform the abatement work within sixty (60) days of the date AIMCO receives the Risk Assessment Report for the Subject Property unless the order to remediate or otherwise correct a lead-based paint condition requires a more restrictive time frame. At a minimum, the abatement work shall include measures to permanently eliminate all Lead-Based Paint Hazards pursuant to the HUD Guidelines, Chapter 12, excepted as stated in Subparagraph d, and shall include:
- a. Conducting daily and final cleanups that consist of cleaning procedures in accordance with Chapter 14 of the HUD Guidelines:
 - b. Clearance examinations in accordance with Chapter 15 of the HUD Guidelines. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by the EPA TSCA section 403 regulations (Lead: Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1205-1240 (Jan. 5, 2001)(to be codified at 40 C.F.R. Part 745));;
 - c. Covering any bare soil on the grounds of each Subject Property with a vegetative ground covering, mulch or other appropriate covering pursuant to Chapter 11 of the HUD Guidelines, within six (6) months from the date AIMCO receives the Risk Assessment Report for that Subject Property; and
 - d. Resident protection measures in accordance with Chapter 8 of the HUD Guidelines.
70. For each of the Subject Properties in Group 2 that are not included in the list provided to EPA and HUD pursuant to Paragraph 42 of this Consent Agreement, AIMCO shall conduct lead-based paint hazard reduction on all Lead-Based Paint Hazards. At a minimum, performance of

the work under this Paragraph shall include lead-based paint hazard reduction measures and shall include:

- a. Conducting daily and final cleanups that consist of cleaning procedures in accordance with Chapter 14 of the HUD Guidelines;
- b. Clearance examinations in accordance with Chapter 15 of the HUD Guidelines. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by the EPA TSCA section 403 regulations (Lead: Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1205-1240 (Jan. 5, 2001))(to be codified at 40 C.F.R. Part 745);
- c. Covering any bare soil on the grounds of each Subject Property with a vegetative ground covering, mulch or other appropriate covering pursuant to Chapter 11 of the HUD Guidelines, within six (6) months from the date AIMCO receives the Risk Assessment Report for that Subject Property; and
- d. Resident protection measures in accordance with Chapter 8 of the HUD Guidelines.

71. The lead-based paint hazard reduction activities require by Paragraph 70 must be conducted in the timeframes specified below:

- a. Bare soil on the grounds of each Subject Property shall be covered within six (6) months from the date AIMCO received the Risk Assessment Report for the Subject Property;
- b. Completion of lead-based paint reduction work in all common areas of the Subject Properties within sixty (60) days of the AIMCO received the Risk Assessment Report for the Subject Property;
- c. Regardless of unit turnover, the work set forth in Paragraph 70 shall be completed for units in the Subject Properties in which a child under the age of six years or a pregnant woman, or a child under the age of six years who is expected to reside in the unit as defined in 24 C.F.R. §35.110 within sixty (60) days of the date AIMCO receives the Risk Assessment Report for the Subject Property;
- d. For units where there is a tenant turnover following the performance of a risk

assessment, AIMCO shall complete the work set forth in Paragraph 70 before a new tenant occupies the unit;

- e. Regardless of the tenant turnover, AIMCO shall complete the work set forth in Paragraph 70 for all Subject Properties in Group 2 within one (1) year from the date the AIMCO receives the Risk Assessment Report for the last Subject Property in Group 2 assessed by HUD.

I. General Requirements for Work to be Performed Under Sections G and H

- 72. AIMCO shall provide copies to HUD of the first ten (10) lead-based paint hazard abatement and hazard reduction plans prepared by each of the companies retained by AIMCO to perform lead-based paint hazard reduction. AIMCO shall provide the lead-based paint hazard reduction plans to HUD no later than ten (10) days after such plans are accepted by AIMCO. Each plan shall be prepared to ensure that lead-based paint hazard reduction activities are conducted in accordance with Chapter 11 of the HUD Guidelines or Chapter 12 of the HUD Guidelines as appropriate.
- 73. Following the completion of the lead-based paint hazard abatement and hazard reduction work described in the Sections G and H of this Consent Agreement, AIMCO shall perform ongoing maintenance and lead-safe work practices, conducted in accordance with Chapters 6 and 17 of the HUD Guidelines for all Subject Properties that are not certified Lead-Based Paint Free.
- 74. AIMCO has the sole responsibility for obtaining, at its own cost and expense, all local and state permits, licenses, or other forms of approval or authorization necessary to conduct the lead-based paint hazard reduction prior to the commencement of the lead-based paint hazard reduction.
- 75. Neither EPA, HUD nor their agents shall be liable for any injuries or damages to persons or property resulting from acts or omissions of AIMCO or any person in carrying out the lead-based paint hazard reduction work. EPA and HUD shall not be identified as parties to any contract entered into by AIMCO in carrying out the lead-based paint hazard reduction work. EPA and/or HUD shall not be held liable for any failure to act pursuant to any provision of this Consent Agreement. In the event that liability might be placed upon EPA and/or HUD,

AIMCO agrees to indemnify and hold harmless EPA and/or HUD from any and all causes of action due to any act or omission of AIMCO or any agent of AIMCO's in carrying out the lead-based paint hazard reduction work required by this Consent Agreement

J. Training for The Respondent's Property Managers and Employees

76. a. AIMCO shall develop and provide training to all of its property managers and employees performing maintenance, renovation, and other ongoing maintenance activities, using existing training programs such as The Lead-Based Paint Maintenance Training Program, "Work Smart, Work Wet, and Work Clean to Work Lead Safe," prepared by the National Environmental Training Association for EPA and HUD; "The Remodeler's and Renovator's Lead-Based Paint Training Program," prepared by HUD and the National Association of the Remodeling Industry; or another course approved by HUD for this purpose. All property managers and employees performing maintenance, renovation, and other ongoing maintenance activities shall be trained no later than two-hundred sixty (260) days after the date AIMCO signs this Consent Agreement. The training shall subsequently be provided to AIMCO's property managers and employees performing maintenance, renovation, and other ongoing maintenance activities at the time of hire and thereafter on a yearly basis.
- b. AIMCO shall also develop and provide training to all its property managers and leasing agents regarding the requirements of Section 1018. This training shall also include a general discussion of the hazards presented by Lead-Based Paint, the importance of the Section 1018 requirements, and the consequences of failing to follow through on all the requirements of Section 1018. All property managers and leasing agents shall be trained no later than two-hundred sixty (260) days after the date AIMCO signs this Consent Agreement. The training shall subsequently be provided to AIMCO's property managers and leasing agents at the time of hire and thereafter on a yearly basis.

K. Annual Reports

77. For all work performed under this Consent Agreement following the date AIMCO signs this Consent Agreement, AIMCO shall submit a written annual report to EPA and HUD within forty-five (45) days after the one (1) year anniversary of the date AIMCO signs this Consent Agreement and annually within forty-five (45) days after the anniversary of the date AIMCO signs this Consent Agreement until all Lead-Based Paint Hazards have been reduced, through abatement or interim controls, from all Subject Properties. Each annual report shall cover a one-year period starting on the anniversary of the date AIMCO signs this Consent Agreement. The annual report shall include, at a minimum, the following information and documentation for each Subject Property: (i) a description of the units inspected in accordance with Paragraphs 51 and 63 during that reporting period; (ii) a description of the units where a risk assessment was performed in accordance with Paragraphs 57 and 67; (iii) a description of the units where Lead-Based Paint Hazards were abated in accordance with Paragraphs 59 and 69; (iv) a description of the units where Lead-Based Paint Hazards were reduced in accordance with Paragraphs 60 and 70; (v) a description of the inspections, risk assessments and lead-based paint hazard reduction activities to be accomplished in accordance with Paragraphs 51, 57, 59, 60, 63, 67, 69, and 70 that are scheduled for the following reporting period; (vi) dust clearance reports for each Subject Property which was abated or where Lead-Based Paint Hazards were reduced during that reporting period; and (vii) itemized costs for all work performed as a requirement of this Consent Agreement.

M. Stipulated Penalties

78. If AIMCO fails to pay the civil penalty of one-hundred twenty-nine thousand five-hundred eighty dollars (\$129,580) within thirty (30) calendar days of the date the final order is executed by the EAB, AIMCO shall pay a stipulated penalty of one-thousand dollars (\$1,000) per calendar day.
79. If AIMCO does not demonstrate to EPA and HUD that it acquired Casden and NAPICO pursuant to Paragraph 43 of this Consent Agreement within one (1) year from the date AIMCO signs this Consent Agreement, AIMCO shall pay a stipulated penalty of twenty-thousand dollars (\$20,000).

80. If AIMCO fails to submit reports required under this Consent Agreement to EPA and HUD in accordance with the deadlines set forth in the Consent Agreement, AIMCO shall pay a stipulated penalty of five-hundred dollars (\$500) per calendar day for each day each report is late. The reports which AIMCO is required to submit under this Consent Agreement include:
- a) the list of Subject Properties where AIMCO has received any order to remediate a lead-based paint condition issued by the local health department or other state or local government unit in response to a confirmed instance of a lead poisoned child and the written certification, as required by Paragraph 42;
 - b) the notice that AIMCO acquired Casden and NAPICO or notice that the acquisition of Casden and NAPICO was canceled, as required by Paragraph 43;
 - c) certification that AIMCO provided notice under Section 1018 as required by Paragraph 49;
 - d) the lists of Subject Properties to be included in Group 2 as required by Paragraph 62;
 - e) the Synopsis Lead-Based Paint Inspection Reports for Groups 1 and 2 as required by Paragraphs 52 and 64;
 - f) the Lead-Based Paint Free Certifications for each Subject Property that was certified as Lead-Based Paint Free, as required by Paragraphs 54 and 66;
 - g) the Synopsis Risk Assessment Reports for Groups 1 and 2 as required by Paragraphs 59 and 67;
 - h) the lead-based paint hazard abatement and hazard reduction plans as required by Paragraphs 72; and
 - i) the annual reports as required by Paragraph 77.
81. If AIMCO fails to perform lead-based paint inspections as set forth in Paragraph 50 within the time period AIMCO agrees to pay a stipulated penalty of one-thousand (\$1,000) per Subject Property.
82. If AIMCO fails to perform risk assessments as set forth in Paragraphs 55 in the time periods set forth in Paragraphs 56, AIMCO agrees to pay a stipulated penalty of one-thousand (\$1,000) per Subject Property.
83. If AIMCO fails to perform any of the work required in Paragraphs 59, 60, 69, and 70, within

the time lines established and in the manner required by Paragraphs 59, 61, 69, and 71
AIMCO shall be required to:

- a. pay one-thousand five-hundred dollars (\$1,500) per month per unit (or per building if the work requirement pertains to Lead-Based Paint Hazards in the common area or lead-contaminated soil) where the work is not fully completed; and
 - b. abate the Lead-Based Paint in each unit (or building, if the work requirement pertains to common areas or lead-contaminated soil) that the work is not fully completed. The abatement work shall be performed pursuant to the steps required in Paragraph 59.
84. If AIMCO fails to provide Complainant with Lead-Based Inspection Reports or Risk Assessment Reports requested under Paragraphs 53, 59, 65, and 68 within the specified timeframes, AIMCO agrees to pay five-hundred (\$500) per calendar day for each day a requested report is late.
85. Stipulated penalties shall accrue regardless of whether the Complainant has notified AIMCO of violation of this Consent Agreement or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the first date of noncompliance and shall continue to accrue through the date of compliance. Nothing herein shall prevent the United States from seeking other relief that may be available for non-compliance. Each independent basis for a stipulated penalty accrues separately.
86. At Complainant's sole discretion, Complainant will excuse or mitigate a stipulated penalty if Complainant determines that the failure to comply with the triggering event occurred despite the exercise of good faith and due diligence by AIMCO. If stipulated penalties are due, Complainant will dispatch to AIMCO a demand letter via certified mail, return receipt requested, which specifies the stipulated penalty due and owed by AIMCO. Within fourteen (14) calendar days following AIMCO's receipt of such demand letter, AIMCO shall pay the stipulated penalty in the manner specified in the Paragraphs 39 and 40 of this Consent Agreement.
87. Failure to remit the civil penalty or any stipulated penalty provided herein may result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided for in 31

U.S.C. §3717, as in effect on the date the EAB signs the Final Order.

VI
OTHER MATTERS

88. This Consent Agreement and the proposed Final Order are not intended to, nor shall be construed to, operate in any way to resolve any criminal liability of AIMCO.
89. This Consent Agreement and the proposed Final Order do not resolve liability for any individual owner of a property or properties where AIMCO manages or managed that property on a fee basis.
90. Nothing in this Consent Agreement shall relieve AIMCO of the duty to comply with all applicable provisions of TSCA, Section 1018, and with other federal, state, and local laws and regulations.
91. This Consent Agreement shall bind the Parties in full effect upon the date the Final Order is signed by the EAB.
92. AIMCO shall forward a copy of all reports required under this Consent Agreement, to the following persons:

Brian T. Dyer
Toxics and Pesticides Enforcement Division (2245A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460-0001

and

Matthew Ammon
U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 7th Street, SW
Room P-3206
Washington, D.C. 20410

Complainant shall forward all notices or other communications under this Consent Agreement to the following person:

Joel F. Bonder
Executive Vice President
Legal and Regulatory Affairs

AIMCO
2000 S. Colorado Blvd, Tower 2, Suite 2-1000
Denver, Colorado 80222

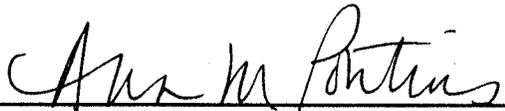
Each party may change the contact or the address by sending written notice to all parties at the addresses listed above.

93. AIMCO's obligations under this Consent Agreement shall terminate when it has performed all of the terms of the Consent Agreement. Termination of this Consent Agreement shall not relieve AIMCO from complying with any ongoing operations and maintenance activities in the Subject Properties in accordance with Chapters 6 and 17 of the HUD Guidelines, as required in Paragraph 89.
94. When signed by the EAB, the proposed Final Order shall have the same force and effect as defined in 40 C.F.R. §22.03.
95. The Parties agree to bear their own costs and attorney fees in this matter.
96. AIMCO shall not deduct the penalty paid under this Consent Agreement from its federal, state, or local income taxes.
97. This Consent Agreement constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied herein. The Parties acknowledge that there are no representations, agreements or understanding relating to the settlement other than those expressly contained in this Consent Agreement.
98. AIMCO shall preserve, during the pendency of this Consent Agreement and for a minimum of at twelve months after AIMCO's full satisfaction of the obligations of the Consent Agreement, all documents and records in its custody, control or possession and in the custody, control or possession of its employees, agents, assigns, contractors, subcontractors or consultants, which in any manner relate to this Consent Agreement or to the performance of work under this Consent Agreement. At the end of this twelve month period and at least thirty (30) calendar days before any document or record is destroyed, AIMCO shall notify and make available to Complainant pursuant to Paragraph 92, such documents and records, or shall provide the originals or accurate, true and complete copies of such documents and records to Complainant. AIMCO shall not destroy any document or record to which Complainant has requested access

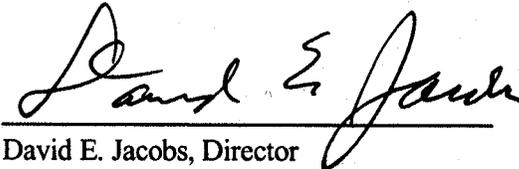
for inspection or copying until Complainant has obtained such access or copies or withdrawn its request for such access or copies. Notwithstanding the requirements of this Paragraph, AIMCO must also comply with the record retention requirements at 40 C.F.R. § 745.113(c) and 24 C.F.R §35.92(c) or any other requirement, as appropriate.

WE AGREE TO THIS:

FOR COMPLAINANTS:


Ann M. Pontius, Acting Director
Toxics and Pesticides Enforcement Division
Office of Regulatory Enforcement

Date: 12/19/01


David E. Jacobs, Director
Office of Health Homes
and Lead Hazard Control
Department of Housing and Urban
Development

Date: JAN - 2 2002

FOR RESPONDENT:


Joel F. Bonder
Executive Vice President
Legal and Regulatory Affairs

Date: Dec. 18, 2001

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD
WASHINGTON, D.C.

In the Matter of:)
)
)

Apartment Investment and)
Management Company,)
)

Respondent.)
)
)

Docket No. TSCA HQ-2002-0003

FINAL ORDER

Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, it is hereby ORDERED THAT:

1. Respondent shall comply with all of the terms of the Consent Agreement, incorporated herein by reference;
2. Respondent is assessed a civil penalty in the sum of \$129,580 and
3. Respondent shall, within thirty (30) calendar days of the execution of the Final Order, dispatch a cashier's or certified check payable to the order of the "Treasurer of the United States of America" in the amount of \$129,580. The check shall indicate that it is for "Docket No. TSCA HQ-2002-0003" and shall be mailed to:

U.S. Environmental Protection Agency
Headquarters Hearing Clerk
P.O. Lockbox 360277
Pittsburgh, PA 15251-6277

4. This order shall be in effect forthwith.

IT IS SO ORDERED.

Environmental Appeals Board

Date: January 15, 2002

By: Kathleen A. Stein

Environmental Appeals Judge
U.S. Environmental Protection Agency