UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 27, 2012

Eric C. Crews, President
Collegiate Entrepreneurs, Inc.
150 Wood Road, Suite 401
Braintree, MA 02184

Re: Administrative Complaint and Notice of Opportunity for Hearing under the Toxic Substances Control Act: In the Matter of: Collegiate Entrepreneurs, Inc., Docket No. TSCA-01-2012-0106

Dear Mr. Crews:

Enclosed please find an Administrative Complaint and Notice of Opportunity for Hearing issued to Collegiate Entrepreneurs, Inc. ("Collegiate") pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22.

The Complaint alleges numerous violations Sections 15, 402(c) and 406(b) of TSCA, 15 U.S.C. §§ 2614, 2682(c) and 2686(b), Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled the "Renovation Repair and Painting Rule" ("RRP Rule"), as set forth at 40 C.F.R. Part 745, Subpart E. The Complaint seeks civil penalties of up to $37,500 per violation and initiates a formal proceeding under the Consolidated Rules of Practice.

The allegations in the Complaint are based upon information collected during compliance inspections conducted by EPA and upon information Collegiate submitted to EPA in response to subpoenas.

You should refer to the Consolidated Rules of Practice to determine the options available to you in responding to this action. Please be advised that these options include an opportunity to request a hearing. Further, whether or not you choose to request a hearing, you may seek to initiate informal discussions with EPA representatives regarding this matter.

Please note that Collegiate is required to respond within thirty (30) days of receipt of this Complaint, in accordance with 40 C.F.R. § 22.15, by filing a written answer to the Complaint.

Failure to respond within this time limit will constitute an admission to the allegations contained within and may result in the issuance of a default order imposing a penalty without further proceedings. Also, please note that 40 C.F.R. § 22.8 prohibits the unilateral discussion of the merits of this case with the Regional Administrator or an Administrative Law Judge.

You should know that many Respondents perform Supplemental Environmental Projects ("SEPs") as part of their settlements with EPA. SEPs are environmentally beneficial projects that a Respondent agrees to undertake in settlement of an environmental enforcement action and that the Respondent is not otherwise legally required to perform. In return, EPA considers some percentage of the cost of the SEP as a factor in establishing the final penalty that the Respondent will pay. EPA has issued a SEP Policy to help Respondents and EPA staff determine: a) whether a proposed SEP is acceptable; and b) how much of the penalty should be mitigated if the Respondent performs the proposed SEP. A copy of that policy is enclosed.

If you wish to engage in informal discussions with EPA regarding this matter, or if you have any questions concerning the enclosed Complaint, please contact Steven Schlang, Enforcement Counsel, Office of Environmental Stewardship, at the address above or at (617) 918-1773. All communications from legal counsel should be directed to Mr. Schlang.

Sincerely,

Joanna Jerison
Enforcement Manager
Office of Environmental Stewardship

Enclosures
1) Administrative Complaint and Notice of Opportunity for Hearing
2) Consolidated Rules of Practice, 40 C.F.R. Part 22
3) *Consolidated Enforcement Response and Penalty Polity for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (August 2010)*
4) Small Business Information Sheet
5) Certificate of Service with Cover Letter to the Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

BY HAND

September 27, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In the Matter of: Collegiate Entrepreneurs, Inc., Docket No. TSCA-01-2012-0106

Dear Ms. Santiago:

Enclosed please find the original and one copy of the Administrative Complaint and Notice of Opportunity to Request a Hearing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jeffrey C. Norcross
Paralegal

Enclosures

cc: Eric C. Crews, President, Collegiate Entrepreneurs, Inc.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Collegiate Entrepreneurs, Inc. 150 Wood Road, Suite 401 Braintree, MA 02184 Respondent Proceeding under Section 16(a) of The Toxic Substances Control Act, 15 U.S.C. § 2615(a).	)	**Docket No. TSCA-01-2012-0106**

ADMINISTRATIVE COMPLAINT AND
NOTICE OF OPPORTUNITY FOR HEARING

I. STATEMENT OF AUTHORITY

1. This Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is issued pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, U.S. Environmental Protection Agency ("EPA"), Region 1. Respondent is Collegiate Entrepreneurs, Inc. ("Respondent").

II. NATURE OF THE ACTION

2. This Complaint alleges that Respondent performed renovations for compensation on 82 pre-1978 dwelling units. Of these 82 renovations, 75 took place between May and July 2009 and seven took place between April and July 2010.

3. Respondent is hereby notified of Complainant's determination that Respondent has violated Sections 15, 402(c) and 406(b) of TSCA, 15 U.S.C. §§ 2614, 2682(c) and 2686(b), Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled the "Renovation Repair and Painting Rule" ("RRP Rule"), as set forth at 40 C.F.R. Part 745, Subpart E. Complainant seeks civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA are subject to the assessment by Complainant of civil and/or criminal penalties.

III. STATUTORY AND REGULATORY BACKGROUND

4. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account during the renovation of homes and apartments. To carry out this purpose, the Act added a new title to TSCA entitled "Title IV-Lead Exposure Reduction," which currently includes Sections 401-411 of TSCA, 15 U.S.C. §§ 2681-2692.

5. In 1996, EPA promulgated regulations to implement Section 402(a) of TSCA, 15 U.S.C. § 2682(a). These regulations are set forth at 40 C.F.R. Part 745, Subpart L. In 1998, EPA

10. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of Section 15 or 409 of TSCA shall be liable to the United States for a civil penalty.

11. Section 16(a) of TSCA and 40 C.F.R. § 745.87(d) authorize the assessment of a civil penalty of up to $25,000 per day per violation of the RRP Rule. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occur on or after January 13, 2009, are subject to penalties up to $37,500 per day per violation. See 73 Fed. Reg. 75340 (December 11, 2008).

IV. APPLICABLE DEFINITIONS

12. Pursuant to 40 C.F.R. § 745.83, the term *"EPA pamphlet"* means the EPA pamphlets developed under Section 406(a) of TSCA for use in complying with 406(b) of TSCA and the RRP Rule. At all times relevant to the violations alleged herein, such pamphlets were entitled either *Protect Your Family From Lead in Your Home* or *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*. The term *"EPA pamphlet"* may also include 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 revision or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

13. Pursuant to 40 C.F.R. § 745.83, the term *"firm"* means 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.

14. Pursuant to 40 C.F.R. § 745.83, the term *"minor repair and maintenance activities"* means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities

or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by 40 C.F.R. § 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas.

15. Pursuant to 40 C.F.R. § 745.83, the term *"renovation"* means 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. § 745.223. The term renovation includes (but is not limited to): the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface restoration activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceiling, plumbing, windows); weatherization projects (e.g. cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping), and interim controls that disturb painted surfaces. The term renovation does not include minor repair and maintenance activities.

16. Pursuant to 40 C.F.R. § 745.83, the term *"renovator"* means 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.

17. Pursuant to 40 C.F.R. § 745.103 and Section 401(17) of TSCA, 15 U.S.C. § 2681(17), the term *"target housing"* means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

18. Pursuant to Section 401(14) of TSCA, 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term *"residential dwelling"* means either a single-family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

19. Pursuant to 40 C.F.R. § 745.103, the term *"owner"* means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

V. GENERAL ALLEGATIONS

20. Respondent is a Massachusetts corporation with its principal place of business located at 150 Wood Road, Suite 401, Braintree, MA.

21. Respondent is a "person" within the meaning of 40 C.F.R. § 745.83.

22. At all times relevant to this Complaint, Respondent was a "firm" within the meaning of 40 C.F.R. § 745.83.

23. Respondent is a company that provides interior and exterior house painting services in the New England region.

24. Respondent employs college students as "branch managers" who select a team of painters for each renovation project.

25. Respondent trains and provides assistance to branch managers.

26. Respondent contracts directly with owners for each renovation project and guarantees the work of student employees to customers.

27. In June 2006, EPA sent pre-renovation education ("PRE") information, which provided a detailed explanation of how firms must comply with PRE requirements, to numerous companies in New England providing renovation and painting services, including Respondent.

28. On September 24, 2009, an EPA inspector ("inspector") conducted a scheduled on-site inspection at Respondent's office to determine Respondent's compliance with the RRP Rule, which includes the requirement to distribute PRE information. The inspector met with Respondent's Comptroller, Christina Harrington.

29. Ms. Harrington told the inspector that she did not know that 40 C.F.R. § 745.84(a)(1) required Respondent to provide customers with PRE information in the form of an EPA pamphlet and to keep a copy of customer-signed PRE receipts.

30. Ms. Harrington stated that to her knowledge, Respondent's student employees did not provide EPA pamphlets to customers, but requested an extension to provide documentation. An extension was granted until October 22, 2009.

31. On October 22, 2009, the inspector returned to Respondent's office. Ms. Harrington did not provide any documentation of PRE compliance and requested another extension. In a signed statement, Ms. Harrington stated that Respondent would compile records for projects completed in New England from August 2007 to August 2009, and submit these records to EPA by November 23, 2009. The inspector provided Ms. Harrington with an EPA compliance assistance packet and explained the RRP requirements.

32. Respondent did not provide EPA with further information following Ms. Harrington's October 22, 2009 statement.

33. On March 30, 2010, EPA issued a subpoena to Respondent seeking documentation of compliance with the RRP Rule's PRE requirements for renovations of target housing properties in New England "from July 1, 2008 to present" ("March 2010 Subpoena").

34. On June 11, 2010, Respondent submitted a partial response to the March 2010 Subpoena, including a list of 75 renovation projects completed from May to July, 2009, on dwelling units constructed in Massachusetts prior to 1978. See Table 1. Respondent did not provide copies of documentation demonstrating compliance with PRE requirements, but stated that it was "collecting similar information for work conducted in other states and this information will be submitted to USEPA as soon as possible."

35. Respondent did not provide EPA with any further information in response to the March 2010 Subpoena.

36. On June 27, 2011, EPA issued a second subpoena to Respondent requesting information on painting projects completed at 11 dwelling units in New England ("July 2011 Subpoena").

37. On August 26, 2011, Respondent replied to the July 2011 Subpoena, identifying the following dwelling units as target housing that underwent renovation by Respondent during the summer of 2010, and providing partial records of each project's compliance with the RRP Rule:

1. 103 Doyle Avenue, Providence, RI 02906
2. 271 Newman Avenue, Rumford, RI 02916
3. 65 Ware Lane, Marblehead, MA 01945
4. 6 Rock Cliff Road, Marblehead, MA 01945
5. 9 Winthrop Street, Marblehead, MA 01945
6. 116 Central Street, Concord, MA 01742
7. 28 Clifton Avenue, Marblehead, MA 01945

38. At all times relevant to this Complaint, the 75 dwelling units referred to in Paragraph 34 above and the seven dwelling units referred to in Paragraph 37 above were target housing.

39. At all times relevant to this Complaint, the painting renovation projects were "renovations performed for compensation" subject to the RRP Rule pursuant to 40 C.F.R. § 745.82(a).

40. The renovations performed at the 82 dwelling units do not satisfy the requirements for an exemption to the provisions of TSCA or the RRP Rule.

41. Respondent was a certified firm pursuant to 40 C.F.R. § 745.89, as of April 1, 2010.

VI. VIOLATIONS

Count 1 - Failure to Provide Pre-renovation Education Information

42. Complainant incorporates by reference Paragraphs 1 through 41.

43. Pursuant to 40 C.F.R. § 745.84(a)(1), a firm must provide PRE information in the form of an EPA pamphlet to customers prior to performing renovations of target housing. Firms are also required to obtain receipts for the PRE information from customers and to keep a copy of the signed PRE forms for at least three years.

44. Respondent failed to distribute EPA pamphlets to customers prior to commencing renovations at 75 residential dwellings. These 75 renovations occurred between May and July 2009 (See attached Table 1).

45. Respondent's failure to distribute PRE information to customers at the renovation projects described in Paragraph 44 above constitutes 75 separate violations of 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA.

Count 2 – Failure to Retain Records Demonstrating that a Certified Renovator Provided On-the-Job Training for Workers Used on Renovation Projects

46. Complainant incorporates by reference Paragraphs 1 through 45.

47. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain all records necessary to demonstrate compliance with 40 C.F.R. § 745, Subpart E, for a period of three years following completion of the renovation. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovations must retain all records documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator provided on-the-job training for workers used on renovation projects.

48. At all times relevant to this Complaint, Respondent failed to retain records that a certified renovator provided on-the-job training for workers used on renovation projects conducted by Respondent at the following five residential dwellings: 103 Doyle Avenue, Providence, Rhode Island; 271 Newman Avenue, Rumford, Rhode Island; 65 Ware Lane, Marblehead, Massachusetts; 6 Rock Cliff Road, Marblehead, Massachusetts and 116 Central Street, Concord, Massachusetts.

49. Respondent's failure to retain records documenting that a certified renovator provided on-the-job training to workers used at each of the five renovation projects listed in Paragraph 48, constitutes five violations of 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

Count 3 – Failure to Retain Records Demonstrating that a Certified Renovator Performed Or Directed Workers To Perform Tasks Described at 40 C.F.R. § 745.85(a)

50. Complainant incorporates by reference Paragraphs 1 through 49.

51. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain all records necessary to demonstrate compliance with 40 C.F.R. § 745, Subpart E, for a period of three years

following completion of the renovation. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovation must retain all records documenting compliance with the work practice standards of 40 C.F.R. § 745.85, including documentation that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a), the regulation that delineates work practice standards for renovation activities.

52. At all times relevant to this Complaint, Respondent failed to retain records that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) at the following seven residential dwellings where Respondent conducted renovations: 103 Doyle Avenue, Providence, Rhode Island; 271 Newman Avenue, Rumford, Rhode Island; 65 Ware Lane, Marblehead, Massachusetts; 6 Rock Cliff Road, Marblehead, Massachusetts; 9 Winthrop Street, Marblehead, Massachusetts; 116 Central Street, Concord, Massachusetts and 28 Clifton Avenue, Marblehead, Massachusetts.

53. Respondent's failure to retain records documenting that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) at each of the seven renovation projects listed Paragraph 52, constitutes seven violations of 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

Count 4 – <u>Failure to Retain Records Demonstrating That a Certified Renovator Performed Post-Renovation Cleaning Verification Described In 40 C.F.R. § 745.85(b)</u>

54. Complainant incorporates by reference Paragraphs 1 through 53.

55. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain 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. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovation must retain all records documenting compliance with the work practice

standards promulgated in 40 C.F.R. § 745.85, including documentation that a certified renovator complied with the standards for post-renovation cleaning verification, described in 40 C.F.R. § 745.85(b).

56. At all times relevant to this Complaint, Respondent failed to retain records that a certified renovator performed post-renovation cleaning verification described in 40 C.F.R. § 745.85(b) at the following seven dwelling units where Respondent conducted renovations: 103 Doyle Avenue, Providence, Rhode Island; 271 Newman Avenue, Rumford, Rhode Island; 65 Ware Lane, Marblehead, Massachusetts; 6 Rock Cliff Road, Marblehead, Massachusetts; 9 Winthrop Street, Marblehead, Massachusetts; 116 Central Street, Concord, Massachusetts and 28 Clifton Avenue, Marblehead, Massachusetts.

57. Respondent's failure to retain records documenting that a certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b) at each of the seven renovation projects listed in Paragraph 56, constitutes seven violations of 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

Count 5 – <u>Failure to Retain a Certification By A Certified Renovator</u>

58. Complainant incorporates by reference Paragraphs 1 through 57.

59. Pursuant to 40 C.F.R. § 745.86(a), firms performing renovations must retain 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. Pursuant to 40 C.F.R. § 745.86(b)(6), firms performing renovations must retain all records documenting compliance with the work practice standards promulgated in 40 C.F.R. § 745.85, including but not limited to a certification by the certified renovator assigned to the project that: (i) training was provided workers; (ii) warning signs were posted at entrances to work areas; (iii) if lead test kits were used, that the specified

brand of kits was used at the specified locations and that the test results were as specified; (iv) if paint chip samples were collected, that the samples were collected at the specified locations, that the specified NNLAP-recognized laboratory analyzed the samples, and that the samples were as specified; (v) work areas were appropriately contained; (vi) waste was contained on-site and while being transported off-site; (vii) work areas were appropriately cleaned after the renovation; and (viii) the certified renovator performed the appropriate post-renovation cleaning verifications.

60. Respondent failed to retain a certification by the certified renovator that the work practices specified in subparagraphs (i) through (viii) of Paragraph 59 were conducted in compliance with 40 C.F.R. § 745.85 at the following seven residential units where Respondent conducted renovations: 103 Doyle Avenue, Providence, Rhode Island; 271 Newman Avenue, Rumford, Rhode Island; 65 Ware Lane, Marblehead, Massachusetts; 6 Rock Cliff Road, Marblehead, Massachusetts; 9 Winthrop Street, Marblehead, Massachusetts; 116 Central Street, Concord, Massachusetts and 28 Clifton Avenue, Marblehead, Massachusetts.

61. Respondent's failure to retain a certified renovator's certification that work practices were conducted in compliance with 40 C.F.R. § 745.85 at each of the seven renovation projects listed in Paragraph 60, constitutes seven violations of 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689

VII. PROPOSED PENALTY

62. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires that Complainant consider the nature, circumstances, extent and gravity of the violations and, with respect to Respondent, its ability to pay, the effect of the proposed penalty on the ability to

continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

63. To assess a penalty for the alleged violations in this Amended Complaint, Complainant will take into account the particular facts and circumstances of this case with specific reference to EPA's August 2010 Interim Final Policy entitled, *Consolidated Enforcement Response and Penalty Polity for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (the "LBP Consolidated ERPP"). The LBP Consolidated ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

64. **Ability to Pay**: Any proposed penalty in this matter will be developed based upon the best information available to Complainant. However, any such penalty may also be adjusted if Respondent is able to establish a bona fide claim of its ability to pay a penalty by providing Complainant with adequate financial documentation of its claim.

65. By this Complaint, Complainant seeks to assess civil penalties against Respondent of up to $37,500 per day per violation for each violation of the RRP Rule alleged herein, as discussed further below:

Count 1 – Failure to Provide Pre-renovation Education Information

66. EPA alleges that Respondent violated 40 C.F.R. § 745.84(a)(1) (formerly 40 C.F.R. 745.85(a)(1)) and Section 409 of TSCA on 75 separate occasions when it failed to provide the PRE pamphlet to owners or occupants of target housing at 75 renovations.

67. The RRP Rule requirements are designed to prevent exposure to lead during renovations. Failure to provide an owner or occupant with an EPA-approved lead hazard information pamphlet pursuant to 40 C.F.R. § 745.84(a)(1) results in a high probability of impairing the

owner's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to renovating the target housing in question.

Count 2 – Failure to Retain Records Demonstrating that a Certified Renovator Provided On-the-Job Training for Workers Used on Renovation Projects

68. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on five (5) separate occasions when it failed to retain records that a certified renovator provided on-the-job training for workers used on renovation projects.

69. Failure to retain records that a certified renovator provided on-the-job training for workers used on renovation projects impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with the work practice standards of 40 C.F.R § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

Count 3 – Failure to Retain Records Demonstrating that a Certified Renovator Performed Or Directed Workers To Perform Tasks Described at 40 C.F.R. § 745.85(a)

70. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on seven (7) separate occasions when it failed to retain records that a certified renovator performed or directed workers to perform tasks described in 40 C.F.R. § 745.85(a).

71. Failure to maintain records that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a) impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with

the work practice standards of 40 C.F.R § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

Count 4 – Failure to Retain Records Demonstrating That a Certified Renovator Performed Post-Renovation Cleaning Verification Described In 40 C.F.R. § 745.85(b)

72. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on seven (7) separate occasions when it failed to retain records that a certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b).

73. Failure to retain records that a certified renovator performed post-renovation cleaning verifications described in 40 C.F.R. § 745.85(b) impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with the work practice standards of 40 C.F.R § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

Count 5 – Failure to Retain a Certification By A Certified Renovator

74. EPA alleges that Respondent violated 40 C.F.R. §§ 745.86(a) and (b)(6) and Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, on seven (7) separate occasions when it failed to retain a certification by the certified renovator that the work practices specified in subparagraphs (i) through (viii) of Paragraph 59 were conducted in compliance with 40 C.F.R. § 745.85.

75. Failure to retain a certification by the certified renovator that the work practices specified in subparagraphs (i) through (viii) of Paragraph 59 were conducted in compliance with 40 C.F.R. § 745.85 impedes EPA's ability to assess compliance with the RRP Rule and presents an increased risk that a renovation firm will fail to comply with the work practice standards of 40

C.F.R § 745.85. The RRP Rule requirements are designed to limit exposure to lead during renovations and the work practice requirements are important to ensure that firms are protecting children and other residents while renovations are ongoing.

VIII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

76. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22. Any request for a hearing must be included in Respondent's written Answer to this Complaint ("Answer") and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

77. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

78. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Wanda A. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

79. Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Steven Schlang, the attorney assigned to represent Complainant in this matter, and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Steven Schlang
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: OES04-4
Boston, Massachusetts 02109-3912

80. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

IX. SETTLEMENT CONFERENCE

81. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or her designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the

allegations, and to provide whatever additional information may be relevant to the disposition of this matter. To explore the possibility of settlement, Respondent or Respondent's counsel should contact Steven Schlang, Enforcement Counsel, at the address cited above or by calling 617-918-1773. Please note that a request for an informal settlement conference by Respondent does not automatically extend the 30-day time period within which a written Answer must be submitted in order to avoid becoming subject to default.

Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

8/27/12
Date

TABLE 1
Renovations Completed by Respondent between May and July 2009

Address
111 Sherman Street, Belmont, MA
135 Grampian Way, Dorchester, MA
60 Moraine Street, Jamaica Plain, MA
4 Greenough Avenue, Jamaica Plain, MA
105 Gulliver Street, Milton, MA
60 Fairbanks Road, Milton, MA
80 Standish Road, Watertown, MA
59 Moraine Street, Jamaica Plain, MA
66 Holly Road, Marion, MA
226 Devonshire Drive, Cheshire, MA
135 Watson Road, Belmont, MA
56 Wendell Park, Milton, MA
198 Edgewood Avenue, Longmeadow, MA
29 Decorie Drive, Wilbraham, MA
34 Decorie, Wilbraham, MA
109 Concord Road, Sudbury, MA
46 Filmore, Plymouth, MA
32 Robbins Road, Watertown, MA
128 Dakin Road, Sudbury, MA
43 Fort Street, Fairhaven, MA
30 Cedar Creek Lane, Sudbury, MA
1322 Quincy Shore Drive, Quincy, MA
91 Dickens Street , Quincy, MA
36 Maplewood Terrace, Springfield, MA
435 Washington Street, Norwood, MA
11 Checkerberry Circle, Sudbury, MA
108 Cedar Hill Road, Northborough, MA
452 Dutton Road, Sudbury, MA
14 Great Meadow Road, Newton, MA
877 Chestnut Street, Newton, MA
41 Rice Road, Quincy, MA
23 Water Street, Arlington, MA
11 Northern Avenue, Beverly, MA
212 Lexington Avenue, Cambridge, MA
4 Maplewood Road, Wilbraham, MA
5 Field Road, Gloucester, MA
27 Porter Terrace, Beverly, MA
217 Massapoag Avenue, North Easton, MA
96 Liberty Street, Danvers, MA
3 Peach Tree Lane, Danvers, MA
6 Robinhood Road, Natick, MA
1 Wampatuck Road, Quincy, MA

29 Moffit/Moffat Road, Quincy, MA
703 Oak Street, Franklin, MA
56 Old Lane, Springfield, MA
91 Standish Road, Watertown, MA
44 Beaverdam Road, Natick, MA
36 Pleasant Street, Marion, MA
97 Standish Road, Watertown, MA
26 Lawndale Road, Milton, MA
37 Cummings Road, Newton, MA
22 Harriett Road, Gloucester, MA
10 Glenn Drive, Franklin, MA
168 Lexington Avenue, Cambridge, MA
5 Cedar Oak Drive, Wilbraham, MA
46 Whittemore Road, Sturbridge, MA
91 Standish Road, Watertown, MA
98 Garland Road, Newton, MA
69 Myrick Lane, Harvard, MA
82-84 Paul Gore Street, Jamaica Plain, MA
17 Stearns Street, Newton, MA
9 Chequesett Road, Reading, MA
184 Forest Street, South Hamilton, MA
10 Captain Forbush Lane, Acton, MA
6 Captain Forbush Lane, Acton, MA
11 Puritan Road, Beverly,MA
10 Harlow Street, Foxboro, MA
175 Conant Street, Concord, MA
131 Laurel Street, Melrose, MA
281 Concord Road, Wayland, MA
17 Eliot Road, Belmont, MA
45 Elm Street, Milton, MA
107 Sears Road, Wayland, MA
21 Adams Lane, Wayland, MA
48 Draper Road, Wayland, MA

In the Matter of Collegiate Entrepreneurs, Inc.
TSCA-01-2012-0106

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for Hearing has been sent to the following persons on the date noted below:

Original and one copy,
by hand delivery:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA-Region 1
5 Post Office Square, Suite 100
(ORA18-1)
Boston, MA 02109

Copy, by Certified Mail,
Return Receipt Requested:

Eric C. Crews
President
Collegiate Entrepreneurs, Inc.
150 Wood Road, Suite 401
Braintree, MA 02184

9/27/12
Date

Steven Schlang
Enforcement Counsel
U.S. EPA-Region 1
5 Post Office Square, Suite 100
(OES04-4)
Boston, MA 02109
Tel: (617) 918-1773
Fax: (617) 918-0773
Schlang.Steven@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

FOIA-EXEMPT/ENFORCEMENT SENSITIVE/CONFIDENTIAL

MEMORANDUM

DATE: September 25, 2012

SUBJ: Proposed TSCA/Lead Administrative Complaint Against Collegiate Entrepreneurs, Inc.

FROM: Alexander Aman, OES/Toxics and Pesticides Unit
Steven Schlang, OES/Regulatory Legal Unit

THRU: Sharon Hayes, Manager, OES/Toxics and Pesticides Unit
Andrea Simpson, SEC, OES/Regulatory Legal Unit

TO: Joanna Jerison, Legal Enforcement Manager, OES

I. Type and Location of Facility

Respondent, Collegiate Entrepreneurs, Inc., ("Collegiate") is a Massachusetts corporation, with an office at 150 Wood Road, Suite 401, Braintree, Massachusetts. Respondent specializes in residential painting projects throughout New England and its estimated annual sales equal $1,500,000. Eric Crews is the President of the firm.

II. Nature and Environmental Significance of Violations

On September 24, 2009, EPA conducted a scheduled on-site compliance inspection ("Inspection") at Collegiate's office to determine Collegiate's compliance with the Renovation, Repair and Painting Rule (the "RRP Rule"), set forth at 40 C.F.R. Part 745, Subpart E. Christina Harrington, who represented herself as Collegiate's "Controller," was present during the Inspection.

During the inspection, Ms. Harrington told EPA that she did not know about the RRP Rule requirement, under 40 C.F.R. § 745.84(a)(1), to provide customers with pre-renovation education ("PRE") information in the form of an EPA pamphlet and to keep a copy of customer-signed PRE receipts. Ms. Harrington stated that she did not believe Respondent's student employees provided EPA Pamphlets to customers, but requested an extension to provide documentation. An extension was granted until October 22, 2009.

On October 22, 2009, the inspector returned to Collegiate's office, where Ms. Harrington failed to produce the documents and requested another extension. Ms. Harrington then signed a statement in which she agreed to compile records for projects completed in New

England from August 2007 to August 2009, and to submit these records to EPA by November 23, 2009. The inspector provided Ms. Harrington with an EPA compliance assistance packet and an explanation of requirements. EPA did not receive further documentation from Collegiate.

On March 30, 2010, EPA issued a subpoena to Collegiate for documentation of compliance with the RRP Rule's PRE requirements for renovations of target housing properties in New England "from July 1, 2008 to present." On June 11, 2010, Collegiate submitted a partial response to EPA's request, including a list of 75 renovation projects completed from July 1, 2008 to December 31, 2009 on dwelling units constructed in Massachusetts prior to 1978. Collegiate failed to provide copies of documentation demonstrating compliance with PRE requirements, but stated that it was "collecting similar information for work conducted in other states and this information will be submitted to USEPA as soon as possible." EPA did not receive further documentation from Collegiate.

From January 23, 2011 to March 18, 2011, EPA Region 1 received 10 RRP tips/complaints from members of the public regarding Collegiate. These tips alleged multiple RRP Rule work practice violations by Collegiate. In response to these tips, on June 27, 2011, EPA issued a subpoena to Collegiate for information on projects completed at affected dwelling units in New England. On August 26, 2011, Collegiate replied to EPA's subpoena, identifying seven dwelling units as target housing renovated by Collegiate, and providing partial records of each project's compliance with the RRP Rule. Subsequent to Collegiate's reply, an inspector spoke to owners of the affected properties and two owners alleged that the signatures on the PRE receipts were not theirs.

Based upon information obtained during the Inspection and partial information received in response to subpoenas, EPA determined that Collegiate failed to distribute PRE information prior to undertaking 75 renovation projects in pre-1978 residences and also failed to have the customers sign the PRE form to acknowledge its receipt, in violation of Section 409 of TSCA, 15 U.S.C. § 2689 and 40 C.F.R. §745.84(a)(1). Under the regulation, the contractor is required to keep and maintain a copy of the signed PRE form for at least three years.

EPA also determined, based upon partial information received in response to subpoenas, that Collegiate violated record-keeping requirements found at 40 C.F.R. § 745.86 at seven residential properties (including two of the properties referenced in the above paragraph). These regulations require contractors to document compliance with the RRP rule and to provide access to those records. Collegiate violated these requirements at the seven residential units by: failing to retain records that a certified renovator provided on-the-job training for workers used on renovation projects; failing to retain records that a certified renovator performed or directed workers to perform tasks described by 40 C.F.R. § 745.85(a); failing to retain records that a certified renovator performed post-renovation cleaning verification described in 40 C.F.R. § 745.85(b); and failing to retain a copy of the certified renovator's certification that the work practices specified in

subparagraphs (i) through (viii) of 40 C.F.R. § 745.86(b)(6)[1] were conducted in compliance with 40 C.F.R. § 745.85 at seven residential units. The failure to maintain these records violate Sections 15 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689.

The intent of the RRP Rule is to help prevent exposure to lead-based paint and/or lead-based paint hazards by requiring that: individuals performing renovations at pre-1978 housing are properly trained; individual renovators and firms performing renovations are certified; and safe work practices are followed for renovations. The United States Congress has found that low-level lead poisoning is widespread among American children and affects hundreds of thousands of children. Lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity and behavior problems.

This enforcement action is expected to increase awareness of the RRP Rule requirements among the public and regulated community.

III. Type of Action

The case team proposes to issue an administrative complaint to Collegiate. The complaint will not plead a specific penalty amount. Instead, it will cite the TSCA statutory maximum of up to $37,500 per violation per day for the alleged violations. (The initial proposed penalty calculation in this matter is $863,100. The complaint alleges 101 total violations of the RRP Rule consisting of 75 PRE violations and 26 record-keeping violations of TSCA and 40 C.F.R. Part 745. Included in this proposed penalty is a 25% culpability adjustment because at all times relevant to the allegations in the Complaint, Collegiate knew or should have known that it was violating RRP Rule requirements.)

IV. Significant Issues

1. This complaint is the third issued by the Region for RRP Rule violations;

2. This case is considered a Nationally Significant Issue (NSI) because the proposed penalty is over $500,000 and because all RRP cases are considered NSI;

[1] Pursuant to these sub-paragraphs, certified renovators must provide certifications that: (i) Respondent provided RRP training to workers; (ii) Respondent posted warning signs at entrances to work areas; (iii) if lead test kits were used, that Respondent used the specified brand of kits at the specified locations and that the test results were as specified; (iv) if paint chip samples were collected, that Respondent collected the samples at the specified locations, that the specified NNLAP-recognized laboratory analyzed the samples, and that the samples were as specified; (v) Respondent appropriately contained work areas; (vi) Respondent contained on-site waste and waste being transported off-site; (vii) work areas were appropriately cleaned by Respondent after the renovation; and (viii) the certified renovator performed the appropriate post-renovation cleaning verifications.

3. The violations and factual circumstances identified in this case do not qualify for the Lead Based Paint Expedited Settlement Agreement Pilot dated May 10, 2012 due to the presence of children under 18;

4. Collegiate, with estimated annual sales of $1,500,000, does not qualify for the Micro-Business Pilot as described in EPA's Pilot RRP Penalty Program for Micro-Businesses, issued on May 3, 2012;and,

5. Six of the residential dwellings where the violations occurred are located in potential environmental justice areas (according to the R1 EJ Mapping Tool).

    1. 13 Mott St, Worcester, MA 01604 (low-income and minority)
    2. 82-84 Paul Gore Street, Jamaica Pain, MA (on minority line)
    3. 36 Maplewood Terrace, Springfield, MA 01108 (low-income and minority)
    4. 37 Brookline Ave, Holyoke, MA 01040 (on low-income and minority line)
    5. 1821 River St, Hyde Park, MA 02136 (minority)
    6. 103 Doyle Ave, Providence, RI 02906 (low-income and minority)

V. Contacts with the Facility

June 2006: EPA provided Collegiate with PRE compliance information, after identifying it as a large renovation/painting company in the Region.
September 24, 2009: EPAinspector conducted a scheduled on-site Inspection
October 22, 2009: EPA inspector issued a TSCA Notice of Inspection (NOI) and the TSCA Confidentiality Notice to Collegiate
March 30, 2010: EPA issued a subpoena to Collegiate requesting documentation of compliance with the RRP Rule's PRE requirements for renovations of target housing properties in New England "from July 1, 2008 to present."
June 11, 2010: Collegiate submitted a partial response to subpoena, including a list of 172 renovation projects completed from July 1, 2008 to December 31, 2009 on dwelling units constructed in Massachusetts prior to 1978.
January 23, 2011 to March 18, 2011: EPA received 10 RRP complaints regarding Collegiate.
June 27, 2011: EPA issued a subpoena to Collegiate requesting information on projects completed at affected dwelling units in New England
August 4, 2011: Collegiate partially replied to EPA's subpoena
August 8, 2011: EPA received an anonymous RRP complaint
August 9, 2011: EPA attempted to conduct a compliance inspection, but Collegiate employees prevented the inspectors from completing the inspection
August 16, 2011: EPA amended the June 27, 2011 subpoena, requesting supplemental information in response to complaints
August 26, 2011: Collegiate amended partial subpoena response dated August 4, 2011

VI. External Interest and/or Contacts

This proposed action was initiated following a scheduled PRE Rule compliance inspection and subsequent complaints submitted to Region 1 from citizens. There has been no other known media, legislative, public, or other external interest in this action to date.

VII. EPA Staff Contacts

Alexander Aman, OES/Toxics and Pesticides Unit, 8-1722
Hugh Pilgrim, OES/Toxics and Pesticides Unit, 8-1843
Steven Schlang, OES/Regulatory Legal Unit, 8-1773