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

RRP Settlement Agreement
Issued under Section 16 of TSCA, 15 U.S.C. § 2615 and 40 C.F.R. § 22.13(b) and 22.18(b)
Docket Number TSCA-01-2012-0086

The U.S. Environmental Protection Agency ("EPA") finds that Respondent, Mark A. DiMinico, doing business as Exterior Images, of 45 North High Street, Derry, New Hampshire 03038, failed to comply with the "Renovation, Repair and Painting" ("RRP") Rule, set forth at 40 C.F.R. Part 745, Subpart E, promulgated under Section 402(c) and 406(b) of the Toxic Substances Control Act ("TSCA"), §§ 2682(c) and 2686(b), during a "renovation," as defined at section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.83, of "target housing," as defined at 40 C.F.R. § 745.224, at 7 Central Street, Derry, New Hampshire 03038.

EPA finds that Respondent was subject to the RRP Rule and failed to comply with: 1) the information distribution requirements of 40 C.F.R. § 745.84(b)(2) (by failing to provide written notification of renovation activities, making available the *Renovate Right* pamphlet and/or posting informational signs for occupants); 2) the notification requirements of 40 C.F.R. § 745.85(a)(1) (by failing to post signs clearly defining a work area); 3) the work practice requirements of 40 C.F.R. § 745.85(a)(2)(ii)(C) (by failing to cover the ground with plastic sheeting) and, 4) the work practice requirements of 40 C.F.R. § 745.85(a)(4)(i) (by failing to contain waste from renovation activities to prevent releases of dust and debris). In violating the RRP Rule, Respondent violated sections 15 and 409 of TSCA, 15 U.S.C. §§ 2614 and 2689, and 40 C.F.R. § 745.87(a).

Section 16(a) of TSCA, 15 U.S.C. § 2615(a), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, authorizes assessment of a civil penalty of up $37,500 per day, per violation, for violations occurring on or after January 13, 2009.

For the purpose of this proceeding, Respondent admits it is subject to the RRP Rule and TSCA and that EPA has jurisdiction over Respondent. Respondent neither admits nor denies the specific factual allegations stated above, consents to the assessment of the penalty below, and waives any objections it may have to EPA's jurisdiction in this matter.

The parties enter into this RRP Settlement Agreement ("Agreement") in order to settle the civil violations alleged above. Pursuant to TSCA and the Consolidated Rules of Practice at 40 C.F.R. Part 22, based on the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **$1,408**. Respondent consents to the issuance of this Agreement and consents to the payment of such penalty.

Respondent agrees that, within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check, with case name and docket number noted ("In the Matter of Mark A. DiMinico d/b/a Exterior Images, Docket No TSCA-01-2012-0086"), for the amount specified above, payable to "Treasurer, United States of America," to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. Respondent shall also submit a copy of the check to: EPA Regional Hearing Clerk, U.S. EPA - Region 1 (New England), 5

Post Office Square, Suite 100 (ORA18-1), Boston, MA 02109-3912 and Alexander Aman, Environmental Engineer, U.S. EPA - Region 1 (New England), 5 Post Office Square, Suite 100 (OES05-4), Boston, MA 02109-3912.

Respondent consents to the assessment of the penalty and waives its right to: (1) contest the findings of violation specified in this Agreement; (2) a judicial or administrative hearing or appeal on any issue of law or fact set forth herein; and (3) appeal the Final Order accompanying this Agreement.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the U. S. Government, that it has corrected all violations and is in full compliance with the RRP Rule including, as necessary, obtaining renovator and/or firm certification and training.

This Agreement settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of the RRP Rule, TSCA, or of any other federal statute or regulation.

Nothing in this agreement is intended to, nor shall be construed to operate in any way to resolve any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment. Each party shall bear its own costs and fees, if any. Respondent specifically waives any right to recover costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504.

If Respondent does not sign and return this Agreement within 20 days of the date of its receipt, this proposed settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.

This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. 22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.

APPROVED BY MARK A. DIMINICO d/b/a EXTERIOR IMAGES:

Name (print): MARK DIMINICO

Title (print): OWNER

Signature: Mark Diminico Date: _____

APPROVED BY EPA:

_____ Date: 10/3/12
Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA - Region 1 (New England)

IT IS SO ORDERED:

_____ Date: 10/5/12
LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA - Region 1 (New England)

In the Matter of: Mark A. DiMinico d/b/a Exterior Images
EPA Docket No. TSCA-01-2012-0086

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order (in the form of a RRP Settlement Agreement) was transmitted to the following persons, in the manner specified, on the date below:

Original and one copy
hand-delivered:

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

Copy by certified mail,
return receipt requested:

Mark A. DiMinico
Exterior Images
45 N. High Street
Derry, NH 03038

Dated: 10/9/12

Andrea Simpson
Senior Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone: (617) 918-1738
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