



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 24 2016

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article Number: 7015 0640 0001 0675 9218

Mr. Edward Weinstein, President
Lead Me Out Environmental Services, Inc.
12 E.86th Street
New York, New York 10028

Re: In the Matter of **Lead Me Out Environmental Services, Inc.**
Docket No. TSCA 02-2016-9268

Dear Mr. Weinstein:

Enclosed is a fully executed Consent Agreement and Final Order (CA/FO) that resolves the above referenced matter. Please note that payment of the civil penalty assessed shall be made in accordance with the schedule on page 4 of the CA/FO.

Thank you for your cooperation and assistance to bring this matter to a mutually satisfactory resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Melva J. Hayden".

Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
Water and General Law Branch/Waste and Toxic Substance Branch

Enclosure

cc: Karen Maples, Regional Hearing Clerk

22.18(b)(3) of the Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Lead Me Out Environmental Services (“Lead Me Out”), Inc.
2. Respondent’s primary place of business is located at 12 East 86th Street, New York, New York 10028, Suite 220.
3. Respondent is a “certified firm” as that term is defined at 40 C.F.R. § 745.223.
4. Respondent is subject to the regulations and requirements pertaining to lead-based paint promulgated pursuant to Section 402 of TSCA, 15 U.S.C. § 2682, and set forth at 40 C.F.R. Part 745, Subpart L (the “Abatement Rule”).
5. On or about April 10, 2014, a citizen tip/complaint was submitted to the EPA Region 2 Lead Team alleging that Respondent was not complying with the Abatement Rule while conducting lead abatement activities at target housing located at 678 East 22nd Street, Brooklyn, NY 11210 (the “Property”).
6. On June 23, 2014, EPA sent an Information Request Letter (“IRL”) to Respondent as part of EPA’s investigation of Respondent’s abatement activities at the Property.
7. On or about July 16, 2014, Respondent submitted a partial response to EPA’s IRL.
8. On August 8, 2014, EPA sent Respondent an email to advise Respondent that its first response was insufficient and to request additional information regarding Respondent’s abatement activities at the Property.
9. On or about August 22, 2014, Respondent submitted its response to EPA’s second IRL.

10. Based in part on Respondent's IRL responses, EPA determined that Respondent, had failed to notify EPA prior to engaging in lead abatement activities at the Property, as required by 40 C.F.R. §§ 745.223 and 745.227(e)(4)(ix).

11. EPA further determined that Respondent had failed to develop an occupant protection plan unique to the Property prior to the abatement, as required by 40 C.F.R. § 745.227(e)(5)(i).

12. On May 14, 2015, and September 17, 2015, EPA and Respondent held informal pre-filing settlement conferences at Respondent's request to discuss Respondent's violations of the Abatement Rule.

13. As a result of the informal settlement conferences, the parties agreed to settle this matter by entering into this Consent Agreement.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.
2. Respondent certifies that it is currently in compliance with the statutory provisions of TSCA and the Lead Abatement regulations codified at 40 C.F.R. § 745, Subpart L.
3. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) to commence a civil administrative proceeding for the violations described in the "Findings of Fact and Conclusions

of Law” section, above, and (b) neither admits nor denies the specific factual allegations contained in the “Findings of Fact and Conclusions of Law” section, above.

4. Respondent shall pay, by cashier’s or certified check or electronic fund transfer, a civil penalty in the amount of **TWENTY THOUSAND DOLLARS (\$20,000)** according to the following schedule:

- a.) \$4,000 due on or before **45 calendar days** after the date of the signature of the Final Order at the end of this document;
- b.) \$2,000 due on or before **90 calendar days** after the date of the signature of the Final Order at the end of this document;
- c.) \$2,000 due on or before **180 calendar days** after the date of the signature of the Final Order at the end of this document;
- d.) \$2,000 due on or before **270 calendar days** after the date of the signature of the Final Order at the end of this document;
- e.) \$2,000 due on or before **360 calendar days** after the date of the signature of the Final Order at the end of this document;
- f.) \$2,000 due on or before **450 calendar days** after the date of the signature of the Final Order at the end of this document;
- g.) \$2,000 due on or before **540 calendar days** after the date of the signature of the Final Order at the end of this document; and
- h.) \$2,000 due on or before **630 calendar days** after the date of the signature of the Final Order at the end of this document.
- i.) \$2,000 due on or before **720 calendar days** after the date of the signature of the Final Order at the end of this document.

5. Payments must be received at the address listed in Paragraph 8, below, or the EFT must be received by the Federal Reserve Bank of New York, on or before the due dates specified above (the date by which each such payment must be received shall hereafter be referred to as the "due date").

- a.) If Respondent fails to pay any of the installments required above, by its due date, Respondents shall also be liable to EPA for an additional stipulated penalty of \$500 for each such failure. All stipulated penalties for failure to pay a penalty installment on time are due and payable within thirty (30) calendar days of Respondents' receipt from EPA of a written demand for payment of the penalties. Payment of stipulated payments shall be made in the same manner as prescribed in Paragraph 8, below, for payment of the civil penalty installments. Stipulated penalties shall accrue as provided above, regardless of whether EPA has notified Respondents of the violation or has made a demand for payment, but need only be paid upon demand. EPA, in its sole discretion, may reduce or eliminate any stipulated penalty due under this sub-paragraph.
- b.) Failure to pay the full amount of the penalty, or any stipulated penalty demanded by EPA according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection or other appropriate action.
- c.) Further, if any payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of

\$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid.

d.) A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

6. In the event of respondent's failure to make any payment when due, the EPA may, without notice or demand, declare the entire unpaid balance due and any accrued interest and stipulated penalties then unpaid immediately due and payable.

7. In agreeing to this settlement, EPA relies, in part, on its review of documents Respondent provided showing its recent and current financial condition. Respondent hereby certifies the truth and accuracy of the financial documents provided to EPA.

8. If a payment is made by cashier's or certified check, each such payment shall be payable to the "Treasurer of the United States of America." Each check shall be identified with a notation of the name and docket number of this case, as set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Alternatively, if Respondent chooses to pay by electronic fund transfer ("EFT"), Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045**
- 3) Account Code for Federal Reserve Bank of NY receiving payment: **68010727**
- 4) ABA number: **021030004**
- 5) Field Tag 4200 of the Fedwire message should read "**D 68010727 Environmental Protection Agency**"
- 6) Name of Respondent: **Lead Me Out Environmental Services, Inc.**
- 7) Case Docket Number TSCA-02-2016-9268

Respondent shall also promptly send copies of these checks or furnish reasonable proof that such EFT payments have been made to both:

Melva J. Hayden, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

9. The civil penalties and any stipulated penalties provided for herein are “penalt[ies]” within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.

10. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims described in the Findings of Fact and Conclusions of Law set forth above.

11. Nothing herein shall be read to preclude EPA or the United States from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law.

12. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms.

13. Respondent consents to the issuance of the accompanying Final Order.

14. Respondent agrees that all terms of settlement are set forth herein.

15. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

16. Respondent hereby waives its right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein or on the accompanying Final Order.

17. The Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United State to enforce the provisions of this Consent Agreement and Final Order.

18. Respondent waives its right to appeal this Consent Agreement and the accompanying Final Order.


19. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulation, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

20. The signatory for Respondent certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

- 21. Each party hereto agrees to bear its own costs and fees in this matter.
- 22. Respondent consents to service upon itself of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

Lead Me Out Environmental Services, Inc.

RESPONDENT:

BY: 
NAME: EDWARD WEINSTEIN
(PLEASE PRINT)
TITLE: PRESIDENT
DATE: 6/16/2016

COMPLAINANT:

For Kathleen Malone-Bogusky

Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

DATE: 6/21/2016

In the Matter of Lead Me Out Environmental Services, Inc.
Docket Number TSCA-02-2016-9268

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Lead Me Out Environmental Services, Inc., bearing Docket Number TSCA-02-2016-9268. Said Consent Agreement, having been duly accepted and entered into by the parties, hereby is, ratified, incorporated into and issued, as this Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk of EPA - Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.

6/23/16 DATE: Helen Ferrara

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

In the Matter of Lead Me Out Environmental Services, Inc.
Docket Number TSCA-02-2016-9268

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

Copy by Certified Mail Return Receipt Requested:

Mr. Edward Weinstein, President
Lead Me Out Environmental Services, Inc.
12 E.86th Street
New York, New York 10028

Dated: 6/24/16
New York, New York

Yoram Niv



6/14/16

RE: Docket No. CWA-02-2016-9268

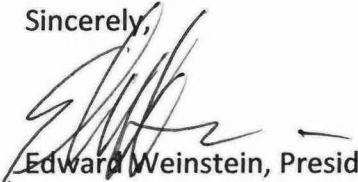
To Whom It May Concern:

If forced to pay immediately and in full the entire settlement amount proposed to resolve I/M/O Lead Me Out, Docket Number TSCA-02-2016-9268, my company would suffer undue financial harm. A single payment in the full amount of \$20,000 would significantly reduce the working capital of the company to zero. We could not undertake any new jobs, contracts, etc. due to the inability the fund such a project.

Accordingly, I propose an installment plan for the penalty: an initial payment of payment of 20% or \$4,000, followed by eight (8) payments of 10% or \$2,000 each. Such a plan would result in full payment to the United States 24 months after the initial payment is due.

I certify under the penalty of law that I have personally examined and am familiar with the information submitted to support this request, including tax returns, and the statements made herein; that the submitted information is true, accurate, and complete; and that all documents submitted are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information which may include the possibility of fine and imprisonment.

Sincerely,



Edward Weinstein, President

LEAD ME OUT ENVIRONMENTAL:

Docket No. CWA-02-2016-9268