



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

Certified Mail No. 7015 0640 0001 1118 0342  
Return Receipt Requested

Alicia M. Casale  
Murphy Karber Cordier PLC  
2025 N. Third Street, Suite 200  
Phoenix, AZ 85004

**JUN 13 2018**

Re: Consent Agreement and Final Order  
In the Matter of: Holtzman Home Improvement, LLC

Dear Ms. Casale:

Enclosed please find the final executed Consent Agreement and Final Order (CA/FO) between the United States Environmental Protection Agency, Region 9, and Holtzman Home Improvement, LLC.

Holtzman Home Improvement, LLC full compliance with the payment terms and completion of all actions enumerated in this CA/FO will close this case.

If you have any questions, please contact Brian Riedel, in the Office of Regional Counsel, at (415) 972-3924.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas K. McDaniel".

Douglas K. McDaniel  
Manager  
Waste and Chemical Section  
Enforcement Division

Enclosure

cc: Brian Riedel

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SYLVIA QUAST  
Regional Counsel

BRIAN P. RIEDEL  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street (ORC-2)  
San Francisco, CA 94105  
(415) 972-3924  
riedel.brian@epa.gov

**\*\* FILED \*\***  
13JUN2018 - 04:00PM  
U.S.EPA - Region 09

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

**In the Matter of:**

**Holtzman Home Improvement, LLC**  
  
**Respondent.**

Docket No. TSCA-09-2018- 0003

**CONSENT AGREEMENT AND FINAL  
ORDER PURSUANT TO 40 C.F.R.  
§§ 22.13 AND 22.18**

**CONSENT AGREEMENT**

The United States Environmental Protection Agency (“EPA”), Region 9, and Holtzman Home Improvement, LLC (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

**I. AUTHORITY, JURISDICTION AND PARTIES**

1. This is a civil administrative penalty action brought against Respondent pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), for violation of Section 409 of TSCA, 15 U.S.C. § 2689, for failing to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and their implementing rules issued at 40 C.F.R. Part 745, Subpart E – Residential Property Renovation (“Subpart E”).

In the Matter of: Holtzman Home Improvement, LLC  
Consent Agreement and Final Order I



1 components (e.g., walls, ceilings, plumbing windows); weatherization projects (e.g., cutting  
2 holes in painted surfaces to install blown-in insulation or to gain access to attics planning  
3 thresholds to install weatherstripping), and interim controls that disturb painted surfaces. The  
4 term “renovation” does not include minor repair and maintenance activities. 40 C.F.R. § 745.83.  
5

6 8. “Painted surface” means a component surface covered in whole or in part with paint or  
7 other surface coatings. 40 C.F.R. § 745.83.

8 9. “Renovator” means any individual who either performs or directs workers who perform  
9 renovations. A certified renovator is a renovator who has successfully completed a renovator  
10 course accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. § 745.83.  
11

12 10. “Person” means any natural or judicial person including any individual, corporation,  
13 partnership, or association; any Indian Tribe, State, or political subdivision thereof; any  
14 interstate body; and any department, agency, or instrumentality of the Federal Government. 40  
15 C.F.R. § 745.83.

16 11. “Firm” means a company, partnership, corporation, sole proprietorship, or individual  
17 doing business, association, or other business entity; a Federal, State, Tribal, or local government  
18 agency; or a nonprofit organization. 40 C.F.R. § 745.83.  
19

20 12. “Pamphlet” means the EPA pamphlet titled, “Renovate Right: Important Lead Hazard  
21 Information for Families, Child Care Providers and Schools,” developed under Section 406(a) of  
22 TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet  
23 approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. 40  
24 C.F.R. § 745.83.  
25

26 13. No firm may perform, offer, or claim to perform renovations without certification from  
27

1 EPA under §745.89 in target housing, unless the renovation qualifies for the exception involving  
2 a lead-free determination identified at § 745.82(a). 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a).

3 14. No more than 60 days before beginning renovation activities in any residential dwelling  
4 unit of target housing, the firm performing the renovation must provide the owner of the  
5 unit with the “pamphlet,” as that term is defined at 40 C.F.R. § 745.83, and either obtain from the  
6 owner a written acknowledgment that the owner has received the “pamphlet” or obtain a  
7 certificate of mailing the “pamphlet” at least 7 days prior to the renovation. 40 C.F.R.  
8 § 745.84(a)(1).  
9

10 15. Firms performing renovations must ensure that a certified renovator is assigned to each  
11 renovation performed by the firm and discharges all of the certified renovator responsibilities  
12 identified in § 745.90. 40 C.F.R. § 745.89(d)(2).  
13

14 16. Firms performing renovations must retain documentation of compliance with the  
15 requirements of § 745.85, including documentation that a certified renovator was assigned to the  
16 project; that the certified renovator provided on-the-job training for workers used on the project;  
17 that the certified renovator performed or directed workers who performed all of the work practice  
18 tasks described in § 745.85(a); and that the certified renovator performed the post-renovation  
19 cleaning verification described in § 745.85(b). 40 C.F.R. § 745.86(b)(6).  
20

21 17. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation  
22 Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation  
23 Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to exceed  
24 \$37,500 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that occurred  
25 after January 12, 2009 but on or before November 2, 2015, and authorize civil penalties not to  
26  
27

28 In the Matter of: Holtzman Home Improvement, LLC  
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1 exceed \$38,892 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689, that  
2 occurred after November 2, 2015 where penalties are assessed on or after January 15, 2018.

3 **III. ALLEGATIONS**

4 18. At all times relevant to this CAFO, Respondent was a “person,” as that term is defined at  
5 40 C.F.R. § 745.83.

6 19. At all times relevant to this CAFO, Respondent was a “firm,” as that term is defined at 40  
7 C.F.R. § 745.83.

8 20. At all times relevant to this CAFO, the properties at 712 E. Geneva Drive (“Geneva  
9 Property”) and 713 E. Erie Drive (“Erie Property”) (collectively, “the Properties”) in Tempe,  
10 Arizona were “target housing,” as that term is defined at Section 401 of TSCA, 15 U.S.C.  
11 § 2681.

12 21. Within the period of October 2015 to October 2016, Respondent performed at least one  
13 “renovation,” as that term is defined at 40 C.F.R. § 745.83, at the Geneva Property and at the  
14 Erie Property for compensation. The renovations performed at the Properties within the October  
15 2015 to October 2016 time frame are referenced in this CAFO as “Renovations.”

16 CLAIM 1

17 22. Paragraphs 1-21 of this CAFO are realleged and are incorporated herein by reference.

18 23. Respondent performed the Renovations at the Properties without firm certification  
19 pursuant to 40 C.F.R. § 745.89.

20 24. With respect to the Renovations, Respondent did not qualify for the exception involving a  
21 lead-free determination identified in 40 C.F.R. § 745.82(a).

22 25. Respondent's performance of Renovations at the Properties without firm certification

1 pursuant to 40 C.F.R. § 745.89 constitutes a violation of Section 409 of TSCA, 15 U.S.C.  
2 § 2689, and 40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a).

3 CLAIMS 2-3

4 26. Paragraphs 1-25 of this CAFO are realleged and are incorporated herein by reference.

5  
6 27. Respondent did not obtain from the owners of the Geneva Property and Erie Property a  
7 written acknowledgment that they received the “pamphlet,” as that term is defined at 40 C.F.R.  
8 § 745.83, or obtain a certificate of mailing the “pamphlet” at least 7 days prior to the  
9 Renovations.

10 28. Respondent's failures to obtain from the owners of the Geneva Property and Erie Property  
11 written acknowledgments that they received the “pamphlet,” as that term is defined at 40 C.F.R.  
12 § 745.83, or obtain certificates of mailing the “pamphlet” at least 7 days prior to the  
13 Renovations, constitute two violations of Section 409 of TSCA, 15 U.S.C. § 2689, and 40 C.F.R.  
14 § 745.84(a)(1).

15  
16 CLAIMS 4-5

17 29. Paragraphs 1-28 of this CAFO are realleged and are incorporated herein by reference.

18  
19 30. Respondent did not ensure that certified renovators discharged all of the certified  
20 renovator responsibilities identified in § 745.90 for the Renovations performed at the two  
21 Properties.

22 31. Respondent's failures to ensure that certified renovators discharged all of the certified  
23 renovator responsibilities identified in § 745.90 for the Renovations performed at the two  
24 Properties constitute two violations of Section 409 of TSCA, 15 U.S.C. § 2689, and 40 C.F.R.  
25 § 745.89(d)(2).

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27  
28 In the Matter of: Holtzman Home Improvement, LLC  
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1 CLAIMS 6-13

2 32. With respect to the Renovations at the two Properties, Respondent did not retain  
3 documentation that certified renovators were assigned to the projects; that certified renovators  
4 provided on-the-job training for workers used; that certified renovators performed or directed  
5 workers who performed all of the work practice tasks described in § 745.85(a); and that certified  
6 renovators performed the post-renovation cleaning verifications described in § 745.85(b).  
7

8 33. Respondent's failures to retain documentation that certified renovators were assigned to  
9 the projects; that certified renovators provided on-the-job training for workers used; that certified  
10 renovators performed or directed workers who performed all of the work practice tasks described  
11 in § 745.85(a); and that certified renovators performed the post-renovation cleaning verification  
12 described in § 745.85(b) for the Renovations performed at the two Properties constitute eight  
13 violations of Section 409 of TSCA, 15 U.S.C. § 2689, and 40 C.F.R. § 745.86(b)(6).  
14

15 **IV. RESPONDENT'S ADMISSIONS**

16 34. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
17 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
18 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section III  
19 of this CAFO; (iii) consents to the terms of this CAFO, including the assessment of the civil  
20 administrative penalty under Section V of this CAFO; (iv) waives any right to contest the  
21 allegations contained in Section III of this CAFO; and (v) waives the right to appeal the proposed  
22 Final Order contained in this CAFO.  
23  
24

25 **V. CIVIL ADMINISTRATIVE PENALTY**

26 35. Respondent agrees to the assessment of a penalty in the amount of EIGHTEEN  
27

28 In the Matter of: Holtzman Home Improvement, LLC  
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1 THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$18,315) as final settlement of the  
2 civil claims against Respondent arising under TSCA as alleged in Section III of this CAFO.

3 36. Respondent shall pay the assessed penalty no later than thirty (30) days after the effective  
4 date of the CAFO. The assessed penalty shall be paid by certified or cashier's check, payable to  
5 "Treasurer, United States of America," or paid by one of the other methods listed below and sent  
6 as follows:  
7

8 Regular Mail:

9 U.S. Environmental Protection Agency  
10 Fines and Penalties  
11 Cincinnati Finance Center  
12 PO Box 979077  
13 St. Louis, MO 63197-9000

14 Wire Transfers:

15 Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the  
16 following information:

17 Federal Reserve Bank of New York  
18 ABA = 021030004  
19 Account = 68010727  
20 SWIFT address = FRNYUS33  
21 33 Liberty Street  
22 New York, NY 10045  
23 Field Tag 4200 of the Fedwire message should read "D 68010727  
24 Environmental Protection Agency"

25 Overnight Mail:

26 U.S. Bank  
27 1005 Convention Plaza  
28 Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver ABA = 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - checking  
Physical location of US Treasury Facility  
5700 Rivertech Court

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1 Riverdale, MD 20737  
2 Remittance Express (REX) 1-866-234-5681

3 On Line Payment:

4 This payment option can be accessed from the information below:

5 www.pay.gov

6 Enter "sfo1.1" in the search field

7 Open form and complete required fields

8 If clarification regarding a particular method of payment remittance is needed, contact the EPA  
9 Cincinnati Finance Center at 513-487-2091.

10 Concurrently, a copy of the check or notification that the payment has been made by one of the  
11 other methods listed above, including proof of the date payment was made, shall be sent with  
12 a transmittal letter indicating Respondent's name, the case title, and the docket number to the  
13 following addressees:

14 Regional Hearing Clerk  
15 Office of Regional Counsel (ORC-1)  
16 U.S. Environmental Protection Agency, Region 9  
17 75 Hawthorne Street  
18 San Francisco, California 94105

19 Max Weintraub  
20 Waste & Chemical Section (ENF-2-2)  
21 Enforcement Division  
22 U.S. Environmental Protection Agency, U.S. Region 9  
23 75 Hawthorne Street  
24 San Francisco, CA 94105

25 37. Payment of the above civil administrative penalty shall not be used by Respondent or any  
26 other person as a tax deduction from Respondent's federal, state, or local taxes.

27 38. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph  
28 35 by the deadline specified in Paragraph 36, then Respondent shall pay to EPA a stipulated  
penalty of \$100 per day in addition to the assessed penalty. Stipulated penalties shall accrue  
until such time as the assessed penalty and all accrued stipulated penalties are paid and shall  
become due and payable upon written request by EPA. In addition, failure to pay the civil

In the Matter of: Holtzman Home Improvement, LLC  
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1 administrative penalty by the deadline specified in Paragraph 36 may lead to any or all of the  
2 following actions:

3 a. The debt being referred to a credit reporting agency, a collection agency, or to the  
4 Department of Justice for filing of a collection action in the appropriate United States District  
5 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount,  
6 and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.  
7

8 b. The debt being collected by administrative offset (i.e., the withholding of money payable  
9 by the United States to, or held by the United States for, a person to satisfy the debt the person  
10 owes the Government), which includes, but is not limited to, referral to the Internal Revenue  
11 Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.  
12

13 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend  
14 or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors  
15 or funds. 40 C.F.R. § 13.17.  
16

17 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest,  
18 penalties charges, and administrative costs will be assessed against the outstanding amount that  
19 Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the  
20 deadline specified in Paragraph 36. Interest will be assessed at an annual rate that is equal to the  
21 rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan  
22 account rate) as prescribed and published by the Secretary of the Treasury in the Federal  
23 Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).  
24 Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).  
25 Administrative costs for handling and collecting Respondent's overdue debt will be based on  
26  
27

28 In the Matter of: Holtzman Home Improvement, LLC  
Consent Agreement and Final Order 10

1 either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R.  
2 § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the  
3 Department of Justice, the Internal Revenue Service), that department or agency may  
4 assess its own administrative costs, in addition to EPA's administrative costs, for handling and  
5 collecting Respondent's overdue debt.  
6

7 **VI. RESPONDENT'S CERTIFICATION**

8 39. In executing this CAFO, Respondent certifies that it is now fully in compliance with the  
9 federal regulations promulgated at Subpart E.  
10

11 **VII. RETENTION OF RIGHTS**

12 40. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability  
13 for federal civil penalties for the violations and facts specifically alleged in Section III of this  
14 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability  
15 for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
16 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal  
17 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
18 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to  
19 address any violation of this CAFO or any violation not specifically alleged in Section III of this  
20 CAFO.  
21

22 41. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to  
23 comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and  
24 permits.  
25

26 **VIII. ATTORNEYS' FEES AND COSTS**  
27

28 In the Matter of: Holtzman Home Improvement, LLC  
Consent Agreement and Final Order 11

1 42. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this  
2 proceeding.

3 **IX. EFFECTIVE DATE**

4 43. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective  
5 on the date that the final order contained in this CAFO, having been approved and issued by  
6 either the Regional Judicial Officer or Regional Administrator, is filed.  
7

8 **X. BINDING EFFECT**

9 44. The undersigned representative of Complainant and the undersigned representative of  
10 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
11 of this CAFO and to bind the party he or she represents to this CAFO.  
12

13 45. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
14 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
15 and assigns.  
16

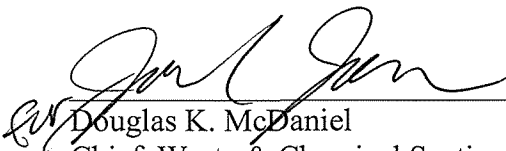
17  
18 FOR RESPONDENT, MONTGOMERY-SANSOME, LP

19 5-9-18  
20 DATE

  
21 Name  
22 Title  
23 Holtzman Home Improvement, LLC

24 FOR COMPLAINANT:

25 6-6-18  
26 DATE

  
27 Douglas K. McDaniel  
28 Chief, Waste & Chemical Section  
Enforcement Division

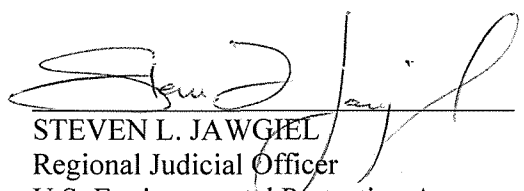
In the Matter of: Holtzman Home Improvement, LLC  
Consent Agreement and Final Order 12

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**FINAL ORDER**

Complainant and Respondent, having entered into the foregoing Consent Agreement,  
IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2018-<sup>0003</sup><sub>A</sub>) be  
entered, and that Respondent shall pay a civil administrative penalty in the amount of  
EIGHTEEN THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$18,315) and comply  
with the terms and conditions set forth in the Consent Agreement. This Consent Agreement and  
Final Order shall become effective upon filing.

06/12/18  
DATE

  
STEVEN L. JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection Agency,  
Region 9

In the Matter of: Holtzman Home Improvement, LLC  
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CERTIFICATE OF SERVICE

I hereby certify that the original ~~and one copy~~ of the foregoing Consent Agreement and Final Order (In the Matter of: Holtzman Home Improvement, LLC, TSCA-09-2018<sup>0003</sup>) has been filed with the Regional Hearing Clerk for U.S. EPA, Region 9, and that a true and correct copy was sent by Certified Mail, Return Receipt Requested to:

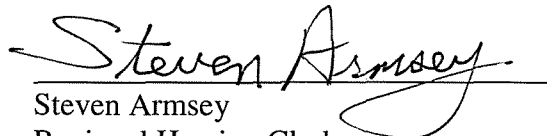
Alicia M. Casale  
Murphy Karber Cordier PLC  
2025 N. Third Street, Suite 200  
Phoenix, AZ 85004

Certified Mail # 7015 0640 0001 1118 0342

and Hand-Delivered to:

Brian P. Riedel  
Office of Regional Counsel  
U.S. EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Date: 2018-06-13

  
Steven Armsey  
Regional Hearing Clerk  
U.S. Environmental Protection Agency,  
Region 9