

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Mag. No. 12-
	:	
IRA EISENSTEIN	:	15 U.S.C. §§ 2615(b) and 2689
	:	

I N F O R M A T I O N

The United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

INTRODUCTION

The Toxic Substances Control Act

a. The Toxic Substances Control Act ("TSCA") was a federal law enacted to protect against unreasonable risks to human health and the environment through the regulation of numerous chemical substances, including lead. Title IV of TSCA directed the U.S. Environmental Protection Agency ("EPA") to promulgate "regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified." 15 U.S.C. § 2682(a)(1).

b. Pursuant to this authority, the EPA promulgated regulations which required, among other things, that all lead-based paint activities conducted at housing constructed prior to

1978 (otherwise known as "target housing"), which includes on-site investigations to determine the existence, nature, severity, and location of lead-based paint hazards (otherwise known as "risk assessments"), be performed by individuals and firms certified to perform those activities according to certain procedures set forth in 40 C.F.R. § 745.226 (2011). See 40 C.F.R. §§ 745.220, 223 and 226.

c. Title IV of TSCA also provided that "[a]ny State which seeks to administer and enforce the standards, regulations, or other requirements established under section 2682 . . . [of Title IV]. . . may . . . develop and submit to the [EPA] Administrator an application . . . for authorization of such a State program." 15 U.S.C. § 2684(a). It further provided that "[u]pon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program." Id. at § 2684(b).

d. EPA authorized the State of New Jersey to administer a TSCA lead program in New Jersey (hereinafter, "New Jersey's TSCA lead program") over which EPA retained its federal criminal enforcement authority under TSCA.

New Jersey Law Regarding Lead-Based Paint Activities

e. Regulatory responsibility under New Jersey's TSCA lead program was divided between the Department of Health & Senior Services ("DHSS") and the Department of Community Affairs ("DCA"). DHSS regulations required that certain individuals who conduct lead activities, including lead evaluations, in single-

family housing and public buildings in New Jersey obtain a permit to do so. N.J.S.A. § 26:2Q-3. The regulations covered the activities of lead inspectors and risk assessors,¹ among others, and set forth the requisite training and other requirements to obtain such a permit. N.J.A.C. § 8:62-3.2.

f. DCA regulations provided that "no individual, partnership, corporation or other business entity shall engage in the business of lead evaluation [\'a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation\'] . . . unless certified by" DCA. N.J.A.C. §§ 5:17-1.2 and 2.1. The regulations also provided that "[a]ny individual, corporation, partnership or other business entity seeking certification in accordance with [DCA] rules shall either be certified or shall employ individuals certified by [DHSS] . . ." Id. at § 5:17-2.1.

g. DCA regulations also required that all lead testing and evaluation services and risk assessment be performed in accordance with rules adopted by the EPA as set forth in 40 C.F.R. § 745.

h. Title IV of TSCA made it "unlawful for any person

¹"Lead inspector/risk assessor means any person who has completed a lead inspector/risk assessor training course approved by [DHSS] and who has successfully passed a skills assessment and a written examination approved by [DHSS] and who possesses a valid inspector/risk assessor permit from [DHSS] to perform inspections and conduct risk assessments." N.J.A.C. § 8:62-2.1

to fail or refuse to comply with "a provision of [that Title] or with any rule or order issued under [that Title]. 15 U.S.C. § 2689.

i. Title IV of TSCA makes it a crime to "knowingly or willfully violate[] any provision of section . . . 2689 of [Title IV]." Id. at § 2615(b).

The Defendant

j. Defendant IRA EISENSTEIN was the owner of a home inspection business, located in or around Princeton, New Jersey, called, alternately, Strictly Business Inspections LLC and Strictly Business Home and Commercial Inspections LLC (collectively, "SBI").

k. Neither defendant EISENSTEIN nor SBI was certified or permitted to perform lead evaluations and risk assessments of single-family target housing under New Jersey's TSCA lead program.

COUNT ONE - TOXIC SUBSTANCES CONTROL ACT
(15 U.S.C. §§ 2615(b) and 2689)

2. On or about March 26, 2007, in Ocean County, in the District of New Jersey, and elsewhere, the defendant,

IRA EISENSTEIN,

knowingly and willfully conducted a lead evaluation and risk assessment of single-family target housing, although neither he nor SBI possessed the permits and certifications required to perform that activity under New Jersey's TSCA lead program.

In violation of Title 15, United States Code, Sections 2615(b) and 2689.

COUNT TWO - TOXIC SUBSTANCES CONTROL ACT
(15 U.S.C. §§ 2615(b) and 2689)

1. The allegations set forth in Paragraph 1 of Count One of this Information are realleged and incorporated herein.

2. On or about March 5, 2009, in Monmouth County, in the District of New Jersey, and elsewhere, the defendant,

IRA EISENSTEIN,

knowingly and willfully conducted a lead evaluation and risk assessment of single-family target housing, although neither he nor SBI possessed the permits and certifications required to perform that activity under New Jersey's TSCA lead program.

In violation of Title 15, United States Code, Sections 2615(b) and 2689.

COUNT THREE - TOXIC SUBSTANCES CONTROL ACT
(15 U.S.C. §§ 2615(b) and 2689)

1. The allegations set forth in Paragraph 1 of Count One of this Information are realleged and incorporated herein.

2. On or about September 21, 2009, in Middlesex County, in the District of New Jersey, and elsewhere, the defendant,

IRA EISENSTEIN,

knowingly and willfully conducted a lead evaluation and risk assessment of single-family target housing, although neither he nor SBI possessed the permits and certifications required to perform that activity under New Jersey's TSCA lead program.

In violation of Title 15, United States Code, Sections 2615(b) and 2689.



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

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UNITED STATES OF AMERICA

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IRA EISENSTEIN

INFORMATION FOR

15 U.S.C. §§ 2615(b) and 2689

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