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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROSE DEMOLITION & CARTING INC.

Defendant.

No. 24 Civ. _____

COMPLAINT

The United States of America, by and through its attorney Damian Williams, United States Attorney for the Southern District of New York, acting on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), alleges for its complaint against defendant Rose Demolition & Carting Inc. (“Rose”) as follows:

INTRODUCTION

1. Rose has violated lead-based paint safety regulations—including by failing to contain dust and debris presumed to contain lead-based paint—in the course of performing more than 660 demolition projects in New York City apartments and houses.

2. Exposure to lead in dust is the most common cause of lead poisoning in children. Lead poisoning—particularly in children—can lead to severe, irreversible health problems. Lead

exposure can affect children's brains and developing nervous systems, causing reduced IQ, learning disabilities, and behavioral problems.

3. Between 2016 and 2019, Rose conducted at least 668 demolition projects in New York City apartments and houses presumed by law to contain lead-based paint. In dismantling, knocking down, and taking apart painted walls, doors, windows, and other surfaces, Rose did not use legally required lead-safe work practices designed to prevent lead dust from contaminating other apartments, building common areas, or outside spaces. Rose also failed to provide lead paint safety pamphlets to residence owners and to post warning signs alerting occupants of nearby apartments to stay clear of the work site. In addition, Rose failed to keep mandatory records about the demolition work it performed across New York City to enable EPA to monitor Rose's compliance.

4. Despite the presumption of lead-based paint inside these spaces, former Rose employees interviewed by the Government reported that Rose never informed them of potential lead hazards, let alone provided them the legally required training on lead-safe work practices to minimize and contain lead dust. Former Rose employees recalled performing demolition work in older buildings, tearing down and removing painted plaster walls, molding, and floors, as well as bathroom fixtures, tiles, and metal pipes, all without using lead-safe work practices. Rose did not train these employees to contain the dust and debris in the work area—doorways, windows, and vents were left unsealed; debris was carted outside the building in uncovered bins; and no special cleaning procedures were used. In fact, former Rose employees reported that the only time Rose took any steps to minimize dust exposure was when work was being performed in upscale buildings where it could expect that residents' complaints of dust might affect payment. Former

employees explained that Rose made minimal or no efforts to contain potential lead dust or debris on projects in more modest residences.

5. Addressing Rose’s misconduct is not only a public health necessity but also a matter of environmental justice. Dozens of the apartments and houses at issue are in areas with low-income populations that already suffer disproportionately from substantial public health and environmental hazards, including proximity to Superfund sites, hazardous waste, and respiratory hazards. Preventing companies like Rose from exposing families to potential lead dust is vital to protecting already overburdened populations.

6. Rose’s conduct violates Toxic Substances Control Act (“TSCA”) sections 402(c), 406(b), and 407 (15 U.S.C. §§ 2682(c), 2686(b), and 2687) and the Renovation, Repair, and Painting Rule (“RRP Rule”), codified at 40 C.F.R., Part 745, Subpart E. Accordingly, the United States brings this action for an order enjoining Rose from conducting further demolition and other renovation work until it demonstrates compliance with TSCA and the RRP Rule; compelling Rose to comply with TSCA and the RRP Rule in the future; and requiring it to mitigate harm caused by its misconduct.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and Section 17 of TSCA, 15 U.S.C. § 2616.

8. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because violations occurred in this district, and because the Defendant resides and has its principal place of business in this district.

THE PARTIES

9. Plaintiff is the United States of America on behalf of EPA.

10. Defendant Rose is a New York corporation located at 95 Bruckner Boulevard, Bronx, New York, that has performed numerous renovations covered by the RRP Rule at apartment buildings located in this District. Rose is a “person” and a “firm” performing renovations, as defined in 40 C.F.R. § 745.83.

STATUTORY AND REGULATORY BACKGROUND

11. Lead is toxic. *See* Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851. Ingestion of lead even in small quantities can cause serious health problems, including hypertension, kidney failure, and infertility. *Id.* Children under six years of age are most vulnerable to the harmful effects of lead. *Id.* Even “at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems.” *Id.*

12. In 1992, Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992 “to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction”; “to ensure that the existence of lead-based paint hazards are taken into account in the . . . renovation of homes and apartments”; and “to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.” 42 U.S.C. § 4851a. The Act amended TSCA by adding a new Title IV, entitled “Lead Exposure Reduction,” 15 U.S.C. §§ 2681 *et seq.*

13. In 2008, EPA promulgated the RRP Rule under TSCA section 402(c), 15 U.S.C. § 2682, to reduce the risk of lead exposure in the course of renovations by establishing training and certification requirements for renovation companies, mandating lead-safe work practice standards for compensated renovations in most pre-1978 residential buildings, and ensuring that owners and

occupants of most pre-1978 residential buildings understand the risks of lead exposure before renovations begin.

14. The RRP Rule applies to renovations performed for compensation in “target housing,” except where the work area has been tested and found to be free of lead. 40 C.F.R. § 745.82. “Target housing” means most housing constructed before 1978, the year in which the federal government first banned consumer use of lead-based paint in residential housing. 40 C.F.R. § 745.103. 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) and zero-bedroom dwellings are excepted. 15 U.S.C. § 2681(17); 40 C.F.R. § 745.103. Target housing is presumed to contain lead-based paint.

15. “Renovation” is defined broadly to include “the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces,” and includes demolition work such as “the removal of building components (e.g., walls, ceilings, plumbing, windows)” as well as “[t]he removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)).” 40 C.F.R. § 745.83.

16. The RRP Rule contains certification requirements designed to ensure that individuals performing renovations have been trained to minimize lead exposure. The RRP Rule requires both that a renovation firm receive a certification before performing covered renovations and that all covered renovations must be performed or directed by at least one “Certified Renovator” who has successfully completed training in lead-safe renovation work practices from an accredited training provider. 40 C.F.R. §§ 745.81(a)(2), (3), 745.89(d), & 745.90(a).

17. The RRP Rule requires that Certified Renovators perform or direct critical tasks during the renovation, such as posting warning signs, establishing containment of the work area, and verifying clean-up of the work area after the renovation. 40 C.F.R. § 745.90(b). The RRP Rule further requires that any individual working on a renovation who is not a Certified Renovator must be trained by a Certified Renovator on lead safe work practices required by the RRP Rule. 40 C.F.R. §§ 745.81(a)(3) & 745.89(d)(1).

18. The RRP Rule also sets forth lead-safe work practice requirements designed to contain lead dust and debris in the renovation work area. Under the RRP Rule, renovators are required to close off the entire work area by sealing doors, closing windows, and covering air ducts, among other things. 40 C.F.R. §§ 745.85(a)(2) & 745.86(b)(6)(v). The RRP Rule also requires renovators to “clean the work area until no dust, debris or residue remains” after the renovation has been completed. 40 C.F.R. § 745.85(a)(5).

19. The RRP Rule further requires the provision of safety information designed to alert individuals in the vicinity of the renovation work area of the risks of lead exposure. Renovators must provide a pamphlet entitled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools” (the “Lead Hazard Information Pamphlet”) to the owner and occupants of applicable housing before renovations begin and obtain either a written acknowledgment of receipt of the pamphlet from the owner or a certificate of mailing of the pamphlet. 40 C.F.R. §§ 745.81(b) & 745.84(a). The “Lead Hazard Information Pamphlet” informs owners and occupants of buildings constructed before 1978 of basic facts regarding the effects of lead poisoning as well as precautions residents can take when their homes are being renovated. In particular, the pamphlet points out that:

a. Lead in dust is the most common way people are exposed to lead, and lead dust is often invisible;

b. Lead-based paint was used in more than 38 million homes until it was banned for residential use in 1978; and

c. Lead can affect children's brains and developing nervous systems, causing reduced IQ, learning disabilities, and behavioral problems and is also harmful to adults.

20. Renovators must also post signs "clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area." 40 C.F.R. § 745.85(a)(1).

21. Finally, the RRP Rule sets forth recordkeeping requirements to permit EPA to ensure that the public health is being protected. The RRP Rule requires renovators to "retain and, if requested, make available to EPA all records necessary to demonstrate compliance" with the RRP Rule requirements described above. 40 C.F.R. § 745.86(a) & (b). Among the recordkeeping requirements are the following:

a. 40 C.F.R. § 745.84(a)(1) provides that: "No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must (i) obtain, from the owner, a written acknowledgment that the owner has received the pamphlet or (ii) obtain a certificate of mailing at least 7 days prior to the renovation."

b. 40 C.F.R. § 745.86(b)(6) provides that certain records must be retained, including: "Documentation of compliance with the requirements of § 745.85, including documentation that a Certified Renovator was assigned to the project, that the Certified Renovator provided on-the-job training for workers used on the project, that the Certified

Renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the Certified Renovator performed the post-renovation cleaning verification described in § 745.85(b).”

c. 40 C.F.R. § 745.87(b) provides that failure to establish and maintain records or to make available or permit access to or copying of records, as required by this subpart, is a violation of Sections 15 and 409 of TSCA (15 U.S.C. §§ 2614 and 2689).

22. Violation of the RRP Rule is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, and thus constitutes a violation of the statute.

23. Section 17(a) of TSCA, 15 U.S.C. § 2616(a), provides federal district courts with jurisdiction to restrain any violation of Section 409 of TSCA, 15 U.S.C. § 2689.

24. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), imposes liability for civil penalties, for violations of section 409, to be assessed by EPA in an administrative proceeding in an amount up to \$48,512 per violation per day for violations occurring after November 2, 2015. 88 Fed. Reg. 89312 (Dec. 27, 2023). The United States reserves the right to contend that violations found by the finder of fact in this judicial matter will, under the doctrine of collateral estoppel, control in a future administrative proceeding for civil penalties.

ROSE’S VIOLATIONS OF THE TOXIC SUBSTANCES CONTROL ACT AND THE RENOVATION, REPAIR, AND PAINTING RULE

Rose’s Demolition Work

25. Rose performs interior demolition work in many residential buildings throughout New York City. Indeed, from 2016 until 2019, Rose performed more than 800 demolition projects

in apartment units or homes in New York City. Some of these demolition projects involved multiple apartment units in one residential building.

26. Of these demolition projects, approximately 90%, or 748, were in residences built before lead-based paint was outlawed by the federal government in 1978. The Government has confirmed through publicly available information that 668 of these projects took place in residential properties that were not zero-bedroom units or housing for the elderly or disabled, and therefore were “target housing” within the meaning of the RRP Rule. Further, the Government anticipates that discovery will show that some or all of the remaining 80 projects on pre-1978 buildings were “target housing.” A list of the 668 demolition projects performed by Rose for payment in pre-1978 residences that the Government has confirmed to be target housing is attached as Exhibit A to this complaint.

27. The older the building, the more likely it is to contain lead-based paint. According to the national American Healthy Homes Survey conducted by the U.S. Department of Housing and Urban Development Office of Healthy Homes and Lead Hazard Control, an estimated 87% of buildings built before 1940 are likely to contain lead-based paint, and 69% of buildings constructed between 1940 and 1960 are likely to contain lead-based paint.

28. Of the 668 projects in pre-1978 confirmed target housing, 583 were performed in residential properties built before 1940 and are therefore highly likely to contain lead-based paint. Another 45 of Rose’s demolition projects took place in properties built between 1940 and 1960 and are therefore also very likely to contain lead-based paint.

29. At least 80 of the demolition projects performed by Rose in confirmed target housing raise significant environmental justice concerns. These demolitions occurred at residential properties located in areas in which vulnerable populations live and are already

disproportionately burdened by other environmental problems, including proximity to Superfund sites, hazardous waste, and respiratory hazards.

30. Rose has acknowledged that it did not evaluate any of these homes for the presence of lead-based paint before demolishing painted walls, doors, or window frames inside the homes.

Government Inspections of Rose Demolition Work

Inspection of 1301 3rd Avenue, Manhattan

31. As described in greater detail below, in 2018, Rose performed demolition work in apartment units 1R and 4R at 1301 3rd Avenue in Manhattan, while at least one child was living in the building, and failed to use lead-safe work practices, leaving debris in building common areas that tested positive for lead. Apartment units 1R and 4R are both one-bedroom units.

32. In February 2018, the New York City Department of Health and Mental Hygiene (“DOH”) received a complaint of unsafe work practices at 1301 3rd Avenue in Manhattan, an apartment building with six residential units built in 1910 and therefore presumed (and highly likely) to contain lead-based paint. In response to the complaint, DOH sent an inspector to the property on February 21, 2018. During the inspection, the property manager informed the DOH inspector that Rose had performed demolition work in two apartment units in the building two days prior, on February 19, 2018.

33. With the property manager’s consent and acting in accordance with DOH inspection authority, the DOH inspector “conducted a visual walk through of floors 1-5 and observed visible construction dust and debris in the common areas” two days after the demolition work had been completed. In addition, the DOH inspector observed “improper plastic containment of the front doors of units 1R and 4R”—meaning that the doorways for the apartment units Rose demolished were not sufficiently sealed to prevent dust from escaping.

34. The DOH inspector took ten samples of dust and debris left on the floors of different common areas within the building, including in public hallways and stairwells. The DOH inspector submitted the samples to a laboratory for analysis to determine whether the dust samples contained lead in amounts equal to or exceeding the then-applicable lead hazard standard. (This standard was subsequently reduced to 10 micrograms of lead per square foot. 40 C.F.R. § 745.65(b).) All ten dust samples came back well above the then applicable legal threshold of 40 micrograms of lead per square foot of dust, including the dust sample from the first-floor public hallway, which measured 115 micrograms of lead per square foot; the sample from the first-floor stairwell, which measured 185 micrograms of lead per square foot; and the sample from the third-floor public hallway, which measured 1,937 micrograms of lead per square foot.

35. DOH found that Rose's demolition work at 1301 3rd Avenue "was improperly generating and dispersing paint chips, debris and dust" containing more than 40 micrograms of lead per square foot of dust on floors. Therefore, DOH ordered that the building owner "immediately cease any work in progress" and "clean up all debris and dust generated by such work."

36. DOH referred the matter to EPA for further investigation. On March 9, 2018, EPA sent an Information Request Letter ("Information Request") to the general contractor renovating the two apartment units at 1301 3rd Avenue in Manhattan requesting information regarding renovation work practices at the property. The general contractor responded, reporting that Rose performed the demolition work on the projects.

Inspection of 40 5th Avenue, Manhattan

37. On November 6, 2018, EPA inspected 40 5th Avenue, a 15-story building with 71 residential units constructed in 1929 and therefore presumed and highly likely to contain lead-

based paint. As they arrived at the property, EPA inspectors noticed Rose workers carting uncovered garbage bins full of loose dust and debris from 40 5th Avenue to a truck.

38. The foreman at the 40 5th Avenue work site confirmed that Rose was performing demolition work at the site and acknowledged that he was not a Certified Renovator. None of the other Rose workers onsite were Certified Renovators, and no signs warning of possible lead hazards were posted in the building.

39. While onsite, the EPA inspectors conducted a walk-through of apartments 2D and 3D, both of which are two-bedroom units that were undergoing a complete renovation. The inspectors observed demolition debris covering the bare floors, which was not stored or sealed in bags or containers. In addition, loose, uncontained debris was being removed from the work area in open garbage bins and dumped into a garbage truck. The inspectors also noted that doorways leading from the common areas to the apartment work areas were not set up in a manner that would allow workers to pass through while confining dust and debris to the work area.

40. Below are photographs depicting the loose dust and debris on uncovered surfaces and inside unsealed containers resulting from Rose's demolition work.



Rose's Failure to Use Certified Renovators and Ensure Proper Training

41. Rose violated TSCA and the RRP Rule at the target housing projects listed in Exhibit A by failing to assign a Certified Renovator to direct the demolition work and by failing to ensure that all workers performing the renovations received training on lead-safe work practices required by the RRP Rule.

42. The RRP Rule requires firms performing demolition work to assign a Certified Renovator to direct lead-safe work practices and to train workers on lead-safe work practices in order to prevent lead contamination in the course of the demolition.

43. Rose systematically failed to use Certified Renovators and to train its workers. As an initial matter, records provided by Rose in response to an EPA request for information regarding Rose's compliance with the RRP Rule between 2016 and 2019 concede that Rose did not assign any Certified Renovator to 611 of the 668 demolition projects at confirmed target housing. Without Certified Renovators at these 611 projects, Rose also could not and did not comply with the RRP Rule's requirement that a Certified Renovator provide on the job training for all employees working on these projects.

44. Although Rose also provided records purporting to show that a Certified Renovator was assigned to the other 57 demolition projects at issue and trained the other workers present, those records lack credibility. Those records list two individuals as Certified Renovators assigned to Rose projects: One individual, who does not appear to have been an officer, employee, or subcontractor of Rose, was purportedly the Certified Renovator for 12 projects in 2016, some of which were occurring at the same time. Another individual, Rose's co-owner, Chief Executive Officer, and Vice President (the "CEO"), was purportedly the Certified Renovator assigned to the other 45 projects, some of which also overlapped in duration. Therefore, according to Rose, the

company's CEO performed all of the duties of the Certified Renovator in those 45 projects, including to "regularly direct work being performed by other individuals to ensure that the work practices required [under the RRP Rule] are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area"; to "be physically present at the work site when the signs required by [the RRP Rule] are posted, while the work area containment required by [the RRP Rule] is being established, and while the work area cleaning required by [the RRP Rule] is performed"; and to "perform a visual inspection to determine whether dust, debris or residue is still present" after clean-up, among other tasks, 40 C.F.R. §§ 745.90(b), 45.85(b).

45. In addition, the records for the 57 demolition projects state that only one or two workers were trained to perform lead-safe work practices at each of the projects. Yet those projects were too large to have had only one or two workers employing the required lead-safe work practices (including site containment, waste containment, and post-demolition clean-up). For example:

a. From June 21 until July 15, 2016, Rose demolished all interior walls, doors and doorframes, carpeting, bathroom fixtures, bathroom tiles, kitchen cabinetry, and ceilings in apartment 11AC at 1016 5th Avenue in Manhattan (built in 1929)—an eight-bedroom apartment unit—but Rose records state that only one worker was trained.

b. And from March 9 until March 16, 2017, Rose demolished interior walls, doors, doorframes, mill work, wood trim, kitchen cabinetry, as well as three bathrooms, including ceilings, fixtures, and tile, and kitchen cabinetry in apartment 14A at 1136 5th Avenue in Manhattan (built in 1925), a four-bedroom apartment unit, but again records

state that only one worker was trained—the same worker purportedly trained for the 1016 5th Avenue project.

c. In addition, from March 20 until March 28, 2019, Rose demolished interior walls, doorframes, baseboards, living room mantel, kitchen cabinetry, and three and one half bathrooms in apartment 3B at 15 West 81st Street in Manhattan (built in 1930), a three-bedroom apartment unit, but, again, Rose records state that only one worker was trained—the same worker purportedly trained for the 1016 5th Avenue and 1136 5th Avenue projects.

46. Consistent with Rose's admission of systematic non-compliance with the Certified Renovator and training requirements, former employees of Rose who performed renovation work—conducted demolition or carted away debris generated by Rose demolition work—between 2016 and 2019 reported that Rose did not train its own workers on how to minimize lead contamination in the course of demolition work on lead-painted surfaces or cart away demolition debris containing lead-based paint. They also confirmed that they were not aware of any Certified Renovators assigned to the projects they worked on. For example:

a. Worker 1 worked as a carting laborer for Rose from 2017 to 2018, including the renovation projects at 1 West 67th Street in Manhattan, which was built in 1917, 1220 Park Avenue in Manhattan, which was built in 1930, and 88 Central Park West in Manhattan, which was built in 1910. Worker 1 reported that Rose never warned him regarding lead-based paint at the work sites. He said he was never trained on how to minimize lead exposure when working with potential lead hazards, and he was not aware of any individual acting as a Certified Renovator on any of the projects to which he was assigned.

b. Worker 2, who worked for Rose as a laborer and foreman from 2014 through 2017 at residential work sites in New York City, said that at no point during his tenure with Rose, including his time as a foreman, did Rose train him on lead-safe work practices or give any guidance at all about how to deal with lead-based paint hazards.

c. Similarly, Worker 3 performed demolition work for Rose and worked on residential sites in New York City between 2017 and 2018 and said that he never received any training involving lead-based paint. In fact, Worker 3 reported that no one at Rose ever brought up lead-based paint with him and said he did not know or realize it was something he should be concerned about until asked about it during an interview.

d. Worker 4 carted debris from demolition sites to garbage trucks for Rose from 2000 until 2018 at residential job sites throughout New York City and said that nobody at Rose ever trained him on lead-safe work practices.

47. Rose's pattern and practice is further confirmed by EPA's inspection of 40 5th Avenue on November 6, 2018, in which EPA found no Certified Renovators on site.

Rose's Failure to Comply with Lead-Safe Work-Practice Requirements

48. In light of Rose's failure to train its workers regarding lead paint, and its failure to assign Certified Renovators to jobs, it is unsurprising that Rose did not in fact employ lead-safe work practices.

Rose Failed to Contain its Demolition Work Sites

49. Rose violated TSCA and the RRP Rule at demolition projects in target housing listed in Exhibit A by failing to comply with RRP Rule requirements to contain the demolition work areas to minimize the risk of lead exposure.

50. Rose systematically failed to contain dust and debris generated by demolition work by closing all windows, covering all doorways, including doors used as entrances to the work area, which must be covered in a manner allowing workers to pass through while confining dust and debris to the work area, covering all floor surfaces, and covering all vents or air ducts. If not contained, lead dust may be ingested by occupants of neighboring apartment units or homes—as well as by the workers themselves—which can lead to lead poisoning.

51. Former Rose employees interviewed by the United States described worksites where dust was improperly contained—or not contained at all—sometimes depending on whether the demolition work occurred in a luxury building. For example:

a. Worker 5 hauled demolition debris, including pieces of painted molding, flooring, and wood for Rose in 2018 and 2019 in residential buildings in New York City. He recalled that Rose only set up plastic sheeting for projects in luxury apartments, most of which were located in nice areas of Manhattan near Central Park. Even then, the plastic sheeting consisted of a single sheet of plastic placed on the external door of the apartment being worked on, which fails to provide the protection required by the RRP Rule. Worker 5 did not remember any plastic sheets covering air ducts or other openings. In fact, he recalled that the windows on any given demolition project were usually left open.

b. Similarly, Worker 2 reported that Rose did not have a rule for when to put plastic sheeting up and when not to. But he noticed that plastic sheeting was more likely to be installed in higher-value properties—in other words, although still inadequate, more precautions were taken for the buildings with the wealthiest tenants. In addition, Worker 2 explained that windows in lower floor apartments being demolished were usually kept closed, but if the apartments were higher up, the windows were usually kept open. As

Worker 2 noted, this was because Rose was less likely to receive complaints if dust was emitted from higher floors.

c. Worker 6, who worked at Rose for approximately eight months in 2019 removing debris from residential job sites in Manhattan and Brooklyn, reported that Rose did not normally require that workers cover any areas with plastic sheeting. Rather, doorways—and only doorways—were covered only when a building superintendent or a general contractor demanded it. Otherwise, Rose did not use plastic sheeting to cover doors, floors, or vents. Worker 6 also noted that workers often opened the windows of the apartment or house they were working on in order to minimize the dust inside the worksite.

d. Worker 7, Worker 8, Worker 9, and Worker 10, who performed demolition and carting work in residential projects across New York City between 2016 and 2019, all reported that on some work sites, rather than ensure the dust was contained in plastic containers within the worksite, Rose set up machines that collected dust from inside the site and blew the dust out the window through a hose connected to a window.

52. Rose's pattern and practice of non-compliance is confirmed by EPA's inspection of 40 5th Avenue on November 6, 2018, when EPA found uncontained demolition debris on the floors; and although doors leading to the work area from the hallway were covered with plastic, they were not set up in a manner that would allow workers to pass through while confining dust and debris to the work area.

53. And on DOH's February 21, 2018, inspection of 1301 3rd Avenue, the DOH inspector similarly found that the doors to the apartment units undergoing demolition were improperly contained.

Rose Failed to Contain Waste from Demolition Work

54. Rose systematically also violated TSCA and the RRP Rule at demolition projects in target housing listed in Exhibit A by failing to contain waste from demolition work before the waste was removed from the work area for disposal and by failing to contain the waste to prevent release of dust and debris when transporting waste from the demolition work.

55. Former Rose employees confirmed that Rose routinely transported demolition debris in uncovered bins. For example:

a. Worker 3 recalled being told by multiple foremen at Rose never to bother covering the debris because it was time-consuming to do so. The foremen told Worker 3 that covering the debris was not worth the time and that he should instead just concentrate on hauling the debris out and going back for more.

b. Worker 6 reported that bins transporting debris from demolition work were only covered up if the work was being performed in a “fancy” building or if the superintendent specifically requested it. However, even when the bins were covered, they were not completely sealed; because the debris was misshapen and jagged, the plastic covering did not fit neatly on the bins and gaps remained.

c. Worker 11, who worked at Rose from 2015 until 2017 performing demolition work and removing debris from residential job sites in New York City, reported that the bins used by Rose to cart away demolition debris were never covered.

d. Similarly, Worker 5, Worker 8, and Worker 10 all reported that the plastic garbage bins used to cart away the demolition debris were not covered, nor did they use plastic bags to contain the debris.

56. Rose’s pattern and practice of non-compliance is confirmed by the results of EPA’s inspection of 40 5th Avenue on November 6, 2018, when EPA inspectors observed uncontained

debris being removed from the work area in garbage cans and dumped into the back of a garbage truck. In addition, EPA also found uncontained demolition debris covering the floors, not stored or sealed in waste bags.

57. Similarly, on DOH's February 21, 2018, inspection of 1301 3rd Avenue, the DOH inspector found "visible construction dust and debris in the common areas," presumably resulting from Rose workers carting loose demolition debris away from the work sites. As discussed above, the demolition dust found in the common areas tested positive for lead.

Rose Failed to Appropriately Clean the Work Area After Demolition

58. Rose also systematically violated TSCA and the RRP Rule at target housing demolition projects listed in Exhibit A by failing to clean the work area after demolition work so that no dust or debris remains after the demolition work was completed. Specifically, Rose failed to clean walls by vacuuming with a HEPA vacuum or wiping down with a wet cloth, thoroughly vacuum all remaining surfaces in the work area with a HEPA vacuum, and clean floors using a mopping method that keeps the wash water separate from the rinse water or a similar method.

59. Former Rose employees confirmed that Rose did not adequately clean the work site after performing demolition work. For example:

a. Worker 5 described Rose's clean-up process after demolition as minimal. He said that there was no special process or equipment used for cleaning. Rose's clean-up process involved a few workers with a dustpan, a broom, and a mop doing what they could to get rid of the dust and debris.

b. Similarly, Worker 2 and Worker 7 confirmed that Rose did not provide any special equipment to clean after demolitions. Rose workers typically used shovels, brooms, wipes, and mops to collect and clean the piles of dust.

Rose's Failure to Provide Lead Hazard and Warning Information

60. Rose systematically violated TSCA and the RRP Rule at target housing demolition projects listed in Exhibit A by failing to post signs warning building occupants and others in the area to remain outside of the worksite and by failing to provide Lead Hazard Information Pamphlets to the owners or occupants of the properties undergoing demolition work.

61. Former Rose employees confirmed that Rose did not post warning signs at the work sites or provide Lead Hazard Information Pamphlets to the owners or occupants of the units being renovated. For example, Worker 3, Worker 6, and Worker 9 did not recall seeing warning signs posted around the sites or pamphlets being handed to residents of the buildings they worked on.

62. Rose's pattern and practice of non-compliance is confirmed by EPA's inspection of 40 5th Avenue on November 6, 2018, in which EPA did not see any warning signs outside the work area.

Rose's Failure to Maintain Records Demonstrating Compliance with the RRP Rule

63. Rose violated TSCA and the RRP Rule with respect to target housing demolition projects listed in Exhibit A—including the demolition projects inspected by DOH and EPA—by failing to maintain and make available to EPA the records necessary to demonstrate Rose's compliance with the RRP Rule.

64. On or about May 22, 2019, EPA issued an Information Request Letter to Rose requesting, among other things, a list of renovation projects performed by Rose between 2016 and 2019 and for each project listed, documentation showing that Rose provided Lead Hazard Information Pamphlets to the owners of properties being renovated, that warning signs were posted, that a Certified Renovator was assigned to each project, that the Certified Renovator provided on-the-job training for workers used on each project, that lead-safe work practices were

used on each project, and that the Certified Renovator verified that the work-area was cleaned at the conclusion of each project.

65. In response to the Information Request, on July 8, 2019, Rose provided only a spreadsheet listing 825 demolition projects performed by Rose between 2016 and 2019, a copy of Rose's RRP firm certification, and copies of renovator certifications for two individuals, Rose's CEO and one other individual who does not appear to have been a Rose officer, employee, or subcontractor.

66. Thereafter, EPA informed Rose that its July 8, 2019, response was deficient in many respects and requested that Rose provide all of the information requested in the Information Request.

67. On November 7, 2019, Rose provided bid proposals, contracts, and documentation purporting to show compliance with the RRP Rule relating to approximately 45 demolition projects performed by Rose in 2016, 2017, and 2019. In January 2020, Rose provided similar documentation relating to 12 demolition projects performed by Rose in 2018.

68. In total, Rose provided documentation relating to 57 demolition projects at buildings built before 1978. Initially, Rose asserted that the RRP Rule did not apply to other demolition projects because the properties at issue were constructed after 1978 and therefore would not have been presumed to have lead-based paint. However, Rose later acknowledged that the vast majority of the remaining properties were built before 1978. Rose also admitted in writing that it did not have any documentation demonstrating compliance with the RRP Rule at those properties.

69. Moreover, as described above, the documentation Rose provided regarding 57 demolition projects is unreliable and therefore insufficient to establish compliance with any of its obligations under the RRP Rule.

Injunctive Relief Is Required to Prevent Harm to the Public

70. Rose repeatedly violated the RRP Rule at hundreds of demolition projects over the course of three years leading up to EPA's Information Request Letter to Rose in May 2019. During those three years, Rose failed to assign Certified Renovators to its hundreds of demolition projects, failed to train its workers on lead-safe work practices, failed to employ lead-safe work practices, failed to warn occupants and neighbors of lead hazards, and failed to maintain any documentation of compliance with the RRP Rule. In light of the pervasive nature of Rose's repeated violations, there is every reason to believe that Rose's illegal conduct continues and will continue absent injunctive relief.

71. In addition, Rose's repeated, pervasive violations of the RRP Rule pose a serious risk of harm to the public. Rose's repeated failures to contain demolition sites and to warn building occupants of potential lead hazards present significant risks of lead poisoning to individuals—particularly children—living near the worksites. And Rose's failure to train its own workers on lead-safe work practices similarly presents a significant risk to the health of workers who are exposed to dust and debris potentially containing lead resulting from the demolition work they are performing and workers' families who are exposed to the lead dust tracked into workers' homes and cars.

FIRST CLAIM FOR RELIEF

**Violations of TSCA and the RRP Rule: Failure to Use
Certified Renovators and Ensure Proper Training
(15 U.S.C. § 2689; 40 C.F.R. §§ 745.81(a)(3), 745.89(d)(1), and 745.89(d)(2))**

72. The United States re-alleges paragraphs 1 through 71 above as if fully set forth herein.

73. Rose failed to assign a Certified Renovator to its renovations of target housing listed on Exhibit A in violation of 40 C.F.R. §§ 745.81(a)(3) and 745.89(d)(2), and 15 U.S.C. § 2689.

74. Rose also failed to ensure that uncertified workers performing the renovations of target housing on Exhibit A received required training by a Certified Renovator on the lead-safe work practices to be used at each renovation in violation of 40 C.F.R. §§ 745.81(a)(3) and 745.89(d)(1), and 15 U.S.C. § 2689.

75. The circumstances of Rose's repeated violations, including the fact that they occurred at hundreds of projects, demonstrate that without judicial relief Rose will continue to violate TSCA and the RRP Rule.

76. Rose's renovation activities, including its violations of the RRP Rule's certification and training requirements, threaten irreparable harm to the health and safety of people living in or near buildings Rose renovates, visitors to these buildings, and to the untrained workers involved in these renovations and their families. These activities likewise threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure.

77. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining Rose from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining Rose to perform all future

renovation work in compliance with TSCA and the RRP Rule; (iii) requiring Rose to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

SECOND CLAIM FOR RELIEF

**Violations of TSCA and the RRP Rule: Failure to Comply with
Lead-Safe Work-Practice Requirements
(15 U.S.C. § 2689; 40 C.F.R. §§ 745.85(a), 745.85(b), and 745.85(c))**

78. The United States re-alleges paragraphs 1 through 77 above as if fully set forth herein.

79. Rose failed to contain work areas at the renovations of target housing listed on Exhibit A in violation of 40 C.F.R. §§ 745.85(a)(2)(i)(C), 745.85(a)(4)(i) and 15 U.S.C. § 2689.

80. Rose also failed to clean the renovation work areas properly after the renovations were completed at target housing on Exhibit A in violation of 40 C.F.R. § 745.85(a)(5), (b), and (c), and 15 U.S.C. § 2689.

81. The circumstances of Rose's repeated violations, including the fact that they occurred at hundreds of projects, demonstrate that without judicial relief Rose will continue to violate TSCA and the RRP Rule.

82. Rose's renovation activities, including its violations of the RRP Rule's lead-safe work-practice requirements, threaten irreparable harm to the health and safety of people living in or near buildings Rose renovates, visitors to these buildings, and to the untrained workers involved in these renovations and their families. These activities likewise threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure.

83. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining Rose from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining Rose to perform all future

renovation work in compliance with TSCA and the RRP Rule; (iii) requiring Rose to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

THIRD CLAIM FOR RELIEF

**Violations of TSCA and the RRP Rule: Failure to Provide Lead Hazard
and Warning Information
(15 U.S.C. § 2689; 40 C.F.R. §§ 745.81(b), 745.84(a), and 745.85(a)(1))**

84. The United States re-alleges paragraphs 1 through 83 above as if fully set forth herein.

85. Rose failed to provide a Lead Hazard Information Pamphlet to the owner(s) or occupant(s) of target housing listed in Exhibit A in violation of 40 C.F.R. §§ 745.81(b) and 745.84(a), and 15 U.S.C. § 2689.

86. Rose also failed to post warning signs at the target housing listed in Exhibit A in violation of 40 C.F.R. § 745.85(a)(1) and 15 U.S.C. § 2689. The circumstances of Rose's repeated violations, including the fact that they occurred at hundreds of projects, demonstrate that without judicial relief Rose will continue to violate TSCA and the RRP Rule.

87. Rose's renovation activities, including its violations of the RRP Rule's safety information distribution requirements, threaten irreparable harm to the health and safety of people living in or near buildings Rose renovates and visitors to these buildings. These activities likewise threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure.

88. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining Rose from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining Rose to perform all future

renovation work in compliance with TSCA and the RRP Rule; (iii) requiring Rose to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

FOURTH CLAIM FOR RELIEF

**Violations of TSCA and the RRP Rule: Failure to Maintain
Records Demonstrating Compliance with the RRP Rule
(15 U.S.C. § 2689; 40 C.F.R. §§ 745.86 and 745.87(b))**

89. The United States re-alleges paragraphs 1 through 88 above as if fully set forth herein.

90. Rose has routinely failed to establish and maintain records required by 40 C.F.R. §§ 745.86 and 745.87(b) and 15 U.S.C. § 2689 for renovations of target housing listed on Exhibit A.

91. The circumstances of Rose's repeated violations, including the fact that they occurred at hundreds of projects, demonstrate that without judicial relief Rose will continue to violate TSCA and the RRP Rule.

92. Rose's renovation activities, including its violations of the RRP Rule's recordkeeping requirements, threaten irreparable harm to the United States' interest in protecting the public from the harmful effects of lead exposure, including EPA's interest in monitoring compliance with TSCA and the RRP Rule.

93. Pursuant to Sections 17 and 409 of TSCA, 15 U.S.C. §§ 2616 and 2689, the Court should issue an order (i) restraining Rose from conducting any further renovation work until it can demonstrate compliance with TSCA and the RRP Rule; (ii) enjoining Rose to perform all future renovation work in compliance with TSCA and the RRP Rule; (iii) requiring Rose to mitigate the harms caused by its conduct; and (iv) providing other available equitable remedies.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court:

- i. Enter judgment against Rose and in favor of the United States for the violations alleged in this Complaint;
- ii. Enter an order restraining Rose from performing any renovation work in target housing until it can demonstrate compliance with TSCA and the RRP Rule;
- iii. Enter a permanent injunction compelling Rose to comply with TSCA and the RRP Rule;
- iv. Order Rose to mitigate the harms caused by its conduct; and
- v. Grant such further equitable and other relief as the Court deems just and appropriate.

Date: September 30, 2024
New York, New York

Respectfully submitted,

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