

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of a Violation of Article 27, Title 14 of the
New York State Environmental Conservation Law (“ECL”)

**ORDER ON
CONSENT**

by

Index No. C224177-10-13
Site No. C224177

135 KENT AVENUE MANAGEMENT CORP., Respondent.

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WHEREAS:

1. The New York State Department of Environmental Conservation (the “Department”) is responsible for the administration and enforcement of law and regulation related to the Brownfield Cleanup Program, pursuant to Article 27, Title 14, of the New York State Environmental Conservation Law (“ECL”).
2. Respondent 135 Kent Avenue Management Corp. owns the Brownfield Cleanup Program (“BCP”) Site No. C224177, also known as the Former Cleaners Sales & Equipment Corp. site (the “Site”). The Site address is 135 Kent Avenue, Brooklyn, NY 11249.
3. On April 25, 2015, the Department sent a letter to the Respondent requiring continued operation and maintenance of air filtration units in conjunction with the operation of a sub-slab depressurization system.
4. On October 28, 2019, the Department received notification from the Respondent’s environmental consultant regarding missing air filtration units in the residential and commercial tenant spaces of the Site.
5. On January 15, 2020, the Department issued Respondent a Notice of Violation regarding violations of Article 27 of the ECL and regulations promulgated thereto, related to (1) the missing air filtration units, and notifications alleged not to have been made to tenants regarding the requirement for engineering controls in new leases; and (2) failing to timely implement the approved Remedial Investigation Work Plan in accordance with the schedule contained therein. An administrative settlement conference took place on February 10, 2020 in the Department’s Region 2 office with Respondent in order to avoid initiation of formal civil or administrative enforcement proceedings. This Order on Consent resolves all violations identified in the Notice of Violation.
6. By failing to operate and maintain the air filtration units and to timely implement the approved Remedial Investigation Work Plan in accordance with the schedule contained therein Respondent violated 6 NYCRR 375-1.11(b) (2) (i), as promulgated pursuant to Article 27, Title 14 of the ECL, which forbids “any activity” that will prevent or interfere significantly with any proposed, ongoing, or completed remedial program at any BCP site.

7. By failing to notify tenants by lease amendments Respondent violated ECL § 27-2405.
8. Pursuant to ECL Section 71-2705(1), a person who violates ECL Article 27, Title 14 is subject to a penalty of up to \$37,500 per day for each violation.
9. Respondent affirmatively waives the right to a public hearing in this matter, consents to the entering of this Order on Consent and agrees to be bound by its terms and conditions.

NOW, having considered this matter and being duly advised, it is ORDERED that:

- I. Respondent shall be liable for a total civil penalty in the amount of **THREE THOUSAND DOLLARS (\$3,000)** for the violations stated herein.

The civil penalty shall be paid within 30 days of the Department's execution of this Order by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line> or by check made payable to the order of the "New York State Department of Environmental Conservation," with the enclosed invoice and Index Number "C224177-10-13" written in the memo section of the check, which shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10th Floor, Albany, NY 12233-4900.

- II. This Order on Consent is effective upon execution by the Director of the Division of Environmental Remediation on behalf of the Commissioner.

- III. Respondent shall strictly adhere to the terms and conditions of this Order on Consent. Any violation of this Order shall constitute a violation of the ECL.

- IV. This Order on Consent may be changed only by written order of the Commissioner or the Commissioner's designee.

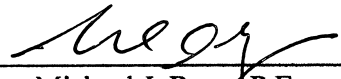
- V. This Order on Consent shall be deemed binding on Respondent, any successors and assigns and all persons, firms and corporations acting under or for Respondent, including, but not limited to those who may carry on any or all of the operations now being conducted by Respondent, whether at the present location or at any other in this State.

- VI. Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order on Consent by Respondent and any successors (including successors in title) and assigns.

- VII. If Respondent cannot comply with a deadline or requirement of this Order on Consent, because of an act of God, pandemic, war, strike, riot, catastrophe or other condition which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

DATED: 12/3/20

BASIL SEGGOS, COMMISSIONER
New York State Department of
Environmental Conservation

By: 

Michael J. Ryan, P.E.
Director
Division of Environmental Remediation

CONSENT BY 135 KENT AVENUE MANAGEMENT CORP.

Respondent 135 Kent Avenue Management Corp. hereby consents to the issuing and entering of this Order on Consent without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order on Consent.

By (Signature):

Jeffrey Cohen
Print Name: Jeffrey Cohen
Title: VP | Treasurer
Date: 11/30/20

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF)

On this _____ day of November, 2020, before me personally came _____, who being properly identified and who being by me duly sworn did depose and say that s/he is _____ of 135 Kent Avenue Management Corp., and did execute this Order on Consent on behalf of 135 Kent Avenue Management Corp. as authorized by 135 Kent Avenue Management Corp.

Notary Public

If you are unable to secure notarization, you must sign the statement below.

In signing this document, I acknowledge under penalty of perjury that I understand the contents and purpose of this document; the signature above is my own and I signed willingly. I am aware that any false statement made herein is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Jeffrey Cohen
Signature