

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED
7016 0340 0000 4616 7564

October 11, 2017

Mr. Suraji Akotia
College Works Painting
1682 Langley Avenue
Irvine, CA 92614

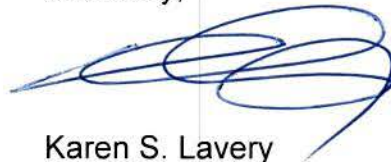
Re: Order on Consent
R4-2017-0822-237

Dear Mr. Akotia:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$1,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

cc: M. Vencak, ECO



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Alleged Violations of
Article 17 of New York State Environmental
Conservation Law

-by-

ORDER ON CONSENT
R4-2017-0822-237

CWPNY, Inc.
1682 Langley Ave
Irvine, CA 92614

Respondent

WHEREAS:

Jurisdiction

1. The New York State Department of Environmental Conservation (“the Department”) is a department of the State of New York with jurisdiction over the environmental policy and laws of this state, pursuant to inter alia, Section 3-0301 of the Environmental Conservation Law (“ECL”). In particular, DEC regulates the discharge from point sources and storm water pursuant to ECL 17-0501.1 et seq. and the rules and regulations promulgated there under at Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), Part 750 et seq.
2. Respondent CWPNY, Inc. owns/operates a residential painting business with a headquarters located at 1682 Langley Avenue, Irvine, CA 92614.
3. On May 17, 2017 Respondent CWPNY, Inc., contracted with a homeowner residing at 150 Adams Place, Delmar, NY, for the purpose of conducting a residential housepainting.

Facts

4. On August 2, 2017, Department of Law Enforcement (“DLE”) staff responded to a complaint received by the DEC spill hotline, of a white substance in the basin of the storm drain and dried paint on the grate at the intersection of 150 Adams Place and Forest Road, Delmar, NY (site).
5. Respondent’s agent disposed of unused paint in the catch basin located at 150 Adams Place and Forest Road.
6. Respondent’s agent did not have authorization to dispose of paint in the catch basin.
7. ECL Section 17-0803 provides that, *“Except as provided by subdivision five of Section 17-0701 of the Article, it shall be unlawful to discharge pollutants to the waters of the State from any outlet or point source without a SPDES permit issued pursuant hereto or in a manner other than as prescribed by such permit.”*

Civil Penalty

8. ECL 15-0501.1 provides that any violator of Articles 3 or 7 of the provisions of Article 17 of the ECL cited in this Order, or any rule or regulation issued pursuant thereto, is subject to penalties of up to Seven thousand five hundred dollars (\$7,500) for each violation and an additional penalty of not more than \$1,500 per day during which the violation continues and may be enjoined from continuing such violation.

Waiver of Hearing

9. Respondent has affirmatively waived its/his right to a hearing herein as provided by law and has consented to the issuing and entering of this Order on Consent (“Order”) pursuant and agrees to be bound by the terms, provisions and conditions herein.

NOW, being duly advised and having considered this matter, THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HEREBY ORDERS THAT:

I. PENALTIES

Respondent is hereby assessed a civil penalty in the amount of \$1,000 for the violations stated herein which shall be payable with the return of the signed and notarized Order. **Payments shall be made by bank or certified check or money order made out to the Department of Environmental Conservation.**

II. STANDARD PROVISIONS

Respondent shall further comply with the standard provisions which are attached, and which constitute material and integral terms of this Order and are hereby incorporated into this document.

DATED: 10/10, 2017
Rotterdam, New York

Basil Seggos,
Commissioner
New York State Department of
Environmental Conservation

By: 

Keith Goertz
Regional Director
Regional 4

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

s.s.

On October 4 2017 before me, Nathan Morehead, Notary Public

Name of Notary Public, Title

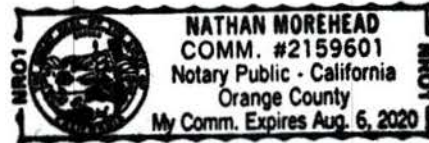
personally appeared Tracy Meneses

Name of Signer (1)

Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of NY Department of Env. Conservation - Settlement Agreement containing 8 pages, and dated Oct 8 2017.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s) Treasurer

Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____

Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification
- credible witness(es)

Notarial event is detailed in notary journal on:

Page # 91 Entry # 5

Notary contact: Nathan Morehead

Other

- Additional Signer
- Signer(s) Thumbprints(s)

STANDARD PROVISIONS

Payment. . Any penalty assessed pursuant to the terms and conditions of this Order shall be paid by submitting a certified or cashier's check or money order, payable to the Department of Environmental Conservation, to:

Department of Environmental Conservation
Region 4, Attn: Karen Lavery
1130 North Westcott Road
Schenectady, NY 12306

Communications. Except as otherwise specified in this Order, any reports, submissions, and notices herein required shall be made to:

Department of Environmental Conservation
Region 4, Attn: Mary O. Barrie
1130 North Westcott Road
Schenectady, NY 12306

Effective Date and Duration. The effective date of this Order is the date that by the Commissioner of Environmental Conservation, or her designee, signs it; and this Order shall expire when Respondent has fully complied with the requirements of this Order.

Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site, or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

Force Majeure. If Respondent cannot comply with a deadline or requirement of this Order, because of an act of God, 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.

Indemnity. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs resulting from the acts and/or omissions of Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted compliance with the provisions of this Order by Respondent or its employees, servants, agents, successors or assigns.

Modifications. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to Respondent. Respondent shall have the burden of proving entitlement to any modification requested pursuant to this Standard Provision or the "Force Majeure" provision, supra. Respondent's requests for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate.

Settlement and Reservation of Rights

A. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondent and its successors (including successors in title) and assigns.

B. Except as provided in paragraph A above, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or the Commissioner's designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

Entire Agreement: This Order shall constitute the entire agreement of the Department and Respondent with respect to settlement of those violations specifically referenced herein.

Binding Effect: The provisions, terms, and conditions of this Order shall be deemed to bind Respondent and Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

Service: If Respondent is represented by an attorney with respect to the execution of this Order, service of a duly executed copy of this Order upon Respondent's attorney by ordinary mail shall be deemed good and sufficient service.

Multiple Respondents: If more than one Respondent is a signatory to this Order, use of the term "Respondent" in this Order shall be deemed to refer to each Respondent identified in the Order.

Schedule of Compliance

1. Within 30 days of the effective date of this Order, Respondent, shall develop training materials for its employees, which shall include but not be limited to, proper disposal of paint and any other hazardous materials utilized in the normal course of business. These training materials shall be submitted to the Department for approval prior to distribution to Respondent's employees.