

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
7015 0640 0000 6900 2833

March 25, 2016

Lawrence Schillinger, Esq.
Young, Sommer LLC
5 Palisades Drive
Albany, NY, 12205

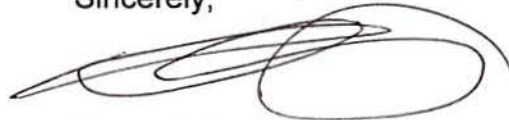
Re: Order on Consent
Revolve Recycling Solutions, LLC
& e-Lot Electronics Recycling, Inc.
R4-2015-0804-93

Dear Mr. Schillinger:

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

This will also acknowledge receipt of \$2,000 1st of 4 payments of the civil penalty pursuant to Paragraph I. Your second payment of \$2,000 is due on or before March 31, 2016.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: A. Elliott
V. Schmitt

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Violations
of Article 27 of the New York State
Environmental Conservation Law,
and Title 6, Part 360
et seq. of the Official
Compilation of Codes, Rules and
Regulations of the State of New York,

ORDER ON CONSENT
File No. R4-2015-0804-93

- by -

Revolve Recycling Solutions, LLC and
e-Lot Electronics Recycling, Inc.
64 Hannay Lane
Glenmont, NY 12198

Respondents

WHEREAS:

JURISDICTION

1. The Department of Environmental Conservation (“Department”) is empowered to regulate the operation of solid waste management facilities pursuant to ECL Article 27.
2. Respondents, Revolve Recycling Solutions, LLC and e-Lot Electronics Recycling, Inc, operate an electronics recycling facility located at 64 Hannay Lane, Glenmont, New York (“facility”).
3. Department staff inspected the facility on June 19, 2015, July 16, 2015, and July 28, 2015.

FIRST VIOLATION

4. In the Spring of 2015, E-Lot Electronics Recycling, Inc. moved its operation from its Troy location to 64 Hannay Lane, Glenmont. The company did not submit a registration to the department for an electronic waste collection, consolidation and recycling registration for its facility in Glenmont under the name Revolve Recycling Solutions, LLC or e-Lot Electronics Recycling, Inc.

5. On June 19, 2015, ECO Kurt Bush issued Respondent, Revolve Recycling Solutions, LLC, a Notice of Violation (“NOV”) for failing to submit a registration.
6. On June 23, 2015, Regional Enforcement Coordinator Marcia Ellis sent a short form order to Respondent, Revolve Recycling Solutions, LLC, with a July 20, 2015 return date.
7. On July 22, 2015, Department staff emailed to Respondent, Revolve Recycling Solutions, LLC, a copy of the registration form.
8. To date, there has been no communication from Respondent, Revolve Recycling Solutions, LLC, with respect to either correspondence.
9. ECL 27-2613 (3) provides that “*No later than January first, two thousand eleven, each person operating an electronic waste recycling facility in the state shall register with the department on a form prescribed by the department... Any person who commences the operation of an electronic waste recycling facility on or after January first, two thousand eleven shall register with the department at least thirty days prior to receiving any electronic waste.*”
10. Respondents violated ECL 27-2613 (3) by failing to submit a registration to the department for operating an electronic waste collection, consolidation and recycling facility at 64 Hannay Lane, Glenmont under the name Revolve Recycling Solutions and/or e-Lot Electronics Recycling, Inc.

SECOND VIOLATION

11. On July 16, 2015, Department staff observed illegal storage of e-waste at Respondent’s facility, outside a fully enclosed building in non-secured containers.
12. ECL 27-2613(1)(d) provides that electronic waste must be “*in a fully enclosed building with a roof, floor and walls, or (ii) in a secure container (e.g., package or Vehicle that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.*”
13. Respondent violated ECL 27-2613(1)(d) by failing to properly store e-waste.

THIRD VIOLATION

14. On July 16, 2015, Department staff observed open boxes of fluorescent lamps inside of Respondent’s facility.

15. Regulations at 6 NYCRR §374-3.2(d)(4)(i) provides that “A *small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:* (i) *A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.*”

16. Respondent violated regulations at 6 NYCRR §374-3.2(d)(4)(i) by failing to properly contain and store fluorescent lamps.

Civil Penalty

17. ECL 71-2703 provides that any violator of Articles 3 or 7 of the provisions of Article 27 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

18. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law and has consented to the issuing and entering of this Order and agrees to be bound by its terms, provisions and conditions contained within the Order.

NOW, being duly advised and having considered this matter, **IT IS HEREBY ORDERED THAT:**

I. Penalty

With respect to the aforesaid alleged violation, a civil penalty in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) is hereby assessed against the Respondent of which SEVEN THOUSAND DOLLARS (\$7,000) shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

Payment of the civil penalty is due in accordance with the following schedule:

1. \$2,000.00 with the return of the signed and notarized copy of this Order;
2. \$2,000.00 by March 31, 2016;
3. \$2,000.00 by April 29, 2016;
4. \$1,000.00 by May 31, 2016;

The failure to make a timely payment shall result in the entire balance of civil penalty being immediately due. The civil penalty shall be paid by certified or bank check made payable to the NYS DEC.

The balance (\$500) shall be suspended so long as Respondent shall comply with the Schedule of Compliance.

Payment of the above penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order.

In the event that Respondent fails to comply with the requirements of this Order the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for violations of this Order by Respondent.

II. Schedule of Compliance

The attached Schedule of Compliance and any plans approved thereunder are incorporated into the Order on Consent and enforceable thereunder.

III. Force Majeure

Respondent shall not be in default of compliance with this Order if it is unable to comply with any provision of this Order solely because of an action of a national government or court, or an act of nature, war, strike, riot or catastrophe, as to any of which the negligence or willful misconduct of Respondent was not a proximate cause. Respondent shall notify DEC in writing immediately upon obtaining knowledge of any such event. Relief under this clause shall not be available if Respondent fails to timely comply with the notice requirement set out in this paragraph.

IV. Communications

All communications required herein shall be made to: Department -- DEC Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Regional Materials Management Engineer.

V. Access

Respondent shall allow duly authorized representatives of DEC access to the facility referred to in this Order without prior notice, at such times as may be desirable or necessary in order for DEC to inspect and determine the status of Respondent's compliance with this Order or the ECL.

VI. Summary Abatement

This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VII. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless for all claims, suits, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

VIII. Review of Submittals

1. All documents which Respondent must submit pursuant to this Order are subject to Department approval.

2. The Department shall review each of the submittals Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order; and Respondent shall implement them in accordance with their respective schedules and terms, as approved.

3.a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within the time frame set forth in that written notification, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.

b. After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the revised submission is not approvable as submitted, the Department, at its option, may disapprove it or may approve it on condition that Respondent accepts such modifications as may be specified by Department to make it approvable. If Respondent does not accept such modifications, the revised submission will be disapproved. If the Department disapproves the revised submittal, Respondent shall be in violation of this Order. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

4. Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary. The Department agrees that any modifications it specifies will be reasonable and consistent with customary engineering standards.

IX. Binding Effect

The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.

X. Modification

No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

XI. Entire Order

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified herein. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound, pursuant to Paragraph X of this Order. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XII. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

XIII. Reservation of Rights

Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder.

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, its officers, directors, agents, servants, employees, successors and assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

D. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

XIV. 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.

DATED: *March*, *24* 2016
Rotterdam, New York

Basil Seggos
Acting Commissioner
New York State Department of
Environmental Conservation

BY:


Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Revolve Recycling Solutions, LLC

SIGNED: [Signature]

TITLE: Owner

DATE: 3/18/16

STATE OF _____)

COUNTY OF _____) ss.:)

On the 18 day of March in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Matthew F. [Signature] personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public
Qualified in the County of:
My Commission Expires:

LAWRENCE R. SCHILLINGER
Notary Public, State of New York
Qualified in Albany County
2206 1035458
Commission Expires August 19, 2013 2017

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

e-Lot Electronics Recycling Facility, Inc.

SIGNED: [Signature]

TITLE: PRES

DATE: 3-10-16

STATE OF _____)

))
))ss.:
COUNTY OF _____))

On the 10th day of March in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Morris Friedman personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]

Notary Public
Qualified in the County of:
My Commission Expires:

LAWRENCE R. SCHILLINGER
Notary Public, State of New York
Qualified in Albany County
No. 02SC4985458
Commission Expires August 19, 2013

SCHEDULE OF COMPLIANCE

1. Effective immediately, Respondents must cease all electronic waste collection, consolidation and recycling operations at the Revolve Recycling LLC facility located at 64 Hannay Lane, Glenmont until the facility is properly registered with the Department pursuant to ECL 27-2613. The registration for the Revolve Recycling LLC facility will not become valid until the \$250 registration fee is paid. Within 7 days of the effective date of this Order, Respondents must submit a check for \$250 payable to NYSDEC along with the attached form to:

NYSDEC
Product Stewardship & Waste Reduction Section
Attention: E-waste Recycling Program
625 Broadway, 9th Floor Albany, NY 12233-7253.

2. Within 15 days of the effective date of this Order, Respondents shall submit to the Department, a detailed compliance plan to address the proper handling of universal waste so as to prevent releases to the environment, and ensure that all containers are labeled and dated in full compliance with all requirements of regulations at 6 NYCRR 374-3.2.

3. Within 15 days of the effective date of this Order, Respondents must maintain documentation onsite (e.g. a dated log) demonstrating that all employees are trained with respect to the proper handling and emergency procedures (e.g. cleanup of broken lamps) appropriate to the types of universal waste handled at the facility.

4. Respondents shall return to the Department with the signed and notarized Order as well as the first installment of the civil penalty payment, a completed copy of the attached Appendixes A and B Tax Information Form and Statewide Offset Program Notice, for both Revolve Recycling Solutions, LLC AND e-Lot Electronics Recycling Facility, Inc., which shall become a part of this Order.