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ex rel. the Department of Toxic Substances Control

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUN 28 2017

Sherri R. Carter, Executive Officer/Clerk
By Natasha Rose, Deputy
Natasha Rose

Exempt from Filing Fees Pursuant to
Gov. Code § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

13 PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. The Department of Toxic Substances
14 Control,

Plaintiff,

v.

17 WILLIAM LANG, an individual,

Defendant.

Case No.

17K06503

APPLICATION FOR JUDGMENT TO
COLLECT ADMINISTRATIVE
PENALTIES

[Filed concurrently with Exhibits, Declaration
of Rita Hynarowski, and Proposed
Judgment]

(Health & Saf. Code § 25184.1)

20 TO THE CLERK OF THE COURT:

21 Pursuant to Health and Safety Code section 25184.1, the California Department of Toxic
22 Substances Control ("Department") hereby applies to the Clerk of this Court for a judgment
23 against William Lang, an individual, to collect administrative penalties in the amount of
24 \$21,630.00. Attached as Exhibit A are certified copies of the Department's Enforcement Order,
25 Docket HWCA 20146769 and Notice of Final Order (together, "Enforcement Order"). The
26 Enforcement Order constitutes a final administrative order imposing these penalties on Mr. Lang.

27 I. THE CLERK SHALL ISSUE JUDGMENT WHERE THERE IS A FINAL
28 ADMINISTRATIVE ORDER.

1 Pursuant to Health and Safety Code section 25184.1, the Department “may apply to the
2 clerk of an appropriate court for a judgment to collect the administrative penalty” imposed by an
3 administrative order or decision issued under Chapters 6.5 or 6.8 of the Health and Safety Code.
4 (Health & Saf. Code, § 25184.1.) The only prerequisites for obtaining such a judgment are that:
5 (1) “the administrative order or decision has become final” and, if applicable, (2) “a petition for
6 judicial review of the final order or decision has not been filed within the time limits prescribed in
7 Section 11523 of the Government Code.” (*Id.*) When these conditions are met, “the
8 department’s application, which shall include a certified copy of the . . . final administrative order
9 or decision, constitutes a sufficient showing to warrant issuance of the judgment.” (*Id.*) Section
10 25184.1 also provides that “[t]he court clerk shall enter the judgment immediately in conformity
11 with the application.” (*Id.*)

12 **II. THE ENFORCEMENT ORDER IS A FINAL ADMINISTRATIVE ORDER.**

13 The Department issued the Enforcement Order assessing \$21,630.00 in administrative
14 penalties against Mr. Lang under Health and Safety Code section 25187, which is part of Chapter
15 6.5 of the Health and Safety Code. (Ex. A, Enforcement Order at pp. 1, 2, ¶ 1.5; Health & Saf.
16 Code, § 25187.) Under Health and Safety Code section 25187, subdivision (d)(1), an
17 administrative order issued by the Department becomes final unless a written notice of defense is
18 filed with the Department within 15 days after service of the order. The Department served the
19 Enforcement Order on June 16, 2015 and Mr. Lang failed to submit a notice of defense requesting
20 a hearing. (Declaration of Rita Hypnarowski (“Hypnarowski Decl.”), ¶¶ 3-4.) On July 30, 2015,
21 the Department informed Mr. Lang that the Enforcement Order issued on June 9, 2015 was final.
22 (Ex. A (Notice of Final Order, dated July 30, 2015).) Mr. Lang did not seek judicial review of the
23 Enforcement Order under Government Code section 11523. (Hypnarowski Decl., ¶ 5.) The
24 Enforcement Order is a final administrative order. (Gov. Code, § 11523; see also Gov. Code, §
25 11521.) Therefore, the prerequisites for issuance of a judgment under Health and Safety Code
26 section 25184.1 have been met.

27 This Court is the “appropriate court” for this application, because the penalties assessed in the
28 Enforcement Order arise from violations occurring at a e-waste handling facility in Pomona,

1 California. (Ex. A, Enforcement Order at p. 1, ¶ 1.2; Health & Saf. Code, § 25184.1.)

2 **III. CONCLUSION**

3 Based on the above, the Department respectfully requests that the Clerk of this Court enter
4 judgment against Mr. Lang in the amount of \$21,630.00 in administrative penalties to be
5 collected by the Department. The Department is submitting a proposed judgment concurrently
6 with this application.

7 Dated: June 23, 2017

Respectfully Submitted,

8 XAVIER BECERRA
9 Attorney General of California
10 SARAH E. MORRISON
11 Supervising Deputy Attorney General

12 **Original signed by Tatiana K. Gaur**

13 TATIANA K. GAUR
14 Deputy Attorney General
15 *Attorneys for the People of the State of*
16 *California ex rel. the Department of Toxic*
17 *Substances Control*

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Exhibit A



Matthew Rodriguez
Secretary for
Environmental Protection



Department of Toxic Substances Control

Barbara A. Lee, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Edmund G. Brown Jr.
Governor

CERTIFICATION OF OFFICIAL WRITING Evidence Code Section 1530

I, the undersigned, hereby certify that:

1. The attached **Enforcement Order (Docket HWCA 20146769)** and **Notice of Final Order (Docket 20146769)** are true and correct copies of the writings in the custody of the Department of Toxic Substances Control.
2. A copy of the original writings, is located at:

Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
3. I am a public employee with legal custody of the above described writings and am authorized to execute this certification in accordance with Evidence Code Section 1530.
4. My business address and telephone number are as follows:

Department of Toxic Substances Control
Enforcement and Emergency Response Division
8810 Cal Center Drive
Sacramento, CA 95826
(916) 255-6618

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Sacramento, California, on June 16, 2017.

Original signed by Rita Hypnarowski

Rita Hypnarowski, Senior Environmental Scientist (Specialist)
Hazardous Waste Management Program/Enforcement and
Emergency Response Division, Berkeley-Clovis Branch
Department of Toxic Substances Control

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

3R International Group, aka
E-Waste Recovery Center
2300 S. Reservoir St. Unit 406
Pomona, California, 91766
Agent for Service: Queen Zeng

and

Mr. William Lang
2300 S. Reservoir St. Unit 406
Pomona, California 91766

EPA ID No. CAL000347305

Respondents.

Docket HWCA 20146769

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to 3R International Group, aka E-Waste Recovery Center, and to Mr. William Lang, Facility Manager (Respondents).

1.2. Site. Respondents oversaw the dismantling of universal waste (electronic waste) at 2300 S. Reservoir Street Unit 406 in Pomona, California (Site) and sent dismantled CRTs out of state for further recycling.

1.3. Inspection. The Department conducted a review of the Site's CRT shipment records on December 11, 2013.

1.4. Authorization Status. Respondents notified DTSC on November 10, 2009 as a recycler (dismantler) of electronic waste.

1.5. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. On or about December 11, 2013, Respondents violated California Code of Regulations, title 22, section 66273.72(c)(3) by failing to ensure that 32,840 pounds of CRTs sent to Dow Management LLC (Dow) in Yuma, Arizona on February 5, 2013 were recycled through reclamation at a CRT glass manufacturer or lead smelter.

SCHEDULE FOR COMPLIANCE

3.1. Compliance. Respondents have corrected the violation set forth above.

3.2. Submittals. All submittals from Respondents pursuant to this Order shall be sent simultaneously to:

Rita Hypnarowski
Senior Environmental Scientist (Specialist)
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

and

Jay Cross, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

3R International Group, aka E-Waste Recovery Center,
and Mr. William Lang
HWCA 20146769

3.3. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.4. Data and Document Availability. Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.5. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents

in carrying out activities pursuant to the Order.

3.6. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Order are incorporated in this Order upon approval by the Department.

3.7. Extension Request: If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.8. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondents to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondents, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods: "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondents' penalty at \$21,630.00. Payment is due within 30 days from the effective date of the Order. Respondents' check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondents and Docket Number, as shown in the heading of this case. Respondents shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Rita Hypnarowski
Senior Environmental Scientist (Specialist)
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

and

Jay Cross, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

RIGHT TO A HEARING

6. Respondents may request a hearing to challenge the Order. Appeal procedures are described in the attached Notice of Defense documents.

3R International Group, aka E-Waste Recovery Center,
and Mr. William Lang
HWCA 20146769

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of delivery, which is the date of the cover letters transmitting the Order to Respondents, unless Respondent(s) requests a hearing within the twenty-day period.

Date of Issuance June 9, 2015

Original signed by Rita Hypnarowski

Rita Hypnarowski
Sr. Environmental Scientist (Specialist)
Enforcement and Emergency Response
Division
Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection



Department of Toxic Substances Control

Barbara A. Lee, Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Edmund G. Brown Jr.
Governor

July 30, 2015

Mr. William Lang, Facility Manager
2300 S. Reservoir Street Unit 406
Pomona, California 91766

Certified Mail # 70142870000077241334

SUBJECT: ENFORCEMENT ORDER HWCA 20146769

Dear Mr. Lang:

On June 16, 2015, Mr. Carlos Ortega of the Department of Toxic Substances Control (DTSC) hand-delivered to you the Enforcement Order I issued to you for a violation identified during a December 11, 2013 DTSC records review of CRT shipments you initiated on behalf of 3R International Group, aka E-Waste Recovery Center (3R) at 2300 S Reservoir St. Unit 406 in Pomona. Mr. Ortega also delivered to you a Notice of Defense document and cover letter which clearly outlined your rights to a hearing in this matter. Since the 20 days has passed for you to request a hearing, and DTSC has not received any correspondence from you, you have waived your right to a hearing and the Enforcement Order hand-delivered to you on June 16, 2015 is now final.

The full penalty payment of \$21,630.00 was due to DTSC within 30 days of the date of issuance of the Enforcement Order, or on July 16, 2015. DTSC reserves the right to pursue further legal action, including a referral to the Attorney General's (AG's) office, in order to settle this case and collect penalties.

Mr. William Lang
July 30, 2015
Page 2

You are urged to contact Mr. Jay Cross, DTSC Staff Counsel, as soon as possible to discuss options for cooperatively moving forward in this matter. Mr. Cross can be reached at (916) 322-2861 or jay.cross@dtsc.ca.gov.

Sincerely,

Original signed by Rita Hypnarowski

Rita Hypnarowski
Senior Environmental Scientist (Specialist)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

cc: Queen Zeng, Agent for Service
3R International Group, aka
E-Waste Recovery Center
2300 S. Reservoir Street Unit 406
Pomona, California 91766

Mr. Jay Cross
Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
Post Office Box 806
Sacramento, California 95814

Mr. Rick Robison
Senior Environmental Scientist (Supervisor)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710