

CONFORMED COPY

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PEOPLE OF THE STATE OF CALIFORNIA,  
ex rel. CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER  
MAY 20 2011  
ALAN CARLSON, Clerk of the Court  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE

**PEOPLE OF THE STATE OF CALIFORNIA, ex rel. CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL,**

Plaintiff,

v.

**ROOKE CORP., a California Corporation, dba Aviation Equipment Inc.; AVIATION EQUIPMENT STRUCTURES, INC., a California Corporation, DOES 1 to 20,**

Defendants.

Case No. 30-2008-00107995-CU-MC-CJC

**STIPULATION FOR ENTRY OF AMENDMENT TO FINAL JUDGMENT AND PERMANENT INJUNCTION**

(Code of Civil Procedure § 664.6)

Plaintiff the People of the State of California ex rel. of the Department of Toxic Substances Control ("Plaintiff" or the "Department") and Defendant Rooke Corp., dba Aviation Equipment Inc., and Aviation Equipment Structures, Inc. ("Defendants" ) enter into this Stipulation for Entry of Amendment to Final Judgment and Permanent Injunction ("Stipulation") to resolve alleged violations of the Final Judgment and Permanent Injunction, and a violation of the Hazardous Waste Control Law. The Department and Defendants agree as follows:

**1. The Complaint**

1 On June 13, 2008, the People of the State of California filed a complaint for Civil Penalties  
2 and Injunctive Relief pursuant to the California Hazardous Waste Control Law, Health and Safety  
3 Code section 25100, et seq. against Aviation as an owner and/or operator and/or generator of a  
4 hazardous waste facility located at 1571 MacArthur Boulevard, Costa Mesa, CA (“the Facility”).

5 **2. Final Judgment and Permanent Injunction**

6 On June 17, 2008, this Court entered its Final Judgment and Permanent Injunction Pursuant  
7 to Stipulation (“Final Judgment”) in this matter to resolve alleged violations of the Hazards Waste  
8 Control Law (HWCL, Health and Safety Code sections 25100 et. sq.) and the Department’s  
9 associated regulations (Cal. Code Regs., tit. 22, Division 4.5, sections 66000 et seq.) at the  
10 Facility.

11 The Final Judgment provides that the Court shall retain jurisdiction to enforce the terms of  
12 the Final Judgment (Final Judgment, ¶ 13).

13 **3. Violations of the Final Judgment and Permanent Injunction**

14 In May 2009, the Department conducted an inspection of Defendants’ facility to determine  
15 whether it was in compliance with the Final Judgment. In its Inspection Report (“Report”) dated  
16 May 14, 2009, the Department concluded that Defendants were not in compliance with four of the  
17 five injunctive provisions of the Final Judgment. The Department alleged that Defendants  
18 violated the following injunctive provisions: (A) training of facility personnel; (B) sampling of  
19 hazardous waste filter blankets; (C) maintaining logs; and (D) designating container storage areas.  
20 The only injunctive provision Defendants were in compliance with was injunctive provision (E)  
21 allowing inspections.

22 As of September 17, 2009, the Department agrees that Defendants have corrected the  
23 violations alleged in the Report.

24 **4. Agreement to settle dispute**

25 The parties enter into this Stipulation pursuant to a compromise and settlement by mutually  
26 consenting to the entry by the Superior Court of the County of Orange (“Court”) of the Proposed  
27 Amendment to Final Judgment and Permanent Injunction Pursuant to Stipulation in the form  
28 attached as an Exhibit (“Amendment to Final Judgment”), incorporated herein by reference. This

1 Stipulation and Proposed Amendment to Final Judgment was negotiated and executed in good  
2 faith and at arms' length by the Department and by Defendants, to avoid the initiation of  
3 expensive and protracted litigation regarding the alleged violations of the HWCL.

4 **5. Jurisdiction and venue**

5 Jurisdiction exists over this matter pursuant to the Court's authority to enforce the Final  
6 Judgment (Final Judgment, ¶¶ 2, 13).

7 **6. Waiver of hearing**

8 Defendants waive any right to a judicial or administrative hearing in this matter prior to the  
9 entry of the Amendment to Final Judgment.

10 **7. Release/matters covered**

11 This Amendment to Final Judgment is a final and binding settlement and release by the  
12 Department of all claims alleged violations, or causes of action alleged in the Report or which  
13 could have been asserted by the Department based on the facts alleged in the Report against  
14 Defendants, their officers, directors, employees, representatives, and agents. The provisions of  
15 this paragraph become effective when the Amendment to Final Judgment is entered. Nothing in  
16 the Amendment to Final Judgment shall constitute or be construed as a satisfaction or release  
17 from liability for any conditions or claims arising as a result of past, current, or future operations  
18 of Aviation except as provided herein. The Department reserves the right to initiate further  
19 actions as necessary to protect public health or welfare or the environment notwithstanding  
20 Defendants' compliance with the terms of the Final Judgment and Amendment to Final  
21 Judgment.

22 **8. Application of settlement and injunction**

23 The injunctive provisions of the Amendment to Final Judgment are applicable to  
24 Defendants, their subsidiaries and divisions, their parent companies, their officers and directors,  
25 their successors and assignees, and all persons, partners, corporations and successors thereto, or  
26 other entities, acting by, through, under, or on behalf of Defendants (collectively, "Enjoined  
27 Parties"). The provisions of the Amendment to the Final Judgment, and the underlying  
28 Stipulation for Entry of Amendment to Final Judgment and Permanent Injunction shall not apply

1 to and be binding on William Rooke, in his capacity as an individual, with the exception of  
2 injunctive provision 5 of the Amendment to Final Judgment and paragraph 10 of this Stipulation,  
3 which shall apply to William Rooke in his capacity as an individual.

4 This Stipulation and Entry of this Amendment to Final Judgment shall in no way impair the  
5 force or effect of, or change the Department's right(s) to enforce the original Final Judgment  
6 entered June 17, 2008, in this matter.

7 **9. Injunctive relief**

8 Defendants have declared their intent to cease operations of Rooke Corporation and  
9 Aviation Equipment Structures by the mid-2011, and therefore will no longer conduct business  
10 activities relating to aviation equipment manufacturing, refurbishing or repair. However, should  
11 either Rooke Corporation or Aviation Equipment Structures conduct or resume hazardous waste  
12 operations, each shall comply with paragraphs 9(a) and 9(b) set forth below, as well as paragraph  
13 10 below.

14 (a) Properly dispose of containers of DOO7 chromium paint waste as RCRA  
15 hazardous waste, as required by California Code of Regulations, tit. 22 § 66261.100(b), and  
16 segregate empty paint containers that are not RCRA waste.

17 (b) Within six months of entry of this Amendment to Final Judgment, the  
18 Defendants shall submit documentation from the California Compliance School that all facility  
19 personnel with hazardous waste responsibilities have passed all the tests for the Hazardous Waste  
20 Generator Training, Modules I, II, III and IV (Modules 1-IV). Defendants shall arrange for all  
21 facility personnel with hazardous waste responsibilities to take these tests within three months of  
22 entry of this Amendment to Final Judgment. Any employee failing to pass any single test shall  
23 attend the California Compliance School, and submit to the Department a certificate verifying  
24 successful completion for Modules I-IV prior to handling hazardous waste, within six months of  
25 entry of this Amendment to Judgment. Effective six months from entry of this Amendment to  
26 Final Judgment, any employee who has not successfully completed all tests for all four modules  
27 shall be prohibited from any hazardous waste responsibilities without first passing all four tests.  
28

1           10. (a) During the period of time beginning on the effective date of this Amendment to  
2 Final Judgment and continuing uninterrupted thereafter for five years, William Rooke agrees that  
3 he will not hold a position in which he would have the responsibility to control, oversee, or direct  
4 any "hazardous waste management," as defined in Health and Safety Code section 25117.2.  
5 Notwithstanding the foregoing, this Amendment to Final Judgment shall not be interpreted to  
6 prohibit William Rooke from being employed for wages by a facility that generates hazardous  
7 waste, provided that his job duties do not include the responsibility to control, oversee, or direct  
8 "hazardous waste management," as defined in Health and Safety Code section 25117.2, at that  
9 facility. The restrictions contained in this paragraph do not apply to any work conducted by  
10 William Rooke in compliance with the injunctive provision of the Amendment to Final Judgment  
11 or the Final Judgment.

12           (b) During the period of time beginning on the effective date of this Amendment to  
13 Final Judgment and continuing uninterrupted thereafter for five years, the enjoined parties agree  
14 not to employ William Kirshenbaum in a position in which he would have the responsibility to  
15 control, oversee, or direct any "hazardous waste management," as defined in Health and Safety  
16 Code section 25117.2. Additionally, the enjoined parties agree not to employ William  
17 Kirshenbaum in any position in which he would have the responsibility to control, oversee or  
18 direct any "hazardous waste management," as defined in Health and Safety Code section 25117.2.

19           **11. Monetary settlement**

20           (a) Defendants agree that the Court may issue a judgment for \$114,000 in civil  
21 penalties plus the interest applicable to civil judgments on the first \$110,000 of that amount (the  
22 unpaid balance of the Final Judgment) as a result of Defendants' violations of the Final Judgment.

23           (b) According to the Final Judgment, the \$170,000 penalty would be satisfied if  
24 Defendants abided by the terms of the Final Judgment and paid \$75,000 to the Department in  
25 installment payments. Defendants have paid \$60,000 of the \$75,000. As stated above,  
26 Defendants have failed to abide by the monetary and injunctive provisions of the Final Judgment;  
27 therefore, the remainder of the \$170,000 plus interest is now due. As of May 2011, the interest  
28 amounts to approximately \$15,587.

1 (c) Additionally, Defendants agree that they also owe \$4000 in civil penalties as a  
2 result of Defendants' more recent violation of California Code of Regulations, tit. 22 §  
3 66261.100(b) for Defendants' failure to segregate empty paint containers that are non-RCRA  
4 waste.

5 (d) Defendants have represented in a confidential declaration of present financial  
6 status, and also certify by signing below, that they do not have the financial resources to pay the  
7 full penalty owed in this matter. The confidential financial declaration shall not be a public  
8 document, but may be produced confidentially to an investigative agency or upon court order.  
9 Such disclosure does not make this declaration a public record. In reliance on Defendants'  
10 representations in the confidential declaration and William Rooke's certification below, the  
11 Department agrees that, provided Defendants fully comply with all of the injunctive provisions  
12 specified in the Final Judgment and in the Amendment to Final Judgment, and with the monetary  
13 requirements specified in the Amendment to Final Judgment, the full civil penalty portion of the  
14 Final Judgment and Amendment to Final Judgment will be satisfied.

15 (e) Within 30 days of the entry of this Amendment to Final Judgment, Defendants  
16 shall pay the Department \$19,000.00.

17 (f) In the event Defendants fail to make the payment specified in 11(e) above, the  
18 full amount of civil penalties, \$114,000.00, plus the interest applicable to civil judgments on the  
19 first \$110,000.00 of that amount is immediately due and payable to the Department. Defendants  
20 are also liable for post judgment interest as provided in Code of Civil Procedure 685.010 (which  
21 are 10 %) and are obligated to pay all costs incurred by DTSC in enforcing the judgment in this  
22 matter, including, but not limited to attorney's fees.

23 **12. Payments**

24 Payment under the Amendment to Final Judgment shall be made by cashier's check,  
25 payable to the California Department of Toxic Substances Control, and mailed to:

26  
27 Cashier  
28 Accounting Office  
Department of Toxic Substances Control

1 P.O. Box 806  
2 Sacramento, CA 95812-0806.

3 The checks shall bear on their face the phrase "DTSC # HWCA 20061136."

4 A photocopy of all checks and payments made pursuant to the Amendment to Final  
5 Judgment shall be sent, at the same time, to:

6 Charles A. McLaughlin, Performance Manager  
7 State Oversight and Enforcement Branch  
8 Enforcement and Emergency Response Program  
9 Department of Toxic Substances Control  
10 8800 Cal Center Drive  
11 Sacramento, CA 95826-3200

12 Vivian Murai, Senior Staff Counsel  
13 Office of Legal Counsel  
14 Department of Toxic Substances Control  
15 1001 I Street, MS-23A  
16 P.O. Box 806  
17 Sacramento, CA 95812-0806

18 and to

19 Olivia W. Karlin  
20 Deputy Attorney General  
21 Attorney General's Office  
22 300 South Spring Street  
23 Los Angeles, CA 90013

24 **13. Notice**

25 All submissions and notices required by the Stipulation and Amendment to Final Judgment  
26 shall be in writing, and shall be sent to:

27 Charles A. McLaughlin, Performance Manager  
28 State Oversight and Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, CA 95826-3200

Defendants:

William Rooke  
13235 Sherman Way  
North Hollywood, CA 91605

All approvals and decisions regarding any matter requiring approvals or decisions under the  
terms of the Amendment to Final Judgment shall be communicated in writing

1           **14. Authority to enter stipulation**

2           Each signatory to this Stipulation certifies that he or she is fully authorized by the party he  
3 or she represents to enter into this Stipulation, to execute it on behalf of the party represented, and  
4 to legally bind that party.

5           **15. Modification of Stipulation and Final Judgment**

6           Neither this Stipulation nor the Amendment to Final Judgment may be modified without  
7 written stipulation of the parties hereto and approval by the Court.

8           **16. Effect of Amendment to Final Judgment**

9           Except for the release provided in paragraph 7 above, nothing in the Amendment to Final  
10 Judgment shall constitute or be construed as barring the Department, or any other regulatory  
11 body, from taking appropriate enforcement actions or otherwise exercising its authority under any  
12 law, statute or regulation. Nothing in the Amendment to Final Judgment will reduce, change or  
13 eliminate Defendants' obligations under the Final Judgment.

14           **17. Retention of jurisdiction**

15           The Court shall retain jurisdiction of this matter to implement the Final Judgment and  
16 Amendment to Final Judgment. The Amendment to Final Judgment shall go into effect  
17 immediately upon entry.

18           **18. Counterparts**

19           This Stipulation may be executed in counterparts, each of which shall be deemed an  
20 original, and all such counterparts taken together shall be deemed to constitute one and the same  
21 instrument.

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**IT IS SO STIPULATED.**

Dated: \_\_\_\_, 2011

For the Department of Toxic Substances Control:

Charles A. McLaughlin, Performance Manager  
State Oversight and Enforcement Branch  
Department of Toxic Substances Control

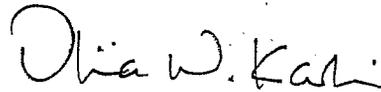
Dated: \_\_\_\_, 2011

For Defendants:

William Rooke

Approved as to form:

KAMALA D. HARRIS  
Attorney General of California  
SALLY MAGNAMI  
Senior Deputy Attorney General



OLIVIA W. KARLIN  
Deputy Attorney General  
Attorneys for Plaintiff