

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

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In the Matter of

Docket No. CWA-01-2009-0046

**BAILIN & ASSOCIATES, Inc.
727 Salisbury St.
Worcester, Massachusetts 01609**

**CONSENT AGREEMENT AND
FINAL ORDER**

Respondent

This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), in accordance with 40 C.F.R. § 22.18(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 ("Part 22 Rules").

CONSENT AGREEMENT AND FINAL ORDER
Docket No. CWA-01-2009-0046

U.S. EPA Region 1
One Congress St., Suite 1100
Boston, MA 02114-2023

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against the Respondents pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), by filing an administrative Complaint against Respondent, Docket No. CWA-01-2009-0046 (the "Complaint"), on April 7, 2009. On May 6, 2009, Respondent filed an Answer to the Complaint.
2. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.
3. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and in accordance with 40 C.F.R. § 22.38(b), the Commonwealth of Massachusetts has been given an opportunity to consult with EPA regarding the assessment of the administrative penalty for CWA violations against Respondents.
4. Section 309(g)(4)(A) of the CWA, 33 U.S.C. 1319(g)(4)(A), provides that, prior to issuing an order assessing a penalty under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA must provide public notice of, and reasonable opportunity to, comment on the proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed penalty on April 10, 2009.

II. CONSENT AGREEMENT

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.

6. Respondent waives any defenses they might have as to jurisdiction and venue, and, without admitting or denying the facts and violations alleged in the Complaint, consent to the terms of this CAFO.

Waiver of Rights

7. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and consent to the issuance of the Final Order included with this Consent Agreement without further adjudication.

Penalty

8. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of ten thousand dollars (\$10,000) plus interest if due pursuant to Paragraph 12 of this CAFO for the purpose of settlement of this action.

Payment Terms

The parties have agreed to a settlement on the following terms. In agreeing to the penalty described in Paragraph 8, EPA has taken into account the statutory penalty actors at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3).

9. Respondent shall pay the civil penalty set forth in Paragraph 8 of this CAFO no later than 30 calendar days after the date this CAFO is final.

10. Respondent shall make payment by depositing in the United States mail a cashier's or certified check, payable to the order of "Treasurer, United States of America" and referencing the title and docket number of the action ("In the Matter of Bailin & Associates, Inc., CWA-01-2009-0046") to:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The date said check is deposited in the mail shall be considered the date that the payment is made.

11. Respondent shall simultaneously submit copies of the penalty payment check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
One Congress Street, Suite 1100, RAA
Boston, MA 02114-2023

and

Kathleen E. Woodward
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
One Congress Street, Suite 1100, SEL
Boston, MA 02114-2023

General Provisions

12. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), a failure by Respondent to pay the penalty assessed by this CAFO in full by the payment due date shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date the penalty was due pursuant to Paragraph 9 of this CAFO. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.
13. The penalty specified in Paragraph 8 above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
14. The provisions of this CAFO shall be binding upon Respondent and their successors or assigns.
15. Except as described in Paragraph 12 above, each party shall bear its own costs and attorneys fees in this proceeding.

16. Issuance of this CAFO constitutes a full and complete settlement by EPA of all claims for judicial or administrative civil penalties pursuant to Sections 309(d) or (g) of the CWA, 33 U.S.C. §§ 1319(d) or (g), for all past violations of the CWA alleged in the Complaints referenced in Paragraph 1.

17. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially, pursuant to Sections 309(a), (b), and (c) of the Act, 33 U.S.C. §§ 1319(a), (b), and (c), or Sector 504 of the Act, 33 U.S.C. § 1364.

18. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

19. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

STIPULATED AND AGREED:

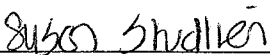
For RESPONDENT BAILIN & ASSOCIATES, INC.



Peter T. Karassik
President
Bailin & Associates, Inc.

Date: 8/4/2009

For U.S. ENVIRONMENTAL PROTECTION AGENCY



Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

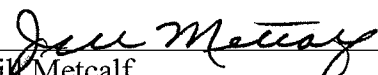
Date: 08/20/09

FINAL ORDER

20. In accordance with 40 C.F.R. Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

21. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Consent Order shall become final 30 days from today pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).

U.S. ENVIRONMENTAL PROTECTION AGENCY



Jill Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: Sept. 14, 2009

In the Matter of: Bailin & Associates, Inc.
Docket No. CWA 01-2009-0046

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified on the date below:

Copy hand-delivered:

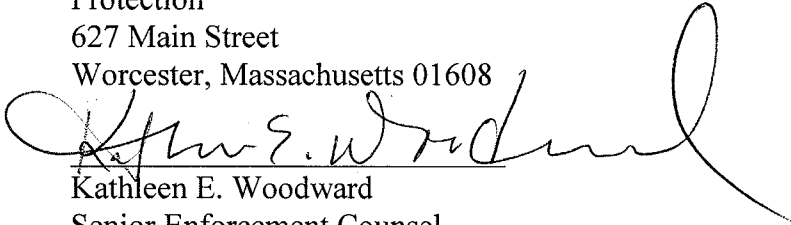
Judy Lao
Acting Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street
Suite 1100, Mail Code RAA
Boston, Massachusetts 02114-2023

Copy by certified mail, return
receipt requested

Peter T. Karassik, President
Bailin & Associates, Inc.
c/o Eligius Homes Company, Inc.
329 Boston Post Road
Sudbury, MA 01776-3001

Martin Suuberg, Regional Director
Central Region
Massachusetts Department of Environmental
Protection
627 Main Street
Worcester, Massachusetts 01608

Dated: September 17, 2009


Kathleen E. Woodward
Senior Enforcement Counsel
Office of Environmental Stewardship (SEL)
U.S. Environmental Protection Agency
Region I
One Congress Street
Boston, MA 02114-2023
(617) 918-1780

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Judy Lao for Kathleen E. Woodward 9/17/09
Name of Case Attorney Date

in the ORC (RAA) at 918-1454
Office & Mail Code Phone number

Case Docket Number CWA-01-2009-0046

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Bailin & Associates, Inc.
727 Salisbury St.
Worcester, MA 01609

Total Dollar Amount of Receivable \$ 10,000.00 Due Date: 10/19/09

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number