

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
Region 2**

**IN THE MATTER OF:**

Half Price Used Auto Parts, LLC  
551 Avenue P  
Newark, New Jersey 07105

**Respondent**

Proceeding pursuant to Section 309(g) of  
the Clean Water Act, 33 U.S.C. § 1319(g)

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**Docket No. CWA-02-2017-3302**

2017 JUL 26 AM 7:35  
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OFFICE OF THE  
GENERAL COUNSEL  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**I. PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency (“EPA”), having issued Complaint Number CWA-02-2017-3302 on November 17, 2016, against Half Price Used Auto Parts, LLC (“Respondent”), and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**II. PROCEDURAL AND FACTUAL BACKGROUND**

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g).
2. The Complaint alleges that Respondent is liable for violating Section 301 of the CWA, 33 U.S.C. § 1311, for failing to comply with the terms of the New Jersey State Department of Environmental Protection (“NJDEP”) New Jersey Pollutant Discharge Elimination System (“NJPDES”), Vehicle Recycling Industrial Stormwater General Permit (“RVR”) NJ0163279, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, at the facility that Respondent operates.
3. EPA notified the State of New Jersey regarding this action and offered an opportunity for the State of New Jersey to confer with EPA on the proposed penalty assessment, pursuant to 40 C.F.R. Part 22.

4. This action was publicly noticed. No public comment was received.
5. Respondent requested informal settlement discussions.
6. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue, admits the factual and legal allegations contained in the Complaint and consents to the terms of this Consent Agreement and Final Order, but in so consenting to the factual and legal allegations does not waive any defenses it may have to any such factual or legal allegations not based on jurisdiction and not based on failure to state a claim.
7. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

### **III. TERMS OF SETTLEMENT**

Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

8. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the nature of the violations, EPA has determined that an appropriate civil penalty to settle this action is in the amount of two thousand dollars (\$2,000.00).
9. For purposes of settlement, Respondent consents to the issuance of this Consent Agreement and consents to the payment of the civil penalty cited in the foregoing Paragraph.
10. Respondent shall pay the full penalty amount within thirty (30) calendar days of its receipt of the Final Order adopting this Agreement. If the due date for payment falls on a weekend or legal federal holiday, the due date is the next business day. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered received that day. Respondent shall submit a cashier's or certified check, including the name and docket number of this case, for **TWO THOUSAND DOLLARS (\$2,000)**, payable to "Treasurer, United States of America," by one of the following methods:

Regular Mail

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

Overnight Mail

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Wire Transfer: Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

ABA=021030004  
Account=68010727  
SWIFT address=FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field lag 4200 of Fedwire message should read, "D 68010727 Environmental Protection Agency."

Online: This option is available through the Department of Treasury, at [www.pay.gov](http://www.pay.gov). Enter "sfo 1.1" in the search field. Open the form and complete the required fields.

Respondent shall also send copies of this payment to each of the following:

Douglas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, New York 10007-1866

and

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007-1866

Payment must be received at the above address no later than thirty (30) calendar days after the date of signature of the Final Order (at the end of this document). The date by which payment must be received shall hereafter be referred to as the "due date."

- a. Failure to pay the penalty in full according to the above provisions will result in a referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
  - b. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
  - c. In addition, pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter.
  - d. Respondent also may be required to pay attorneys' fees and costs for collection proceedings in connection with nonpayment.
11. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondent's federal or state taxes.

#### **IV. OTHER TERMS AND CONDITIONS**

12. Respondent shall submit all notices and reports required by this Consent Agreement and Final Order by first class mail to:

Doughlas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, New York 10007-1866

13. Respondent knowingly and explicitly waives its right under Section 309(g) of the Act, 33 U.S.C. § 33 U.S.C. § 1319(g), to request or to seek any Hearing on or Judicial Review of the Complaints consolidated herein or on any of the allegations therein asserted, on this

Consent Agreement or the Findings of Fact and Conclusions of Law set forth herein, or on the accompanying Final Order.

14. This Consent Agreement and Final Order shall apply to and be binding upon Respondent, as well as applying to and binding upon the Respondent's officers, directors, and employees, in their capacities as representatives of Respondent as well as on the Respondent's successors and assigns, including, but not limited to, Respondent's subsequent purchasers.
15. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law, nor waiver of any defense, objection or response the Respondent may assert in response to any claim that the agreement is violated.
16. This Consent Agreement and Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
17. Respondent's full compliance with this Consent Agreement shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Respondent's full compliance with this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the complaint.
18. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
19. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Order.
20. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

FOR COMPLAINANT, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,  
REGION 2:

  
\_\_\_\_\_  
DORE LAPOSTA

Director, Division of Enforcement and Compliance Assistance  
United States Environmental Protection Agency-Region 2  
290 Broadway  
New York, New York 10007-1866

7/20/17  
DATE

FOR RESPONDENT, HALF PRICE USED AUTO PARTS, LLC:

Geraldine Torres  
SIGNATURE


7-14-2017  
DATE

Geraldine Torres  
NAME (Please print)

Manager  
TITLE (Please print)

**V. FINAL ORDER**

The Director of the Division of Enforcement and Compliance of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

  
\_\_\_\_\_  
DORE LAPOSTA

Director, Division of Enforcement and Compliance Assistance  
United States Environmental Protection Agency-Region 2  
290 Broadway  
New York, New York 10007

7/20/17  
\_\_\_\_\_  
DATE

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
Region 2**

**IN THE MATTER OF:**

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Docket No. CWA-02-2017-3302

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I served the foregoing fully executed Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner.

Copy by Certified Mail <u>Return Receipt Requested:</u>	Danilo Caba, Partner Half Price Used Auto Parts, LLC 551 Avenue P Newark, New Jersey 07105
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Original and One Copy <u>By Internal Mail (pouch):</u>	Regional Hearing Clerk U.S. Environmental Protection Agency 290 Broadway, 16 <sup>th</sup> floor New York, New York 10007-1866
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Date: JUL 24 2017

  
Branch Secretary