

Exhibit 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

March 12, 2010

REPLY TO THE ATTENTION OF

Federal Express and E-Mail

David L. Hatchett
Hatchett & Hawk, LLP
111 Monument Circle, Suite 301
Indianapolis, Indiana 46204-5124

Re: In re: Creative Liquid Coatings, Inc., Elite Enterprises, Inc. and Randall Geist,
EPA Docket No. RCRA-05-2009-12 and 13
Request to voluntarily produce information

Dear Mr. Hatchett:

Pursuant to the Consolidated Rules of Practice, 40 C.F.R. § 22.19(e), "Other Discovery"
EPA is requesting your client voluntarily provide:

1. the information and documents requested in Enclosure 1.
2. a curriculum vitae and/or resume for Sabrina Byer,
3. a more detailed narrative of the proposed testimony of Ms. Byer, Mr. Decker, Mr. Geist, Mr. Fuller and Mr. Henry as to ability to pay, "following of corporate formalities, and "corporate separateness",
4. all documents related to "following corporate formalities" and "corporate separateness" for Creative Liquid Coatings, Inc., Creative Coatings, Inc. and Elite Enterprises, Inc., including, but not limited to, information on the location, time and attendance at annual and other shareholder meetings; and notices, minutes and other notes of the annual and other shareholder meetings

Judge Gunning's Prehearing Order required the parties to provide a curriculum vitae or resume of any experts that they intend to call. In your prehearing exchange, you indicate that Ms. Byer may be called upon to provide expert opinion but do not provide a resume.

The purpose of the prehearing exchange is to provide the parties with sufficient information so that they may prepare for hearing. Your prehearing exchange provides only general statements of the area of potential testimony of Ms. Byer, Mr. Geist, Mr. Decker, Mr. Fuller and Mr. Henry. The descriptions include such general characterizations as "financial status", "following of corporate formalities," "corporate separateness", and "inability to pay". You provide no further specifics on their testimony. The documents you provided do not assist in determining their potential

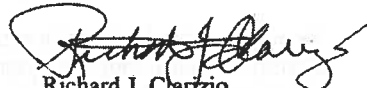
testimony. Certain potential witnesses, (e.g., Ms. Byer, Mr. Fuller, Mr. Decker and Mr. Henry) have had no involvement in the underlying conduct giving rise to the violations and their testimony is described in only general terms – “following of corporate formalities” and “corporate separateness.” None of the documents submitted by you support calling them as witnesses or shed light on their proposed testimony.

EPA requires the information identified in Enclosure 1 so that it can adequately prepare its rebuttal to your inability to pay claim. Ability to pay is an affirmative defense in RCRA cases. In re: CDT Landfill Corp., 11 E.A.D. 88, 122 (EAB 2003) and In re: New Waterbury, Ltd. 5 E.A.D. 529, 542 (EAB 1994). One who asserts an affirmative defense bears the burden of producing evidence as to the defense and demonstrating, by a preponderance of the evidence, that the defense applies. 40 C.F.R. § 22.24(a); In re: Friedman, 11 E.A.D. 302, 315 (EAB 2004) aff'd No. 2:04-CV-517-15664, 2007 WL 528073 (9th Cir. Feb 15, 2007).

The information EPA is requesting is within the control of your clients and has not been provided to date in its Prehearing Exchange. EPA believes that this information is important for Judge Gunning to properly and fully adjudicate your claims and these cases. If your clients do not provide the information and documents in a timely manner, we will file a motion with Judge Gunning asking for her to order this information to be provided. The Environmental Appeals Board (“Board”) has indicated that such information may be appropriate and that a denial of Complainant’s request should be appealed. In re: Donald Cutler, 11 E.A.D. 622, 641, FN19 (EAB 2004). Your positions related to ability to pay, “following of corporate formalities,” and “corporate separateness” are fact-specific and fact-intensive inquiries. Your prehearing exchange provides insufficient information for EPA to prepare for these defenses and will prejudice our ability to rebut your fact-intensive defenses. See In re: J. Phillip Adams, CWA Appeal No. 06-06, slip op. at 24 (EAB March 3, 2005) 13 E.A.D. ____ (reversing an ALJ’s initial decision for, *inter alia*, failing to provide EPA with adequate opportunity “develop properly and prepare its response to the defense”).

Since Judge Gunning has provided us with a short time period to file motions, I am asking that your clients voluntarily provide the requested information within seven days of your receipt of this letter. You may contact either Gary Steinbauer (312) 886-4306 or me (312) 886-0559 on this matter. I will be out of the office from March 17-30. During this time period you should contact Mr. Steinbauer.

Sincerely,


Richard J. Charzio
Associate Regional Counsel

Enclosure