



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 07 2018

2018 SEP -7 AM 8:10

CERTIFIED MAIL/RETURN RECEIPT

Article Number: 7017 1450 0000 0133 6365

Mr. John Goodwin
Vice President Operations
Interfaith Medical Center
1545 Atlantic Avenue
Brooklyn, NY 11213

Re: In the Matter of Interfaith Medical Center
Docket No. RCRA-02-2018-7103

Dear Mr. Goodwin:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2.

Please note that payment is due within thirty (30) days of signature of the Final Order by the Regional Judicial Officer. Please arrange for payment of this penalty according to the instructions given in that Order.

If you have any questions, please contact the undersigned at 212-637-3195.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary H. Nurkin".

Gary H. Nurkin
Assistant Regional Counsel
Waste & Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

2018 SEP -7 AM 8:40
Docket Number: RCRA-02-2018-7103

In the Matter of:

Interfaith Medical Center,
Respondent.

Proceeding under Section 3008 of the Solid
Waste Disposal Act, as amended.

CONSENT AGREEMENT

AND

FINAL ORDER

Docket Number: RCRA-02-2018-7103

PRELIMINARY STATEMENT

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901, *et seq.* (referred to collectively as “RCRA” or the “Act”).

Pursuant to 40 C.F.R. § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This administrative proceeding constitutes one that is simultaneously being commenced and concluded pursuant to said provisions of 40 C.F.R. § 22.18(b).

The parties agree that settling this matter by entering into this CA/FO is an appropriate means of resolving the RCRA claims specified herein against Interfaith Medical Center (“Respondent” or “Interfaith”), without litigation. To that end, the parties have met and discussed settlement. No adjudicated findings of fact or conclusions of law have been made in either a judicial or administrative forum.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Respondent is Interfaith.
2. Interfaith is a not-for-profit corporation organized pursuant to the laws of New York State.
3. Respondent is a "person" as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15) and 6 New York Code of Rules and Regulations ("6 N.Y.C.R.R.") § 370.2(b).
4. Interfaith is, and has been, the owner and operator of a hospital engaged in the diagnoses and treatment of illnesses and diseases that is situated at 1545 Atlantic Avenue, Brooklyn, New York 11213 (the "Brooklyn facility").
5. Interfaith is, and has been, both the "owner" and "operator" of the Brooklyn facility as these terms are defined in 6 N.Y.C.R.R. § 370.2(b).
6. Interfaith in carrying out its activities has been generating and continues to generate "hazardous waste" as defined in 6 N.Y.C.R.R. § 371.1(d).
7. As of September 16, 2016, and subsequent thereto, Interfaith has been generating and continues to generate less than 1,000 kilograms ("kgs") of hazardous waste in a calendar month.
8. As of September 16, 2016, and subsequent thereto, Interfaith is, and has been, a "generator" of both "hazardous waste" as those phrases are defined in 6 N.Y.C.R.R. 370.2(b).
9. On or about September 16, 2016, a duly authorized representative of EPA conducted an inspection of the Brooklyn facility, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, to determine Interfaith's compliance with Subtitle C of RCRA and its implementing regulations, including New York's authorized hazardous waste regulations (the "2016 Inspection").
10. On or about February 17, 2017, EPA issued to Interfaith a combined Notice of Violation ("NOV") and Request for Information ("IRL").
11. The NOV, which was issued pursuant to Section 3008 of the Act, 42 U.S.C. § 6928, informed Interfaith that EPA had identified a number of potential RCRA violations at its Brooklyn facility and requested it to provide a description and documentation of the actions it had taken to correct the violations identified by EPA in that NOV.
12. The IRL, which was issued pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, sought information and documentation relating to Interfaith's handling of hazardous waste at its Brooklyn facility.

13. On or about March 9, 2017, Interfaith submitted its response to the combined NOV and IRL ("March 2017 Response").
14. On or about March 15, 2018, EPA sent a follow-up email to Interfaith seeking additional information relating to its handling and disposal of non-green-tipped florescent light bulbs at its Brooklyn facility.
15. On or about March 28, 2018, Interfaith submitted its email response ("March 2018 email response").
16. As a result of the September 2016 Inspection and Interfaith's March 2017 Response and its March 2018 email response, EPA representatives determined that Respondent at the time of the September 2016 Inspection, or at times prior thereto, had failed to: make hazardous wastes determinations for the non-green-tipped florescent light bulbs it had been discarding in the trash at its Brooklyn facility in violation of 6 NYCRR § 372.2(a)(2).
17. EPA and Interfaith met on June 13, 2018 to discuss the EPA determinations described in Paragraph 16, *supra*, and agreed to settle this matter by entering into this Consent Agreement.

CONSENT AGREEMENT

Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice, it is hereby agreed by and between the parties hereto, and voluntarily and knowingly accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits: (a) admits the jurisdictional basis for EPA prosecuting this case; (b) neither admits nor denies EPA's Findings of Fact and Conclusions of Law; (c) consents to the assessment of the civil penalty as set forth below; (d) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

Based upon the foregoing, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18, Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. Respondent shall hereinafter, at its facility, comply with all applicable RCRA requirements relating to the generation and disposal of both hazardous and universal wastes.
2. Respondent hereby certifies that, as of the date of its signature to this Agreement, to the best of its knowledge and belief, it is in compliance with all the applicable requirements of RCRA relating to both the generation and disposal of hazardous waste and universal waste.

3. This CA/FO is not intended, and shall not be construed, to waive, extinguish or otherwise affect Interfaith's obligation to comply with all applicable federal, state and local laws and regulations relating to any generation, management, treatment, storage, transport or offering for transport, or disposal of hazardous waste by the Respondent.
4. Respondent shall pay a civil penalty to EPA in the total amount of **FIFTEEN THOUSAND (\$15,000) DOLLARS**. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer. If the payment is made by check, then the check shall be made payable to the **Treasurer, United States of America**, and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: ***IN THE MATTER OF INTERFAITH MEDICAL CENTER***, and shall bear thereon the **Docket No. RCRA-02-2018-7103**. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment.
 - 2) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045.**
 - 3) Account Code for Federal Reserve Bank of New York receiving payment: **68010727.**
 - 4) Federal Reserve Bank of New York ABA routing number: **021030004.**
 - 5) Field Tag 4200 of the Fedwire message should read **D 68010727** Environmental Protection Agency.
 - 6) Name of Respondent: **Interfaith Medical Center**
 - 7) Number: **RCRA-02-2018-7103**
5. The payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO. (The date by which the payment must be received shall hereinafter be referred to as the "due date")
 - a. Failure to pay the requisite civil penalty amount in full according to the above provisions may result in the referral of this matter to the United States Department of Justice or Department of the Treasury for collection or other appropriate action.
 - b. Furthermore, if payment is not made on or before the date specified in this document, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C § 3717, on the overdue amount from the date said payment was required

to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears.

- c. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the deadline for payment. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.
 - d. The civil penalty provided for herein constitutes "penalt[ies]" within the meaning of 26 U.S.C. § 162(f), and is not deductible expenditures for purposes of federal or state law.
6. Compliant shall mail to Respondent (to the representatives designated in Paragraph 7, *infra*, a copy of the fully executed CA/FO, and Respondent consents to service of the CA/FO upon it by an employee of EPA other than the Regional Hearing Clerk.
7. Except as the parties may otherwise in writing agree, all documentation and information required to be submitted in accordance with the terms and conditions of this Consent Agreement shall be sent to:

John Wilk, Enforcement Officer
RCRA Compliance Branch
Division of Enforcement & Compliance Assistance
US Environmental Protection Agency
290 Broadway, 21st Floor
New York, New York 10007-1866

and

Gary H. Nurkin, Assistant Regional Counsel
Office of Regional Counsel
US Environmental Protection Agency
290 Broadway, Room 1621
New York, New York 10007

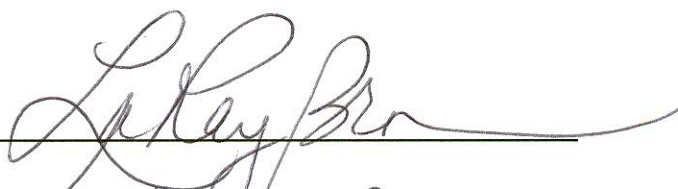
Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent at the following address:

Mr. John Goodwin
Vice President Operations
Interfaith Medical Center
1545 Atlantic Avenue
Brooklyn, NY 11213

8. Full payment of the penalty described in Paragraphs 4 and 5 of the Consent Agreement, *supra*, shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in paragraph 16, *supra*, of EPA's Findings of Fact and Conclusions of Law. Full payment of this penalty 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.
9. The provisions of this Consent Agreement shall be binding upon both Complainant and Respondent along with their authorized representatives and successors or assigns.
10. Interfaith waives its right to request or to seek any hearing in this matter including one on the terms and conditions set forth in the Consent Agreement and its accompanying Final Order and/or the Findings of Fact/Conclusions of Law, above.
11. The undersigned signatory for Respondent certifies that he/she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
12. Each party hereto agrees to bear its own costs and attorneys' fees in this matter.

Interfaith Medical Center
Docket No. RCRA-02-2018-7103


RESPONDENT:

BY: 
NAME: LaRay Brown
 (PLEASE PRINT)

TITLE: President + CEO

DATE: 8/16/18

COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

DATE: 8/29/18

In the Matter of Interfaith Medical Center
Docket No. RCRA-02-2018-7103

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of *In the Matter of Interfaith Medical Center*, bearing Docket No. RCRA-02-2018-7103. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).



Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency

DATE: September 6, 2018

In the Matter of Interfaith Medical Center
Docket Number RCRA 02-2018-7103

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

Copy by Certified Mail Return Receipt Requested:

Mr. John Goodwin
Vice President Operations
Interfaith Medical Center
1545 Atlantic Avenue
Brooklyn, New York 11213

Date: September 7, 2018
New York, New York

Yolanda Majette
Yolanda Majette