

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2008 NOV 20 PM 3:47
REGIONAL HEARING
CLERK

NOV 20 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Blackhall
Professional Center
B&W Realty Investment
Nisky Center – Suite 211
45A & 45B Estate Nisky
St. Thomas, U.S.VI 00802

Re: In the Matter of **Professional Center**
Docket No. SDWA-02-2008-8405

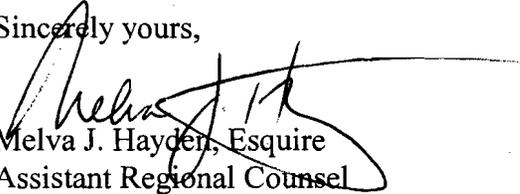
Dear Mr. Blackhall:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) that resolves the above referenced matter.

Please submit the penalty payment in accordance with the schedule and due date indicated on page 3 of the CA/FO.

Should you have any questions, please do not hesitate to contact me at (212) 637-3230. I wish to thank you for your cooperation and assistance to bring this matter to a mutually satisfactory resolution.

Sincerely yours,


Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
Water & General Law Branch

Enclosure

cc: Karen Maples, Regional Hearing Clerk

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 NOV 20 PM 3:41
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Mr. George Blackhall
Professional Center
St. Thomas, VI 00802

PWS ID: VI1000085

Respondent

Proceeding Pursuant §1414(g)(3)(B)
of the Safe Drinking Water Act, 42 U.S.C.
§300g-3(g)(3)(B)

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
SDWA-02-2008-8405

I. Preliminary Statement

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. §300g-3(g)(3)(B).

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a "Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing" ("Complaint") to the Professional Center ("Respondent") on June 17, 2008.

The Complaint charged Respondent with violating the terms and conditions of an Administrative Order issued to Respondent pursuant to Section 1414(g) of the Act, 42 U.S.C. §300g-3(g), requiring compliance with an applicable requirement of the Act at Respondent's public water system (Professional Center public water system) in St. Thomas, United States Virgin Islands.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the Professional Center "public water system," within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and 40 C.F.R. §141.2, located in St. Thomas, United States Virgin Islands.
2. Respondent is a "supplier of water" within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2.

3. Respondent, is a "person" as defined in Section 1401(12) of SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. §141.2, and is subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. §300g-3(g)(1).
4. The Professional Center public water system provides piped water for human consumption and regularly serves a population of at least 25 individuals, and is therefore a "community water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(15) and 40 C.F.R. §141.2.
5. 40 C.F.R. §141.152 (b) requires community water systems to prepare and distribute their Consumer Confidence Report ("CCR") annually by July 1.
6. 40 C.F.R. §141.155(c) and (d) requires Respondent to mail a copy of the CCR to the primacy agency (VIDPNR), as well as any other agency or clearinghouse VIDPNR designates no later than the date the CCR is required to be delivered to its customers as required by 40 C.F.R. §141.152(b).
7. On January 23, 2008, the Environmental Protection Agency (EPA) issued an Administrative Order ("AO" or "Order"), Docket No. SDWA-02-2008-8010, requiring Respondent to prepare and deliver a CCR which includes all the information required by 40 C.F.R. §141.153 and §141.154 to all of the Respondent's consumers with data from calendar year 2006 as required by 40 C.F.R. Part 141, Subpart O, in no case later than February 15, 2008.
8. Based on the information available to EPA, the Respondent has failed to prepare and deliver a 2006 CCR by February 15, 2008, as specified in the SDWA and 40 C.F.R. Part 141, Subpart O, for 2006 calendar year, in violation of 40 C.F.R. §141.152(b), §141.153, §141.154 and §141.155 and Paragraphs 1-5 of the AO.

III. Consent Agreement

Based upon the foregoing, and pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("CROP") (40 C.F.R. §22.18), it is hereby agreed by and between the parties and Respondent voluntarily and knowingly agrees as follows:

Jurisdiction

1. For the purpose of this proceeding, Respondent a) admits the jurisdictional allegations of the Complaint as applied to the facility; and b) neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint and Findings of Fact.

Payment of Civil Penalty

2. Respondent shall pay a civil penalty to EPA in the amount of **Two Hundred and Fifty Dollars (\$250.00)**. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be payable to the "**Treasurer, United States of America**", and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF PROFESSIONAL CENTER**, and shall bear thereon the **Docket Number SDWA-02-2008-8405**. Payment of the penalty must be received at the above address on or before forty-five (45) calendar days after the Effective Date of this CA/FO (the "due date").

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment:
68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- f. Name of Respondent: Professional Center
- g. Case Number: SDWA-02-2008-8405

Such EFT must be received on or before 45 calendar days after the Effective Date of this CA/FO.

Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007 -1866

and

Karen Maples, Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway – 16th Floor
New York, NY 10007-1866

- h. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- i. 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.
- j. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162(f).
- k. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or state taxes.

General Provisions

- 3. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
- 4. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
- 5. Respondent knowingly and explicitly waives its right under §1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B) to request or to seek any Hearing on or Judicial review of the Complaint or on any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
- 6. Respondent waives any right it may have pursuant to 40 C.F.R. §22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.

7. Issuance of the Consent Agreement and Final Order does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Sections 1414 of the Act, 42 U.S.C. §300g-3. Issuance of or compliance with this Consent Agreement/Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.
8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
9. The provisions of this Consent Agreement and Final Order shall be binding upon the Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
10. Each party hereto agrees to bear its own costs and fees in this matter.
11. 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 THE RESPONDENT:

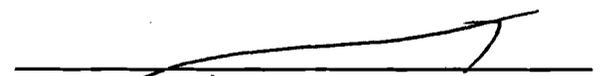
Dated this 15 day of: Aug, 2008



GEORGE BLACKHALL
 Professional Center
 B & W Realty Investment
 Nisky Center Suite 211
 45 A & 45 B Estate Nisky
 St. Thomas, VI 00802

FOR THE COMPLAINANT:

Dated this 10th day of: November, 2008



DORE LAPOSTA, DIRECTOR
 Division of Enforcement and Compliance
 Assistance
 U.S. Environmental Protection Agency
 Region 2
 New York, NY 10007-1866



IV. Final Order

The Regional Administrator 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.

DATE: 1/14/08


ALAN J. STEINBERG
Regional Administrator
United States Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

To: GEORGE BLACKHALL
Professional Center
B & W Realty Investment
Nisky Center Suite 211
45 A & 45 B Estate Nisky
St. Thomas, VI 00802

Docket Number: SDWA-02-2008-8405



bcc: E. Palagian, DECA-WCB
N. Kraft, DECA-WCB
D. McKenna, DECA-WCB
P. Feinmark, ORC-WGLB
M. Hayden, ORC-WGLB
B. Edwards, CFC

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Mr. George Blackhall
Professional Center
St. Thomas, VI 00802

PWS ID: VI1000085

Respondent

Proceeding Pursuant to §1414(g)(3)(B)
of the Safe Drinking Water Act, 42 U.S.C. §300g-3(g)(3)(B)

CONSENT AGREEMENT
AND
FINAL ORDER

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

MR. GEORGE BLACKHALL
Professional Center
B&W Realty Investment
Nisky Center – Suite 211
45A & 45B Estate Nisky
St. Thomas, VI 00802

I sent by inter-office mail the original and a copy of the foregoing Consent Agreement and Final Order to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: NOV 20 2008

Ana Madera

New York, New York