

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square Suite 100
Boston, MA 02109

Steven C. Schlang
Enforcement Counsel
617-918-1773 (phone)
617-918-1809 (fax)

RECEIVED

AUG 31 2010

EPA ORC
Office of Regional Hearing Clerk

August 31, 2010

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1
5 Post Office Square
Mail Code – ORA18-1
Boston, Massachusetts 02109-3912

Re: In the Matter of: Hudson Color Concentrates,
a division of L&A Molding Corporation
Docket Number: RCRA-01-2010-0026

Dear Ms. Santiago,

Please find enclosed for filing an original and one copy of an Administrative Complaint regarding the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,



Steven C. Schlang

cc: Donald R. MacLeod
Susan A. Bernstein, Esq.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

AUG 31 2010

EPA ORC
Office of Regional Hearing Clerk

_____)	
In the Matter of:)	
Hudson Color Concentrates)	
a division of)	EPA Docket Number
L & A Molding Corporation)	RCRA-01-2010-0026
50 Francis Street)	
Leominster, MA 01453,)	COMPLAINT, COMPLIANCE
Respondent)	ORDER, NOTICE OF
)	OPPORTUNITY FOR
)	HEARING AND NOTICE OF
EPA I.D. No. MAC300012440)	OPPORTUNITY TO CONFER
)	
Proceeding under Section)	
3008(a) of the Resource)	
Conservation and Recovery)	
Act, 42 U.S.C. § 6928(a))	
_____)	

I. STATEMENT OF AUTHORITY

This Complaint, Compliance Order, Notice of Opportunity for Hearing and Notice of Opportunity to Confer ("Complaint") is filed pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 Code Federal Regulations ("C.F.R.") Part 22. Complainant is the Legal Enforcement Manager, Office of Environmental Stewardship, United States Environmental Protection Agency ("EPA"), Region I. Hudson Color Concentrates ("Hudson Color") is a division of L & A Molding, Corporation ("L&A Molding" or "Respondent"). Respondent is hereby notified of the Legal Enforcement Manager's determination that the Respondent has

Administrative Complaint – Hudson Color Concentrates
Docket No: RCRA-01-2010-0026

violated Subtitle C of RCRA, Sections 3002, 42 U.S.C. §§ 6922 and 40 C.F.R. Part 262, Massachusetts General Laws Chapter 21C and the federally-authorized state regulations set forth at Title 310 of the Code of Massachusetts Regulations (“C.M.R.”) § 30.000 et seq.

Complainant hereby provides notice of Respondent’s opportunity to request a hearing concerning these allegations.

II. NATURE OF ACTION

1. This action under RCRA, 42 U.S.C. § 6901 et seq., seeks compliance with the hazardous waste regulations promulgated to implement RCRA. Complainant also seeks civil penalties under RCRA Sections 3008(a) and (g), 42 U.S.C. §§ 6928(a) and (g).

2. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notice of commencement of this action has been given to the Commonwealth of Massachusetts.

III. RCRA STATUTORY AND REGULATORY FRAMEWORK

3. RCRA was enacted on October 21, 1976, and amended thereafter by, among other acts, the Hazardous and Solid Waste Amendments of 1984 (“HSWA”). RCRA established a program for the management of hazardous wastes, to be administered by the Administrator of EPA. See 42 U.S.C. § 6901 et seq. The RCRA regulations promulgated by the Administrator are codified at 40 C.F.R. Parts 260 through 271.

4. Pursuant to RCRA Section 3006, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when EPA deems the state

program to be equivalent to the federal program.

5. On January 24, 1985, EPA granted final authorization to Massachusetts to administer its hazardous waste program in lieu of the federal program. See 50 Fed. Reg. 3344 (January 24, 1985). That authorization became effective on February 7, 1985.

6. Effective November 30, 1998, October 12, 1999, January 1, 2003, and February 13, 2004, the Commonwealth of Massachusetts received final authorization for additional hazardous waste rules. The federally-authorized Massachusetts regulations, together with other state hazardous waste regulations, are codified at 310 C.M.R. § 30.000 et seq.

7. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. §§ 6928 (a) and 6926(g), EPA may enforce the federally approved Massachusetts hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. § 6921 et seq. Section 3006 of RCRA, 42 U.S.C. § 6926, as amended, provides, inter alia, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

8. Section 3008(a) of RCRA provides that upon finding that any person has violated or is violating any requirement of Subchapter C of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assessing a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA

provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 et seq., as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to \$32,500 per day per violation for violations that occurred after March 15, 2004 and before January 13, 2009. Violations that occur on or after January 13, 2009 are subject to penalties up to \$37,500 per day per violation.

IV. GENERAL ALLEGATIONS

9. Hudson Color is a division of L & A Molding, a corporation organized under the laws of the State of Maine, with its principal office located at 14 Beech Street, Auburn, Maine. Hudson Color is located at 50 Francis Street, Leominster, Massachusetts.

10. Respondent is a “person” as that term is defined at Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

11. At all times relevant to the allegations set out in this Complaint, Respondent has been an “owner” and/or “operator,” as defined at Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), 40 C.F.R. § 260.10 and 310 C.M.R. § 30.010, of a facility that produces custom color plastic pellet concentrates for the plastics industry by blending, mixing, melting, extruding, quenching, drying and chipping processed mixtures of color pigments and plastics (“Facility”). Respondent’s operations involve the use of powdered pigments that include metals such as lead and cadmium.

12. As a result of its manufacture of color plastic pellets and its operation of the physical plant, Respondent generates, or has generated, solid wastes that are hazardous waste as defined under Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), the federal regulations promulgated at 40 C.F.R. § 261.3 and 310 C.M.R. § 30.102 et seq. These hazardous wastes include, but are not limited to, loose pigment residue that contains lead and/or other metals and universal hazardous wastes including spent fluorescent bulbs.

13. On January 20, 2003, Respondent submitted a Notice of Hazardous Waste Activity to the Commonwealth of Massachusetts, identifying itself as a very small quantity handler of hazardous wastes.

14. At all times relevant to this Complaint, Respondent was a small quantity handler of hazardous wastes, as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), 40 C.F.R. § 273.9 and 310 C.M.R. § 30.010.

15. As an owner and/or operator of a facility that is a very small quantity handler of universal wastes, Respondent is subject to standards applicable to very small quantity handlers of universal wastes found at 310 C.M.R. 30.1030 et seq.

16. On September 22, 2009, two duly authorized representatives of EPA ("inspection team") conducted a RCRA Compliance Evaluation Inspection ("CEI") at the Facility, pursuant to Section 3007 of RCRA.

17. During the CEI, the inspection team was introduced to Gary Carr, the Technical Director of Hudson Color. Mr. Carr accompanied the EPA inspection team during the CEI. Lloyd Watt and William Pendergrast, Hudson Color's President and Director of Operations,

respectively, were also present for portions of the CEI and follow-up briefing.

18. During the CEI, the EPA inspectors evaluated conditions at the Facility and reviewed various documents supplied by Respondent, including, inter alia, Uniform Hazardous Waste Manifests and Land Disposal Restriction notices.

19. On November 18, 2009, EPA sent Hudson Color a Request for Information (“Information Request”), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. Hudson Color sent its response (“Request Response”) to EPA on December 23, 2009.

20. In its Request Response to EPA, Hudson Color stated that it was a division of L & A Molding.

V. VIOLATIONS

COUNT I

Failure to Conduct an Adequate Waste Determinations

21. Complainant incorporates by reference paragraphs 1-20, above.

22. Pursuant to 310 C.M.R. § 30.302, “[a]ny person who generates a waste shall determine if that waste is a hazardous waste, as identified or otherwise described in 310 CMR 30.100...”

23. During the CEI, EPA inspectors observed pigments, used to provide colors to plastic, in bags and fiber drums, stored in the Facility’s raw materials storage area.

24. At the time of the CEI, EPA inspectors observed waste pigment residues on the floors, walls, and support equipment throughout the Facility (e.g., in the Facility’s raw material

storage areas, pigment room and blending area). Waste pigment residues were observed on pallets, bags, brooms, fiber drums, wrappings, and/or personal protective equipment.

25. During the CEI, the inspection team was told that waste pigment residues and items containing waste pigments residues were not being managed as hazardous waste. Additionally, in its Request Response, Hudson Color stated that waste pigment residues were "...swept up and disposed of in the onsite dumpster with other solid waste."

26. During the CEI, William Prendergast told the inspection team that Hudson Color had informed its laundry service that waste pigment residues on uniforms and other cleaning materials from the Facility might contain hazardous wastes in the form of heavy metals.

27. Subsequent to the CEI, Hudson Color provided material safety data sheets ("MSDSs") as part of its Request Response. Upon reviewing the MSDSs, EPA learned that some of the waste pigment residues found throughout the Facility contained heavy metals, including, but not limited to, lead, barium, and chrome. The MSDSs provided documentation that at least one pigment used at the Facility, Medium Chrome Yellow, manufactured by Dominion Color Corporation, contained between 60-100% lead chromate and 1-5% lead sulfate.

28. Pursuant to 310 C.M.R. § 30.155, as referenced by 310 C.M.R. § 30.125 and 310 C.M.R. § 30.125, lead is a hazardous waste bearing the EPA waste code of D008 if found in concentrations greater than 5 milligrams ("mg") per liter.

29. In its Request Response, Hudson Color stated that it had determined the waste pigment residues to be non-hazardous due to the residues' similarity to waste dust collected in the Facility's dust collection system. However, Hudson Color submitted no documents showing

that it had made waste determinations with respect to the Medium Yellow Pigment, despite the high concentrations of lead.

30. At the time of the CEI, Respondent had not conducted adequate waste determinations with respect to these pigment residues.

31. Respondent violated 310 C.M.R. § 30.302 by failing to conduct adequate waste determinations with respect to these pigment residues.

COUNT II

Failure to Properly Manage Universal Waste in a Way That Prevents Releases

32. Complainant incorporates by reference paragraphs 1-31, above.

33. Pursuant to 310 C.M.R. § 30.1034(5), a small quantity handler of universal waste shall manage universal waste mercury-containing lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. In addition, pursuant to 310 C.M.R. § 1034(5)(a), a small quantity handler of universal waste must hold any broken mercury-containing lamps in a container. The container shall be closed, vapor tight, structurally sound, compatible with the contents of the mercury-containing lamp, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

34. At the time of the CEI, the inspection team observed eight cartons of spent fluorescent lamps near the Facility's raw material storage area. The inspection team observed broken fluorescent lamps on the floor of the storage area, as well as in and around the cartons holding the spent fluorescent lamps. In addition, the containers holding the spent fluorescent lamps were open and were not vapor tight.

35. By failing to manage universal waste mercury-containing lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, Respondent violated the provisions of 310 C.M.R. § 30.1034(5).

COUNT III

Failure to Mark Stored Universal Waste With The Date of Accumulation

36. Complainant incorporates by reference paragraphs 1-35, above.

37. Pursuant to 310 C.M.R. § 30.1034(6)(c), a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The date of accumulation can be demonstrated by:

(1) placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; (2) marking or labeling each individual item of universal waste (e.g., each battery, thermostat, mercury-containing device, or mercury-containing lamp), which is not in a container described in § 30.1034(6)(c)1, with the date it became a waste or was received; (3) maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received; (4) maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; (5) placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or (6) any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. 310 C.M.R. § 30.1034(6)(c).

38. At the time of the CEI, the inspection team observed eight cartons of spent fluorescent lamps near the Facility's raw material storage area. There were no markings concerning the accumulation date(s) nor was there any inventory system or other manner of

ascertaining the date(s) of accumulation of the universal waste

39. By failing to mark stored universal waste with the date of accumulation, Respondent violated the provisions of 310 C.M.R. § 30.1034(6)(c).

VI. ORDER

40. Based on the foregoing findings, Respondent is hereby **ORDERED** to comply with the following requirements:

- A. Immediately upon receipt of this Complaint, Respondent shall conduct a waste determination with respect to the waste pigment residues found throughout the Facility. If the waste residues are determined to be hazardous, Respondent shall manage the waste residues in compliance with RCRA.
- B. Immediately upon receipt of this Complaint, Respondent shall store all universal wastes in compliance with 310 C.M.R. § 30.1034(5), by ensuring that mercury-containing lamps are stored in containers in a way that prevents releases of any universal waste or component of a universal waste to the environment.
- C. Immediately upon receipt of this Complaint, Respondent shall store all universal wastes by clearly marking containers of universal waste with the date of accumulation or by other means that comply with 310 C.M.R. § 30.1034(6)(c).
- D. Within thirty-five (35) days of receipt of this Complaint, Respondent shall submit to EPA written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements

set forth in paragraphs 40.A. through C. above. Any notice of noncompliance required under this paragraph shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. The information requested in this Complaint is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Respondent shall submit the above required information and notices to:

Donald R. MacLeod
RCRA Technical Enforcement Office
Office of Environmental Stewardship
United States Environmental Protection Agency
5 Post Office Square – Mail Code OES05-1
Boston, Massachusetts 02109-3912

41. If Respondent fails to comply with the requirements of this Order within the time specified, Section 3008(c) of RCRA, 42 U.S.C. § 6928, provides for further enforcement action in which the United States may seek the imposition of additional penalties of up to \$37,500 for each day of non-compliance.

42. This Order for Compliance with RCRA shall become effective immediately upon receipt by Respondent.

VII. ASSESSMENT OF PENALTY

43. Based on the nature, circumstances, extent and gravity of the RCRA violations cited in Counts I through III in Section V above, a civil penalty in the amount of sixty-eight thousand, six hundred and forty-four dollars (\$68,644) is hereby proposed to be assessed against Respondent, pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). [See Attachment I

to this Complaint explaining the reasoning for this penalty.]

43. For purposes of determining the amount of any penalty to be assessed, Section 3008(a)(3) of RCRA requires EPA to taken in account the seriousness of the violation and any good faith efforts to comply with applicable requirements. To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific references to EPA's "RCRA Civil Penalty Policy" ("Penalty Policy") dated October 1990. The Penalty Policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. The provisions violated and the corresponding proposed penalties are as follows:

<u>COUNT</u>	<u>REQUIREMENT</u>	<u>PENALTY ASSESSMENT</u>
I	Failure to Conduct Adequate Hazardous Waste Determinations	\$35,299
II	Failure to Properly Manage Universal Waste In a Manner that Prevents Releases	\$32,915
III	Failure to Mark Stored Universal Waste With the Date of Accumulation	\$ 430
<u>TOTAL</u>	-----	\$68,644

44. Payment may be made by a cashier's or certified check, payable to the Treasurer, United States of America. Respondent should note on the check the docket number of this Complaint. The check should be forwarded to:

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

Administrative Complaint - Hudson Color Concentrates
Docket No: RCRA-01-2010-0026

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check must be mailed to the Regional Hearing Clerk:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
Mailcode ORA18-1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and to:

Steven C. Schlang
Senior Enforcement Counsel
U.S. EPA, Region 1
Mailcode – OES04-4
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

As provided by Section 3008(b) of RCRA and in accordance with 5 U.S.C. § 554, Respondent has a right to request a hearing on the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22. **A request for a hearing must be incorporated in a written answer filed with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint.** In its answer, Respondent may contest any material fact contained in the Complaint. The answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts Respondent intends to place

at issue; and, (3) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation.

IX. DEFAULT ORDER

If Respondent fails to file a timely answer to the Complaint, Respondent may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations under Section 3008 of RCRA, 42 U.S.C. § 6928. In addition, default will preclude Respondent from thereafter obtaining adjudicative review of any of the provisions contained in the Compliance Order section of the Complaint.

X. SETTLEMENT CONFERENCE

Whether or not a hearing is requested upon filing an answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region I. The issuance of such a Consent Agreement shall constitute a waiver of Respondent's right to a hearing on any issues of law, fact, or discretion included in the Agreement.

Administrative Complaint - Hudson Color Concentrates
Docket No: RCRA-01-2010-0026

Please note that a request for an informal settlement conference does not extend the thirty (30) day period within which a written answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Steven C. Schlang, Senior Enforcement Counsel, Office of Environmental Stewardship, EPA Region 1, at (617) 918-1773, who has been designated to receive service in this matter.



Joanna B. Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
EPA Region 1

Aug 31, 2010
Date

ATTACHMENT I
In the Matter of: Hudson Color Concentrates
a division of L&A Molding Corporation
EPA Docket Number: RCRA-01-2010-0026

EXPLANATION OF PENALTY CALCULATION

The following represents the penalty calculation and justification for allegations of RCRA violations identified at Hudson Color Concentrates, Inc. located in Leominster, Massachusetts ("Hudson Color"). Gravity-based penalties were calculated in accordance with the RCRA Civil Penalty Policy, dated June 23, 2003 ("RCPP"), the Debt Collection Improvement Act, and the Civil Monetary Inflation Adjustment Rule, effective March 15, 2004.

The penalty calculations are based on alleged RCRA violations documented during an EPA compliance evaluation inspection ("CEI") conducted on September 22, 2009, and on information submitted to EPA by Hudson Color.

1. Failure to conduct an adequate hazardous waste determination

(a) Provision Violated – 310 CMR 30.302

Respondent failed to conduct an adequate waste determination with respect to its Medium Yellow Pigment.

(b) Penalty Assessment

Potential for Harm – Major

Justification - The following factors were considered in determining the appropriate level of potential for harm:

Potential for Harm to the Environment - Major

Hudson Color was not performing adequate hazardous waste determinations on waste pigment residues observed throughout the facility. Hudson Color had never performed a waste determination on its Medium Yellow Pigment even though a MSDS was available. This failure to conduct a hazardous waste determination led to the disposal of hazardous waste in the trash and to the possible of exposure of employees to hazardous waste.

Extent of Deviation – Major

Justification – Hudson Color used 107,051 pounds of lead pigments from 9/1/08 to 8/30/09. As detailed above, the inspection team observed waste residues generated in the facility that were not adequately profiled by Hudson Color for lead. The total volume of waste improperly characterized by Hudson Color represents a major extent of deviation from the regulatory requirement. Hudson Color is in the lead pigment business. It should have been aware that some of the pigments may be hazardous and should have known how to properly characterize its hazardous waste.

(c) **Penalty**

(1) Matrix Cell Range (gravity-based penalty): Major/Major

\$37,500 - \$28,330

Penalty Amount Chosen - \$32,915

(2) Economic Benefit

The estimated cost of the economic benefit resulting from Hudson Color's failure to properly characterize this waste stream is \$2484.

Total Penalty: \$35,299

2. Failure to properly manage universal waste (mercury-containing lamps) in a way that prevents releases to the environment

(a) **Provision Violated – 310 CMR 30.1034(5)**

Hudson Color failed to store containers of mercury-containing lamps in a way that would prevent the release of mercury to the environment.

(b) **Penalty Assessment**

Potential for Harm to the Environment – Major

Justification - The following factors were considered in determining the appropriate level of potential for harm:

As a generator of universal waste Hudson Color was required to manage mercury-containing lamps in a way that prevents releases of any universal waste or its components to the environment. Failure to provide adequate containers and failure to hold broken mercury containing lamps in a container increases the likelihood of an actual release of hazardous waste to the environment. In this case, Hudson Color's failure to properly manage universal wastes led to broken mercury-containing lamps and the release of mercury.

Extent of Deviation – Major

Justification – Hudson Color was storing eight cartons of spent fluorescent lamps without adequate containers. Hudson Color had not cleaned up broken lamps and placed them in a container. Lamps showing evidence of breakage that were improperly contained by Hudson Color represent a major extent of deviation from the regulatory requirement. Hudson Color had not properly contained any of the fluorescent lamps stored at its facility.

(c) Penalty

(1) Matrix Cell Range (gravity-based penalty): Major/Major

\$37,500 - \$28,330

Penalty Amount Chosen - \$32,915

Total Penalty: \$32,915

3. Failure to properly mark or label a container with the earliest date that any universal waste in the container became a waste or was received.

Hudson Color failed to mark or label containers of spent mercury-containing lamps with the earliest dates that the lamps became wastes or were received.

(a) Provision Violated – 310 CMR 30.1034(6)

(b) Penalty Assessment

Potential for Harm to the Environment – Minor

Justification - The following factor was considered in determining the appropriate level of potential for harm:

Respondent's failure to label universal waste containers with the date of accumulation poses harm to the environment as the longer wastes are stored, the more likely a release of hazardous wastes will occur.

Extent of Deviation - Minor

The violation poses a minor deviation from the regulatory requirement.

(c) Penalty

(1) Matrix Cell Range (gravity-based penalty): Minor/Minor

\$710 - \$150

Penalty Amount Chosen - \$430

Total Penalty: \$430

**In the Matter of: Hudson Color Concentrates, a division of L&A Molding
Docket Number RCRA-01-2010-0026**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint has been sent to the following persons on the date noted below:

Original and one copy
hand delivered:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy by Certified Mail-
Return Receipt Requested

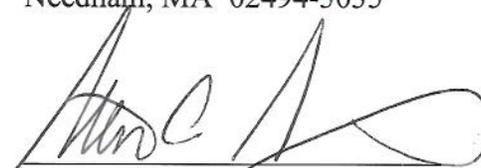
Lloyd Watt, President
Hudson Color Concentrates,
a division of L&A Molding
50 Francis Street
Leominster, MA 01453

and

Susan A. Bernstein, Esq.
200 Highland Avenue, Suite 306
Needham, MA 02494-3035

Date: _____

9/1/2010



Steven C. Schlang
Office of Environmental Stewardship U.S.
Environmental Protection Agency
Region I
Five Post Office Square, Suite 100
Mail Code OES04-4
Boston, MA 02109-3219
tel: (617) 918-1773
fax: (617) 918-0773