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June 27, 2012

VIA FACSIMILE and REGULAR MAIL

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

RE: Chase, et al, Respondents
Docket No. RCRA-02-2011-7503

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 JUL -3 A 11: 35
REGIONAL HEARING
CLERK

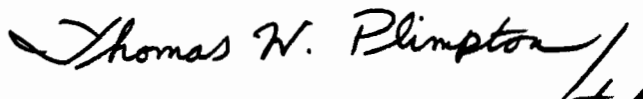

Dear Ms. Maples:

I enclose herewith the original and one copy of my signed Declaration in opposition to Complainants Motion to Preclude regarding the above matter, the previous Declaration that was filed with the Court was unsigned. I apologize for the inconvenience.

Thank you for your consideration in this regard.

Very truly yours,

STAFFORD, PILLER, MURNANE,
PLIMPTON, KELLEHER & TROMBLEY, PLLC


By: Thomas W. Plimpton, Esq. 

TWP/taf
Enclosures

CC: Hon. M. Lisa Buschmann, Presiding Officer
(Via Facsimile)
Lee Spielmann, Esq. (Via Facsimile)

Signed in the absence of the
writer to avoid delay in mailing

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 JUL -3 A 11:35
REGIONAL HEARING
CLERK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Andrew B. Chase, a/k/a Andy
Chase, Chase Services, Inc., Chase Convenience
Stores, Inc., and Chase Commercial Land
Development, Inc.,

**DECLARATION OF
THOMAS W. PLIMPTON, ESQ.**

Respondents.

Docket No. RCRA-02-2011-7503

Proceeding Under Section 9006 of the Solid
Waste Disposal Act, as amended.

**DECLARATION OF THOMAS W. PLIMPTON IN OPPOSITION TO
PRECLUDE RESPONDENTS FROM INTRODUCING DOCUMENTATION
RELEVANT TO CLAIM OF INABILITY TO PAY/FINANCIAL HARDSHIP
AND TO DRAW ADVERSE INFERENCES THERETO**

THOMAS W. PLIMPTON, ESQ., for his declaration pursuant to 28 U.S.C. §
1746, hereby states:

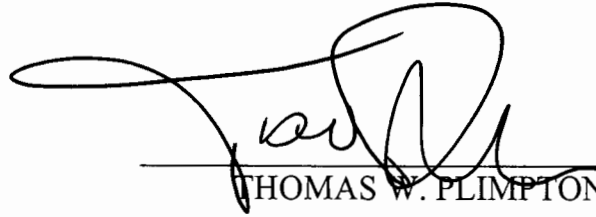
1. I am an attorney duly licensed to practice law in the State of New York, and a member of the firm of Stafford, Piller, Murnane, Plimpton, Kelleher & Trombley, PLLC, and attorney for the Respondents in the above matter.
2. I make this Declaration in opposition to Complainant's Motion to Preclude Respondents from introducing documentation relevant to claim of inability to pay/financial hardship and to draw adverse inferences thereto.
3. Respondents have provided financial information to the EPA in this matter.

4. On or about March 20, 2012, the 2010 individual tax return for Andrew Chase, Belmont, Inc., and Chase Properties, Inc. were provided.
5. On or about March 26, 2012, the EPA was forwarded copies of the 2008 and 2009 tax returns for Chase Commercial Properties, the 2008 and 2009 tax returns for Chase Convenience Stores, the 2008 and 2009 tax returns for Chase Services, the 2008 tax return for Belmont, Inc., the IRS payment notice for Andrew Chase, individually, for the 2009 tax year, and New York State Department of Taxation Notice of Adjustment for Andrew Chase, individually.
6. On June 14, 2012, a copy of the Individual Ability to Pay Claim (Financial Data Request Form) was forwarded to the EPA.
7. Copies of all of these financial records are attached hereto as Exhibit A.
8. Andrew Chase, individually, has not yet filed a 2011 tax return. Therefore, his most recent tax returns which have been filed have been provided.
9. Chase Services, Inc., Chase Convenience Stores, Inc., and Chase Commercial Land Development, Inc. have each ceased doing business, and the last tax return filed was 2010. At this time, none of those corporations are in operation.
10. Other than the financial information in the tax returns, the three corporate Respondents, which have ceased operation, do not have financial statements.
11. Because the three corporate Respondents have ceased doing business, there are not any financial projections.

12. Each of the three corporate Respondents sold their sole assets in 2009. A copy of Mr. Chase's Certification that the above-referenced documents do not exist is attached hereto as Exhibit B.
13. The documentation produced should not be precluded, as it has been provided and subject to analysis by the EPA.
14. The purpose of exchanging the financial information is to provide the EPA with the opportunity to analyze the information which demonstrates the Respondents' very limited financial means to pay any penalties assessed in this matter. It is the Respondents' hope to come to an agreement on the amount of penalties which would satisfy the EPA, commensurate with their very limited financial resources.
15. Excluding any financial information will not change what is, in fact, incredibly dire financial condition of the Respondents. The corporate Respondents sold their assets prior to the EPA bringing this action. Mr. Chase has, through his tax returns, demonstrated his dire financial situation. These facts will not change, even if the financial information is excluded.
16. Precluding copies of financial information from being introduced into evidence cannot change the Respondents' ability to pay. It will not increase the chances of the EPA being able to recoup anything other than what the financial resources of the Respondents actually are.

WHEREFORE, Respondents respectfully request that the Complainant's Motion to Preclude be denied, and for such other and further relief as this Court may deem just and proper.

DATED: June 25, 2012.



THOMAS W. PLIMPTON, ESQ.