

EXHIBIT A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF

EPA Docket No. RCRA-HQ-2009-0001

EARTHECYCLE, LLC.,

AMENDED COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING

18420 E. Admiral Place
Cartoosa, OK 74015,

RESPONDENT.

Proceeding under Section 3008(a) of the
Resource Conservation and Recovery
Act, 42 U.S.C. § 6928(a)

I. INTRODUCTION

1. This Amended Complaint, Compliance Order and Notice of Opportunity for Hearing ("Order") is filed pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (hereinafter, "RCRA"), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (2009). Part 22.14(c) provides that Complainant may amend the complaint once as a matter of right at any time before the answer is filed. Respondent has not filed an answer to the complaint filed on June 5, 2009. Respondent, EarthECycle, LLC ("EarthECycle"), is hereby notified that the United States Environmental Protection Agency ("EPA") alleges that Respondent violated Sections 3002 and 3017 of RCRA, 42 U.S.C. §§ 6922 and 6938, and the

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hazardous waste regulations at 40 C.F.R. Parts 261 and 262 and the EPA authorized Pennsylvania hazardous waste management regulations set forth at 25 PA. CODE § 260a *et seq.* by failing to properly manage hazardous wastes. EPA also provides notice of compliance measures that must be undertaken by Respondent to address these violations as well as Respondent's opportunity to request a hearing.

II. NATURE OF ACTION

2. This action is commenced pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), ordering Respondent to come into compliance with the hazardous waste regulations promulgated pursuant to RCRA.
3. Notice of commencement of this action has been given to the Commonwealth of Pennsylvania ("Pennsylvania") pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III. STATUTORY AND REGULATORY FRAMEWORK

4. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. RCRA Subtitle C, 42 U.S.C. §§ 6921 *et seq.*, empowers EPA to identify and list hazardous wastes. It also authorizes EPA to regulate hazardous waste ~~generators, transporters, and the owners and operators of hazardous waste treatment, storage,~~ and disposal facilities. EPA has promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-270, 273, 279.
5. Pursuant to Section 3001 of RCRA, 42 U.S.C. § 6921, EPA promulgated regulations to define what materials are "solid wastes," and of these solid wastes, what wastes are regulated as "hazardous wastes." These regulations are set forth at 40 C.F.R. Part 261.

6. Pursuant to 40 C.F.R. § 261.2, a "solid waste" is any discarded material that is not otherwise excluded by regulation.
7. Pursuant to 40 C.F.R. §§ 261.4(a)(22)(ii) and 261.40, used, intact Cathode Ray Tubes ("CRTs") exported for recycling are solid wastes if they are speculatively accumulated or the exporter fails to notify EPA of an intended export sixty (60) days before the CRTs are scheduled to leave the United States or the exporter fails to obtain an "Acknowledgement of Consent" from the receiving country, which must accompany the shipment.
8. Pursuant to 40 C.F.R. §§ 261.4(a)(22)(iii) and 261.39, used, broken CRTs are solid wastes if any one of the following conditions exist: (1) the CRTs are not properly stored in accordance with the regulations; (2) the CRTs are not properly labeled; (3) the CRTs are not transported in proper containers; (4) the CRTs are speculatively accumulated or used in a manner constituting disposal; (5) if the CRTs are exported for recycling, the exporter fails to notify EPA of an intended export sixty (60) days before the CRTs are scheduled to leave the United States; and, (6) if the CRTs are exported for recycling, the exporter fails to obtain an "Acknowledgement of Consent" from the receiving country which must accompany the shipment.
9. Section 3002 of RCRA, 42 U.S.C. § 6922, requires EPA to establish standards applicable to generators of hazardous wastes. These standards are codified at 40 C.F.R. Part 262 and include requirements such as determining whether a waste is hazardous, managing waste in proper containers, labeling and dating containers, inspecting waste storage areas, training, and planning for emergencies.
10. Section 3017 of RCRA, 42 U.S.C. § 6938, authorizes the EPA Administrator to promulgate regulations necessary to prevent the unauthorized export of hazardous waste. Such regulations

were promulgated at 40 C.F.R. §§ 262.50-58; 262.80-89. 40 C.F.R. § 262.52 prohibits exports of hazardous waste without: (a) notification to the EPA of intent to export as required under 40 C.F.R. § 262.53; (b) consent of the receiving country; (c) a copy of the EPA "Acknowledgment of Consent" to the shipment attached to the manifest (or shipping paper for exports by water [bulk shipment]); and (d) the shipment conforming with the terms of the receiving country.

11. Pursuant to 40 C.F.R. § 261.41, persons who export used, intact CRTs for reuse must send a one-time notification to the EPA documenting the persons' intent to export used, intact CRTs for reuse.
12. Section 3008 of RCRA, 42 U.S.C. § 6928(a), authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
13. The Administrator has delegated the authority under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to the Assistant Administrator of the Office of Enforcement and Compliance Assurance, who has re-delegated this authority to the Director of the Waste and Chemical Enforcement Division.
14. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program.
15. On January 30, 1986, EPA granted final authorization to the Commonwealth of Pennsylvania to administer its hazardous waste program in lieu of the federal program. *See* 51 Fed. Reg. 1791 (Jan. 15, 1986). EPA granted authorization for revisions to the Commonwealth of Pennsylvania's regulatory program on September 26, 2000, effective November 27, 2000 (65

Fed. Reg. 57,734); on January 20, 2004, effective March 22, 2004 (69 Fed. Reg. 2674); and on April 29, 2009, to be effective June 29, 2009 (74 Fed. Reg. 19,453).

16. Pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce federally-authorized hazardous waste programs by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Sections 3001-3023e of RCRA, 42 U.S.C. §§ 6921-6939e.
17. 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.

IV. GENERAL AND FACTUAL ALLEGATIONS

18. Respondent, EarthECycle, is a limited liability corporation doing business in the State of Oklahoma. The business is located at 18420 E. Admiral Place, Cartoosa, OK 74015.
19. Respondent is a "person," as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
20. 25 PA CODE § 262a.10, which incorporates by reference 40 C.F.R. § 262.51, provides that a "primary exporter" means "any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 C.F.R. part 262, subpart B."
21. Respondent is a "primary exporter" as that term is defined in 40 C.F.R. § 262.51 and 25 PA CODE 262a.10.
22. Respondent is engaged in the business of collecting and exporting used electronic equipment and parts, including color computer monitors. These computer monitors contain CRTs.

23. The monitors shipped by the Respondent constitute "hazardous waste" as defined in 40 C.F.R. §§ 260.10 and 261.3, and Section 1004(5) of RCRA, 42 U.S.C. § 6903(5). Color computer monitors contain an average of four pounds of lead and also contain mercury, cadmium, and arsenic.
24. The electronic products, other than monitors, are solid wastes that were shipped by Respondent. 40 C.F.R. § 262.11 requires that persons who generate a solid waste must make a determination whether the waste is hazardous.
25. From March 19-22, 2009, Respondent partnered with the Washington County Humane Society in Pennsylvania to conduct a free electronic waste collection event.
26. From March 29-April 6, 2009, Respondent partnered with the Allegheny County and the Western Pennsylvania Humane Society to conduct a free electronic waste collection event.
27. At these events, Respondent helped collect various electronic wastes, including monitors containing CRTs, CPUs, printers and fax machines and transported those materials to two warehouses at 408 N. Braddock Avenue, Pittsburgh, Pennsylvania and 4876 Old William Penn Highway, Monroeville, Pennsylvania.
28. Materials at these warehouses were observed being loaded, unpackaged, into sea-going 40-foot shipping containers with the following container numbers: MSKU8745931, TCNU9268324, TCNU9546549, MSKU1380560, MSKU1381714, MSCU7870035, and CBHU8239396.
29. On March 26, 2009, Respondent exported three containers to Hong Kong, numbers TCNU9546549, MSKU8745931 and TCNU9268324, containing 3,584 used electronic goods, via the Port of Newark, New Jersey.

30. On April 1, 2009, Respondent exported four containers to Hong Kong, numbers MRKU0511806, MSKU1381714, MSKU1380560 and MSKU0183540, containing used electronic goods, two of which were containers from the warehouses in Pennsylvania.
31. On May 1, 2009, Respondent exported two containers to South Africa, numbers MSCU7870035 and MSCU9474970, containing 2,016 used monitors, via the Port of Baltimore, Maryland.
32. Both shipments of containers described in Paragraphs 29-30 were consigned to Multi-trans Shipping Agency LTD in Hong Kong and contained the description "used electronic goods."
33. The two containers described in Paragraph 31 were consigned to Butterfly Import & Export CC in Johannesburg, South Africa and contained the description "computer monitors (used)".
34. On May 13, 2009, a shipment containing three containers (numbers TCNU9546549, MSKU8745931 and TCNU9268324) was shipped from Hong Kong to Newark, New Jersey. The description of the goods was "used electronic goods" with the note "Return Cargo."
35. On May 15, 2009, Mr. Gary Tam of the Hong Kong Environmental Protection Department notified EPA that the Hong Kong government had intercepted a shipment of three containers (numbers TCNU9546549, MSKU8745931 and TCNU9268324) containing hazardous waste and had returned them to the original port of dispatch, Newark, New Jersey.
36. On May 18, 2009, Mr. Gary Tam of the Hong Kong Environmental Protection Department notified EPA that the Hong Kong government had intercepted a shipment of four containers (numbers MRKU0511806, MSKU1381714, MSKU1380560 and MSKU0183540) containing hazardous waste and had returned them to the original port of dispatch, Newark, New Jersey.

37. On May 29, 2009, EPA received an e-mail from the South African Environment Department informing EPA that it had stopped the consignment of two containers (numbers MSCU 7870035 and MSCU 9472970) of used computer monitors and the containers were transported to the South African Customs holding and transfer office in Johannesburg.
38. On June 5, 2009, inspectors from the South African Department of Environmental Affairs and Tourism inspected the two containers (numbers MSCU 7870035 and MSCU 9474970) together with South African Customs officials. When the containers were opened, the contents closest to the doors fell to the ground because the monitors had not been packed to prevent breakage.
39. On June 11, 2009, the South African Department of Environmental Affairs and Tourism informed EPA that South African Customs had issued a detention order pending completion of its investigation as to whether these monitors are wastes.
40. On June 16, 2009, employees from the EPA Regional office in New York inspected the three containers described in Paragraph 29. The inspectors observed that the monitors were not packaged to prevent breakage.
41. On June 24, South African officials communicated to EPA that they had determined that based on its investigation the containers contained electronic waste that was prohibited from entry into South Africa.
42. On June 25, employees from the EPA Regional office in New York inspected the four containers described in Paragraph 30. The inspectors observed that the electronic equipment was not packaged to prevent breakage.
43. Respondent failed to prepare a manifest to ship the containers of CRTs from Pennsylvania to New Jersey and Maryland as required by 40 C.F.R. § 262.20 and 25 PA. CODE § 262a.20.

- 44. Respondent did not provide notification of its intent to export the CRTs as required by 40 C.F.R. § 262.53.
- 45. Respondent did not provide consent of the receiving country as required by 40 C.F.R. § 262.53.
- 46. Respondent did not obtain an Acknowledgment of Consent to Export as required by 40 C.F.R. § 262.53.

V. VIOLATIONS

COUNT 1: Failure to Make a Hazardous Waste Determination

- 47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
- 48. 40 C.F.R. § 262.11 and 25 PA. CODE § 262a.11 require a person who generates a solid waste to determine if that waste is a hazardous waste.
- 49. Cathode ray tubes are a solid waste because the Respondent did not meet the notice and consent conditions of § 261.39(a)(5). All other electronic waste is a solid waste if discarded. 42 U.S.C. § 1004.
- 50. Respondent's failure to test any of the material collected to determine if the solid waste was a hazardous waste is a violation of 40 C.F.R. § 262.11 and 25 PA. CODE § 262a.11.

COUNT 2: Failure to Prepare a Hazardous Waste Manifest

- 51. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
- 52. 40 C.F.R. § 262.20 and 25 PA. CODE § 262a.20 require any generator who transports or offers for transport hazardous waste to prepare a manifest.

53. Respondents' failure to prepare a manifest for each shipment is a violation of 40 C.F.R. §262.20 and 25 PA. CODE § 262a.20.

COUNT 3: Unauthorized Export of Hazardous Waste

54. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
55. Respondent did not provide notification of intent to export for these shipments and did not obtain an Acknowledgment of Consent required to meet the exemption under 40 C.F.R. § 261.39(a)(5) or satisfy the requirements of 40 C.F.R. § 262.53, therefore, Respondent exported hazardous waste without authorization in violation of 40 C.F.R. § 262.52.

COUNT 4: Failure to Provide Notice to the Regional Administrator of an Intent to Export

CRTs for Reuse (Alternative Pleading to Count 3)

56. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
57. Pursuant to 40 C.F.R. § 261.41, persons who export used, intact CRTs for reuse must send a one-time notification to the Regional Administrator documenting their intent to export used, intact CRTs for reuse.
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58. Respondent did not submit a notice to the Regional Administrator documenting its intent to export CRTs for reuse, therefore, the Respondent violated 40 C.F.R. § 261.41.

COUNT 5: Failure to Follow Special Manifest Requirements

59. The allegations of paragraphs 1 through 46 above are incorporated herein by reference as if they were set forth in their entirety.

60. Respondent is a "primary exporter" as that term is defined in 40 C.F.R. § 260.10 and 25 PA CODE § 260a.10:
61. 25 PA CODE § 260a.10, which incorporates by reference 40 C.F.R. § 262.54(g), provides in part that "where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:
- i. Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with § 262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or
 - ii. Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and
 - iii. Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions."
62. South Africa does not allow imports of electronic waste and has detained the shipment because it has determined that the shipments contained electronic waste, not used electronic equipment for reuse.
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63. The shipment identified in Paragraph 31 could not be delivered to the designated consignee, therefore, Respondent was required to comply with 40 C.F.R. § 262.54(g).
64. Respondent did not prepare a hazardous waste manifest or notify and obtain consent for the original shipment as required by 40 C.F.R. §262.53.
65. Respondent failed to instruct the transporter to return the waste to the United States as required by 40 C.F.R. § 262.54(g)(2).

COUNT 6: Failure to Package

66. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
67. 40 C.F.R. § 262.30 and 25 PA. CODE § 262a.30 requires any generator, before transporting hazardous waste or offering hazardous waste for transport, to package the waste in accordance with the applicable Department of Transportation ("DOT") regulations on packaging under 49 C.F.R. Parts 173, 178, and 179.
68. Respondent's failure to package the waste according to DOT regulations constitutes a violation of 40 C.F.R. § 262.30 and 25 PA. CODE § 262a.30.

COUNT 7: Failure to Label

69. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
70. 40 C.F.R. § 262.31 and 25 PA. CODE § 262a.31 requires any generator who transports or offers for transport hazardous waste to label each package in accordance with the applicable DOT regulations on hazardous materials under 49 C.F.R. Part 172.
- ~~71. Respondents' failure to label the shipment of CRTs according to DOT regulations constitutes a~~
violation of 40 C.F.R. § 262.31 and 25 PA. CODE § 262a.31

COUNT 8: Failure to Mark

72. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth in their entirety.
73. 40 C.F.R. § 262.32 and 25 PA. CODE § 262a.32 requires any generator, before transporting hazardous waste or offering hazardous waste for transport, to mark each package of hazardous

waste in accordance with the applicable DOT regulations on hazardous materials under 49 C.F.R. Part 172.

74. Respondents' failure to mark each package of hazardous waste in accordance with applicable DOT regulations constitutes a violation of 40 C.F.R. § 262.32 and 25 PA. CODE § 262a.32.

VI. COMPLIANCE ORDER

75. Based on the foregoing findings, Respondent is hereby ordered to achieve and maintain compliance with all applicable requirements of RCRA. Specifically:

- a. Within thirty (30) days of receipt of this Order, Respondent shall make arrangements for the return of the containers, numbered MSCU 7870035 and MSCU 9472970, as identified in Paragraph 31 of this order, to the United States from South Africa.
- a. Respondent is responsible for all necessary costs associated with the return of the containers to the United States.
- b. Respondent must provide to EPA a copy of the bill of lading for the return shipment, the port of entry in the United States to which it will be returning, and the estimated date of arrival.
- c. Within fifteen (15) days of return to the United States, Respondent shall take possession of the containers numbered MSCU 787003 and MSCU 9474970 and remove them from the port of arrival. Respondent shall transport the containers to a secure warehouse for temporary storage under the control of Respondent.
- b. Within thirty (30) days of receipt of this Order, Respondent shall take possession of all of the containers that were returned to the United States from Hong Kong described in Paragraphs 29 and 30 containing CRTs and remove them from the Port of Newark.

Respondent shall transport the containers to a secure warehouse for temporary storage under the control of Respondent; and

- c. Within forty-five (45) days of receipt of this Order, Respondent shall submit a plan for EPA approval detailing how the Respondent will manage each item in each container (*i.e.*, for reuse, recycle, or discard) in accordance with RCRA and any other applicable state or federal laws and regulations.

- i. If the Respondent proposes to export certain items for reuse, the plan must include test results that demonstrate the functionality for each item and a description of the testing method used for each item.

- 76. The Respondent shall not remove any items from the storage facility without EPA approval.
- 77. Respondent shall remove all items from storage within twenty (20) days of EPA's approval of the plan described in Paragraph 75.
- 78. To further ensure compliance with the requirements cited in Paragraphs 75-77, Respondent shall submit a written confirmation of compliance (accompanied by a copy of any appropriate supporting documentation) to EPA within thirty (30) days of EPA's approval of the plan described in Paragraph 75. This confirmation shall specify all actions taken by Respondent to comply with the plan as approved by EPA and all other terms of this Order and include:

- i. a statement containing an inventory of all items and the actual disposition of each item listed on the inventory; and
- ii. the total cost of returning to compliance.

- 79. The information requested in this Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq.*

80. Respondent shall submit the copies of any information, reports, and/or notices required by this Order to:

Ann Stephanos. Attorney-Advisor
U.S. Environmental Protection Agency
Office of Civil Enforcement (2249A)
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
Telephone: (202) 564-4006
Fax: (202) 564-0022

81. 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(c), provides for further enforcement action in which EPA may seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance, in addition to any other penalties that may be assessed for past or ongoing violations.
82. This Order shall become effective immediately upon receipt by Respondent.
83. In accordance with 40 C.F.R. § 22.37(b), this Order shall automatically become a final order unless, no later than thirty (30) days after the Order is served, Respondent requests a hearing pursuant to 40 C.F.R. § 22.15.

VII. ASSESSMENT OF PENALTIES

84. EPA reserves its right to assess penalties and/or seek other injunctive relief for violations of the requirements cited above, as provided by Section 3008 of RCRA, 42 U.S.C. § 6928.

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

85. As provided by Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 40 C.F.R. § 22.15, Respondent has a right to request a hearing on the issues raised in this Order. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. A request for a

hearing must be incorporated in a written answer filed with the Hearing Clerk within twenty (20) days of service of this Amended Complaint and Order. In its answer, Respondent may contest any material fact contained in the Amended Complaint and Order. The answer shall directly admit, deny, or explain each of the factual allegations contained in the Order and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts that 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 Order constitutes an admission of that allegation.

IX. DEFAULT ORDER

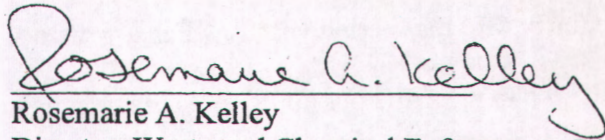
86. If Respondent fails to file a timely answer to the Order, Respondent may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Order and a waiver of Respondent's right to a hearing on such 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 Order.

X. SETTLEMENT CONFERENCE

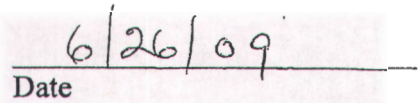
87. Whether or not a hearing is requested upon filing an answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the signing of a Consent

Agreement and Final Order by the Presiding Officer. 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 Ann Stephanos, Attorney-Advisor, Office of Civil Enforcement, at (202) 564-4006. Ms. Stephanos is also designated to receive service on behalf of Complainant, at the address in Paragraph 80.

For Complainant:



Rosemarie A. Kelley
Director, Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency


Date

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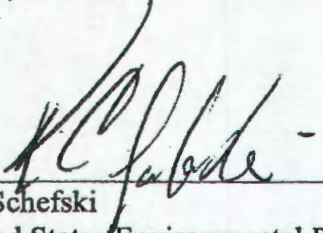
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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June, 2009, the original and one copy of the foregoing Amended Complaint, Compliance Order, and Notice of Opportunity for Hearing, In the Matter of EarthEcycle LLC, Docket No. RCRA-HQ-2009-0001, was filed with the Headquarters Hearing Clerk, and that a copy of the signed original, together with a copy of the Consolidated Rules of Practice, were sent accordingly:

by first class mail, with return receipt requested, to:

Jeffrey L. Nixon
EarthEcycle, LLC
18420 E. Admiral Place
Tulsa, OK 74015



KC Schefski
United States Environmental Protection Agency
Waste and Chemicals Enforcement Division (2249A)
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
(202) 564-8213

Date

6/26/09

EXHIBIT B

RECEIVED BY OALJ
IN THE MATTER OF)
2009 JUL 23 PM 2: 48) EPA Docket No. RCRA-HQ-2009-0001
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)
EARTHECYCLE, LLC.,)
18420 E. Admiral Place)
Cartoosa, OK 74015,)
)
)
RESPONDENT)

**JOINT MOTION TO EXTEND DEADLINE FOR RESPONDENT'S ANSWER TO
THE AMENDED COMPLAINT**

Complainant, the United States Environmental Protection Agency (EPA), and Respondent, EarthECycle LLC, jointly request a twenty (20) day extension to the deadline for the filing of Respondent's answer to the amended complaint filed on June 26, 2009 and served on July 2, 2009.

This motion is made pursuant 40 C.F.R. §§ 22.7(b) and 22.15 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation,/Termination or Suspension of Permits.

BACKGROUND AND GROUNDS FOR EXTENSION

On June 5, 2009, the Waste and Chemical Enforcement Division (WCED), EPA Headquarters, filed a complaint, compliance order, and notice of opportunity for hearing against the Respondent alleging violations of the Resource Conservation and Recovery Act (RCRA) associated with Respondent's export of used electronic equipment to Hong Kong. On June 26, 2009, WCED filed an amended complaint in this matter with additional allegations of RCRA violations associated with Respondent's export of used electronic equipment to South Africa. Respondent acknowledges that service of this amended complaint was made on July 2, 2009 via first class mail. The amended

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complaint included a compliance order requiring the Respondent to arrange for the legal disposition of the used electronic materials, including procuring the return of two containers held by the government of South Africa, and also reserved EPA's right to seek penalties for the violations alleged in the complaint.

Since the filing of the amended complaint, Respondent has expressed a willingness to comply with the order and has taken steps to do so. Under the order, Respondent has some flexibility regarding the final disposition of these materials, conditioned on EPA's approval. WCED and the Respondent continue to discuss the options available to comply with the terms of the order and RCRA.

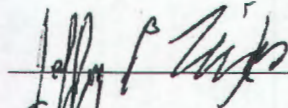
REQUESTED RELIEF

In the interest of facilitating a negotiated resolution to this matter, the parties request an extension for Respondent to file its answer until August 11, 2009, to allow for continued discussions regarding compliance with the order. This extension will preserve the Respondent's right to file an answer and request a hearing at any time prior to the new deadline. If an answer is not filed by August 11, 2009, then the provisions regarding default at 40 C.F.R. § 22.7 will apply and EPA may move to finalize the order at that time.

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Respectfully submitted,

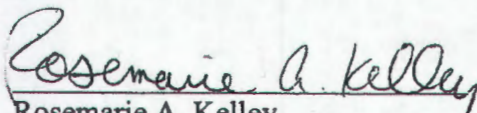
For Respondent:



Jeffrey Nixon
EarthECycle LLC

Date: 1/21/09

For Complainant:



Rosemarie A. Kelley
Director, Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

Date: 1/23/09

EXHIBIT C

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Log for

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Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
08/11	11:20p	Received		0:45	1	OK

TO: Mrs. Ann Stepanus

US EPA Office of Civil Enforcement
Waste Enforcement Branch.

202-564-0019

FROM: Jeffrey L. Nixon
Earthcycle, LLC

Please accept this Fax as Request
for HEARING concerning Docket No.
RCRA-HQ-2009-0601.

Thank you,

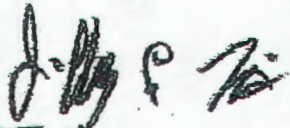

Jeffrey L. Nixon
Earthcycle, LLC -owner

EXHIBIT D

-----Original Message-----

From: Stephanos.Ann@epamail.epa.gov [mailto:Stephanos.Ann@epamail.epa.gov]
Sent: Wednesday, August 12, 2009 2:46 PM
To: jnixon@aabccomputers.us
Subject: Re: FW: Return goods

Mr. Nixon-

I did receive your fax this morning. However, I cannot file it with the Administrative Law Judge. According to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits that were mailed to you, Section 22.15(a) clearly states that "Where respondent . . . shall file an original and one copy of a written answer to the complaint with the Regional Hearing Clerk and shall serve copies of the answer on all other parties." I cannot file this request for a hearing on your behalf. Thank you.

Ann Stephanos
Attorney-Advisor
US EPA Office of Civil Enforcement
Waste Enforcement Branch
Phone: 202-564-4006
Fax: 202-564-0019

PRIVILEGED AND CONFIDENTIAL - FOIA EXEMPT - DO NOT
RELEASE

This e-mail, including any attachments, may contain material that is confidential, privilege and/or attorney work product

EXHIBIT E

hp fax 1240

Log for

-- 8/13/2009 11:35AM

Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
08/13	11:35a	Fax Sent	5650044	0:40	2	OK



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

OFFICE OF CIVIL ENFORCEMENT

WASTE AND CHEMICAL ENFORCEMENT DIVISION (WCED)

Mail Code 2249A

FACSIMILE REQUEST AND COVER SHEET

TO: Mary Angeles

TELEPHONE: 564-6281

FAX NUMBER: 565-6044

FROM: Ann Stephanos

TELEPHONE: 202-564-4006

FAX NUMBER: 564-0022 / 0019

Number of Pages including This cover sheet: 2

	Immediate Office	202-564-0022	Rm 4124
		202-564-0023	Rm 4111
	Waste Enforcement Branch	202-564-0019	Rm 4153
	Pesticides & Tanks Enforcement Branch	202-564-0020	Rm 4104
		202-564-0035	Rm 5045
	Chemical Risk & Reporting Enforcement	202-564-0035	Rm 5045

Comments: Re: Earth E Cycle
RCHA- HQ- 2009- 0001

Thank you!

TO: Mrs. Ann Stephanus

US EPA Office of Civil Enforcement
Waste Enforcement Branch.

202-564-0019

FROM: Jeffrey L. Nixon
Earthcycle (R), LLC

Please accept this Fax as Request
for HEARING concerning Docket No.
RCRA-HQ-2009-0661.

Thank you,

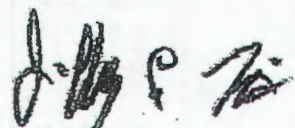

Jeffrey L. Nixon
Earthcycle, LLC -owner

EXHIBIT F

Davies, Lynne

From: Durr, Eurika
Sent: Tuesday, May 28, 2013 3:40 PM
To: Davies, Lynne
Cc: Angeles, Mary; Anderson, Sybil; Krolikowski, Suzanne
Subject: RE: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

The board has no record of receiving any fax. On August 4, 2009, the EAB issued an Order Extending Time to File Answer and due to inactivity the case was transferred to the Federal Record Center in 2011.

Eurika

From: Davies, Lynne
Sent: Wednesday, May 22, 2013 12:11 PM
To: Durr, Eurika; Anderson, Sybil
Cc: Angeles, Mary
Subject: RE: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

I believe the second and third pages are clear, just not the first. Also, the document faxed is now attached.

Best,
Lynne

From: Durr, Eurika
Sent: Wednesday, May 22, 2013 11:02 AM
To: Anderson, Sybil; Davies, Lynne
Cc: Angeles, Mary
Subject: RE: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

The attached fax is a confirmation sheet, which I cannot read. Can you email a readable copy. Thanks.
Eurika

From: Anderson, Sybil
Sent: Wednesday, May 22, 2013 9:17 AM
To: Davies, Lynne
Cc: Durr, Eurika; Angeles, Mary
Subject: RE: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

Good Morning Lynne;

I have no record of the attached fax. EAB was the presiding officer with case you may want to contact Eurika Durr.

Thanks

From: Angeles, Mary
Sent: Tuesday, May 21, 2013 4:47 PM
To: Anderson, Sybil
Subject: FW: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

Here it is. Thanks for following up.

Best,
Mary



Be kind to the environment.
Please do not print this email unless necessary.

Do Not Send Any Confidential Settlement Information by email due to federal mandatory archiving of all electronic communication.

[Regular USPS Mail]
U.S. EPA
Office of Administrative Law Judges
Mail Code 1900R
1200 Pennsylvania Ave., NW
Washington, DC 20460

[Overnight / Courier]
U.S. EPA
Office of Administrative Law Judges
Ronald Reagan Building, Rm. M1200
1300 Pennsylvania Ave., NW
Washington, D.C. 20460

Direct: 202.564.6281
General: 202.564.6255
Fax: 202.565.0044
Email: angeles.mary@epa.gov
Alt. Email: bebangeles@gmail.com
Cell: 703.615.1964



From: Davies, Lynne
Sent: Tuesday, May 21, 2013 4:18 PM
To: Angeles, Mary
Cc: Stephanos, Ann
Subject: Fax to ALJ's Office re: Jeff Nixon/EarthECycle

Hi Mary,

I was wondering if the ALJ's office has any record of receiving the attached fax in regard to the EPA Headquarters matter involving Respondent Jeff Nixon/ EarthECycle?

Many thanks for your help,
Lynne

Lynne Davies
Attorney-Advisor
U.S. EPA/OECA/OCE/WCED
1200 Pennsylvania Ave., NW (MC 2249A)
Washington, DC 20460
Phone: (202) 564-2342

EXHIBIT G



{In Archive} RE: Containers in Port of Newark
Jeffrey L. Nixon to: Ann Stephanos
Cc: Kenneth Schefski

07/07/2009 09:53 AM

From: "Jeffrey L. Nixon" <jnixon@aabccomputers.us>
To: Ann Stephanos/DC/USEPA/US@EPA
Cc: Kenneth Schefski/DC/USEPA/US@EPA
Archive: This message is being viewed in an archive.

Ok,

I will attend to this after lunch so I can make all arrangements in perfect order.

Thank you Ms. Stephanos,

Jeffrey L. Nixon

-----Original Message-----

From: Stephanos.Ann@epamail.epa.gov [mailto:Stephanos.Ann@epamail.epa.gov]
Sent: Tuesday, July 07, 2009 8:42 AM
To: Jeffrey L. Nixon
Cc: Schefski.Kenneth@epamail.epa.gov
Subject: Containers in Port of Newark

I have spoken to Customs and Border Protection and they are going to release the hold on the three containers today. The containers are at the H&M Warehouse at 700 Belleville Turnpike, Kearny, NJ 07032. Once the hold has been released, you will need to make arrangements with H&M directly for the removal of the containers to a secure warehouse for temporary storage under his control, in compliance with the terms of EPA's compliance order. The direct number for H&M Warehouse is 201-997-4400. Please let me know once you have made arrangements for the transport of the containers and where the containers will be removed to. You will then need to submit a plan to EPA detailing how you will manage each item. I will be out of the office the rest of the week and returning next week so if you have any questions concerning these containers or the requirements of the Order, please contact Mr. Schefski directly at 202-564-8213. Thank you for your prompt attention to this matter.

Ann Stephanos
Attorney-Advisor
US EPA Office of Civil Enforcement
Waste Enforcement Branch
Phone: 202-564-4006
Fax: 202-564-0019

PRIVILEGED AND CONFIDENTIAL - FOIA EXEMPT - DO NOT
RELEASE

This e-mail, including any attachments, may contain
material that is
confidential, privilege and/or attorney work product
and is for the
sole use of the intended recipient. Any review or
distribution by
others or forwarding without express permission is
strictly prohibited.
If you are not the intended recipient, please contact
the sender and
delete copies.

_____ Information from ESET NOD32 Antivirus,
version of virus signature
database 4222 (20090707) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

EXHIBIT H

Davies, Lynne

From: MCDERMOTT, JEFFREY [JEFFREY.MCDERMOTT@cbp.dhs.gov]
Sent: Monday, June 03, 2013 12:57 PM
To: Davies, Lynne
Subject: FW: More Computer Questions
Attachments: 20130603130153846.pdf

Lynne,

I am forwarding you the attachments from Harbor Freight. (Please see additional information below regarding the expenses incurred surrounding this matter)

Best regards,

Jeff

From: Diane San Martin [mailto:dsanmartin@harborusa.com]
Sent: Monday, June 03, 2013 12:51 PM
To: MCDERMOTT, JEFFREY
Cc: Joe Mattio; Steve Liberti; Stephen Liberti Jr.
Subject: RE: More Computer Questions

Good morning Jeffrey,

Harbor Freight Transport did not have to issue payment to Advanced Recovery for the destruction of the computers. It was just our responsibility to deliver the goods to their facility.

I am attaching copies of the bill of lading for each of the 6 truckloads we delivered @ \$475.00 per load = \$2850.00.

Since we lost a lot of information to Superstorm Sandy, I cannot tell you the exact storage charges that were due. I can tell you for all of the shipments there was well over \$250,000.00 due to Harbor for all G.O. charges.

Diane San Martin
Harbor Freight Transport Corp.
301 Craneway Street
Newark, NJ 07114
973-589-6700 x 205

From: MCDERMOTT, JEFFREY [mailto:JEFFREY.MCDERMOTT@cbp.dhs.gov]
Sent: Monday, June 03, 2013 8:48 AM
To: Diane San Martin
Subject: FW: More Computer Questions

Good Morning Diane,

Just wondering if you had a chance to look into the paperwork?

Thanks,

Jeff

From: MCDERMOTT, JEFFREY
Sent: Friday, May 31, 2013 9:33 AM
To: 'Diane San Martin'
Subject: RE: More Computer Questions

Thank you!

From: Diane San Martin [<mailto:dsanmartin@harborusa.com>]
Sent: Friday, May 31, 2013 9:25 AM
To: MCDERMOTT, JEFFREY
Subject: RE: More Computer Questions

Good morning Jeff,

I will have all of the information for you this morning.

Diane San Martin
Harbor Freight Transport Corp.
301 Craneway Street
Newark, NJ 07114
973-589-6700 x 205

From: MCDERMOTT, JEFFREY [<mailto:JEFFREY.MCDERMOTT@cbp.dhs.gov>]
Sent: Friday, May 31, 2013 9:17 AM
To: Diane San Martin
Subject: FW: More Computer Questions

Good Morning Diane,

Just wondering if you had an opportunity to look into the documents we spoke about?

Thanks,

Jeff

From: MCDERMOTT, JEFFREY
Sent: Tuesday, May 28, 2013 9:41 AM
To: 'Diane San Martin'
Subject: RE: More Computer Questions

Take your time. I appreciate it!

From: Diane San Martin [<mailto:dsanmartin@harborusa.com>]
Sent: Tuesday, May 28, 2013 9:39 AM
To: MCDERMOTT, JEFFREY
Cc: Joe Mattio; Steve Liberti; Stephen Liberti Jr.
Subject: RE: More Computer Questions

Good morning Mr. McDermott,

Yes, Harbor Freight had to absorb all costs for these shipments. If you can allow me time to gather all of the information, I will forward all supporting documents as requested.

Diane San Martin
Harbor Freight Transport Corp.
301 Craneway Street
Newark, NJ 07114
973-589-6700 x 205

From: MCDERMOTT, JEFFREY [<mailto:JEFFREY.MCDERMOTT@cbp.dhs.gov>]
Sent: Tuesday, May 28, 2013 9:35 AM
To: Diane San Martin
Subject: More Computer Questions

Good Morning Diane,

First, I wish to thank you for all of your patience & help concerning this computer issue. I have a few more questions for you & hopefully we can put this to rest once & for all.

1. Did your company, Harbor Freight, have to pay for the recycling/destruction of the computers by Advanced Recovery, Inc.?
2. Do you have a purchase order in addition to the manifests certifying destruction for: (1) the cost to store the CRTs since they were abandoned, and (2) the cost to destroy and/or recycle the CRTs.

If you do have these documents, I ask that you please forward them to me, either by email or fax. FAX: (973) 776-5687

Thank you.

Sincerely,

Jeff McDermott
U.S. Customs & Border Protection
New York Field Office TAU
HSI-Intelligence Program
Desk: (973) 776-5524
Cell: (973) 445-0522



HARBOR FREIGHT
TRANSPORT CORP.

PORT OF NEW YORK
WAREHOUSE & PACKING

301 Craneway Street, Port Newark, NJ 07114
Tel: (973) 589-6700 - Fax: (973) 589-6677

DATE: 7/30/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 112315-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

DLV: 7/31/12

SHIPPER:

PONY LTL
301 CRANEWAY STREET
PORT NEWARK, NJ 07114

CONSIGNEE:

ADVANCED RECOVERY
50 GRAFTON AVE
NEWARK, NJ 07104

NO. PCS.	DESCRIPTION	WEIGHT
20 22	PCS STC COMPUTERS AP2U 4691358	20,000

DELIVERING DRIVER:

DATE:

Robert A Montenegro 7/31/12

EMPTY RETURN #:

RECEIVED BY:

DATE:

07-31-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID

PRINT NAME:

Eliseo RMC

RECEIPT - TMP: 112315



HARBOR FREIGHT
TRANSPORT CORP.

PORT OF NEW YORK
WAREHOUSE & PACKING

301 Craneway Street, Port Newark, NJ 07114
Tel: (973) 589-6700 - Fax: (973) 589-6677

DATE: 7/30/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 112316-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

DLV: 7/31/12

SHIPPER:

PONY LTL
301 CRANEWAY STREET
PORT NEWARK, NJ 07114

CONSIGNEE:

ADVANCED RECOVERY
50 GRAFTON AVE
NEWARK, NJ 07104

NO. PCS.	DESCRIPTION	WEIGHT
20	PCS STC COMPUTERS	20,000

4801

TIME IN: 1020 AM

TIME OUT: 11:45 AM

DELIVERING DRIVER:

PAZ

DATE:

07-31-12

EMPTY RETURN #:

RECEIVED BY:

[Signature]

DATE:

07-31-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID.

PRINT NAME:

[Signature] Eliseo R42.

RECEIPT - TMP: 112316



HARBOR FREIGHT
TRANSPORT CORP.

Truck

PORT OF NEW YORK
WAREHOUSE & PACKING

301 Craneway Street, Port Newark, NJ 07114
Tel: (973) 589-6700 - Fax: (973) 589-6677

DATE: 8/8/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 113243-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

Del. 08/09

SHIPPER:

PONY LTL
301 CRANEWAY STREET
PORT NEWARK, NJ 07114

CONSIGNEE:

ADVANCED RECOVERY
50 GRAFTON AVE
NEWARK, NJ 07104

NO. PCS.	DESCRIPTION	WEIGHT
20	PLTS STC FAK	20,000

DELIVERING DRIVER:

W. W. W.

DATE:

8-14-12

EMPTY RETURN #:

RECEIVED BY:

S. S.

DATE:

08-14-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID.

PRINT NAME:

E1:500 RM2

RECEIPT - TMP: 113243



HARBOR FREIGHT
TRANSPORT CORP.

Truck

PORT OF NEW YORK
WAREHOUSE & PACKING

301 Craneway Street, Port Newark, NJ 07114
Tel: (973) 589-6700 - Fax: (973) 589-6677

DATE: 8/8/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 113244-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

Del. 08/09

SHIPPER: PONY LTL 301 CRANEWAY STREET PORT NEWARK, NJ 07114		CONSIGNEE: ADVANCED RECOVERY 50 GRAFTON AVE NEWARK, NJ 07104
NO. PCS.	DESCRIPTION	WEIGHT
20	PLTS STC FAK CIHU 8968309	20,000

DATE: 8 9 2012.
TIME ARRIVED: 1:00 pm
TIME STARTED: 2:40 pm
TIME FINISHED: 3:25 pm
SIGNATURE: [Signature]

DELIVERING DRIVER: Brazz Medina	DATE: 8/9/2012
EMPTY RETURN #: Siport. Newark.	
RECEIVED BY: [Signature]	DATE: 08-09-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID.	
PRINT NAME: Eliseo RM2.	3:25 PM

RECEIPT - TMP: 113244



HARBOR FREIGHT
TRANSPORT CORP.

Truck

PORT OF NEW YORK
WAREHOUSE & PACKING

301 Craneway Street, Port Newark, NJ 07114

Tel: (973) 589-6700 - Fax: (973) 589-6677

113245
DATE: 8/8/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 113245-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

Del 08/09

SHIPPER:

PONY LTL
301 CRANEWAY STREET
PORT NEWARK, NJ 07114

CONSIGNEE:

ADVANCED RECOVERY
50 GRAFTON AVE
NEWARK, NJ 07104

NO. PCS.	DESCRIPTION	WEIGHT
20	PLTS STC FAK <i>HLXU 4616402</i>	20,000

*Time in 11:00 PM
Time out 2:15 PM*

DELIVERING DRIVER:

DATE:

Humberto Quinto 08-09-12

EMPTY RETURN #:

RECEIVED BY:

DATE:

[Signature] 08-09-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID.

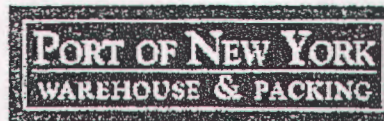
PRINT NAME:

E1: Seo RML

RECEIPT - TMP: 113245



HARBOR FREIGHT
TRANSPORT CORP.



301 Craneway Street, Port Newark, NJ 07114
Tel: (973) 589-6700 - Fax: (973) 589-6677

DATE: 8/8/12

BILL TO: PORT OF NEW YORK WHS & PKG

TMP #: 113896-HFT

REF #: ADVANCED RECOVERY

MBL/BK #:

SHIPPER: PONY LTL 301 CRANEWAY STREET PORT NEWARK, NJ 07114		CONSIGNEE: ADVANCED RECOVERY 50 GRAFTON AVE NEWARK, NJ 07104	
NO. PCS.	DESCRIPTION	WEIGHT	
8	PLTS STC FAK SUDU 1321642	8,000	

time in — 11:45 AM
time out — 12:45 PM

CAN
NOT
CONFIRM

DELIVERING DRIVER: Marco Salinas DATE: 08-15-12

EMPTY RETURN #:

RECEIVED BY: [Signature] DATE: 08-15-12

GOODS ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN GOOD ORDER, EXCEPT AS NOTED. (CONTENTS, CONDITION AND QUALITY UNKNOWN). IN CONSIDERATION OF THE RATE CHARGED IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF HARBOR FREIGHT TRANSPORT CORP. IS LIMITED TO \$50.00 PER SHIPMENT UNLESS A GREATER VALUE IS DECLARED BY THE SHIPPER IN WRITING, ACCEPTED BY HARBOR FREIGHT TRANSPORT CORP. IN WRITING AND APPLICABLE CHARGES PAID.

PRINT NAME:

ELIS GO R#12

RECEIPT - TMP: 113896

B

Attn: Diane



EPA # 00000048683 NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 7/31/12

Company: Harbor Freight Transport Co.

Reference:

Address:

City/State/Zip:

West Rec, II - CO

Advanced Recovery, Inc. Authorized Representative

Materials Received: Consumer Electronics

Total lbs. : 18,290 = 599

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.

*Container #1*50 Grafton Avenue
Newark, NJ 07104973 485-9100
973 485-8844



Incoming Material



Purchase Order:	
Date Received:	7/31/12
Date Requested:	7/31/12
Date Completed:	7/31/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	Delivery

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight
Street Address:	Transport Co.
City/State/Zip:	
Contact:	
Contact No.:	
Alternate Contact:	
Alt. Contact No.:	

ESTIMATE	UNIT	DESCRIPTION	QTY	WEIGHT	UNIT PRICE	AMOUNT
	Each	CRT Monitors 18 Pallets	372			
	Lbs.	CRT Monitors		14020		
	Each	CRT Televisions				
	Lbs.	CRT Televisions				
	Each	LCD Monitors				
	Lbs.	LCD Monitors				
	Each	LCD/Plasma Televisions				
	Lbs.	LCD/Plasma Televisions				
	Each	Printers/Fax/Scanner/Typewriter				
	Lbs.	Printers/Fax/Scanner/Typewriter				
	Each	Copiers				
	Lbs.	Copiers				
	Each	Electronics (Stereos/VCRs/DVDs)				
	Lbs.	Electronics (Stereos/VCRs/DVDs)				
	Each	Computers/Servers 14 Pallets	207			
	Lbs.	Computers/Servers		4270		
	Each	Laptops				
	Lbs.	Laptops				
	Each	Network/Telecom				
	Lbs.	Network/Telecom				
	Each	UPS Units				
	Lbs.	UPS Units				
	Each	Fluorescent Bulbs				
	Feet	Fluorescent Bulbs				
	Lbs.	Misc./All Other				
			Total Weight:	18,290	subtotal	
NOTES: Shirley MRM per Jr			Freight Charges:			
			Credits:			
			Other:			
			TOTAL			

Sales Contact	Delivery	Facility
Driver		Basket
Labrador(s)		Hand Truck
Truck No.		Pallets
No. of Trips		Boxes
		Shrink Wrap

CUSTOMER SIGNATURE

DATE

RECEIVED BY

DATE

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-9100
F (973) 485-8844

41 Mechanic Street
Port Jervis, NY 12771
P (845) 858-8809
F (845) 858-8848

512 Sandy Street
Fairmont, NC 28340
P (810) 628-8903
F (810) 628-6341



A

Attn: Diane



EPA # 00000048683 NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 7/31/12

Company: Harbor Freight Transport Co.

Reference:

Address:

City/State/Zip:

Franklin, II - COA

Advanced Recovery, Inc. Authorized Representative

Materials Received: Consumer Electronics

Total lbs. : 20,215 = 549

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.

*Confused #2*50 Grafton Avenue
Newark, NJ 07104973 485-9100
973 485-8844



Incoming Material



Purchase Order:	
Date Received:	7/31/12
Date Requested:	7/31/12
Date Completed:	7/31/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight
Street Address:	Transport Co.
City/State/Zip:	
Contact:	
Contact No.:	
Alternate Contact:	
Alt. Contact No.:	

ESTIMATE	UNIT	DESCRIPTION	POUNDS	WASH	INVOICE	AMOUNT
	Each	CRT Monitors	549			
	Lbs.	CRT Monitors		20215		
	Each	CRT Televisions				
	Lbs.	CRT Televisions				
	Each	LCD Monitors				
	Lbs.	LCD Monitors				
	Each	LCD/Plasma Televisions				
	Lbs.	LCD/Plasma Televisions				
	Each	Printers/Fax/Scanner/Typewriter				
	Lbs.	Printers/Fax/Scanner/Typewriter				
	Each	Copiers				
	Lbs.	Copiers				
	Each	Electronics (Stereos/VCRs/DVDs)				
	Lbs.	Electronics (Stereos/VCRs/DVDs)				
	Each	Computers/Servers				
	Lbs.	Computers/Servers				
	Each	Laptops				
	Lbs.	Laptops				
	Each	Network/Telecom				
	Lbs.	Network/Telecom				
	Each	UPS Units				
	Lbs.	UPS Units				
	Each	Fluorescent Bulbs				
	Feet	Fluorescent Bulbs				
	Lbs.	Misc./All Other				
			Total Weight:	20,215	subtotal	
NOTES: Shirley MRM per Jr			Freight Charges:			
			Credits:			
			Other:			

Sales Contact	Delivery	Facility
Driver		Backlot
Laborer(s)		Hand Truck
Truck No.		Pallets
No. of Trips		Boxes
		Shrink Wrap

TOTAL

CUSTOMER SIGNATURE

DATE

RECEIVED BY

DATE

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-9100
F (973) 485-8844

41 Mechanic Street
Port Jervis, NY 12771
P (845) 858-8809
F (845) 858-8848

512 Sandy Street
Fairmont, NC 28340
P (910) 628-8803
F (910) 628-6341

C

Attn: Diane



page 1 of 2

EPA # 00000048683 NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 8/9/12

Company: Harbor Freight Transport Co.

Reference:

Address:

City/State/Zip:

Mark Rea, II - COO

Advanced Recovery, Inc. Authorized Representative

Materials Received: Consumer Electronics

Total lbs. : 16,490

= 528

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.

*Container # 3*

50 Grafton Avenue
Newark, NJ 07104

973 485-9100
973 485-8844



Incoming Material

Purchase Order:	
Date Received:	8/9/12
Date Requested:	8/9/12
Date Completed:	8/9/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	Drop Off

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight
Street Address:	
City/State/Zip:	
Contact:	
Contact No.:	
Alternate Contact:	
Alt. Contact No.:	

QTY	UNIT	DESCRIPTION	COUNT	WEIGHT	UNIT PRICE	AMOUNT
	Each	CRT Monitors	411			
	Lbs.	CRT Monitors		13868		
	Each	CRT Televisions				
	Lbs.	CRT Televisions				
	Each	LCD Monitors				
	Lbs.	LCD Monitors				
	Each	LCD/Plasma Televisions				
	Lbs.	LCD/Plasma Televisions				
	Each	Printers/Fax/Scanner/Typewriter				
	Lbs.	Printers/Fax/Scanner/Typewriter				
	Each	Copiers				
	Lbs.	Copiers				
	Each	Electronics (Stereos/VCRs/DVDs)				
	Lbs.	Electronics (Stereos/VCRs/DVDs)				
	Each	Computers/Servers				
	Lbs.	Computers/Servers	115			
	Each	Laptops		2622		
	Lbs.	Laptops				
	Each	Network/Telecom				
	Lbs.	Network/Telecom				
	Each	UPS Units				
	Lbs.	UPS Units				
	Each	Fluorescent Bulbs				
	Feet	Fluorescent Bulbs				
	Lbs.	Misc./All Other				
			Total Weight:	16,490	subtotal	

NOTES:
Freight Charges:
Credits:
Other:

Sales Contact	Drop Off	Facility	NJ
Driver		Basket	
Laborer(s)		Hand Truck	
Truck No.		Pallets	
No. of Trips		Boxes	
		Shrink Wrap	

TOTAL
CUSTOMER SIGNATURE
DATE
RECEIVED BY
DATE

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-9100
F (973) 485-8844

41 Mechanic Street
Port Jarvis, NY 12771
P (845) 858-8809
F (845) 858-8848

512 Sandy Street
Fairmont, NC 28340
P (910) 628-8803
F (910) 628-6341

Cttn: Diane



page 1 of 2

EPA # 00000048683 NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 8/9/12

Company: Harbor Freight Transport Co.

Reference:

Address:

City/State/Zip:

Mark Raa, II - COO

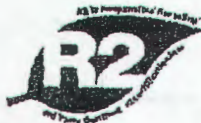
Advanced Recovery, Inc. Authorized Representative

Materials Received: Consumer Electronics

Total lbs. : 19,679

= 796

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.

*Container # 4*

50 Grafton Avenue
Newark, NJ 07104

973 485-9100
973 485-8844



Incoming Material

Purchase Order:	
Date Received:	8/9/12
Date Requested:	8/9/12
Date Completed:	8/9/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	Drop Off #2

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight #2
Street Address:	
City/State/Zip:	
Contact:	
Contact No.:	
Alternate Contact:	
Alt. Contact No.:	

ESTIMATE	UNIT	DESCRIPTION	QTY	WEIGHT	UNIT PRICE	AMOUNT
	Each	CRT Monitors 7 Pallets	186			
	Lbs.	CRT Monitors		6023		
	Each	CRT Televisions				
	Lbs.	CRT Televisions				
	Each	LCD Monitors				
	Lbs.	LCD Monitors				
	Each	LCD/Plasma Televisions				
	Lbs.	LCD/Plasma Televisions				
	Each	Printers/Fax/Scanner/Typewriter				
	Lbs.	Printers/Fax/Scanner/Typewriter				
	Each	Copiers				
	Lbs.	Copiers				
	Each	Electronics (Stereos/VCRs/DVDs)				
	Lbs.	Electronics (Stereos/VCRs/DVDs)				
	Each	Computers/Servers 11 Pallets				
	Lbs.	Computers/Servers	810			
	Each	Laptops		13656		
	Lbs.	Laptops				
	Each	Network/Telecom				
	Lbs.	Network/Telecom				
	Each	UPS Units				
	Lbs.	UPS Units				
	Each	Fluorescent Bulbs				
	Feet	Fluorescent Bulbs				
	Lbs.	Misc./All Other				
			Total Weight:	19,679	subtotal	

NOTES:

Freight Charges:

Credits:

Other:

Sales Contact	Drop Off	Facility	NJ
Driver		Basket	
Laborer(s)		Hand Truck	
Truck No.		Pallets	
No. of Trips		Boxes	
		Shrink Wrap	

TOTAL

CUSTOMER SIGNATURE

DATE

RECEIVED BY

DATE

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-9100
F (973) 485-8844

41 Mechanic Street
Port Jervis, NY 12771
P (845) 858-8809
F (845) 858-8848

512 Sandy Street
Fairmont, NC 28340
P (910) 628-8803
F (910) 628-6341



A

Attn: Diane



page 1 of 2

EPA # 00000048683

NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 8/9/12

Company: Harbor Freight Transport Co.

Reference:

Address:

City/State/Zip:

Hark Rec, II - COO

Advanced Recovery, Inc. Authorized Representative

Materials Received: Consumer Electronics

Total lbs. : 19,112

2747

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.



Container #5

50 Grafton Avenue
Newark, NJ 07104

973 485-9100
973 485-8844



Incoming Material



Purchase Order:	
Date Received:	8/9/12
Date Requested:	8/9/12
Date Completed:	8/9/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	Delivery

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight
Street Address:	301 Craneway St
City/State/Zip:	Port Newark, NJ 07114
Contact:	
Contact No.:	973-589-6700
Alternate Contact:	
Alt. Contact No.:	

ESTIMATE	QTY	DESCRIPTION	WEIGHT	UNIT PRICE	TOTAL
	Each	CRT Monitors 9 Pallets	242		
	Lbs.	CRT Monitors		8352	
	Each	CRT Televisions			
	Lbs.	CRT Televisions			
	Each	LCD Monitors			
	Lbs.	LCD Monitors			
	Each	LCD/Plasma Televisions			
	Lbs.	LCD/Plasma Televisions			
	Each	Printers/Fax/Scanner/Typewriter			
	Lbs.	Printers/Fax/Scanner/Typewriter			
	Each	Copiers			
	Lbs.	Copiers			
	Each	Electronics (Stereos/VCRs/DVDs)			
	Lbs.	Electronics (Stereos/VCRs/DVDs)			
	Each	Computers/Servers 9 Pallets	505		
	Lbs.	Computers/Servers		10760	
	Each	Laptops			
	Lbs.	Laptops			
	Each	Network/Telecom			
	Lbs.	Network/Telecom			
	Each	UPS Units			
	Lbs.	UPS Units			
	Each	Fluorescent Bulbs			
	Ft	Fluorescent Bulbs			
	Lbs.	Misc./All Other			
		Total Weight:	19,112	subtotal	

NOTES:

Freight Charges:

Credits:

Other:

Sales Contact	Delivery	Facility	NJ
Driver		Basket	
Laborer(s)		Hand Truck	
Truck No.		Pallets	
No. of Trips		Boxes	
		Shrink Wrap	

TOTAL

CUSTOMER SIGNATURE

DATE

RECEIVED BY

DATE

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-9100
F (973) 485-8844

41 Mechanic Street
Port Jervis, NY 12771
P (845) 858-8809
F (845) 858-8848

512 Sandy Street
Fairmont, NC 28340
P (910) 628-8803
F (910) 628-6341

Cttn: Diane



page 1 of 2

EPA # 00000048683

NJDEP # 213728

By virtue of this manifest, Advanced Recovery Inc. assumes possession and ownership of the materials identified below and is evidence of proper and legal recycling by the company listed as the recycler of this equipment.

Advanced Recovery, Inc. by virtue of this manifest warrants and guarantees that the material listed has been properly recycled or disposed of in accordance with Federal EPA and appropriate State Environmental Conservation standards and guidelines and assumes any and all risk of loss associated with the transfer of ownership which vest with Advanced Recovery, Inc. as of the date of this manifest.

Date: 8/15/12**Company:** Harbor Freight Transport Co.**Reference:****Address:****City/State/Zip:***Mark Raa, II - COO*

Advanced Recovery, Inc. Authorized Representative**Materials Received: Consumer Electronics****Total lbs. :** 8,589*(335)*

Advanced Recovery Inc. certifies that all hard drives and other data media has been physically destroyed and rendered useless.

*CONTAINER #6*

50 Grafton Avenue
Newark, NJ 07104

973 485-9100
973 485-8844



Purchase Order:	
Date Received:	8/15/12
Date Requested:	8/15/12
Date Completed:	8/15/12
Terms:	Net 30
Freight Service:	ARI
Delivered Via:	Drop Off

Company/Municipality:	
Street Address:	
City/State/Zip Code:	
Contact:	
Phone Number:	
Fax Number:	
Email Address:	

Pickup Location:	Harbor Freight
Street Address:	
City/State/Zip:	
Contact:	
Contact No.:	
Alternate Contact:	
Alt. Contact No.:	

QUANTITY	UNIT	DESCRIPTION	QUANTITY	WEIGHT	UNIT PRICE	AMOUNT
Each		CRT Monitors 2 Pallets	50			
	Lbs.	CRT Monitors		1924		
Each		CRT Televisions				
	Lbs.	CRT Televisions				
Each		LCD Monitors				
	Lbs.	LCD Monitors				
Each		LCD/Plasma Televisions				
	Lbs.	LCD/Plasma Televisions				
Each		Printers/Fax/Scanner/Typewriter				
	Lbs.	Printers/Fax/Scanner/Typewriter				
Each		Copiers				
	Lbs.	Copiers				
Each		Electronics (Stereos/VCRs/DVDs)				
	Lbs.	Electronics (Stereos/VCRs/DVDs)				
Each		Computers/Servers	6 Pallets			
	Lbs.	Computers/Servers		6765		
Each		Laptops				
	Lbs.	Laptops				
Each		Network/Telecom				
	Lbs.	Network/Telecom				
Each		UPS Units				
	Lbs.	UPS Units				
Each		Fluorescent Bulbs				
	Feet	Fluorescent Bulbs				
	Lbs.	Misc./All Other				
			Total Weight:	8,589	subtotal	

NOTES:		Freight Charges:	
		Credits:	
		Other:	

Sales Contract	Drop Off	Facility	NJ
Driver		Backet	
Laborer(s)		Hand Truck	
Truck No.		Pallets	
No. of Trips		Boxes	
		Shrink Wrap	

TOTAL	
CUSTOMER SIGNATURE	DATE

RECEIVED BY	DATE
41 Mechanic Street Port Jervis, NY 12771 P (843) 858-8809 F (845) 868-8848	512 Sandy Street Fairmont, NC 28340 P (910) 628-8903 F (910) 628-6341

50 Grafton Avenue
Newark, NJ 07104
P (973) 485-8100
F (973) 485-8844

EXHIBIT I

HARBOR FREIGHT TRANSPORT CORP
301 CRANEWAY STREET
PORT NEWARK NJ 07114
Tel 973 589-6700 Fax 973 589-6699

G.O. Number: 1099061

Commodity: MISCELLANEOUS ELECTRONICS
Pieces: 1,739 PCS
Pallets:
Weight: 10,000
Cube: 1,843

Contact: _____

Company: MULTI TRANS SHIPPING

Phone No: _____

Comments: Container # MSKU 874593-1

Lien 1 : - H & M INTERNATIONAL TRANSPORT _____

STORAGE CHARGES FOR 28 MONTHS @ 5068.25 PER MONTH.	2.75	CF141,911.00
HANDLING CHARGES.....	2.55	CF 4,699.65
DOCUMENTATION.....	75.00	LS 75.00
G.O. PAPERWORK.....	175.00	LS 175.00
TRUCKING-SPECIAL.....	575.00	LS 575.00
FUEL SURCHARGE.....	125.00	LS 125.00
DETENTION AT TIME OF PICK-UP.....	180.00	LS 180.00
TOTAL:		147,740.65

Date Eligible for Sale: 11-DEC-2009 _____

HARBOR FREIGHT TRANSPORT CORP
301 CRANEWAY STREET
PORT NEWARK NJ 07114
Tel 973 589-6700 Fax 973 589-6699

G.O. Number: 1099062

Commodity: MISCELLANEOUS ELECTRONICS
Pieces: 858 PCS
Pallets:
Weight: 30,000
Cube: 3,240

Contact: _____

Company: MULTI TRANS SHIPPING

Phone No: _____

Comments: Container # TONU 954654-9

Lien 1 : - H & M INTERNATIONAL TRANSPORT _____

STORAGE CHARGES FOR 28 MONTHS @ 8910 PER MONTH....	2.75	CF249,480.00
HANDLING CHARGES.....	2.55	CF 8,262.00
DOCUMENTATION.....	75.00	LS 75.00
G.O. PAPERWORK.....	175.00	LS 175.00
TRUCKING-SPECIAL.....	575.00	LS 575.00
FUEL SURCHARGE.....	125.00	LS 125.00
DETENTION AT TIME OF PICK-UP.....	180.00	LS 180.00
TOTAL:		258,872.00

Date Eligible for Sale: 11-DEC-2009 _____

HARBOR FREIGHT TRANSPORT CORP
301 CRANEWAY STREET
PORT NEWARK NJ 07114
Tel 973 589-6700 Fax 973 589-6699

G.O. Number: 1099063

Commodity: MISCELLANEOUS ELECTRONICS
Pieces: 987 PCS
Pallets:
Weight: 10,000
Cube: 1,851

Contact: _____

Company: MULTI TRANS SHIPPING

Phone No: _____

Comments: Container # TONU 926832-4

Lien 1 : - H & M INTERNATIONAL TRANSPORT _____

STORAGE CHARGES FOR 28 MONTHS @ 5090.25 PER MONTH.	2.75	CF142,527.00
HANDLING CHARGES.....	2.55	CF 4,720.05
DOCUMENTATION.....	75.00	LS 75.00
G.O. PAPERWORK.....	175.00	LS 175.00
TRUCKING-SPECIAL.....	575.00	LS 575.00
FUEL SURCHARGE.....	125.00	LS 125.00
DETENTION AT TIME OF PICK-UP.....	180.00	LS 180.00
TOTAL:		148,377.05

Date Eligible for Sale: 11-DEC-2009 _____

EXHIBIT J



**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
)	
EarthECycle, LLC)	EPA Docket No. RCRA-HQ-2009-0001
7401 E. 46th Place)	
Tulsa, OK 74145)	
)	
Respondent)	

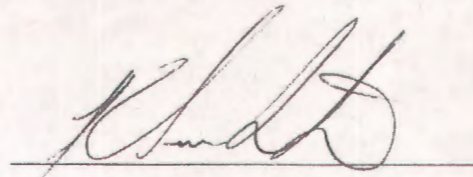
**AFFIDAVIT IN SUPPORT OF MOTION TO REQUEST LEAVE TO FILE SECOND
AMENDED COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY
FOR HEARING**

I, Francois Ryno Serfontein, having first been sworn, state under oath:

1. I am currently employed as an Environmental Management Inspector within the Directorate: Enforcement: Environmental Impact and Pollution at the National Department of Environmental Affairs in South Africa, with offices situated in the Fedsure House, 315 Pretorius Street, Pretoria, South Africa.
2. The National Department of Environmental Affairs in South Africa is an organ of the state whose responsibility is to protect along with other organs of state, the constitutional right to a clean and healthy environment and to protect the environment through legislative and other measures in terms of section 24 of the Constitution in South Africa. I have been a designated grade 2 Environmental Management Inspector ("EMI") since 23 January 2008, in terms of section 31B of the National Environmental Management Act, Act 107 of 1998 ("NEMA"). The designation is in terms of the provisions of NEMA and all Specific Environmental Management Acts ("SEMAS") listed therein. In terms of section 31H(5) of NEMA, an EMI must be regarded as being a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of chapters 2, 5, 7 and 8 of the Criminal Procedure Act, Act 51 of 1977 ("CPA"). As such I am vested with the authority to investigate alleged offences of NEMA and all SEMAs committed in South Africa. My responsibilities include:
 - To conduct investigations relating to environmental crimes within my mandate.
 - To adhere to all policies and legislation governing criminal investigations in South Africa.
 - To build national enforcement capacity

3. On May 28, 2009, I conducted a criminal investigation into the import of two containers that arrived at the South African Customs Department in City Deep, Johannesburg. The containers were seized because they contained used cathode ray tubes ("CRTs"). The CRTs were exported by Respondent in this matter, EarthECycle, LLC, in two forty-foot containers with identifying numbers MSCU7877003 and MSCU9474970.
4. On September 9 -10, 2009, I attended the unpacking and storage of the CRTs from containers MSCU9474970 and MSCU7870035 at the JAS Forwarding warehouse, located 65 Maple Street, Pomona, Kempton Park, South Africa. The CRTs were taken out of containers MSCU9474970 and MSCU7870035, repackaged on pallets and wrapped in plastic. There were 1,003 CRTs in container MSCU9474970 and 967 CRTs in container MSCU7870035, for a total of 1,970 CRTs.
5. The CRTs from containers MSCU9474970 and MSCU7870035 were kept in the JAS Forwarding warehouse until November 2011.
6. In January 2012, the CRTs from containers MSCU9474970 and MSCU7870035 were destroyed by Sindawonge Granulators & Processors (Pty) Ltd situated at 117 Tedstone Road, Wadeville, Germiston in South Africa.
7. The invoice attached to this affidavit as Exhibit A shows that 1,937 CRTs were destroyed. The reason why there were less CRTs destroyed that was collected, was that during transport a few of the CRTs broke and it was difficult to establish the exact quantity of CRTs between the broken parts. The company invoiced the National Department of Environmental Affairs only for the CRTs that was still in good condition and which they could count. These CRTs were from containers MSCU9474970 and MSCU7870035. The National Department of Environmental Affairs in Pretoria, South Africa are still awaiting the required documentation from Sindawonge Granulators & Processors (Pty) Ltd in order to make payment to them for the destruction of the CRTs, which amounted to \$5,758.00 (ZAR 48,425.00).
8. I hereby declare, under the penalties of perjury, that the facts stated in this affidavit are personally known to me and that they are true.



Francois Ryno Serfontein



Office 611
South Tower
Fedsure Building
315 Pretorius Street
Pretoria
Republic of South Africa

Signed and sworn to before me on 19/07/2013

Hester Helena Louisa van Schalkwyk
Commissioner of Oaths

My commission expires on N/A.

COMMISSIONER OF OATH
HESTER HELENA LOUISA VAN SCHALKWYK
BA LLB
Not-PRACTISING ATTORNEY
AT: 315 Pretorius Street

Pretoria
19/07/2013.

GOODS RECEIVED NOTE

*Sindawonye**Gravallators & Processors (Pty) Ltd 16019*

117/118 Tedstone Road
Cnr. Rendell Road
Wadeville
Germiston

P.O. Box 14456
Wadeville
1422
Tel: 824-2949
Fax: 824-2966

BOUGHT OF:

*Dept. Environmental
Affairs*

DATE:

November 2011

ORDER NO.:

QUANTITY	DESCRIPTION
<i>1937</i>	<i>units CRT Monitors collected @ a cost of R25/unit</i>

TRUCK REG. NUMBER:

KHT 902GP

DRIVERS NAME:

SIGNATURE:

CHECKED ☐

EXHIBIT K

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:

EarthECycle, LLC
d/b/a United Recyclers of America, Inc.
7401 E. 46th Place
Tulsa, OK 74145

EPA Docket No. RCRA-HQ-2009-0001

Respondent

**SECOND AMENDED ADMINISTRATIVE COMPLAINT, COMPLIANCE ORDER AND
NOTICE OF OPPORTUNITY FOR HEARING**

I. INTRODUCTION

1. This Second Amended Complaint, Compliance Order and Notice of Opportunity for Hearing (“Order”) is filed pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (hereinafter, “RCRA”), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (2012). Part 22.14(c) provides that Complainant may amend the complaint once as a matter of right at any time before the answer is filed, but otherwise the complainant may amend the complaint only upon motion granted by the Presiding Officer. Respondent, EarthECycle, LLC (“EarthECycle”), has not filed an answer to the complaint filed on June 5, 2009, or to the first amended complaint filed on June 26, 2009. Respondent, is hereby notified that the United States Environmental Protection Agency (“EPA”) alleges that

Respondent violated Sections 3002 and 3017 of RCRA, 42 U.S.C. §§ 6922 and 6938, and the hazardous waste regulations at 40 C.F.R. Parts 261 and 262 and the EPA authorized Pennsylvania hazardous waste management regulations set forth at 25 PA. CODE § 260a *et seq.* by failing to properly manage hazardous wastes. EPA also provides notice of compliance measures that must be undertaken by Respondent to address these violations as well as Respondent's opportunity to request a hearing.

II. NATURE OF ACTION

2. This action is commenced pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), ordering Respondent to come into compliance with the hazardous waste regulations promulgated pursuant to RCRA.
3. Notice of commencement of this action has been given to the Commonwealth of Pennsylvania ("Pennsylvania") pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III. STATUTORY AND REGULATORY FRAMEWORK

4. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. RCRA Subtitle C, 42 U.S.C. §§ 6921 *et seq.*, empowers EPA to identify and list hazardous wastes. It also authorizes EPA to regulate hazardous waste generators, transporters, and the owners and operators of hazardous waste treatment, storage, and disposal facilities. EPA has promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-270, 273, 279.
5. Pursuant to Section 3001 of RCRA, 42 U.S.C. § 6921, EPA promulgated regulations to define what materials are "solid wastes," and of these solid wastes, what wastes are regulated as "hazardous wastes." These regulations are set forth at 40 C.F.R. Part 261.

6. Pursuant to 40 C.F.R. § 261.2, a “solid waste” is any discarded material that is not otherwise excluded by regulation.
7. Pursuant to 40 C.F.R. §§ 261.4(a)(22)(ii) and 261.40, used, intact Cathode Ray Tubes (“CRTs”) exported for recycling are solid wastes if they are speculatively accumulated or the exporter fails to notify EPA of an intended export sixty (60) days before the CRTs are scheduled to leave the United States or the exporter fails to obtain an “Acknowledgement of Consent” from the receiving country, which must accompany the shipment.
8. Pursuant to 40 C.F.R. §§ 261.4(a)(22)(iii) and 261.39, used, broken CRTs are solid wastes if any one of the following conditions exist: (1) the CRTs are not properly stored in accordance with the regulations; (2) the CRTs are not properly labeled; (3) the CRTs are not transported in proper containers; (4) the CRTs are speculatively accumulated or used in a manner constituting disposal; (5) if the CRTs are exported for recycling, the exporter fails to notify EPA of an intended export sixty (60) days before the CRTs are scheduled to leave the United States; and, (6) if the CRTs are exported for recycling, the exporter fails to obtain an “Acknowledgement of Consent” from the receiving country which must accompany the shipment.
9. Section 3002 of RCRA, 42 U.S.C. § 6922, requires EPA to establish standards applicable to generators of hazardous wastes. These standards are codified at 40 C.F.R. Part 262 and include requirements such as determining whether a waste is hazardous, managing waste in proper containers, labeling and dating containers, inspecting waste storage areas, training, and planning for emergencies.
10. Section 3017 of RCRA, 42 U.S.C. § 6938, authorizes the EPA Administrator to promulgate regulations necessary to prevent the unauthorized export of hazardous waste. Such regulations

were promulgated at 40 C.F.R. §§ 262.50-58; 262.80-89. 40 C.F.R. § 262.52 prohibits exports of hazardous waste without: (a) notification to the EPA of intent to export as required under 40 C.F.R. § 262.53; (b) consent of the receiving country; (c) a copy of the EPA "Acknowledgment of Consent" to the shipment attached to the manifest (or shipping paper for exports by water [bulk shipment]); and (d) the shipment conforming with the terms of the receiving country.

11. Pursuant to 40 C.F.R. § 261.41, persons who export used, intact CRTs for reuse must send a one-time notification to the EPA documenting the persons' intent to export used, intact CRTs for reuse.
12. Section 3008 of RCRA, 42 U.S.C. § 6928(a), authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
13. The Administrator has delegated the authority under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to the Assistant Administrator of the Office of Enforcement and Compliance Assurance, who has re-delegated this authority to the Director of the Waste and Chemical Enforcement Division.
14. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program.
15. On January 30, 1986, EPA granted final authorization to the Commonwealth of Pennsylvania to administer its hazardous waste program in lieu of the federal program. *See* 51 Fed. Reg. 1791 (Jan. 15, 1986). EPA granted authorization for revisions to the Commonwealth of Pennsylvania's regulatory program on September 26, 2000, effective November 27, 2000 (65

Fed. Reg. 57,734); on January 20, 2004, effective March 22, 2004 (69 Fed. Reg. 2674); and on April 29, 2009, to be effective June 29, 2009 (74 Fed. Reg. 19,453).

16. Pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce federally-authorized hazardous waste programs by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Sections 3001-3023e of RCRA, 42 U.S.C. §§ 6921-6939e.

17. 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.

IV. GENERAL AND FACTUAL ALLEGATIONS

18. Respondent, EarthECycle, is a limited liability corporation doing business in the State of Oklahoma. The business is located at 7401 E. 46th Place, Tulsa, OK 74145.

19. Respondent is a "person," as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

20. 25 PA CODE § 262a.10, which incorporates by reference 40 C.F.R. § 262.51, provides that a "primary exporter" means "any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 C.F.R. part 262, subpart B."

21. Respondent is a "primary exporter" as that term is defined in 40 C.F.R. § 262.51 and 25 PA CODE 262a.10.

22. Respondent is engaged in the business of collecting and exporting used electronic equipment and parts, including color computer monitors. These computer monitors contain CRTs.

23. The monitors shipped by the Respondent constitute "hazardous waste" as defined in 40 C.F.R. §§ 260.10 and 261.3, and Section 1004(5) of RCRA, 42 U.S.C. § 6903(5). Color computer monitors contain an average of four pounds of lead and also contain mercury, cadmium, and arsenic.
24. The electronic products, other than monitors, are solid wastes that were shipped by Respondent. 40 C.F.R. § 262.11 requires that persons who generate a solid waste must make a determination whether the waste is hazardous.
25. From March 19-22, 2009, Respondent partnered with the Washington County Humane Society in Pennsylvania to conduct a free electronic waste collection event.
26. From March 29-April 6, 2009, Respondent partnered with the Allegheny County and the Western Pennsylvania Humane Society to conduct a free electronic waste collection event.
27. At these events, Respondent helped collect various electronic wastes, including monitors containing CRTs, CPUs, printers and fax machines and transported those materials to two warehouses at 408 N. Braddock Avenue, Pittsburgh, Pennsylvania and 4876 Old William Penn Highway, Monroeville, Pennsylvania.
28. Materials at these warehouses were observed being loaded, unpackaged, into sea-going 40-foot shipping containers with the following container numbers: MSKU8745931, TCNU9268324, TCNU9546549, MSKU1380560, MSKU1381714, MSCU7870035, and CBHU8239396.
29. On March 26, 2009, Respondent exported three containers to Hong Kong, numbers TCNU9546549, MSKU8745931 and TCNU9268324, containing 3,584 used electronic goods, via the Port of Newark, New Jersey.

30. On April 1, 2009, Respondent exported four containers to Hong Kong, numbers MRKU0511806, MSKU1381714, MSKU1380560 and MSKU0183540, containing used electronic goods, two of which were containers from the warehouses in Pennsylvania.
31. On May 1, 2009, Respondent exported two containers to South Africa, numbers MSCU7870035 and MSCU9474970, containing 2,016 used monitors, via the Port of Baltimore, Maryland.
32. Both shipments of containers described in Paragraphs 29-30 were consigned to Multi-trans Shipping Agency LTD in Hong Kong and contained the description "used electronic goods."
33. The two containers described in Paragraph 31 were consigned to Butterfly Import & Export CC in Johannesburg, South Africa and contained the description "computer monitors (used)".
34. On May 13, 2009, a shipment containing three containers (numbers TCNU9546549, MSKU8745931 and TCNU9268324) was shipped from Hong Kong to Newark, New Jersey. The description of the goods was "used electronic goods" with the note "Return Cargo."
35. On May 15, 2009, Mr. Gary Tam of the Hong Kong Environmental Protection Department notified EPA that the Hong Kong government had intercepted a shipment of three containers (numbers TCNU9546549, MSKU8745931 and TCNU9268324) containing hazardous waste and had returned them to the original port of dispatch, Newark, New Jersey.
36. On May 18, 2009, Mr. Gary Tam of the Hong Kong Environmental Protection Department notified EPA that the Hong Kong government had intercepted a shipment of four containers (numbers MRKU0511806, MSKU1381714, MSKU1380560 and MSKU0183540) containing hazardous waste and had returned them to the original port of dispatch, Newark, New Jersey.

37. On May 29, 2009, EPA received an e-mail from the South African Environment Department informing EPA that it had stopped the consignment of two containers (numbers MSCU 7870035 and MSCU 9472970) of used computer monitors and the containers were transported to the South African Customs holding and transfer office in Johannesburg.
38. On June 5, 2009, inspectors from the South African Department of Environmental Affairs and Tourism inspected the two containers (numbers MSCU 7870035 and MSCU 9474970) together with South African Customs officials. When the containers were opened, the contents closest to the doors fell to the ground because the monitors had not been packed to prevent breakage.
39. On June 11, 2009, the South African Department of Environmental Affairs and Tourism informed EPA that South African Customs had issued a detention order pending completion of its investigation as to whether these monitors are wastes.
40. On June 16, 2009, employees from the EPA Regional office in New York inspected the three containers described in Paragraph 29. The inspectors observed that the monitors were not packaged to prevent breakage.
41. On June 24, South African officials communicated to EPA that they had determined that based on its investigation the containers contained electronic waste that was prohibited from entry into South Africa.
42. On June 25, employees from the EPA Regional office in New York inspected the four containers described in Paragraph 30. The inspectors observed that the electronic equipment was not packaged to prevent breakage.
43. On July 31, 2012, Harbor Freight Transport Corporation, located in the Port of Newark, transported the monitors described in Paragraph 29 to Advanced Recovery, Inc. for recycling

and/or destruction. Harbor Freight Transport Corporation paid \$557,839.70 for storage and transport costs associated with the destruction of Respondent's CRTs seized from containers MSKU8745931, TCNU9546549, and TCNU9268324.

44. In January 2012, the South African Department of Environmental Affairs and Tourism paid ZAR 48,425.00 to destroy the monitors in containers MSCU7870025 and MSCU9474970.
45. Respondent failed to prepare a manifest to ship the containers of CRTs from Pennsylvania to New Jersey and Maryland as required by 40 C.F.R. § 262.20 and 25 PA. CODE § 262a.20.
46. Respondent did not provide notification of its intent to export the CRTs as required by 40 C.F.R. § 262.53.
47. Respondent did not provide consent of the receiving country as required by 40 C.F.R. § 262.53.
48. Respondent did not obtain an Acknowledgment of Consent to Export as required by 40 C.F.R. § 262.53.
49. The CRTs in the containers are discarded materials, and are waste-like in their character and appearance since they were not packaged to prevent breakage.
50. The CRTs in the containers are solid wastes because Respondent did not notify EPA of his intent to export the used intact CRTs sixty (60) days prior to the initial shipments being shipped off-site, and EPA did not receive consent from Hong Kong and South Africa to receive the containers, as required by the conditional exclusion at 40 C.F.R. § 261.39(a)(5).
51. The CRTs in the containers are solid wastes, as that term is defined by 40 C.F.R. § 261.2(a)(1) and 25 PA. CODE § 261.2(a)(1).

52. The CRTs included in the containers constitute "hazardous waste" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 40 C.F.R. §§ 260.10 and 261.3, and "hazardous waste" as defined in 25 PA. CODE §§ 260a.10 and 261a.3, because color CRTs each contain an average of four pounds of lead and studies show that CRTs leach lead at levels considerably above the toxicity characteristic regulatory level used to classify lead-containing wastes as hazardous (40 C.F.R. § 261.24(b) and 25 PA. CODE § 261a.24(b)). In addition, CRTs often contain mercury, cadmium, and arsenic.

V. VIOLATIONS

COUNT 1: Failure to Make a Hazardous Waste Determination

53. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
54. 40 C.F.R. § 262.11 and 25 PA. CODE § 262a.11 require a person who generates a solid waste to determine if that waste is a hazardous waste.
55. Cathode ray tubes are a solid waste because the Respondent did not meet the notice and consent conditions of § 261.39(a)(5).
56. Respondent's failure to test any of the material collected to determine if the solid waste was a hazardous waste is a violation of 40 C.F.R. § 262.11 and 25 PA. CODE § 262a.11.

COUNT 2: Failure to Prepare a Hazardous Waste Manifest

57. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
58. 40 C.F.R. § 262.20 and 25 PA. CODE § 262a.20 require any generator who transports or offers for transport hazardous waste to prepare a manifest.

59. Respondents' failure to prepare a manifest for each shipment is a violation of 40 C.F.R. §262.20 and 25 PA. CODE § 262a.20.

COUNT 3: Unauthorized Export of Hazardous Waste

60. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
61. Respondent did not provide notification of intent to export for these shipments and did not obtain an Acknowledgment of Consent required to meet the exemption under 40 C.F.R. § 261.39(a)(5) or satisfy the requirements of 40 C.F.R. § 262.53, therefore, Respondent exported hazardous waste without authorization in violation of 40 C.F.R. § 262.52.

COUNT 4: Failure to Provide Notice to the Regional Administrator of an Intent to Export

CRTs for Reuse (Alternative Pleading to Count 3)

62. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
63. Pursuant to 40 C.F.R. § 261.41, persons who export used, intact CRTs for reuse must send a one-time notification to the Regional Administrator documenting their intent to export used, intact CRTs for reuse.
64. Respondent did not submit a notice to the Regional Administrator documenting its intent to export CRTs for reuse, therefore, the Respondent violated 40 C.F.R. § 261.41.

COUNT 5: Failure to Follow Special Manifest Requirements

65. The allegations of paragraphs 1 through 52 above are incorporated herein by reference as if they were set forth in their entirety.

66. Respondent is a "primary exporter" as that term is defined in 40 C.F.R. § 260.10 and 25 PA CODE § 260a.10.
67. 25 PA CODE § 260a.10, which incorporates by reference 40 C.F.R. § 262.54(g), provides in part that "where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:
- i. Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with § 262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or
 - ii. Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and
 - iii. Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions."
68. South Africa does not allow imports of electronic waste and has detained the shipment because it has determined that the shipments contained electronic waste, not used electronic equipment for reuse.
69. The shipment identified in Paragraph 31 could not be delivered to the designated consignee, therefore, Respondent was required to comply with 40 C.F.R. § 262.54(g).
70. Respondent did not prepare a hazardous waste manifest or notify and obtain consent for the original shipment as required by 40 C.F.R. §262.53.
71. Respondent failed to instruct the transporter to return the waste to the United States as required by 40 C.F.R. § 262.54(g)(2).

COUNT 6: Failure to Package

72. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
73. 40 C.F.R. § 262.30 and 25 PA. CODE § 262a.30 requires any generator, before transporting hazardous waste or offering hazardous waste for transport, to package the waste in accordance with the applicable Department of Transportation ("DOT") regulations on packaging under 49 C.F.R. Parts 173, 178, and 179.
74. Respondent's failure to package the waste according to DOT regulations constitutes a violation of 40 C.F.R. § 262.30 and 25 PA. CODE § 262a.30.

COUNT 7: Failure to Label

75. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
76. 40 C.F.R. § 262.31 and 25 PA. CODE § 262a.31 requires any generator who transports or offers for transport hazardous waste to label each package in accordance with the applicable DOT regulations on hazardous materials under 49 C.F.R. Part 172.
77. Respondents' failure to label the shipment of CRTs according to DOT regulations constitutes a violation of 40 C.F.R. § 262.31 and 25 PA. CODE § 262a.31

COUNT 8: Failure to Mark

78. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth in their entirety.
79. 40 C.F.R. § 262.32 and 25 PA. CODE § 262a.32 requires any generator, before transporting hazardous waste or offering hazardous waste for transport, to mark each package of hazardous

waste in accordance with the applicable DOT regulations on hazardous materials under 49 C.F.R. Part 172.

80. Respondents' failure to mark each package of hazardous waste in accordance with applicable DOT regulations constitutes a violation of 40 C.F.R. § 262.32 and 25 PA. CODE § 262a.32.

VI. COMPLIANCE ORDER

81. Based on the foregoing findings, Respondent is hereby ordered to achieve and maintain compliance with all applicable requirements of RCRA. Specifically:
- a. Within thirty (30) days of receipt of this Order, Respondent shall reimburse the South Africa Department of Environmental Affairs and Tourism ZAR 48,425.00 for costs associated with the destruction of Respondent's CRTs seized from containers MSCU7870035 and MSCU 9474970.
 - b. Within thirty (30) days of reimbursing the South Africa Department of Environmental Affairs and Tourism, Respondent shall submit a written confirmation of compliance (accompanied by a copy of any appropriate supporting documentation) to EPA.
 - c. Within thirty (30) days of receipt of this Order, Respondent shall reimburse Harbor Freight Transport Corporation \$557,839.70 for storage and transport costs associated with the destruction of Respondent's CRTs seized from containers MSKU8745931, TCNU9546549, and TCNU9268324.
 - d. Within thirty (30) days of reimbursing Harbor Freight Transport Corporation, Respondent shall submit a written confirmation of compliance (accompanied by a copy of any appropriate supporting documentation) to EPA.

82. Respondent shall submit the copies of any information, reports, and/or notices required by this

Order to:

Lynne Davies, Attorney-Advisor
U.S. Environmental Protection Agency
Office of Civil Enforcement (2249A)
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
Telephone: (202) 564-2342
Fax: (202) 564-0022

83. 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(c), provides for further enforcement action in which EPA may seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance, in addition to any other penalties that may be assessed for past or ongoing violations.
84. In accordance with 40 C.F.R. § 22.37(b), this Order shall automatically become a final order unless, no later than thirty (30) days after the Order is served, Respondent requests a hearing pursuant to 40 C.F.R. § 22.15.
85. Upon Receipt of a Compliance Order issued under RCRA Section 3008(a), Respondent may seek administrative review in accordance with 40 C.F.R. Part 22. Respondent may seek judicial review of the Compliance Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706, once it is final and reviewable pursuant to RCRA Section 3008(b) and 40 C.F.R. Part 22.

VII. ASSESSMENT OF PENALTIES

86. Complainant requests an assessment of penalties for violations of the requirements cited in Section V of this Order, as provided by Section 3008 of RCRA, 42 U.S.C. § 6928, in the amount of **one hundred thirty-four thousand five hundred fifty dollars (\$134,550)**.

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

87. As provided by Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 40 C.F.R. § 22.15, Respondent has a right to request a hearing on the issues raised in this Order. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. **A request for a hearing must be incorporated in a written answer filed with the Hearing Clerk within thirty (30) days of service of this Order. In its answer, Respondent may contest any material fact contained in the Order.** The answer shall directly admit, deny, or explain each of the factual allegations contained in the Order and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts that 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 Order constitutes an admission of that allegation.

IX. DEFAULT ORDER

88. If Respondent fails to file a timely answer to the Order, 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 Order 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 Order.

X. SETTLEMENT CONFERENCE

89. 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 signing of a Consent Agreement and Final Order by the Presiding Officer. 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 Lynne Davies, Attorney-Advisor, Office of Civil Enforcement, at (202) 564-2342. Ms. Davies is also designated to receive service on behalf of Complainant, at the address in Paragraph 82. For Complainant:

Rosemarie A. Kelley
Director, Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

Date