



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 12 2012

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Donn A. Beloff  
Greenberg Traurig  
401 East Las Olas Boulevard  
Suite 2000  
Fort Lauderdale, Florida 33301

Re: Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services  
H&P Legacy Corp.  
Consent Agreement and Final Order, Docket Number: RCRA-04-2012-4012(b)

Dear Mr. Beloff:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above referenced matter. The CA/FO was effective upon filing.

As a reminder, H&P Legacy Corp., the prior owner of the facility, must make payment of the \$84,600.00 civil penalty, which is due within thirty (30) calendar days of the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and to:

Larry L. Lamberth, Chief  
South Section, RCRA & OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

In addition to the payment of a civil penalty, within thirty (30) calendar days of the effective date of the CA/FO, a representative of Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services, the current owner of the facility, must submit a revised Contingency Plan for review by the EPA and the Florida Department of Environmental Protection.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts the current owner and the prior owner on notice of their potential duties to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Naeha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "CÉSAR ZAPATA". The signature is stylized with a large initial "C" and a long horizontal stroke.

César Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
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61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 12 2012

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Douglas S. Arnold  
Alston & Bird LLP  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

Re: Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services  
H&P Legacy Corp.  
Consent Agreement and Final Order, Docket Number: RCRA-04-2012-4012(b)

Dear Mr. Arnold:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above referenced matter. The CA/FO was effective upon filing.

As a reminder, H&P Legacy Corp., the prior owner of the facility, must make payment of the \$84,600.00 civil penalty, which is due within thirty (30) calendar days of the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

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Atlanta, Georgia 30303-8960

and to:

Larry L. Lamberth, Chief  
South Section, RCRA & OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

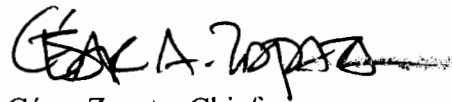
In addition to the payment of a civil penalty, within thirty (30) calendar days of the effective date of the CA/FO, a representative of Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services, the current owner of the facility, must submit a revised Contingency Plan for review by the EPA and the Florida Department of Environmental Protection.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts the current owner

and the prior owner on notice of their potential duties to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Naeha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "CÉSAR A. ZAPATA". The signature is stylized and somewhat cursive.

César Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: ) Docket Number: RCRA-04-2012-4012(b)  
)  
Mark & Kambour M.D., P.A. ) Proceeding under Section 3008(a) of the  
d/b/a Global Pathology Laboratory Services ) Resource Conservation and  
16250 NW 59<sup>th</sup> Avenue ) Recovery Act, 42 U.S.C. § 6928(a)  
Suite 201 )  
Miami Lakes, Florida 33014 )  
)  
H&P Legacy Corp. )  
16250 NW 59<sup>th</sup> Avenue )  
Suite 201 )  
Miami Lakes, Florida 33014 )  
)  
EPA ID No.: FLR000098293 )  
)  
Respondents )  
\_\_\_\_\_ )

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HEARING CLERK

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. §§ 403.702 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e)]. This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA for alleged violations of Fla. Stat. §§ 403.702 et seq., and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rule (Fla. Admin. Code Ann. r.) 62-730 [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270 and 273].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits*, which govern this action are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. The parties have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CA/FO, and Respondents hereby agree to comply with the terms of this CA/FO.

## **II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondents are Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services (hereinafter "Current Owner") and H&P Legacy Corporation (hereinafter "Prior Owner") (collectively, Respondents).
6. Current Owner is a corporation incorporated under the laws of the State of Florida (Florida or the State) and doing business in the State. Respondent owns and operates a business located at 16250 NW 59<sup>th</sup> Avenue, Suite 201, Miami Lakes, Florida 33014.
7. Prior Owner is a corporation incorporated under the laws of the State and doing business in the State. Until July 31, 2011, Prior Owner owned and operated the business located at 16250 NW 59<sup>th</sup> Avenue, Suite 201, Miami Lakes, Florida 33014.

## **III. PRELIMINARY STATEMENTS**

8. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Florida has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. § 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730.
9. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA.
10. Although the EPA has granted Florida authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
11. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given written notice of this action to the State before the issuance of this CA/FO.
12. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Florida program; however, for ease of reference, the federal citations will follow in brackets.
13. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].

14. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180 and 62-730.220 [40 C.F.R. Parts 124, 264, 265 and 270].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as “any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.”
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation, partnership, or association.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)], and it meets any of the criteria specified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)].
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21 through 261.24], are characteristic hazardous wastes, and are provided with the EPA Hazardous Waste Numbers D001 through D043.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.30], a solid waste is a hazardous waste if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D], and is not otherwise excluded by Fla. Admin. Code Ann. r. 62-730.021 [40 C.F.R. § 260.22]. Listed hazardous wastes include the F-Listed and P-Listed wastes identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.31(a) and 261.33(e)].
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], a generator of greater than 1,000 kilograms of hazardous waste per month is a large quantity generator (LQG), and may accumulate hazardous waste on-site for 90 days or less, without a permit or interim status, provided that the generator complies with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).

24. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that he marks his containers with the words “Hazardous Waste” or with other words that identify the contents of the containers.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.173(a)], a condition of the LQG Permit Exemption allows a generator to accumulate hazardous waste on-site provided that each container holding hazardous waste is closed during storage.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], a condition of the LQG Permit Exemption requires a generator to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates the requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.174], a condition of the LQG Permit Exemption requires generators to conduct weekly inspections of areas where containers are stored. In addition, Fla. Admin. Code Ann. r. 62-730.160(6) requires that written documentation of such inspections be kept at least three years from the date of the inspection.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.150(2)(b), generators (except those that are conditionally exempt pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.5]), shall notify the Florida Department of Environmental Protection (FDEP) of all changes in status using Form 63-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity.” Changes in status include, but are not limited to, changes in the facility name, ownership or management control of the facility or its operations, and type of regulated waste activity.
29. Pursuant to Fla. Admin. Code Ann. r. Chapter 62-730.160(1) [40 C.F.R. § 262.42(a)(2)], a LQG or a generator of greater than 1 kilogram of acute hazardous waste listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31 or § 261.33(e)] in a calendar month must submit an Exception Report to the FDEP district office where the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.51], a condition of the LQG Permit Exemption requires each owner or operator to have a RCRA Contingency Plan for his facility. The RCRA Contingency Plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.53], a condition of the LQG Permit Exemption requires each owner and operator of a facility to provide copies of the



facility's RCRA Contingency Plan to local authorities (police, fire departments, hospitals, and emergency response teams) and to maintain records of such submittals.

32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.16], a condition of the LQG Permit Exemption requires a facility's owner or operator to ensure that facility personnel have successfully completed a program of classroom instruction or on-the-job training that teaches proper hazardous waste handling and emergency procedures relevant to their positions. In addition, the facility personnel must take part in an annual review of the initial training on proper hazardous waste handling and emergency procedures relevant to their positions.
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.37], a condition of the LQG Permit Exemption requires a facility's owner or operator to attempt to make arrangements with, as appropriate for the type of waste handled at his facility and the potential need for the services, local authorities, state and local emergency response teams, and/or an agreement with an emergency response contractor and equipment supplier.
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(5) [40 C.F.R. § 262.41], which incorporates Fla. Admin. Code Ann. r. 62-730-160(1) [40 C.F.R. § 262.41], LQGs must submit a Biennial Report to FDEP by March 1 of each even numbered year. The Biennial Report must be submitted on FDEP Form 62-730.900(8) (2005 Hazardous Waste Report Form) and must cover generator activities during the previous year.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

35. Respondent are "persons" as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
36. Current Owner is the "owner" and "operator" of a "facility" located in Miami Lakes, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
37. Current Owner conducts dermatopathology laboratory preparation and diagnostic services for patients, dermatologists, and other physicians specializing in skin disease.
38. Until July 31, 2011, the facility was owned and operated by Prior Owner, who engaged in the same business as Current Owner.
39. Prior Owner generated and Current Owner generates wastes that are "solid wastes" and "hazardous wastes" as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.2 and 261.3].
40. Prior Owner operated and Current Owner operates a specialized histology (pathology) laboratory. Respondents reported generation of xylene and ethyl alcohol aqueous mixture (D001 and F003 hazardous waste) and xylene and diaminobenzidine aqueous mixture (D001 and F003 hazardous waste).

41. Prior Owner's operations encompassed and Current Owner's operations encompass a number of support services and laboratories which generate hazardous waste streams. Prior Owner generated and Current Owner generates characteristic hazardous wastes and listed hazardous wastes.
42. On May 2, 2003, Prior Owner notified FDEP as a Small Quantity Generator (SQG) of hazardous waste, meaning that it generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per calendar month.
43. On July 22, 2011, a representative of the EPA and a representative of FDEP performed a RCRA Compliance Evaluation Inspection (CEI) of Current Owner's facility, which at the time was owned and operated by Prior Owner. The findings of the CEI were documented in a June 22, 2012, "Notice of Violation and Opportunity to Show Cause" letter and the attached RCRA CEI Report.
44. On August 3, 2011, Current Owner re-notified FDEP as a LQG of hazardous waste.
45. At the time of the CEI, two containers of hazardous waste were found in the facility's laboratory area near generation points (satellite accumulation areas) without the words "Hazardous Waste" or with other words that identify the contents of the containers.
46. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, because Prior Owner failed to meet a condition for exemption from the requirement to obtain a permit or interim status provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)].
47. At the time of the CEI, Prior Owner failed to close two 55-gallon containers of solvent waste (D001 and F003) located in the facility's 90-Day Hazardous Waste Accumulation Area.
48. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet the requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.173(a)].
49. At the time of the CEI, three 55-gallon drums of hazardous waste (D001 and F003) were found in the facility's 90-Day Hazardous Waste Accumulation Area with no accumulation start date.
50. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet the requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)].
51. At the time of the CEI, Prior Owner was not conducting weekly inspections of the facility's 90-Day Hazardous Waste Accumulation Area. As a result, Prior Owner was not in compliance with the weekly hazardous waste container inspection and recordkeeping requirements.
52. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status by failing to meet two requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-

730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.174], and Fla. Admin. Code Ann. r. 62-730.160(6).

53. Prior Owner had previously notified FDEP as a SQG of hazardous waste on May 2, 2003. However, at the time of the CEI, a records review indicated that Prior Owner was a LQG of hazardous waste at least since January 2007. Prior Owner failed to notify FDEP of its change in generator status from a SQG to a LQG for four and half years.
54. The EPA therefore alleges that Prior Owner violated Fla. Stat. 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by failing to meet a requirement of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.150(2)(b).
55. At the time of the CEI, a review of the facility's hazardous waste manifests indicated that numerous manifests were not signed by the owner or operator of the designated facility. Prior Owner did not submit Exception Reports to the FDEP district office where the facility is located for the manifests that were not signed by the owner or operator of the designated facility.
56. The EPA therefore alleges that Prior Owner violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.42(a)(2)].
57. At the time of the CEI, inspectors found that Prior Owner did not have a RCRA Contingency Plan. In addition, by not having a Contingency Plan, Prior Owner failed to provide copies of the Contingency Plan to local authorities (police, fire departments, hospitals, and emergency response teams).
58. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet two requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.51] and Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.53].
59. At the time of the CEI, a records review indicated that no training or annual review in hazardous waste handling and emergency response was provided to Prior Owner's employees.
60. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet a requirement of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4)], which incorporates 40 C.F.R. § 265.16].
61. At the time of the CEI, a records review indicated that Prior Owner did not document the attempt to make the required arrangements with local authorities, state and local emergency response teams, and/or an agreement with an emergency response contractor and equipment supplier.
62. The EPA therefore alleges that Prior Owner violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to

meet a requirement of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.37].

63. At the time of the CEI, an initial records review and a subsequent review of records on file with FDEP indicated that Prior Owner did not submit 2007 and 2009 Biennial Reports which were due on March 1, 2008 and March 1, 2010.
64. The EPA therefore alleges that Prior Owner violated Fla. Admin. Code Ann. r. 62-730.160(5) [40 C.F.R. § 262.41], which incorporates Fla. Admin. Code Ann. r. 62-730-160(1) [40 C.F.R. § 262.41].

#### **V. TERMS OF AGREEMENT**

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

65. For the purposes of this CA/FO, Respondents admit the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
66. Respondents neither admit nor deny the factual allegations and determinations set out in this CA/FO.
67. Respondents waive their right to contest the allegations and their right to appeal the proposed Final Order accompanying the Consent Agreement.
68. Respondents waive their right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
69. Respondents waive any right they may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
70. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
71. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondents' liability for civil penalties for the violations and facts stipulated to in this CA/FO.
72. Each of the parties will pay its own costs and attorney's fees.

#### **VI. DEMONSTRATION OF COMPLIANCE**

73. Within thirty (30) calendar days of the effective date of this CA/FO, Current Owner shall submit a revised Contingency Plan for EPA and FDEP review and approval. Following the approval of the Contingency Plan, Current Owner will be in compliance with RCRA and the authorized Florida hazardous waste program.

## **VII. PAYMENT OF CIVIL PENALTY**

74. Prior Owner consents to the payment of a civil penalty in the amount of **EIGHTY-FOUR THOUSAND SIX HUNDRED DOLLARS (\$84,600)**, payable within thirty (30) calendar days of the effective date of this CA/FO.
75. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Prior Owner sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Prior Owner sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
**U.S. EPA Fines & Penalties**  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-4087

If paying by EFT, Prior Owner shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Prior Owner shall remit payment to:

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 – checking  
Environmental Protection Agency  
808 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20074  
Contact: Jesse White  
(301) 887-6548

Prior Owner shall submit a copy of each payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

and to:

Larry Lamberth, Chief  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

76. If Prior Owner fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Prior Owner must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
  - b. Monthly Handling Charge. Prior Owner must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar-day period over which an unpaid balance remains.
  - c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Prior Owner must pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

77. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

#### **VIII. RESERVATION OF RIGHTS**

78. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation or disposal of solid waste or hazardous waste at Current Owner's facility may present an imminent and substantial endangerment to human health or the environment.
79. Complainant reserves the right to take enforcement action against Current Owner for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.
80. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondents may have arising out of, or relating in any way to, the transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Current Owner's facility.
81. This CA/FO may be amended or modified only by written agreement executed by the EPA and Respondents.

#### **IX. OTHER APPLICABLE LAWS**

82. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations.

#### **X. PARTIES BOUND**

83. This CA/FO shall be binding upon Respondents and their successors and assigns.
84. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondents' obligations and responsibilities under this CA/FO.
85. The undersigned representatives of Respondents hereby certify that they are fully authorized to enter into this CA/FO and to execute and legally bind Respondents to it.

#### **XI. SERVICE OF DOCUMENTS**

86. A copy of any documents that Respondents file in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Naeha Dixit  
Assistance Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909  
dixit.naeha@epa.gov

87. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Current Owner in this matter and who is authorized to receive service for Respondent in this proceeding:

Douglas S. Arnold  
Alston & Bird LLP  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
doug.arnold@alston.com

88. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Prior Owner in this matter and who is authorized to receive service for Respondent in this proceeding:

Donn A. Beloff  
Greenberg Traurig  
401 East Las Olas Boulevard  
Suite 2000  
Fort Lauderdale, Florida 33301  
beloffd@gtlaw.com

## **XII. SEVERABILITY**

89. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO, or the application of this CA/FO to any party or circumstances, is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

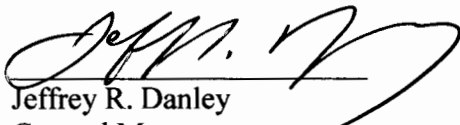
## **XIII. EFFECTIVE DATE**

90. The effective date of this CA/FO shall be the date on which the fully executed CA/FO is filed with the Regional Hearing Clerk.



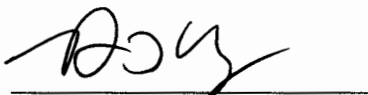
**In the matter of Matter of Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services  
and H&P Legacy Corp. Docket No. RCRA-04-2012-101241  
AGREED AND CONSENTED TO:**

**For the Current Owner, Mark & Kambour M.D., P.A. (d/b/a Global Pathology Laboratory Services)**


By:   
Jeffrey R. Danley  
General Manager

Dated: 8/28/2012

**For the Prior Owner, H&P Legacy Corporation**

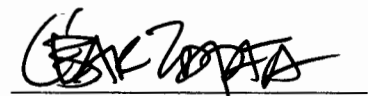
By:   
Andrew J. Hanly, M.D.  
Officer & Director

Dated: 8/28/2012

By:   
Evangelos Poulos, M.D.  
Officer & Director

Dated: 8/28/2012

**For the United States Environmental Protection Agency**

By:   
César Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Dated: 9/5/12


**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	) Docket Number: RCRA-04-2012-4012(b)
	)
Mark & Kambour M.D., P.A.	) Proceeding under Section 3008(a) of the
d/b/a Global Pathology Laboratory Services	) Resource Conservation and
16250 NW 59 <sup>th</sup> Avenue	) Recovery Act, 42 U.S.C. § 6928(a)
Suite 201	)
Miami Lakes, Florida 33014	)
	)
H&P Legacy Corp.	)
16250 NW 59 <sup>th</sup> Avenue	)
Suite 201	)
Miami Lakes, Florida 33014	)
	)
EPA ID No.: FLR000098293	)
	)
Respondents	)
_____	)

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondents are hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 16<sup>th</sup> day of September, 2012.

BY:   
Gwendolyn Keyes Fleming  
Regional Administrator  
United States Environmental Protection Agency, Region 4

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Mark & Kambour M.D., P.A. d/b/a Global Pathology Laboratory Services and H&P Legacy Corp., Docket Number: RCRA-04-2012-4012(b), on September 12, 2012, and on September 12, 2012, served copies on the parties listed below in the manner indicated:

Naeha Dixit  
Assistance Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Parvez Mallick  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Quantindra Smith  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

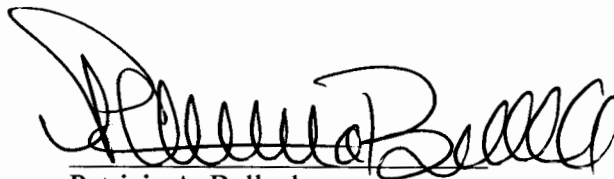
Donn A. Beloff  
Greenberg Traurig  
401 East Las Olas Boulevard  
Suite 2000  
Fort Lauderdale, Florida 33301

(Via Certified Mail- Return Receipt Requested)

Doug Arnold  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

(Via Certified Mail- Return Receipt Requested)

Date: 9-12-12



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511