

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2009 DEC 15 AM 8:36  
REGIONAL HEARING  
CLERK

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In the Matter of :  
: :  
Supreme Asset Management and : Hon. William B. Moran, Presiding Officer  
Recovery, Inc., a/k/a Supreme Asset :  
Management, Inc., :  
: :  
Respondent. :  
: Docket Number RCRA-02-2009-7106  
Proceeding under Section 3008 of the :  
Solid Waste Disposal Act, as amended. :  
-----X

MOTION TO EXTEND TIME FOR FILING PREHEARING EXCHANGE

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests this Court grant a two-month extension of time for the parties to file their prehearing exchanges, an extension concurred in by Respondent. For the reasons set forth below, EPA submits that good cause exists for granting this motion.

This is a case administratively prosecuted under Section 3008(a) of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6928(a), in which EPA seeks a civil penalty of \$199,900 for alleged violations that arose in connection with the operation of their facility in Lakewood, New Jersey. More specifically, the complaint alleges Respondent's illegal export of used and non-working cathode ray tube monitors, referred to as "CRTs" (either exported for recycling or reuse), Respondent's failure to prepare hazardous waste manifests for offering CRTs for transport and for a failure timely to reply to an EPA information request letter. Respondent has

denied the material allegations and has requested a hearing. The complaint was served on July 1, 2009, and Respondent timely submitted its answer on or about September 25, 2009. The prehearing order of this Court, dated October 26, 2009, directs that “[t]he Parties must simultaneously make their initial prehearing exchanges by **Friday, December 18, 2009**” (emphasis in original). Further, pursuant to the October 26<sup>th</sup> order, the parties are permitted to “file supplements to their prehearing exchanges (including any reply or rebuttal material), without motion, until 30 days before the date scheduled for the hearing.” No date has been set for a hearing, either in the October 26<sup>th</sup> order or subsequently.

The parties met for an informal settlement conference in late October, and continued to discuss settlement options thereafter. At the time of the settlement conference and in subsequent discussions, it became clear that the parties were committed to seeking a settlement, and that intention informed all discussions of settlement. The parties did reach a settlement earlier this month, agreeing to an amount for settlement and the terms for payment; this settlement does not involve a Supplemental Environmental Project. A consent agreement memorializing the settlement orally reached has been drafted, and it is presently being circulated within the Region, and a copy has also been sent to Respondent’s counsel for his (and his client’s review).

In light of the above, specifically that the parties have reached agreement and are now reviewing the necessary documentation to effect that agreement, Complainant requests that this Court extend the schedule for the parties to engage in prehearing exchange by two months. Respondents’ counsel noted his joining with this request. The extension would be sought so that the parties need have an adequate opportunity to review and analyze the settlement document without having to concern themselves with, or divert their efforts and energy to quickly

approaching litigation deadlines (especially considering that the end-of-year holidays will shortly be upon us). This is a straightforward settlement, *i.e.* for a cash payment to be made at a definite time, and it is expected that it should be completed and finalized within a relatively short period.

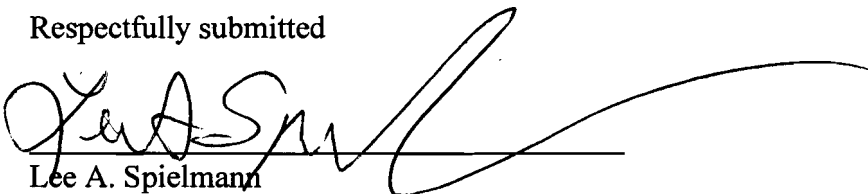
Complainant submits that the circumstances demonstrate that the good cause requirement of 40 C.F.R. § 22.7(b) exists for the granting of this motion. This case has relatively recently commenced, there have not been any litigation developments (such as the filing of any motions) and this is the first request for an extension of time. The evidentiary record has not been formally developed, and remains inchoate; no hearing date has been set or is imminent. Certainly the requested extension would not prejudice either party, as both concur in their desire that it be obtained. The parties are simply seeking additional two months before having to file their prehearing exchanges so that they have the requisite time to complete their agreement without having to concern themselves with litigation deadlines that in virtual certitude will not be required.

The undersigned has already left a message with the law secretary of this Court informing her of the parties' desire for an extension and the arrival of this motion.

Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order: **a)** vacating so much of the October 26<sup>th</sup> prehearing order as directed the parties to serve their initial prehearing exchanges by the date therein set forth, and **b)** extending the deadline for each submission set forth in said order by a period of two months, *i.e.* parties would be required to file their initial prehearing exchanges by February 19, 2010.

Dated: December 14, 2009  
New York, New York

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Lee A. Spielmann', written over a horizontal line. The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Lee A. Spielmann  
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TO: Honorable William B. Moran  
Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, DC 20460

Office of Regional Hearing Clerk  
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290 Broadway, 16<sup>th</sup> floor  
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One Airport Road  
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***In re Supreme Management and Recovery, Inc.,***  
**Docket No. RCRA-02-2009-7106**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing "MOTION TO EXTEND TIME FOR FILING PREHEARING EXCHANGE," dated December 14, 2009, in the following manner to the respective addressees listed below:

Original and One Copy  
By Inter-Office Mail:

Office of Regional Hearing Clerk  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

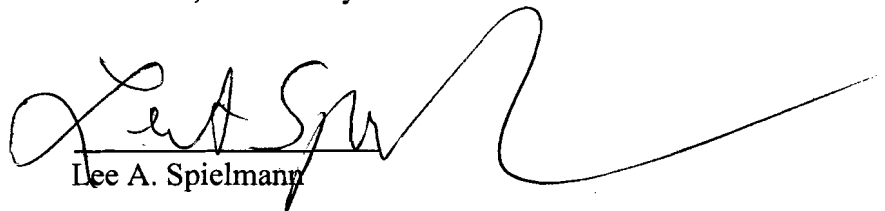
Copy by Fax Transmission,  
202-565-0044, and Pouch Mail:

Honorable William B. Moran  
Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900 L  
Washington, DC 20460

Copy by Fax Transmission,  
732-363-9864 and First Class Mail:

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P.O. Box 2043  
Lakewood, New Jersey 08701

Dated: December 14, 2009  
New York, New York

  
Lee A. Spielmann