

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

The Battery Recycling Company, Inc.,

RESPONDENT

Docket No. EPCRA-02-2011-4301

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 DEC 11 PM 2:54  
REGIONAL HEARING  
CLERK

DECEMBER 7, 2012 JOINT STATUS REPORT

To the Honorable Court:

COME NOW Complainant, the United States Environmental Protection Agency and Respondent, The Battery Recycling Company, Inc. by and through their attorneys of record and respectfully aver and pray as follows:

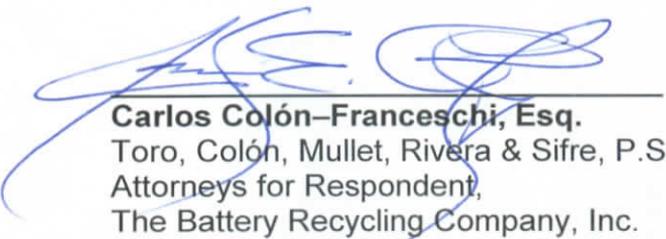
1. Pursuant to this Honorable Court's Order on Motion for Continuance, dated November 23, 2012 ("November 23 Order"), the parties were granted, for good cause shown and after consideration of prejudice to other parties, under Section 22.7(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice"), 40 C.F.R. § 22.7(b), until December 21, 2012, to file a Consent Agreement and Final Order (CAFO) or prehearing exchange.
2. That the November 23 Order also directed the parties to submit a joint status report on or before December 7, 2012.
3. That on April 20, 2012, Respondent filed its Answer to the Amended Complaint where, among others, it raised an inability to pay position.

4. That on June 8, 2012, Respondent submitted various financial documents in support of its inability to pay position.
5. That on or about August 8, 2012, Complainant engaged the services of Industrial Economics, Inc. ("IE") to evaluate Respondent's inability to pay position.
6. That on August 16, 2012, Complainant submitted a letter to Respondent's counsel, requesting an answer to certain follow-up questions IE had, with respect to the financial documentation Respondent submitted, in order to complete its ability to pay analysis.
7. That on October 17, 2012, Complainant contacted Respondent's counsel and was advised that a partial answer to IE's follow-up questions would be submitted the next day. Respondent's counsel explained that the information requested was substantial and required financial data that was not readily available. Furthermore, Respondent's counsel explained that as the result of the financial crisis facing the Company and the resulting reductions in personnel, it was very difficult to obtain the information requested.
8. That on October 18, 2012, Respondent submitted a partial answer to IE's follow-up questions, indicated that it was gathering some additional financial information to complete its answer, and requested an additional ten days to complete its answer.
9. That on October 18, 2012, Complainant forwarded Respondent's answers to IE, whereby IE indicated that it would start working on the ability to pay analysis with the partial answers Respondent provided and integrate the remaining answers, once received.
10. That on December 6, 2012, Respondent supplemented its answer to the follow-up questions IE had presented.

11. That on December 7, 2012, Complainant forwarded Respondent's supplemental answers to IE and therefore, no other information from Respondent is needed at this point.
12. That after IE completes the ability-to-pay analysis, the parties must complete the settlement discussions and secure appropriate approval and signature in order to settle this matter and file a fully-executed CAFO.
13. That the parties continue working together to fully and diligently entertain Respondent's inability to pay position in order to reach an agreement as expeditiously as practicable in their efforts to comply with the November 23 Order.

WHEREFORE it is respectfully requested that this Honorable Court take notice of the status of this matter.

RESPECTFULLY SUBMITTED in Guaynabo, Puerto Rico, this 7th day of December, 2012.



**Carlos Colón-Franceschi, Esq.**  
Toro, Colón, Mullet, Rivera & Sifre, P.S.C.  
Attorneys for Respondent,  
The Battery Recycling Company, Inc.  
416 Ponce de León Avenue  
Union Plaza Suite 311  
San Juan, Puerto Rico 00918  
Tel. (787) 751-8999  
Fax. (787) 763-7760  
Email: ccf@tcmrslaw.com

*sl/ Roberto M. Durango*  
**Roberto M. Durango, Esq.**<sup>1</sup>  
Assistant Regional Counsel  
U.S. EPA, Region 2  
Office of Regional Counsel—CT  
City View Plaza II, Suite 7000  
48 RD. 165, Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Tel. (787) 977-5822  
Fax. (787) 729-7748  
Email: durango.roberto@epa.gov

<sup>1</sup> Complainant's counsel is not physically present at the Office of Regional Counsel in Guaynabo, Puerto Rico, to sign the December 7, 2012 Joint Status Report. Nonetheless, both counsel worked together in drafting this document and agreed that Respondent's counsel would sign and file this joint status report.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **December 7, 2012 Joint Status Report** was sent in the following manner to the addresses listed below:

Original and Copy by **Overnight**:

**Karen Maples**  
Regional Hearing Clerk  
U.S. EPA, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

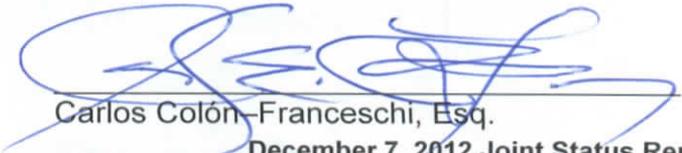
Copy by **Overnight**:

**The Honorable Susan L. Biro**  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
1099 14th Street, N.W., Suite 350  
Washington, DC 20005

Copy by **PDF**:

**Roberto M. Durango, Esq.**  
Assistant Regional Counsel  
U.S. EPA, Region 2  
Office of Regional Counsel—CT  
City View Plaza II, Suite 7000  
48 RD. 165, Km. 1.2  
Guaynabo, Puerto Rico 00968-8069

Dated: Dec. 7, 2012

  
Carlos Colón-Franceschi, Esq.

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