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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

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U.S. EPA REGION IX
REGIONAL HEARING CLERK

In the matter of

U.S. Pre-Finished Metals Corp.
EPA ID No. CAD010720415

Respondent.

U.S. EPA Docket No.

RCRA-9-2011- 0001

CONSENT AGREEMENT AND FINAL
ORDER PURSUANT TO 40 C.F.R.
SECTIONS 22.13 AND 22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is U.S. Pre-Finished Metals Corp. ("Respondent").
2. Respondent owns and operates a facility located at 4450 East Dunham St., in Los Angeles, California, 90023 (the "Facility"). The Facility's EPA Identification Number is CAD010720415. Respondent operates a metal polishing and coloring facility, and works with aluminum, brass and brass plated steel. Approximately 90% of its finished metals are sold to manufacturers of trophies.
3. This Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to: (1) obtain a permit or grant of interim status for storage of hazardous waste, a violation of California Health and Safety Code ("H&SC") Section 25200 and 22 California Code of Regulations ("C.C.R.") § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)]; (2) label its hazardous waste containers, a violation of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34(d)(4) and 40 C.F.R. § 262.34(a)(2) and (3)]; (3) inspect waste storage areas on a weekly basis, a violation of 22 C.C.R. § 66262.34(d)(2) and 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 262.34(d)(2) and 40 C.F.R. § 265.174]; (4) post required emergency information, a violation of 22 C.C.R. § 66262.34(d)(2) [*see also* 40 CFR §262.34(d)(5)(ii)]; and (5) maintain adequate personnel training, a violation of 22 C.C.R. § 66262.34(d)(2) and 40 C.F.R. § 262.34(d) [*see also*

40 C.F.R. § 262.34(d)(5)(iii)]. These are all in violation of Section 3001 et seq. of RCRA, 42 U.S.C. § 6921 et seq., and state regulations adopted pursuant thereto.¹

B. JURISDICTION

4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 et seq. The State of California has been authorized for all the regulations referenced in this CA/FO.
5. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
6. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
7. Respondent’s hazardous waste manifests indicate it is a small quantity “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [40 C.F.R. § 260.10].
8. Respondent is or has been engaged in “storage” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. Respondent generates and accumulates, or has generated and accumulated, materials that are “wastes” as defined in 22 C.C.R. §§ 66260.10 and 66261.2, and materials that are “solid wastes” as defined in 40 C.F.R. §§ 260.10 and 261.2.
10. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include, but are not limited to, corrosive liquid with metals, solids with metals, and flammable liquid.
11. On April 20, 2010, EPA conducted a RCRA Compliance Evaluation Inspection (“CEI”) at the Facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 et seq. and the regulations adopted pursuant thereto, as approved and authorized by the United States.

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States on August 1, 1992 (*see* 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, September 26, 2001). Corresponding Federal citations are provided in brackets.

12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, inter alia, that authorized state hazardous waste programs are carried out under Subchapter III of RCRA. EPA has authority, under powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928, to take action with respect to violations of California's authorized hazardous waste program, found at H&SC § 25100 et seq.
13. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subchapter III of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. § 6921 et seq.
14. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has re-delegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

Storage of Hazardous Waste Without a Permit

15. Paragraphs 1 through 14 above are incorporated herein by this reference as if they were set forth here in their entirety.
16. With limited exceptions, 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit. At the time of the inspection, Respondent did not have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].
17. 22 C.C.R. § 66262.34(d) provides that a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit or grant of interim status provided the generator meets certain conditions including, among others, the labeling requirements of 40 C.F.R. § 262.34(d). Failure to meet the conditions of the exemption subjects the generator to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].
18. Small quantity generators who accumulate waste longer than 180 days or fail to label containers of hazardous waste appropriately fail to meet the requirements of 22 C.C.R. § 66262.34, and are subject to the permitting requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].
19. During the CEI, the EPA Inspector observed that Respondent failed to meet the conditions of the exemption in that twenty-four 55-gallon drums of D001 hazardous waste were not labeled.
20. Respondent also failed to meet the conditions of the exemption in that several of the drums had been stored longer than 180 days.

21. Respondent's failure to meet the requirements set forth or referenced by 22 C.C.R. § 66262.34 subjects it to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. §§ 262.34 and 270.1]. Therefore, EPA alleges that Respondent stored hazardous waste without a permit, a violation of 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].

COUNT II

Failure to Properly Label Containers

22. Paragraphs 1 through 21 above are incorporated herein by this reference as if they were set forth here in their entirety.
23. 22 C.C.R. § 66262.34(f) provides that generators who accumulate hazardous waste on-site without a permit or grant of interim status must comply with specified requirements. 22 C.C.R. § 66262.34(f)(1) requires that the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container. 22 C.C.R. § 66262.34(f)(3) requires that each container used for on-site accumulation of hazardous waste must be labeled or marked with the words "Hazardous Waste." 22 C.C.R. § 66262.34(f)(3)(A), (B), and (C) require that each container must have a label with: (a) information on the composition and physical state of the waste; (b) a statement that calls attention to the particular hazard properties of the waste (*e.g.*, flammable, reactive, etc.); and (c) the name and address of the person producing the waste.
24. During the CEI, the EPA Inspector observed that twenty-four 55-gallon drums of D001 hazardous waste were not labeled.
25. Therefore, EPA alleges that Respondent failed to properly label containers of hazardous waste, a violation of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34(d)].

COUNT III

Failure to Conduct Weekly Inspections

26. Paragraphs 1 through 25 above are incorporated herein by this reference as if they were set forth here in their entirety.
27. 22 C.C.R. § 66265.174 requires that the owner or operator shall inspect areas where hazardous waste is stored at least weekly, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors [*see also* 40 C.F.R. § 265.174].
28. During the CEI, the EPA Inspector determined that Respondent had not conducted regular weekly inspections.
29. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174].

COUNT IV

Failure to Post Emergency Information

30. Paragraphs 1 through 29 above are incorporated herein by this reference as if they were set forth here in their entirety.
31. 22 C.C.R. § 66262.34(d)(2) and 40 C.F.R. § 262.34(d)(5)(ii) require that a small quantity generator must post the following information next to the telephone: (a) the name of and telephone number of the emergency coordinator; (b) the location of fire extinguishers and spill control materials, and if present, fire alarm; and (c) the telephone number of the fire department, unless the facility has a direct alarm.
32. During the CEI, the EPA Inspector observed that the facility did not have this information posted.
33. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(d).

COUNT V

Failure to Develop and Implement a Personnel Training Program

34. Paragraphs 1 through 33 above are incorporated herein by this reference as if they were set forth here in their entirety.
35. 22 C.C.R. § 66262.34(d)(2) provides that a generator may accumulate hazardous waste on-site for 180 days or less without a permit or grant of interim status provided the generator meets certain requirements under 40 C.F.R. § 262.34(d). One of those requirements, 40 C.F.R. § 262.34(d)(5)(iii), requires that the generator ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.
36. At the time of the inspection, the EPA Inspector observed that the facility representative responsible for the management of hazardous waste was not properly trained in waste management requirements. Respondent could not provide records documenting any training given to the person filling a position listed in the regulations.
37. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(d) [*see also* 40 C.F.R. § 262.34(d)].

D. CIVIL PENALTY

38. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of up to \$25,000 per day per violation for violations of any requirement of Subchapter III of RCRA, 42 U.S.C. § 6921 et seq. The amount of the maximum civil penalty is adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701. EPA regulations promulgated pursuant to these statutes authorize a civil penalty of up to \$32,500 per day per violation for violations occurring after March 15, 2004 through

January 12, 2009, and a civil penalty of up to \$37,500 per day per violation for violations occurring after January 12, 2009. 40 C.F.R. § 19.4. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed NINE THOUSAND TWO HUNDRED DOLLARS (\$9,200.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day violations, case-specific circumstances, and the economic benefit gained from non-compliance, where appropriate.

E. ADMISSIONS AND WAIVERS OF RIGHTS

39. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
40. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. For purposes of entry and enforcement of this CA/FO only, and not for purposes of any other matter or proceeding, Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, for purposes of entry and enforcement of this CA/FO only, and not for purposes of any other matter or proceeding, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

41. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's employees, agents, successors and assigns. When the civil penalty required under Sections D and G has been paid in accordance with Section G, and any delays in performance and/or stipulated penalties have been resolved, this CA/FO shall constitute full settlement of the violations alleged herein.
42. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

43. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

44. Respondent consents to the assessment of and agrees to pay a civil penalty of NINE THOUSAND TWO HUNDRED DOLLARS (\$9,200.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.

45. Respondent shall submit payment of the NINE THOUSAND TWO HUNDRED DOLLARS (\$9,200.00) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. The civil penalty shall be paid by remitting a certified or cashier's check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America" (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101
Contact: Natalie Pearson (314-418-4087)

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact =Jesse White (301-887-6548)
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 31006
CTX Format

On Line Payment:

This payment option can be accessed from the information below:
www.pay.gov
Enter “sfo1.1” in the search field
Open form and complete required fields

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent’s name, the case title, and docket number, to both:

Steven Armsey
Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

Clint Seiter (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

46. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed if payment is not received by the due date, with an additional \$15.00 charge for each subsequent 30-day period the payment is not received. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

47. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE HUNDRED DOLLARS (\$100) per day for first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay thereafter.

48. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
49. All penalty payments shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 45.
50. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
51. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

I. RESERVATION OF RIGHTS

52. Except for Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO, which are fully and finally resolved by this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). Except for Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO, which are fully and finally resolved by this CA/FO, this CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.
53. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.

54. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.

55. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

J. OTHER CLAIMS

56. Except for Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO, which are fully and finally resolved by this CA/FO, nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

K. MISCELLANEOUS

57. By signing this CA/FO, Respondent certifies that, to the best of its knowledge and belief, it has submitted to EPA financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time Respondent executes this CA/FO.

58. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

59. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

60. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

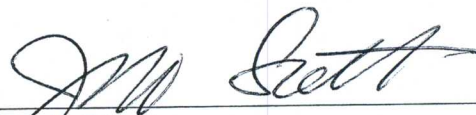
Date: 11-12-10

U.S. Pre-Finished Metals Corp.



Name: Joseph Dabrowski
Title: Vice President

Date: 11/23/10



Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region 9

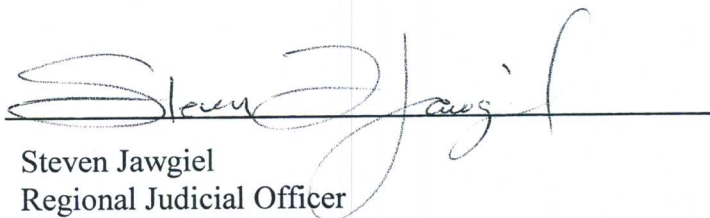
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2011- 000 () be entered and that U.S. Pre-Finished Metals Corp. pay a civil penalty of NINE THOUSAND TWO HUNDRED DOLLARS (\$9,200.00) due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

11/23/10

Date



Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that on the date below, the original copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent by certified mail, return receipt requested, to:

Joseph Dabrowski, Vice President
U.S. Pre-Finished Metals Corp.
4450 East Dunham Street
Los Angeles, CA 90023

11/24/10
Date



FOR: Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region 9