



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEC 12 2008

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

CERTIFIED MAIL --  
RETURN RECEIPT REQUESTED

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REC-11  
2008 DEC 16 PM 7:52  
REGIONAL HEARING  
CLERK

Lewis Goldshore, Esq.  
Goldshore, Cash & Kalac, P.C.  
Crosslands Corporate Center  
3150 Brunswick Pike, Suite 150  
Lawrenceville, NJ 08648

**Re: National Realty and Development Corp. (NRDC) Equity Partners  
Docket Number RCRA-02-2008-7108**

Dear Mr. Goldshore:

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the United States Environmental Protection Agency.

Please arrange for payment of this penalty according to the instructions given in the Order.

Sincerely yours,

  
Stuart N. Keith

Assistant Regional Counsel  
Waste & Toxic Substances Branch  
Office of Regional Counsel

Enclosures

ccs:

Thomas Killeen, Chief  
Hazardous Waste Compliance Section  
Bureau of Hazardous Waste Management  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7251

Michael Hastry, Chief  
Bureau of Hazardous Waste Compliance and Enforcement  
Central Field Office  
New Jersey Department of Environmental Protection  
300 Horizon Center  
Trenton, NJ 08625-0407

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2008 DEC 16 PM 7:52  
REGIONAL HEARING  
CLERK

\_\_\_\_\_  
IN THE MATTER OF: x  
:  
:  
**National Realty and Development Corp** :  
**(NRDC) Equity Partners** : CONSENT AGREEMENT  
:  
Respondent. : AND  
:  
:  
Proceeding under Section 3008 : FINAL ORDER  
of the Solid Waste Disposal :  
Act, 42 U.S.C. § 6928, as amended : Docket No. RCRA-02-2008-7108  
:  
\_\_\_\_\_  
x

**PRELIMINARY STATEMENT**

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901, et seq. ("RCRA" or the "Act").

Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the Administrator to enforce violations of the Act and the regulations promulgated or authorized pursuant to it. Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance ("Complainant") of the U.S. Environmental Protection Agency, Region II ("EPA"), has been duly delegated the authority to institute this action. Complainant issued a "Complaint and Notice of Opportunity for Hearing" to Respondent on June 26, 2008, bearing the docket number listed above. The Complaint alleged that Respondents had violated requirements of RCRA and regulations concerning the management of hazardous waste.

The parties have reached an amicable resolution of this matter and have agreed to this Consent Agreement and Final Order as a resolution of this proceeding without further litigation.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent is National Realty and Development Corporation (NRDC) Equity Partners (hereinafter "NRDC" and/or "Respondent"). Respondent is located at 3 Manhattanville Road, Purchase, NY 10577.
2. Respondent's affiliates hold an ownership interest in forty-eight (48) Lord and Taylor stores nationwide including stores at the Quaker Bridge Mall, located at Rt.1 and Quaker Bridge Rd., Lawrenceville, NJ 08648 (hereinafter referred to as Respondent's "Quaker Bridge Mall Store") and at the Palisades Mall, located at 1000 Palisades Center, West Nyack, NY 10994 (hereinafter referred to as Respondent's "Palisades Mall Store").

References to “Stores” herein shall mean and refer to the forty-eight (48) Lord and Taylor stores.

3. Respondent is a “person,” as defined at Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and Title 6 of the New York Codes, Rules, and Regulations (“6 NYCRR”) § 370.2(b) and 40 C.F.R. § 260.10 as incorporated by the New Jersey Administrative Code (NJAC) 7:26G-4.1.
4. In the course of normal operations at each of its stores, Respondent generates “solid waste,” as that term is defined at 6 NYCRR § 371.1(c) and 40 C.F.R. § 261.2 as incorporated by NJAC 7:26G-5.1.
5. In the course of normal operations of each of its stores, Respondent generates “hazardous waste,” as that term is defined at 6 NYCRR § 371.1(d) and 40 C.F.R. § 261.3 as incorporated by NJAC 7:26G-5.1
6. Respondent generates spent lamps, a solid and potentially hazardous waste stream, at Respondent’s Quaker Bridge Mall Store and Palisades Mall Store.
7. Spent lamps may be handled under the alternative standards provided under the Universal Waste Rules, codified in federal regulations at 40 C.F.R. Part 273 and in New York State regulations at 6 NYCRR Part 374-3.
8. Respondent’s Quaker Bridge Mall Store and Palisades Mall Store can qualify as conditionally exempt small quantity generators (CESQG) of hazardous waste provided each store generates less than 100 kilograms of hazardous waste per month.
9. On March 9 and July 31, 2007, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, authorized representatives of EPA conducted inspections of Respondent’s Quaker Bridge Mall Store and Palisades Mall Store.
10. At the time of these inspections, neither the Quaker Bridge Mall Store nor the Palisades Mall Store had implemented a spent lamp program. Spent lamps generated at these two stores were disposed of in the trash and handled as solid waste.
11. The types of lamps that were used at one or both of Respondent’s Quaker Bridge Mall Store and the Palisades Mall Store include the following: (1) incandescent lamps, (2) fluorescent lamps, (3) high pressure sodium vapor lamps, (4) mercury vapor lamps, and (5) metal halide lamps.
12. Prior to the date of EPA’s inspections at Respondent’s Quaker Bridge Mall Store and the Palisades Mall Store, Respondent had not determined, and did not have a third-party determine on its behalf, whether its spent fluorescent, high pressure sodium vapor, mercury vapor lamps, and metal halide lamps were hazardous wastes.

13. Respondent's failures to have made, or to have a third-party make on its behalf, a hazardous waste determination for its spent fluorescent, high pressure sodium vapor, mercury vapor lamps, and metal halide lamps constitute violations of 6 NYCRR § 372.2(a)(2) and 40 C.F.R. § 262.11, as incorporated by reference by NJAC 7:26G-6.1 .
14. As of the time of EPA's inspections of Respondent's Quaker Bridge Mall Store and the Palisades Mall Store, Respondent had disposed of spent fluorescent, high pressure sodium vapor, mercury vapor lamps, and metal halide lamps in trash compactors. The ordinary operation of the trash compactors would have broken the spent lamps and caused a release to the air and/or other media of some of the lamps' contents.
15. Respondent has informed EPA that it is managing and intends to continue to manage its spent lamps in a spent lamp recycling program nationwide at its 48 stores under Universal Waste Rules. According to Respondent, this amounts to approximately 15,000 spent fluorescent lamps annually.
16. Respondent has informed EPA that it accumulates less than 5,000 kilograms of total Universal Waste (including all mercury-containing equipment calculated collectively) at any time at each of its facilities.
17. The parties have agreed to resolve this matter as per the terms herein below.

### **CONSENT AGREEMENT**

Based upon the foregoing, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, Complainant hereby enters into the following Consent Agreement with Respondent. The parties agree that to the extent it has not already done so, Respondent shall:

1. within thirty (30) calendar days of the effective date of this Compliance Order, comply with all applicable federal and state regulatory requirements for the management of hazardous waste by generators and universal waste by handlers at all of Respondent's New York and New Jersey stores.
2. Respondent shall continue to manage its spent lamps that constitute hazardous waste in accordance with a national recycling program.
3. This CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4. For the purposes of this proceeding, Respondent: (a) admits the jurisdictional allegations of the Complaint; (b) neither admits nor denies the specific factual allegations contained in the Complaint; and (c) neither admits nor denies the above Findings of Fact and Conclusions of Law in this Consent Agreement.
5. Respondent shall pay a civil penalty to EPA in the total amount of **Nineteen Thousand Five Hundred (\$19,500.00)**. Such payment shall be made as indicated below, by cashier's or certified checks or by Electronic Fund Transfers ("EFT"). If the payments are made by checks, then the checks shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to:

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

Each check shall be identified with a notation thereon: In the Matter of National Realty and Development Corporation (NRDC) Equity Partners, and shall bear thereon the Docket Number RCRA-02-2008-7108. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read " D68010727 Environmental Protection Agency."
- 6) Name of Respondent: National Realty and Development Corporation (NRDC) Equity Partners.
- 7) Case Number: **RCRA-02-2008-7108**.

Whether the payments are made by checks or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payments have been made to:

Stuart N. Keith, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

and,

Karen Maples  
Regional Hearing Clerk

U.S. Environmental Protection  
Agency - Region 2  
290 Broadway, 16th floor  
New York, NY 10007-1866

The payment must be received on or before forty-five (45) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO. The date by which payment must be received shall hereinafter be referred to as the "due date."

- a. Failure to pay the penalty in full according to the above provisions may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
  - b. Further, if the payment is not received on or before the due date interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which any balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within ninety (90) days of the due date.
  - d. The effective date of this CA/FO shall be the date of filing with the Regional Hearing Clerk, U.S. E.P.A. Region 2, New York, New York.
  - e. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).
6. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims alleged in the Complaint in this matter. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
7. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
- 8.. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

- 9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
- 10. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
- 11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussion with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
- 12. Each party hereto agrees to bear its own costs and fees in this matter.
- 13. Respondent consents to service upon Respondent by a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:  
**National Realty and Development Corp. (NRDC) Equity Partners**

BY: \_\_\_\_\_  
(Authorized Signature)

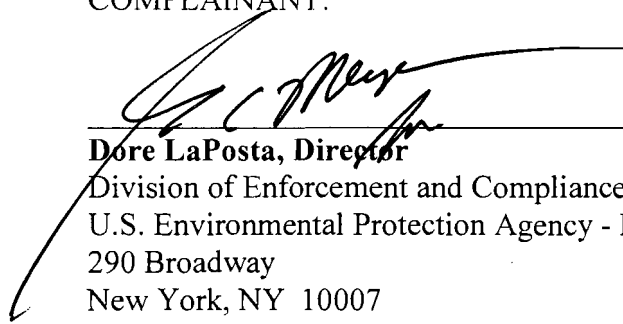
BY: **National Realty and Development Corp. as  
Managing Agent of Stores**

NAME:  \_\_\_\_\_  
(PLEASE PRINT)  
R. Joseph Guidos

TITLE: Executive Vice President - Property Operations

DATE: December 2, 2008

COMPLAINANT:

  
\_\_\_\_\_  
**Dore LaPosta, Director**

Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, NY 10007

DATE: \_\_\_\_\_

12/5/08



**Re: National Realty and Development Corp. (NRDC) Equity Partners  
Docket Number RCRA-02-2008-7108**

**FINAL ORDER**

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement. The Agreement entered into by the parties is hereby ratified, incorporated by reference herein, and issued pursuant to Section 3008 of RCRA and 40 C.F.R. Section 22.18(b)(3), as an Order, effective immediately upon filing with the Regional Hearing Clerk.

BY: Alan Steinberg  
Alan Steinberg  
Regional Administrator  
U.S. Environmental Protection Agency -  
Region II  
290 Broadway  
New York, New York 10007-1866

DATE: 12-9-08

**Re: National Realty and Development Corp. (NRDC) Equity Partners  
Docket Number RCRA-02-2008-7108**

**Certificate of Service**

This is to certify that I have this day caused (or am causing) to be sent the foregoing fully executed Consent Agreement and Final Order, bearing Docket Number RCRA-02-2008-7108, in the following manner to the respective addressees below:

Original and One Copy

By Hand:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, New York 10007

Copy by Pouch Mail:

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

Copy by Certified Mail,  
Return Receipt Requested

Lewis Goldshore, Esq.  
Goldshore, Cash & Kalac, P.C.  
Crossroads Corporate Center  
3150 Brunswick Pike, Suite 150  
Lawrenceville, NJ 08648

Dated: New York, New York

DEC 12 2008

Smildred N. Baer