



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 30 2009

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

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U.S. ENVIRONMENTAL PROTECTION AGENCY-REG. II
2009 JUL -1 11:09:55
REGIONAL HEARING CLERK

Mitchell Runko, Vice President
Supreme Asset Management and Recovery
1950 Rutgers University Blvd.
Lakewood, NJ 08701

Re: **In the Matter of Supreme Asset Management and Recovery, Inc., a/k/a Supreme Asset Management, Inc.**
Docket Number RCRA-02-2009-7106

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG. II
2009 JUL -1 PM 14:00
REGIONAL HEARING CLERK

Dear Mr. Runko:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.*

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

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

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal conference **does not** substitute for a written Answer, affect what you may choose to say in an

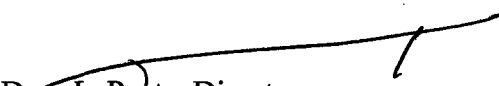
Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the later part of the Complaint.) For your general information and use, I also enclose both an "Information Sheet for U.S. EPA Small Business Resources" and a "Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings" which may apply to you depending on the size of the proposed penalty and the nature of your company.

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk (without enclosures)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

-----X
In the Matter of :
 :
Supreme Asset Management and :
Recovery, Inc., a/k/a Supreme Asset :
Management, Inc., :
 :
Respondent. :
 :
Proceeding under Section 3008 of the :
Solid Waste Disposal Act, as amended. :
-----X

**COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY
FOR HEARING**

Docket Number RCRA-02-2009-7106

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 2
2009 JUN 31 11:12:55
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 2
2009 JUL -1 PM 4:00
REGIONAL HEARING CLERK

COMPLAINT

This is an 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 ("HSWA"), 42 U.S.C. §§ 6901 et seq. (referred to collectively as the "Act" or "RCRA"). The United States Environmental Protection Agency ("EPA" or "Agency") has promulgated regulations governing the handling and management of hazardous waste at 40 C.F.R. Parts 260 - 273 and 279.

This COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING ("complaint") serves notice of EPA's preliminary determination that Respondent Supreme Asset Management and Recovery, Inc., a/k/a Supreme Asset Management, Inc., has violated provisions of RCRA and its implementing regulations (federal regulations/federally authorized New Jersey regulations) that govern the handling and managing of hazardous waste at a Lakewood Township, New Jersey, facility Respondent operates.

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), "[a]ny State which seeks to administer and enforce a hazardous waste program pursuant to [Subchapter III, Hazardous Waste Management; 42 U.S.C. §§ 6921-6939e] may develop and...submit to the Administrator [of EPA] an application...for authorization of such program." If EPA then grants a State's request to operate such a hazardous waste program, Section 3006 further provides that "[s]uch State is authorized to carry out such program in lieu of the Federal program under this subchapter in such State and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste...."

Pursuant to Section 3006(b) of the Act, 42 U.S.C. § 6926(b), the State of New Jersey was authorized by EPA in 1999 to conduct a hazardous waste program (the "authorized State

program”). 64 *Fed. Reg.* 41823 (August 2, 1999). There were subsequent changes in the scope of the authorized State program as a result of EPA’s authorization of New Jersey’s regulations incorporating by reference changes to the federal program promulgated by EPA between July 2, 1993 and July 31, 1998. 67 *Fed. Reg.* 76995 (December 16, 2002). These changes became effective February 14, 2003. Prior to such date, the authorized State program incorporated by reference, with some minor modifications, the federal program at 40 C.F.R. Parts 124, 260-266, 268 and 270, as set forth in the 1993 edition of the Code of Federal Regulations. As of February 14, 2003, the authorized State program, with some minor modifications, essentially incorporated by reference the regulations in the 1998 edition of the same parts of Title 40 of the Code of Federal Regulations. See the New Jersey Register for New Jersey’s authorized regulations constituting the original authorized State program. 28 *N.J.R.* 4606 (October 21, 1996). See 31 *N.J.R.* 166 (January 19, 1999) for the New Jersey regulations authorized in 2003. New Jersey is not authorized for any HSWA regulations adopted by EPA after July 31, 1998.

EPA is authorized to enforce the provisions of the authorized State program and retains primary responsibility for requirements promulgated pursuant to HSWA since July 31, 1998.

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA- Region 2, has been duly delegated the authority to institute this action. Complainant, on behalf of the Administrator of the EPA, by and through her attorneys, hereby alleges as and for her complaint against Respondent:

Jurisdictional and Background Legal Allegations

1. This is an administrative proceeding commenced pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to assess a civil penalty against Respondent for past violations of the requirements of Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939e, and to require future compliance with said requirements.

2. This Tribunal has jurisdiction over the subject matter of this administrative proceeding pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.1(a)(4).

3. Pursuant to Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), whenever any person has violated or is in violation of a requirement of Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939e, the Administrator of EPA, *inter alia*, “may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.”

4. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has already given the State of New Jersey notice of this administrative proceeding.

5. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), “[a]ny penalty assessed in the order [issued under authority of Section 3008(a)(1) of RCRA, 42 U.S.C. §

6928(a)(1)] shall not exceed \$25,000 per day of noncompliance for each violation of a requirement of [Subtitle C of RCRA].”

6. Under authority of the Federal Civil Penalties Inflation Adjustment Act of 1990, 104 Stat. 890, Public Law 101-410 (codified at 28 U.S.C. § 2461 note), as amended by the Debt Collection Improvement Act of 1996, 110 Stat. 1321, Public Law 104-134 (codified at 31 U.S.C. § 3701 note), EPA has promulgated regulations, codified at 40 C.F.R. Part 19, that, *inter alia*, increase the maximum penalty EPA might obtain pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), to \$32,500 for any violation occurring after March 15, 2004 and before January 13, 2009.

Respondent's and Facility Background

7. Respondent is Supreme Asset Management and Recovery, Inc., also known as Supreme Asset Management, Inc., a corporation organized pursuant to the laws of the State of New Jersey (“Respondent” or “Supreme”).

8. Respondent is a “person”, as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10 (1993) (N.J.A.C. 7:26G-4.1(a)).¹

9. Supreme is the operator of a commercial facility that recycles electronics, light bulbs and batteries and which is located at 1950 Rutgers University Boulevard in Lakewood, New Jersey (hereinafter referred to as the “Supreme facility”).

10. Supreme Computer and Electronic Recyclers (hereinafter “SCER”), a corporation organized in 1998 pursuant to the laws of the State of New Jersey, previously operated the Supreme facility.

11. On or about October 18, 2005, SCER requested an EPA Identification Number for hazardous waste activities it would be conducting at the Supreme facility.

12. In response to SCER’s aforementioned (¶ 11, above) request, on or about October 16, 2005, EPA provided SCER with EPA ID Number NJR000054783.

13. The State of New Jersey issued SCER a solid waste permit (bearing permit number CDG060001), dated and issued on August 2, 2006, to operate a solid waste and universal waste recycling facility at the Supreme facility. The State of New Jersey on November 28, 2008, issued to Supreme a permit modification for the aforementioned permit.

¹ Words or phrases that have been defined with reference to statutory and/or regulatory provisions are subsequently used throughout the Complaint as so defined.

14. In June 2008, SCER and a second corporation, Ecoglass Recycling, Inc. (hereinafter "Ecoglass"), consolidated and became Supreme.

15. Respondent assumed operational responsibility for the Supreme facility and has assumed the obligations and liabilities resulting or arising from the operation of the Supreme facility for which SCER and/or Ecoglass was or may have previously been responsible.

16. Respondent (and SCER) is (was) sometimes known as Reusable Assets.

17. On each of the following dates, a duly designated representative(s) of EPA, pursuant to Section 3007 of the Act, 42 U.S.C. § 6927, conducted an inspection of the Supreme facility:

a) March 28, 2008;

b) September 17, 2008; and

c) October 15 and 16, 2008.

Each of the aforementioned inspections was conducted to determine SCER's and/or Respondent's compliance with RCRA and its implementing regulations in its operation of the Supreme facility.

18. A Cathode Ray Tube ("CRT") is a video display component of an electronic device (usually a computer monitor or a television monitor).

19. During 2005, 2006 and 2007, Respondent (and SCER) shipped off-site approximately 327,278 color CRTs, approximately 325,133 color CRTs and approximately 293,172 color CRTs respectively.

20. During 2005 through 2008, Respondent (and SCER) generated hazardous waste at its facility.

COUNT 1: Illegal Export of Hazardous Waste

21. Complainant re-alleges each allegation contained in paragraphs "1" through "20," inclusive, with the same force and effect as if fully set forth herein.

22. Pursuant to 40 C.F.R. § 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1), the exports of hazardous waste is prohibited unless, *inter alia*, notification has been provided to EPA in accordance with 40 C.F.R. § 262.53 (incorporated by reference in N.J.A.C. 7:26G-6.1) and a copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste shipment.

23. Pursuant to 40 C.F.R. § 262.53(a) (incorporated by reference in N.J.A.C. 7:26G-6.1), a “primary exporter” (as defined in 40 C.F.R. § 262.51) must notify EPA of an intended export before such waste is scheduled to leave the United States.

24. Respondent (and previously, SCER), as part of its business operations at the Supreme facility, has sold (and continues to sell) used and non-working color CRT monitors (hereinafter, the term “non-working” shall mean used and non-working).

25. On at least 30 separate occasions in 2007 and 2008, Respondent (or SCER previously) has sold for shipment outside the United States non-working color CRT monitors.

26. The aforementioned (§ 25, above) non-working color CRT monitors were intended for recycling.

27. Most of the aforementioned (§ 25, above) transactions were sales of non-working color CRT monitors to the Hong Kong Heng Teng Company located in Hong Kong.

28. The aforementioned (§s 25, 26 and 27, above) non-working color CRT monitors were shipped outside the United States.

29. On each of the aforementioned (§s 25 and 28, above) occasions, some or all of the non-working color CRT monitors constituted hazardous waste within the meaning of 40 C.F.R. §§ 262.52 and 262.53 (each incorporated by reference in N.J.A.C. 7:26G-6.1).

30. On each of the aforementioned (§s 25 and 28, above) occasions, Respondent (or SCER) was the primary exporter within the meaning of 40 C.F.R. § 262.53 (incorporated by reference in N.J.A.C. 7:26G-6.1).

31. For each of the aforementioned (§ 25, above) transactions, Respondent (or SCER) was required:

a. to notify EPA pursuant to 40 C.F.R. § 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1) of the intended export before the waste was scheduled to leave the United States; and

b. to have accompanied each such shipment with an EPA Acknowledgment of Consent.

32. For each of the aforementioned (§ 25, above) transactions, Respondent (or SCER) failed:

a. to notify EPA pursuant to 40 C.F.R. § 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1) of the intended export before the waste was scheduled to leave the United States; and

b. to have accompanied each such shipment with an EPA Acknowledgment of Consent.

33. Because neither SCER nor Respondent had ever notified EPA of any of the aforementioned (¶ 30, above) intended exports, Respondent (and SCER) was prohibited from exporting hazardous waste, *i.e.* Respondent (and SCER) was not permitted to export non-working color CRT monitors.

34. Because neither SCER nor Respondent had ever accompanied any of the aforementioned (¶ 25, above) shipments with an EPA Acknowledgment of Consent, Respondent (and SCER) was prohibited from exporting hazardous waste, *i.e.* Respondent (and SCER) was not permitted to export non-working color CRT monitors.

35. Because Respondent (and SCER) was prohibited from exporting the aforementioned (¶ 30, above) non-working color CRT monitors, each occasion of exporting such monitors was unlawful and thus constituted a violation of 40 C.F.R. § 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1).

36. Each of the requirements set forth in 40 C.F.R. § 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1) constitutes a requirement of Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939e.

COUNT 2: Illegal Export of Hazardous Waste
(Alternative Pleading to Count 1)

37. Complainant re-alleges each allegation contained in paragraphs “1” through “20,” inclusive, with the same force and effect as if fully set forth herein.

38. Pursuant to 40 C.F.R. § 261.41, “persons who export used, intact CRTs for reuse must send a one-time notification to the Regional Administrator,” and such notification must contain the information set forth in said section.

39. On at least 30 separate occasions in 2007 and 2008, Respondent (or SCER previously) exported non-working color CRT monitors.

40. The aforementioned (¶ 39, above) non-working color CRT monitors were intended for reuse.

41. Most of the aforementioned (¶s 39 and 40, above) exports were to the Hong Kong Heng Teng Company located in Hong Kong.

42. For the aforementioned (§s 39 and 40, above) exports, Respondent (or SCER) was required to provide a one-time notification to the Regional Administrator of EPA, Region 2, pursuant to 40 C.F.R. § 262.41.

43. Respondent (or SCER) never notified the Regional Administrator of EPA, Region 2, of any of the aforementioned (§s 39 and 40, above) exports pursuant to 40 C.F.R. § 262.41.

44. Because Respondent (and SCER) had never notified pursuant to 40 C.F.R. § 261.41 the Regional Administrator of EPA, Region 2, for each of the aforementioned (§s 39 and 40, above) exports Respondent (or SCER) violated said provision.

45. The notification requirement set forth in 40 C.F.R. § 261.41 constitutes a requirement of Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939e.

COUNT 3-Failure to Prepare Hazardous Waste Manifests

46. Complainant re-alleges each allegation contained in paragraphs “1” through “20,” inclusive, and “24”, with the same force and effect as if fully set forth herein.

47. Pursuant to 40 C.F.R. § 262.20 (incorporated by reference in N.J.A.C. 7:26G-6.1), a generator who transports or offers for transport hazardous waste must prepare a manifest.

48. On at least 30 separate occasions in 2007 and 2008, Respondent (or SCER previously) failed to prepare a manifest when offering hazardous waste (non working color CRTs) for transport.

49. Respondent’s failure to prepare a manifest on at least 30 occasions as alleged in paragraph “48” violated 40 C.F.R. § 262.20 (incorporated by reference in N.J.A.C. 7:26G-6.1).

COUNT 4: Failure Timely to Respond to RCRA Information Request Letter

50. Complainant re-alleges each allegation contained in paragraphs “1” through “20,” inclusive, with the same force and effect as if fully set forth herein.

51. Section 3007(a) of the Act, 42 U.S.C. § 6927(a), provides, in part, that “any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the [EPA], duly designated by the Administrator...furnish information relating to such wastes.”

52. Pursuant to the authority given it under Section 3007(a) of RCRA, EPA issued an Information Request Letter (“IRL”) to SCER on or about April 28, 2008 to help the Agency

determine SCER's compliance with RCRA requirements in its operation of the Supreme facility (the "April IRL").

53. On or about July 28, 2008, Supreme provided its response to the April IRL (the "July response").

54. EPA deemed the July response inadequate.

55. Because of the inadequacy of the July response, EPA issued to Supreme a second IRL on or about August 22, 2008 (the "August IRL").

56. Supreme's response to the August IRL was due September 10, 2008.

57. Supreme never received an extension of time to respond to the August IRL.

58. Supreme failed to respond to the August IRL by September 10, 2008.

59. Supreme responded to the August IRL on or about November 22, 2008.

60. Supreme's failure timely to respond (*i.e.* to respond by September 10, 2008) constitutes a violation of Section 3007(a) of RCRA, 42 U.S.C. § 6227(a).

61. The requirement of Section 3007(a) of RCRA, 42 U.S.C. § 6227(a), to timely furnish EPA with information requested by the Agency constitutes a requirement of Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939e.

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with Section 3008(a)(3) of the Act, 42 U.S.C. § 6928(a)(3). For purposes of determining the amount of any penalty assessed, Section 3008(a)(3) requires EPA to "take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements." To develop the proposed penalty in this complaint, the Complainant has taken into account the particular facts and circumstances of this case and used the guidance of EPA's 2003 RCRA Civil Penalty Policy, a copy of which is available upon request or can be found on the Internet at the following address: <http://www.epa.gov/compliance/resources/policies/civil/rcra/rcpp2003-fnl.pdf>. The penalty amounts in the RCRA Civil Penalty Policy have been amended to reflect inflation adjustments. These adjustments were made pursuant to the following: the September 21, 2004 document entitled, "Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Inflation Act of 1996, effective October 1, 2004)"; the January 11, 2005 document entitled, "Revised Penalty Matrices for the RCRA Civil Penalty Policy"; and the December 29, 2008 document entitled, "Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Penalty Monetary Penalty Inflation Adjustment Rule (effective January 12, 2009)." The RCRA Civil Penalty Policy provides a rational, consistent

and equitable calculation methodology for applying the statutory penalty factors to particular cases.

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required EPA to adjust its penalties for inflation on a periodic basis. The maximum civil penalty amount obtainable under Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), was amended as follows: for violations occurring from March 15, 2004 through January 12, 2009, \$32,500 per day for each violation; for violations after January 12, 2009, \$37,500 per day for each violation. 40 C.F.R. Part 19. See paragraph 6 of the Complaint, above.

Complainant proposes, subject to receipt and evaluation of further relevant information from Respondent, that Respondent be assessed the civil penalty as set out below for the violations alleged in this Complaint. A penalty calculation worksheet and narrative explanation to support the penalty figure for each violation cited in this Complaint are included in Attachment I, below. Matrices employed in the determination of individual and multi-day penalties are included as Attachments II, below.

In view of the above-cited violations, and pursuant to the authority of Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant herewith proposes the assessment of a civil penalty in the total amount of **ONE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED (\$199,900) DOLLARS** against Respondent as follows:

For Counts 1/2/3, illegal export of hazardous waste, failure to prepare manifests: **\$141,300**

For Count 4, failure timely to respond to a Section 3007 Information Request Letter (42 U.S.C. § 6927): **\$58,600**

COMPLIANCE ORDER

1. Respondent shall not export used CRTs intended for recycling until it complies with requirements of 40 C.F.R. 262.52 (incorporated by reference in N.J.A.C. 7:26G-6.1) and documents such compliance with EPA, Region 2.

2. Respondent shall not export used, intact CRTs intended for reuse unless it complies with the requirements of 40 C.F.R. § 261.41.

3. Respondent shall prepare a manifest when offering hazardous waste for transport in accordance with 40 C.F.R. § 262.20 (incorporated by reference in N.J.A.C. 7:26G-6.1).

4. Respondent shall submit a certification of compliance with applicable requirements 30 days after the effective date of this Compliance Order.

5. Any responses, documentation, and evidence submitted in response to this Compliance Order should be sent to:

Abdool Jabar, Environmental Engineer
Hazardous Waste Compliance Section
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway, 21st floor
New York, New York 10007-1866

This Compliance Order shall take effect within 30 days of date of service of the Order, unless by that date Respondent has requested a hearing pursuant to 40 C.F.R. Section 22.15. See 42 U.S.C. Section 6928(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c). Compliance with the provisions of this Compliance Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all other applicable RCRA statutory or regulatory (federal and/or state) provisions or any order EPA has issued under authority of RCRA (including the RCRA Section 7003 Unilateral Administrative Order issued on March 3, 2009 to Respondent and Preferred Enterprises LLC and bearing docket number RCRA-02-2009-7303), nor does such compliance release Respondent from liability for any violations. In addition, nothing herein waives, prejudices or otherwise affects EPA's right (or the right of the United States on behalf of EPA) to enforce any applicable provision of law, and to seek and obtain any appropriate penalty or remedy under any such law, regarding Respondent's generation, handling, storage and/or management of hazardous waste at its facility.

IV. NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(c) of RCRA and the Debt Collection Improvement Act of 1996, a violator failing to take corrective action within the time specified in a compliance order is liable for a civil penalty of up to \$37,500 for each day of future noncompliance. *73 Fed. Reg. 75340* (December 11, 2008), to be codified at 40 C.F.R. Part 19.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in *64 Fed. Reg. 40138* (July 23, 1999), entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS," and which are codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint, Compliance Order and Notice of Opportunity for Hearing."

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty and/or the Compliance Order is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. §§ 22.15(a) and 22.7(c). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b).

The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding) and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of their defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity To Request A Hearing

If requested by Respondent, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to the Compliance Order in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within thirty (30) days after the Compliance Order is served, the Compliance Order shall automatically become final. 40 C.F.R. § 22.37

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure To Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court. Any default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

D. Exhaustion Of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Agency's Environmental Appeals Board ("EAB"; see 40 C.F.R. § 1.25(e)) pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

To appeal an initial decision to the EAB, Respondent must do so "[w]ithin thirty (30) days after the initial decision is served." 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "five days shall be added to the time allowed by these rules for the filing of a responsive pleading or document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

VI. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. §

22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in the Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant, or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Lee A. Spielmann
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3222

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference will be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waive its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). To conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

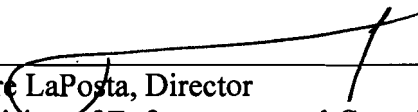
Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminate this administrative litigation and any civil proceeding arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes not to contest the Compliance Order in the Complaint and wants to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified on the previous page.

DATED: June 30, 2009
New York, New York

COMPLAINANT:



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2

TO: Mitchell Runko, Vice President
Supreme Asset Management and Recovery

cc: Michael Hastry, New Jersey Department of Environmental Protection

CERTIFICATE OF SERVICE

This is to certify that on the day of JUL - 1, 2009, I caused to be mailed a true and correct copy of the foregoing "COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING," bearing Docket Number RCRA-02-2009-7106, together with Attachments I and II (collectively henceforth referred to as the "Complaint"), and with a copy of the "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS," 40 C.F.R. Part 22, by certified mail, return receipt requested, to Mitchell Runko, Vice President, Supreme Asset Management and Recovery, 1950 Rutgers University Blvd., Lakewood, New Jersey 08701.

I hand carried the original and a copy of the Complaint to the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2, 290 Broadway, 16th floor, New York, New York 10007-1866.

Dated: JUL - 1, 2009
New York, New York

Sheldene M. Bag

PENALTY COMPUTATION WORKSHEET-COUNTS 1/2/3

Company Name: Supreme Asset Management and Recovery

Address: 1950 Rutgers University Blvd.

Lakewood, New Jersey 08701

**Violation: 40 C.F.R. § 262.52/§ 261.41 - Illegal Export of Hazardous Waste
40 C.F.R. § 262.20- Failure to Prepare a Hazardous Waste Manifest**

- 1. Gravity based penalty from matrix **\$29,146**
- (a) Potential for harm..... **MAJOR**
- (b) Extent of Deviation..... **MAJOR**

- 2. Select an amount from the appropriate multi-day
matrix cell.....**\$3,869**

- 3. Multiply line 2 by number of days minus 1..... **\$112,201**

- 4. Percent increase/decrease for good faith.....**N/A**

- 5. Percent increase for willfulness/negligence.....**N/A**

- 6. Percent increase for history of noncompliance.....**N/A**

- 7. Total lines 5 through 7.....**N/A**

- 8. Multiply line 4 by line 8.....**N/A**

- 9. Calculated economic benefit.....**To be determined**

- 10. Total Penalty (rounded off)**\$ 141,300**

*** Additional downward adjustments, where substantiated by reliable information,
may be accounted for here.**

NARRATIVE EXPLANATION TO SUPPORT PENALTY COMPUTATION

1. Gravity Based Penalty

(a) **Potential for Harm:** The “Potential for Harm” was “Major” because the cathode ray tubes (CRTs) were sent to a number of countries without notifying EPA (either the Office of Enforcement and Compliance Assurance at EPA headquarters or the Regional Administrator of EPA, Region 2) and without obtaining authorization from the receiving countries (which was required for exports intended for recycling). The disregard of the export requirements were magnified when loads of CRTs were rejected as hazardous waste by Hong Kong and Supreme re-invoiced the CRTs to a company in Vietnam where it was eventually shipped without authorization. The lack of appropriate notification undermined how the regulatory program is supposed to work. Respondent did not prepare manifests when hazardous waste was offered for shipment for at least 30 shipments (loads of CRTs cited above). Preparing a manifest for hazardous waste shipments is an essential component in RCRA’s tracking of hazardous waste from “cradle to grave”. Respondent’s failure to prepare manifests further undermined how the regulatory process is supposed to work.

(b) **Extent of Deviation:** The “Extent of Deviation” was determined to be “Major” because neither Supreme nor SCER notified EPA for any of the CRT exports or shipments and exported without an acknowledgment of consent; SCER and Supreme also failed to prepare manifests when hazardous waste was offered for transport. This pattern of disregard occurred over a period of at least two years.

2. Multiple counts:

Supreme (or SCER) failed to notify EPA that it was exporting CRTs to countries and failed to prepare manifests on at least 30 occasions. EPA used its discretion and used the multi-day matrix.

3. Adjustment Factors (Good faith, willfulness/negligence, history of compliance, ability to pay, environmental credits, and other unique factors must be justified, if applied):

Good faith: EPA at this time has made no adjustment for this factor in the penalty determination since EPA has no definite information concerning any mitigating factors; if EPA receives such information, it will then evaluate it and consider making an appropriate adjustment.

Willfulness/Negligence: Not applicable

History of Compliance: Not applicable

Ability to Pay: Not applicable

Environmental Project: Not applicable

Other Unique Factors: Not applicable

3. **Economic Benefit:** EPA is not including an economic benefit calculation at this time but reserves the right to do so in the future.

4. **Recalculation of Penalty Based on New Information:** N/A

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT
Penalty Computation Worksheet (Count 4)**

**Respondent: Supreme Asset Management and Recovery
Address: 1950 Rutgers University Blvd.
Lakewood, New Jersey 08701**

Violation: Section 3007, 42 U.S.C. § 6927-Failure to timely respond to a Information Request Letter

- | | |
|--|-------------------------|
| 1. Gravity based penalty from matrix | \$5,158 |
| (a) Potential for harm. | <u>MODERATE</u> |
| (b) Extent of Deviation..... | <u>MINOR</u> |
|
 | |
| 2. Select an amount from the appropriate multi-day matrix cell..... | \$742 |
| 3. Multiply line 2 by number of days minus 1..... | \$ 53,424 |
| 4. Percent increase/decrease for good faith..... | <u>N/A</u> |
| 5. Percent increase for willfulness/negligence..... | <u>N/A</u> |
| 6. Percent increase for history of noncompliance | <u>N/A</u> |
| 7. Total lines 5 through 7..... | <u>N/A</u> |
| 8. Multiply line 4 by line 8..... | <u>N/A</u> |
| 9. Calculated economic benefit..... | <u>N/A</u> |
| 10. Total Penalty (rounded off) | <u>\$ 58,600</u> |

*** Additional downward adjustments, where substantiated by reliable information, may be accounted for here.**

NARRATIVE EXPLANATION TO SUPPORT PENALTY COMPUTATION

1. Gravity Based Penalty

(a) **Potential for Harm:** The "Potential for Harm" was deemed "Moderate." The use of the RCRA § 3007 Information Request Letter is a fundamental statutory device EPA relies upon to obtain information for implementing the RCRA program and for collecting factual information to evaluate compliance with RCRA requirements. After EPA issued a second request for information (having found the first response inadequate), Respondent then submitted its information more than two months (73 days) late. This failure to timely respond resulted in moderate harm to the program.

(b) **Extent of Deviation:** The "Extent of Deviation" was determined to be "Minor" because Supreme provided a partial (though far from complete) response to EPA's first request and eventually did provide a response to the second request.

2. **Multiple/Multi-day:** The number of days that the second request was overdue was 73.

3. **Adjustment Factors** (Good faith, willfulness/negligence, history of compliance, ability to pay, environmental credits, and other unique factors must be justified, if applied):

Good faith: EPA at this time has made no adjustment for this factor in the penalty determination since EPA has no definite information concerning any mitigating factors; if EPA receives such information, it will then evaluate it and consider making an appropriate adjustment.

Willfulness/Negligence: Not applicable

History of Compliance: Not applicable

Ability to Pay: Not applicable

Environmental Project: Not applicable

Other Unique Factors: Not applicable

3. **Economic Benefit:** The delay in not timely responding to the second IRL is not anticipated to result in an economic savings greater than \$5,000.

4. **Recalculation of Penalty Based on New Information:** N/A

ATTACHMENT II

GRAVITY-BASED PENALTY MATRIX

EXTENT OF DEVIATION FROM REGULATORY				
POTENTIAL FOR		Major	Moderate	Minor
	Major	\$32,500 To 25,791	\$25,790 To 19,343	\$19,342 To 14,185
	Moderate	\$14,184 To 10,316	\$10,315 To 6,448	\$6,447 To 3,869
	Minor	\$3,868 To 1,934	\$1,933 To 645	\$644 To 129

MULTI-DAY MATRIX

EXTENT OF DAMAGE FROM FIRE			
	Major	Moderate	Minor
Major	\$6,448 To 1,290	\$5,158 To 967	\$3,869 To 709
Moderate	\$2,837 To 516	\$2,063 To 322	\$1,290 To 193
Minor	\$774 To 129	\$387 To 129	\$129