

September 18, 2012

Regional Hearing Clerk
U.S. EPA – Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Bruce H. Aber, Esq.
Asst. Regional Counsel
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290 Broadway, 16th Floor
New York, New York 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 SEP 25 A 11:08
REGIONAL HEARING
CLERK

Re: ANSWER In the Matter of Amerimart Development Company, Qual-Econ
Lease Co., Inc., MJG Enterprises, Inc. and Clear Alternative of Western
N.Y., Inc. (Respondents)

Dear Sir or Madam:

Please find enclosed the Answer submitted herewith on behalf of my clients, the above-captioned Respondents. You will note we have requested a hearing or mediation to resolve this matter.

Please contact me with any questions.

Very truly yours,

The Slater Law Firm, PLLC



Craig A. Slater

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CAS : jp
Enclosures

STATE OF NEW YORK
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2012 SEP 25 A 11:08
REGIONAL HEARING
CLERK

**IN THE MATTER OF
AMERIMART DEVELOPMENT COMPANY,
QUAL-ECON LEASE CO., INC., COMMERCIAL
REALTY FUND II, MJG ENTERPRISES, INC. and
CLEAR ALTERNATIVE OF WESTERN NY, INC.**

ANSWER

Docket No. RCRA-02-2012-759

*Proceeding Under Section 9006
of the Solid Waste Disposal Act*

The Respondents **Amerimart Development Company, Qual-Econ Lease Co., Inc., MJG Enterprises, Inc. and Clear Alternative of Western NY, Inc.** ("Respondents") by their attorney, The Slater Law Firm, PLLC, as and for their Answer to the Complaint (the "Complaint") in the above-captioned action, does hereby state as follows:

1. Admits the allegations in the Complaint contained in paragraphs 2, 4 (a), (b), (d), and (e), 5, 6 (except respondent denies it owns the property), 9, 10, 11, 12, 13, 14, 17, 18, 19, 21, 22, 46, 52, 62, 66, 67, 70, 77, 80, 81, 92, 99, 100, 101, 103, 119, 141, 143, 157, 160, 168, 171, 190, 237, 259, 263, 276, 286, 324, 326, 344, 358, 366, 392, 409, 480, 496, 510, 520, 521, 535, 537, 553, 572, 573, 574, and 602.

2. Denies the allegations in the Complaint contained in paragraphs 4(c), 7, 8, 15, 16, 20, 43, 63, 64, 71, 72, 93, 94, 95, 96, 111, 112, 113, 114, 115, 116, 117, 136, 137, 150, 151, 152, 153, 161, 162, 163, 164, 177, 178, 179, 180, 187, 188, 203, 204, 205, 212, 213, 214, 215, 216, 217, 226, 228, 249, 250, 251, 252, 253, 254, 255, 267, 268, 269, 270, 271, 272, 273, 274, 297, 298, 303, 313, 314, 315, 316, 317, 318, 319, 330, 334, 335, 336, 337, 338, 339, 340, 353, 354, 355, 356, 375, 376, 387, 388, 401, 402, 403, 404, 405, 418, 419, 420, 421, 422, 423, 424, 431, 432, 451, 452, 464 (deemed denied since missing), 471, 472, 473, 474, 475, 483, 486, 487, 488, 489, 490, 491, 492,

502, 503, 504, 505, 506, 507, 508, 533, 547, 548, 558, 559, 567, 568, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 614, 615, 616, 617, 618, 619, 620, 621, 623, 624, 625, 626, 627, 638, and 639.

3. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in the Complaint contained in paragraphs 3, 4(c), 39, 40, 44, 48, 49, 50, 51, 54, 55, 61, 68, 69, 78, 83, 84, 85, 86, 87, 88, 90, 91, 92, 99, 107, 108, 109, 110, 121, 122, 123, 124, 127, 128, 129, 130, 131, 132, 144, 145, 146, 147, 158, 159, 167, 172, 174, 175, 176, 182, 183, 184, 195, 196, 198, 208, 209, 210, 211, 220, 221, 222, 223, 224, 225, 233, 236, 239, 240, 241, 242, 248, 260, 261, 262, 264, 265, 281, 282, 289, 300, 323, 327, 328, 329, 346, 347, 363, 364, 365, 369, 372, 378, 385, 392, 394, 411, 413, 414, 426, 427, 429, 430, 434, 437, 443, 444, 445, 457, 460, 461, 479, 482, 499, 525, 526, 529, 530, 531, 532, 540, 541, 542, 543, 544, 546, 551, 552, 554, 555, 557, 563, 564, 566, 572, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 604, 605, 607, 608, 609, 610, 611, 612, 613, 629, 630, 632, 634, 635, 636, and 637.

4. The allegations contained in the Complaint in the following paragraphs reference correspondence, registrations, or other documents which have not been provided or submitted to Respondents and since all such documents will speak for themselves, Respondents neither admit or deny such documents exist or admit or deny the truthfulness of the contents of such documents and, therefore, for the purposes of this Answer such allegations are denied: 41, 47, 56, 57, 58, 60, 89, 106, 120, 133, 134, 135, 148, 149, 173, 185, 186, 191, 192, 193, 194, 199, 197, 200, 201, 202, 207, 229, 230, 231, 232, 243, 244, 245, 246, 247, 266, 277, 278, 279, 280, 283, 284, 285, 288, 290, 291, 292, 293, 294, 295, 296, 302, 304, 305, 306, 307, 308, 309, 310, 311, 312, 331, 332, 333, 348, 349, 350, 351, 352, 359, 360, 361, 362, 370, 371, 373, 374, 379, 380, 381, 382, 383, 384, 386, 395, 396, 397, 398, 399, 400, 412, 415, 416, 417, 428, 435, 436, 438, 439, 440, 447, 448, 449, 450, 456, 458,

459, 462, 463, 466, 467, 468, 470, 481, 484, 485, 498, 500, 501, 511, 512, 513, 514, 515, 516, 518, 519, 522, 524, 527, 528, 536, 545, 556, 606, 631, and 633.

5. The allegations contained in the Complaint in the following paragraphs make legal references (statutory or regulatory cites) or assert or contain legal conclusions on facts and/or law that will be the subject of the hearing of this matter to be decided by the trier of fact, and, as a result, Respondents neither admit or deny such legal references and deny such legal conclusions, the result of which is that, for the purposes of this Answer, all such allegations are denied: 1, 16, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 53, 59, 74, 75, 76, 79, 82, 98, 102, 104, 105, 125, 126, 139, 140, 142, 155, 156, 166, 169, 170, 206, 219, 234, 235, 238, 257, 258, 287, 301, 321, 322, 325, 342, 343, 345, 367, 368, 390, 391, 393, 407, 408, 410, 441, 442, 446, 454, 455, 465, 469, 477, 478, 494, 495, 497, 517, 523, 538, 539, 550, 561, 562, 565, 570, 571, 600, 601, and 603.

6. Answers the allegations incorporated into paragraphs 45, 65, 73, 97, 118, 138, 154, 165, 181, 189, 218, 227, 256, 275, 299, 320, 341, 357, 377, 389, 406, 425, 433, 453, 476, 493, 509, 534, 549, 560, 569, 599, and 628 of the Complaint to the same extent and with the same force as they are elsewhere herein answered.

7. Denies each and every other allegation not heretofore otherwise admitted or controverted.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. Complainant has not provided the requisite notice of enforcement to the New York State Department of Environmental Conservation.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. This action is barred, in whole or in part, by governing statutes of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. That this action is barred by the doctrines of waiver and estoppel.

WHEREFORE, Respondents, Amerimart Development Company, Qual-Econ Lease Co., Inc., MJG Enterprises, Inc. and Clear Alternative of Western NY, Inc., demand the following:

1. Dismissal of the Complaint in its entirety; and
2. Granting of such other and further relief as the court may deem just and proper.

PROPOSED CIVIL PENALTY

Respondents dispute and deny the Proposed Civil Penalty and the basis upon which it was computed and request the opportunity to submit a separate computation at the time of the hearing.

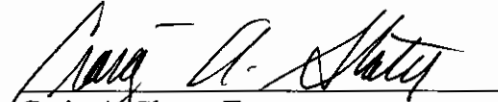
REQUEST FOR HEARING

Under the provisions of 40 CFR §22.15(c), Respondents request a hearing on the allegations of the Complaint and/or informal settlement conference prior to such hearing.

Dated: Buffalo, New York
September 18, 2012.

THE SLATER LAW FIRM, PLLC

By:



Craig A. Slater, Esq.
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Buffalo, NY 14203-3014
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- and -

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