



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUN 30 2008

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stephen F. Selvaggio
Barnsley Square LP
623 Selvaggio Drive
Nazareth, PA 18064

RE: Administrative Penalty Complaint, Docket No. CAA-03-2008-0363

Dear Mr. Selvaggio:

Enclosed is a Complaint and Notice of Opportunity for Hearing ("Complaint") concerning the violation by Barnsley Square LP, ("BSL") and Selvaggio Enterprises, Inc. ("SEI") of Section 112 of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7412. The Complaint is based on violation of the asbestos National Emission Standard for Hazardous Air Pollutants ("asbestos NESHAP"), regulations pertaining to the emission, handling, and disposal of asbestos by owners or operators of a demolition or renovation activity at an affected facility, codified at 40 C.F.R. Part 61, Subpart M. The violation relates to the failure to provide notification of a demolition project involving Regulated Asbestos Containing Material ("RACM"). The Complaint should be read and analyzed carefully to determine the alternatives available to you in responding to the alleged violation and proposed penalty.

Unless you elect to resolve the proceeding by paying the penalty proposed in the Complaint, an Answer to this Complaint must be filed within thirty (30) days of its receipt. The Answer must specifically respond to each of the allegations in the Complaint. Failure to respond by specific Answer within 30 days of your receipt of this document will constitute an admission of the allegations made in the Complaint. Failure to answer shall result in the filing of a Motion for a Default Order and the possible issuance of a Default Order imposing the penalty proposed in the Complaint and Notice without further proceedings.

You may choose to request a hearing to contest any matter set forth in the Complaint. Such request must be included in your Answer to this Complaint. Whether or not a hearing is requested, you may request an informal settlement conference to discuss resolution of this case. A request for a settlement conference may be included in your Answer.

If you are not represented by legal counsel, you may also request a settlement conference by contacting the attorney assigned to this case:

Daniel E. Boehmcke (3RC10)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Boehmcke can be reached by telephone at (215) 814-2607. If you are represented by legal counsel, your counsel should contact Mr. Boehmcke.

Sincerely,

A handwritten signature in black ink, appearing to read "Abraham Ferdas". The signature is fluid and cursive, with the first name "Abraham" and last name "Ferdas" clearly distinguishable.

Abraham Ferdas, Director
Waste and Chemicals Management Division

Enclosures

cc: Richard Ponak
Case Developer

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

IN RE:

Barnsley Square LP
623 Selvaggio, Dr.
Nazareth, PA 18064, and

Selvaggio Enterprises, Inc.
623 Selvaggio Dr., Suite 200
Nazareth, PA 18064,

Respondents

DOCKET NO: CAA-03-2008-0363

ADMINISTRATIVE COMPLAINT
AND NOTICE OF
OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. Complainant, the Division Director of the Waste and Chemicals Management Division, United States Environmental Protection Agency, Region III ("EPA") initiates this administrative action against Barnsley Square LP ("BSL") and Selvaggio Enterprises, Inc. ("SEI") (hereinafter collectively referred to as "Respondents"), for violations of Section 112 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7412, as alleged below. The authority for issuance of this Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is set forth in Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22. The authority to issue this Complaint has been duly delegated to the signatory below.

II. APPLICABLE STATUTES AND REGULATIONS

2. Section 112 of the CAA, 42 U.S.C. § 7412, requires the Administrator of EPA to publish a list of air pollutants determined to be hazardous and to promulgate regulations establishing emission standards or, where necessary, design, equipment, work practice, or operational standards for each listed hazardous air pollutant.
3. Section 114 of the CAA, 42 U.S.C. § 7414, authorizes the Administrator of EPA to require any person who owns or operates any emission source or who is otherwise subject to the requirements of the CAA to, among other things, establish and maintain such records, make such reports and provide such information as the Administrator might reasonably require to develop or determine compliance with emission standards.
4. EPA listed asbestos as a hazardous air pollutant under the authority of Section 112 of the CAA, 42 U.S.C. § 7412. Pursuant to Sections 112 and 114 of the CAA, 42 U.S.C. §§ 7412 and 7414, EPA promulgated a National Emission Standard for Asbestos (“the asbestos NESHAP”), 49 FR 13661 (Apr 5, 1984), codified at 40 C.F.R Part 61, Subpart M, Sections 61.140 et seq. The asbestos NESHAP includes regulations governing, inter alia, the emission, handling, and disposal of asbestos by the owner or operator of a demolition or renovation activity at an affected facility. Pursuant to Section 112(q) of the CAA, 42 U.S.C. § 7412(q), the above referenced standards and provisions remain in full force and effect, notwithstanding the November 15, 1990 Clean Air Act Amendments. Many, but not all, provisions of the Asbestos NESHAP were subsequently amended, 55 FR 48414 (Nov. 20, 1990).
5. Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty

whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any rule, plan, order, waiver, or permit promulgated, issued, or approved under, inter alia, Section 112 of the CAA, 42 U.S.C. § 7412.

III. DEFINITIONS

6. Pursuant to 40 C.F.R. § 61.141, “adequately wet” means, sufficiently mix or penetrate with liquid to prevent the release of particulates.
7. Pursuant to 40 C.F.R. § 61.141, “asbestos” means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.
8. Pursuant to 40 C.F.R. § 61.141, “asbestos-containing waste materials” means, in pertinent part, any waste that contains commercial asbestos and is generated by a source, subject to the provisions of the asbestos NESHAP, including friable asbestos waste material, bags or other similar packaging contaminated with commercial asbestos, regulated asbestos-containing material waste, and materials contaminated with asbestos including disposable equipment and clothing.
9. Pursuant to 40 C.F.R. § 61.141, “Category II nonfriable asbestos-containing material (“ACM”)” means, in pertinent part, any material that contains more than 1 percent asbestos as determined using the methods specified in 40 C.F.R. Part 763, Polarized Light Microscopy (the “PLM Method”), that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

10. Pursuant to 40 C.F.R. § 61.141, “demolition” means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
11. Pursuant to 40 C.F.R. § 61.141, “facility” means any institutional, commercial, public, industrial, or residential structure, installation, or building.
12. Pursuant to 40 C.F.R. § 61.141, “facility component” means any part of a facility, including equipment.
13. Pursuant to 40 C.F.R. § 61.141, “friable asbestos material” means, in pertinent part, any material that contains more than 1 percent asbestos as determined using the method specified in 40 C.F.R. Part 763, Polarized Light Microscopy, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.
14. Pursuant to 40 C.F.R. § 61.141, “owner or operator of a demolition or renovation activity” means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises a demolition or renovation operation, or both.
15. Pursuant to 40 C.F.R. § 61.141, “regulated asbestos-containing material (“RACM”)” means, in pertinent part, friable asbestos material or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.
16. Pursuant to 40 C.F.R. § 61.141, “renovation” means altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component.

17. Pursuant to 40 C.F.R. § 61.145(a), all of the requirements of paragraphs (b) and (c) of 40 C.F.R. § 61.145 apply to the owner or operator of a renovation activity if the combined amount of RACM is at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components.

18. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include “an individual, corporation, partnership, (or) association.”

IV. GENERAL ALLEGATIONS

19. Respondent BSL is a corporation organized under the laws of, and doing business in, the Commonwealth of Pennsylvania with an office location at 623 Selvaggio Drive, Nazareth, PA 18064. At all times relevant to this Complaint, BSL was the owner of the Facility at which asbestos containing material was removed, known as the Country Roots property, located at 7065-A William Penn Hwy., Bethlehem, Northampton County, PA 18017 (the “Facility”) during the renovation of the Facility. As such, BSL constituted the owner of the Facility for purposes of the renovation referenced herein and the asbestos NESHAP.

20. Respondent SEI is a corporation organized under the laws of, and doing business in, the Commonwealth of Pennsylvania with an office location at 623 Selvaggio Drive, Suite 200, Nazareth, PA 18064. Stephen F. Selvaggio (“Mr. Selvaggio”) is the owner and president of SEI. At all times relevant to this Complaint, SEI was engaged in the removal of asbestos containing material from the Facility during the renovation of the Facility and controlled, operated and/or supervised the Facility being renovated. As such, SEI constituted the operator of the Facility for purposes of the renovation referenced herein and the asbestos NESHAP.

21. Respondents are “persons” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

22. At all times relevant to this Complaint, Respondent BSL was the “owner or operator of a demolition or renovation activity” as that term is defined at 40 C.F.R. § 61.141.

23. At all times relevant to this Complaint, Respondent SEI was the “owner or operator of a demolition or renovation activity” as that term is defined at 40 C.F.R. § 61.141.

24. Upon information and belief, Respondents removed asbestos containing material from the Facility from at least July 25, 2006 until at least August 30, 2006.

25. On July 25, 2006, a duly-authorized representative of EPA (“the EPA inspector”) conducted an inspection of the Facility (“July 25, 2006 inspection”).

26. At the time of the July 25, 2006 inspection, the EPA inspector observed a very large barn at the rear of the Facility partially covered in transite siding. The EPA inspector also observed transite debris that had been crumbled, pulverized and/or reduced to powder on the ground next to the barn. The inspector observed that the debris on the ground at the time of the July 25, 2006 inspection was less than 160 square feet, though the total amount of asbestos eventually removed from the Facility, as referenced in paragraph 34, below, was greater than 160 square feet.

27. During the July 25, 2006 inspection, the EPA inspector spoke with Respondent SEI’s representative, who stated the transite was removed whole and lowered to the ground. The EPA inspector informed Respondent SEI’s representative that the transite needed to be handled in such a way that it remained nonfriable or the renovation would become regulated under the asbestos NESHAP.

28. On August 23, 2006, the EPA inspector conducted a second inspection at the Facility (“August 23, 2006 inspection”).

29. During the August 23, 2006 inspection, the EPA inspector observed transite debris that had been crumbled, pulverized and/or reduced to powder throughout the site and in Respondent SEI's truck.

30. During the August 23, 2006 inspection, the EPA inspector also observed a crew of Respondent SEI's employees (the "SEI crew") cleaning up RACM debris at the Facility. The EPA inspector observed that all of the transite debris was dry, and that there was no water source on site. The EPA inspector spoke with members of the SEI crew, who stated that they used hammers and pry bars to remove the transite siding from the barn's exterior walls, and dropped the transite siding thus removed to the ground from whatever elevation it had been removed. Members of the SEI crew also stated that the remainder of the transite siding removed from the barn was located in a dumpster at the SEI office.

31. During the August 23, 2006 inspection, the EPA inspector took photographs and samples of transite debris. Subsequent laboratory analysis of the samples taken by the EPA inspector, performed using the PLM Method, established that all of the sampled materials collected by the EPA inspector contained greater than one percent asbestos.

32. On August 30, 2006, the inspector conducted a third inspection of the Facility and an inspection at the SEI offices ("August 30, 2006 inspection").

33. During the August 30, 2006 inspection of the Facility, the inspector observed pieces of transite debris which had been crumbled, pulverized and/or reduced to powder on the ground around the barn at the Facility. The EPA Inspector observed that no one was working at the Facility at the time of the August 30, 2006 inspection.

34. During the August 30, 2006 inspection at the SEI offices, the EPA inspector observed a 40-yard rolloff dumpster (Approx. Dimensions: 7.5' Wide x 22' Long x 8' High) filled with

transite debris. The amount of transite observed in the dumpster exceeded 160 square feet. All of the visible transite debris in the dumpster was observed by the EPA inspector to be dry and either broken or crumbled. The EPA inspector spoke with Mr. Selvaggio of Respondent SEI, who stated that the transite in the dumpster was the transite removed by Respondent SEI from the barn at the Facility.

35. During the August 30, 2006 inspection, the EPA inspector took one sample of the transite debris from the dumpster. Subsequent laboratory analysis of the sample taken by the EPA inspector, performed using the PLM Method, established that the sampled material collected by the EPA inspector contained greater than one percent asbestos.

36. All of the transite debris at the site containing greater than one percent asbestos as demonstrated by the sample analysis described in paragraphs 31 and 35, above, became RACM once it was handled in such a way that it became crumbled, pulverized and/or reduced to powder, as observed by the EPA inspector during the July 25, 2006, August 23, 2006, and August 30, 2006 inspections.

37. During the August 30, 2006 inspection at the SEI offices, the EPA inspector informed Mr. Selvaggio that there were potential violations of the asbestos NESHAP regulations and that the RACM waste in the dumpster was subject to the requirement under the asbestos NESHAP to be wetted and kept adequately wet until collected for disposal and to be disposed of as RACM as soon as practicable in a landfill qualified to accept RACM.

38. The Facility is a "facility" within the meaning of 40 C.F.R. § 61.141.

39. At some time prior to the commencement of the renovation, the asbestos-containing transite material referenced in Paragraphs 26, 27, 29 through 31, and 33 through 35, above, constituted "Category II non-friable ACM" as defined at 40 C.F.R. § 61.141.

40. The asbestos-containing material referenced in Paragraphs 26, 27, 29 through 31, and 33 through 35, above, constitutes "RACM" as that term is defined at 40 C.F.R. § 61.141 and asbestos containing waste material as that term is defined at 40 C.F.R. § 61.141.

41. The activities conducted by Respondents at the Facility in removing asbestos material as referenced hereinabove constituted a "renovation" within the meaning of 40 C.F.R. § 61.141.

V. VIOLATIONS

Count I

FAILURE TO PROVIDE ADMINISTRATOR WITH WRITTEN NOTICE OF INTENTION TO RENOVATE

42. Complainant realleges the allegations contained in paragraphs 1 through 41 above.

43. Pursuant to 40 C.F.R. § 61.145(b)(1), each owner or operator of a demolition or renovation activity shall provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

44. Subsequent to the July 25, 2006 inspection, the inspector checked the notification files maintained by EPA Region III and state notification files maintained by the Commonwealth of Pennsylvania Department of Environmental Protection ("PADEP"), and found no record of notification for the renovation carried out by the owner or operator at the Facility.

45. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(b)(1) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

Count II

FAILURE TO HAVE ON-SITE REPRESENTATIVE TRAINED IN THE PROVISIONS OF ASBESTOS NESHAP

46. Complainant realleges the allegations contained in paragraphs 1 through 45 above.

47. Pursuant to 40 C.F.R. § 61.145(c)(8), each owner or operator of a demolition or renovation activity shall comply with the following procedures: Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.

48. At the time of the July 25, 2006 inspection and August 23, 2006 inspections, the EPA inspector inquired of Respondents' representatives on-site whether anyone on-site was trained in the provisions of the asbestos NESHAP and was told that no one on-site had any asbestos training or certifications.

49. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(c)(8) on July 25, 2006 and August 23, 2006 constitutes two separate violations of Section 112 of the CAA, 42 U.S.C. § 7412.

Count III

FAILURE TO KEEP REMOVED RACM ADEQUATELY WET UNTIL COLLECTED FOR DISPOSAL

50. Complainant realleges the allegations contained in paragraphs 1 through 49 above.

51. Pursuant to 40 C.F.R. § 61.145(c)(6)(i), owners and operators of demolition or renovation activities must adequately wet all RACM, including material that has been removed or stripped, and ensure the RACM remains wet until collected and contained or treated in preparation for disposal.

52. At the time of the July 25, 2006, August 23, 2006, and August 30, 2006 inspections, the EPA inspector determined that dry RACM which had been removed or stripped from the Facility had been deposited in and around the Facility and in Respondent SEI's truck. Further, during the

August 30, 2006 inspection, after observing representative samples of the RACM awaiting collection and disposal in the dumpster at Respondent SEI's headquarters, the EPA inspector observed that the RACM was not adequately wetted pursuant to 40 C.F.R. § 61.145(c)(6)(i).

53. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(c)(6)(i) on July 25, 2006, August 23, 2006 and August 30, 2006 constitutes three separate violations of Section 112 of the CAA, 42 U.S.C. § 7412.

Count IV

FAILURE TO DEPOSIT ALL ASBESTOS-CONTAINING WASTE MATERIAL AS SOON AS PRACTICAL AT A WASTE DISPOSAL SITE OPERATED IN ACCORDANCE WITH 40 C.F.R. § 61.154

54. Complainant realleges the allegations contained in paragraphs 1 through 53 above.

55. Pursuant to 40 C.F.R. § 61.150(b)(1), all asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at a waste disposal site operated in accordance with the provisions of 40 C.F.R. § 61.154.

56. At the time of the July 25, 2006 inspection, the EPA inspector informed Respondent SEI's on-site supervisor that, if the siding was crushed or broken, it would become RACM and would need to be disposed of as RACM. At the time of the August 30, 2006 inspection, RACM removed from the Facility was still located in a dumpster at Respondent SEI's offices. The RACM was not disposed of until September 2, 2006.

57. The RACM removed from the Facility was disposed of at Chrin Brothers Sanitary Landfill, located at 635 Industrial Drive in Easton, PA. Chrin Brothers Sanitary Landfill did not, at the time of disposal of RACM waste from the Facility, constitute a waste disposal site operated in accordance with the provisions of 40 C.F.R. § 61.154.

58. Respondents' failure to timely dispose of RACM from the Facility, and its failure to dispose of the RACM waste at a disposal site meeting the requirements of 40 C.F.R. § 61.154 in compliance with the requirements of 40 C.F.R. § 61.150(b)(1) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

V. PROPOSED CIVIL PENALTY

Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, authorize a penalty of not more than \$27,500 for each violation of the CAA that occurred on or after January 30, 1997. EPA proposes to assess a civil penalty of sixty-four thousand four hundred seventy five dollars and no cents (\$64,475.00) against Respondents as follows:

A. **Gravity Component**

Count I:

Failure to provide administrator with
written notice of intention to renovate
(> 10 units but < 50 units)
40 C.F.R. § 61.145(b)(1)

\$15,000.00

Count II:

Failure to have on-site representative
trained in the provisions of asbestos
NESHAP (> 10 units but < 50 units)
40 C.F.R. § 61.145(c)(8)
2 documented days of violation

\$11,000.00

Count III:

Failure to keep stripped RACM
adequately wet until collected
for disposal (> 10 units but < 50 units)
40 C.F.R. § 61.145(c)(6)(i)
3 documented days of violation \$12,000.00

Count IV:

Failure to deposit all asbestos-containing
waste material as soon as practical at a
waste disposal site operated in accordance
with 40 C.F.R. § 61.154 (> 10 units but
< 50 units)
40 C.F.R. § 61.150(b)(1) \$10,000.00

Size of the Violator \$2,000.00
\$50,000.00

INFLATION ADJUSTMENT: 1.2895 X

SUBTOTAL \$64,475.00

B. Economic Benefit \$0.00

TOTAL PROPOSED PENALTY: \$64,475.00

The proposed civil penalty has been determined in accordance with Section 113 of the CAA, 42 U.S.C. § 7413; 40 C.F.R. Part 19; U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1992 ("CAA Penalty Policy"), and Appendix III thereto ("Asbestos Penalty Policy"); and Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996), dated May 9, 1997 ("Inflation Policy"). Copies of the CAA Penalty Policy, Asbestos Penalty

Policy, and the Inflation Policy are enclosed with this Complaint. The proposed penalty is not a demand as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

In determining the amount of any penalty to be assessed, Section 113(e) of the CAA, 42 U.S.C. § 7413(e), requires EPA to take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. To develop the proposed penalty herein, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's Asbestos Penalty Policy as well as the CAA Penalty Policy, both of which were indexed for inflation in keeping with 40 C.F.R. Part 19.

EPA will consider, among other factors, Respondents' ability to pay to adjust the proposed civil penalty assessed in this Complaint. The proposed penalty reflects a presumption of Respondents' ability to pay the penalty and to continue in business based on the size of their businesses and the economic impact of the proposed penalty on their businesses. The burden of raising and demonstrating an inability to pay rests with Respondents. In addition, to the extent that facts or circumstances unknown to Complainant at the time of the issuance of the Complaint become known after issuance of the Complaint, such facts and circumstances may also be considered as a basis for adjusting the proposed civil penalty assessed in the Complaint.

EPA's applicable penalty policy represents an analysis of the statutory penalty factors enumerated above, as well as guidance on their application to particular cases. If the penalty proposed herein is contested through the hearing process described below, Complainant is

prepared to support the statutory basis for the elements of the penalty policy applied in this case as well as the amount and nature of the penalty proposed.

The gravity component of the penalty accounts for the amount of asbestos involved (more than 10 Units but less than 50 Units) and the substantive nature of the violation. No further adjustment of the penalty appears warranted under the applicable penalty policies at this time. If appropriate, further penalty adjustments may be made during settlement negotiations. EPA reserves the right to seek higher penalties if new evidence supports such assessment.

VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondents have the right to request a hearing to contest any matter of law or material fact set forth in the Complaint or the appropriateness of the proposed penalty. To request a hearing, Respondents must file a written Answer to this Complaint with the Regional Hearing Clerk, U.S. EPA Region III (3RC00), 1650 Arch Street, Philadelphia, PA 19103-2029 within **thirty (30) days** of receipt of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondents have any knowledge. If Respondents have no knowledge of a particular factual allegation, the Answer should so state. That statement will be deemed a denial of the allegation. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondents dispute; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. All material facts not denied in the Answer will be considered as admitted. A copy of the Answer and all other documents filed with the Regional Hearing Clerk related to this Complaint must be sent to Daniel E. Boehmcke (3RC10), Senior Assistant Regional Counsel, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029.

If any Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint as to that Respondent and a waiver of the right to a hearing under Section 113 of the CAA, 42 U.S.C. § 7413. Failure to Answer may result in the filing of a Motion for Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. § 554, and the Consolidated Rules at 64 Fed. Reg. 40,138 (to be codified at 40 C.F.R. Part 22). A copy of these rules is enclosed. Hearings will be held in a location to be determined at a later date pursuant to 64 Fed. Reg. 40,138 (see 40 C.F.R. § 22.21(d)).

VII. SETTLEMENT CONFERENCE

EPA encourages settlement of proceedings at any time after issuance of a Complaint if such settlement is consistent with the provisions and objectives of the CAA. Whether or not a hearing is requested, Respondents may confer with Complainant regarding the allegations of the Complaint and the amount of the proposed civil penalty.

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. Settlement conferences shall not affect the requirement to file a timely Answer to the Complaint.

The attorney assigned to this case is Daniel E. Boehmcke, Senior Assistant Regional Counsel. If you have any questions or desire to arrange an informal settlement conference, please contact Mr. Boehmcke at (215) 814-2607 before the expiration of the thirty (30) day period following your receipt of this Complaint. If you are represented by legal counsel, you

must have your counsel contact Mr. Boehmcke on your behalf. Please be advised that the Consolidated Rules at 64 Fed. Reg. 40,138 (see 40 C.F.R. § 22.8) prohibit any unilateral discussion of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator or the Regional Judicial Officer after the issuance of a Complaint.

VIII. QUICK RESOLUTION

In accordance with 40 C.F.R. § 22.18(a) of the Consolidated Rules (64 Fed. Reg. 40,138), Respondents may resolve this proceeding at any time by paying the specific penalty proposed in this Complaint or in Complainant's prehearing exchange. If Respondents pay the specific penalty proposed in this Complaint within 30 days of receiving this Complaint, then, pursuant to 40 C.F.R. § 22.18(a)(1) of the Consolidated Rules (64 Fed. Reg. 40,138), no Answer need be filed.

If Respondents wish to resolve this proceeding by paying the penalty proposed in this Complaint instead of filing an Answer but need additional time to pay the penalty, pursuant to 40 C.F.R. § 22.18(a)(2) of the Consolidated Rules (64 Fed. Reg. 40,138), Respondents may file a written statement with the Regional Hearing Clerk within 30 days after receiving this Complaint stating that Respondents agree to pay the proposed penalty in accordance with 40 C.F.R. § 22.18(a)(1) (64 Fed. Reg. 40,138). Such written statement need not contain any response to, or admission of, the allegations in the Complaint. Such statement shall be filed with the Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and a copy shall be provided to Daniel E. Boehmcke (3RC10), Senior Assistant Regional Counsel, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Within 60 days of receiving the Complaint, Respondent shall pay the full amount of the

proposed penalty. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondent to default pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules (64 Fed. Reg. 40,138).

Upon receipt of payment in full, in accordance with 40 C.F.R. § 22.18(a)(3) of the Consolidated Rules (64 Fed. Reg. 40,138), the Regional Judicial Officer or Regional Administrator shall issue a final order. Payment by Respondents shall constitute a waiver of Respondents' rights to contest the allegations and to appeal the final order.

Payment of the penalty shall be made by sending a certified or cashier's check made payable to the Treasurer of the United States of America, in care of:

EPA Region III
Regional Hearing Clerk
P. O. Box 360515
Pittsburgh, PA 15251-6515

Copies of the check shall be mailed at the same time payment is made to: Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Daniel E. Boehmcke (3RC10), Senior Assistant Regional Counsel, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

6/30/80
Date


Abraham Ferdas, Director
Waste and Chemicals Management Division

CERTIFICATE OF SERVICE

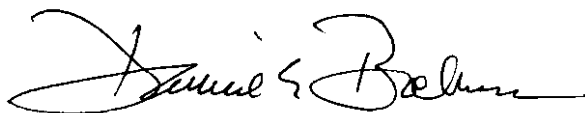
I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Administrative Complaint were hand-delivered to and filed with the Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA, and that true and correct copies was served via USPS Certified Mail, upon the following persons:

Mr. Stephen F. Selvaggio
Selvaggio Enterprises, Inc.
623 Selvaggio Drive, Suite 200
Nazareth, PA 18064

Mr. Stephen F. Selvaggio
Barnsley Square LP
623 Selvaggio Drive
Nazareth, PA 18064

6/30/08

Date



Daniel E. Boehmcke
Senior Assistant Regional Counsel
U.S. EPA , Region III
(215) 814-2607



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUN 30 2008

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stephen F. Selvaggio
Selvaggio Enterprises, Inc.
623 Selvaggio Drive, Suite 200
Nazareth, PA 18064

RE: Administrative Penalty Complaint, Docket No. CAA-03-2008-0363

Dear Mr. Selvaggio:

Enclosed is a Complaint and Notice of Opportunity for Hearing ("Complaint") concerning the violation by Selvaggio Enterprises, Inc., ("SEI") and Barnsley Square LP, ("BSL") of Section 112 of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7412. The Complaint is based on violation of the asbestos National Emission Standard for Hazardous Air Pollutants ("asbestos NESHAP"), regulations pertaining to the emission, handling, and disposal of asbestos by owners or operators of a demolition or renovation activity at an affected facility, codified at 40 C.F.R. Part 61, Subpart M. The violation relates to the failure to provide notification of a demolition project involving Regulated Asbestos Containing Material ("RACM"). The Complaint should be read and analyzed carefully to determine the alternatives available to you in responding to the alleged violation and proposed penalty.

Unless you elect to resolve the proceeding by paying the penalty proposed in the Complaint, an Answer to this Complaint must be filed within thirty (30) days of its receipt. The Answer must specifically respond to each of the allegations in the Complaint. Failure to respond by specific Answer within 30 days of your receipt of this document will constitute an admission of the allegations made in the Complaint. Failure to answer shall result in the filing of a Motion for a Default Order and the possible issuance of a Default Order imposing the penalty proposed in the Complaint and Notice without further proceedings.


You may choose to request a hearing to contest any matter set forth in the Complaint. Such request must be included in your Answer to this Complaint. Whether or not a hearing is requested, you may request an informal settlement conference to discuss resolution of this case. A request for a settlement conference may be included in your Answer.

If you are not represented by legal counsel, you may also request a settlement conference by contacting the attorney assigned to this case:

Daniel E. Boehmcke (3RC10)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Boehmcke can be reached by telephone at (215) 814-2607. If you are represented by legal counsel, your counsel should contact Mr. Boehmcke.

Sincerely,


Abraham Ferdas, Director
Waste and Chemicals Management Division

Enclosures

cc: Richard Ponak
Case Developer