



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 03 2010

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Barbara H. Gallo, Esq.  
Krevolin Horst, LLC  
One Atlantic Center, Suite 3250  
1201 West Peachtree Street  
Atlanta, Georgia 30309

RE: Apto Solutions, Inc.  
Consent Agreement and Final Order (CAFO)  
Docket No. RCRA-04-2010-4002(b)

Dear Ms. Gallo:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Apto Solutions, Inc. on notice of its potential duty to disclose to the Securities Exchange Commission (SEC) any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-9705.

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred R. Politzer".

Alfred R. Politzer  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosures (2)

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
 )  
APTO SOLUTIONS, INC., )  
1910 MACARTHUR BOULEVARD )  
ATLANTA, GEORGIA 30318 )  
RESPONDENT )  
\_\_\_\_\_ )

) DOCKET NO. RCRA-04-2010-4002(b)  
) PROCEEDING UNDER SECTION  
) 3008(a) OF THE RESOURCE  
) CONSERVATION AND RECOVERY  
) ACT, 42 U.S.C. § 6928(a)

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**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921, *et. seq.*, and the Georgia Hazardous Waste Management Act (GHWMA), GA. CODE ANN. § 12-8-60, *et. seq.* This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA, GHWMA, and the regulations promulgated pursuant thereto, set forth at Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 261, and Title 391 of the Georgia Administrative Code (GA. COMP. R. & REGS.) Chapter 391-3-11.

2. *The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

3. Complainant and Respondent have conferred for settlement purposes pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO, and Respondent hereby agrees to comply with the terms of this CAFO.

**II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA) Region 4.

5. Respondent is Apto Solutions, Inc. (APTO), a corporation incorporated under the laws of Georgia and doing business in the State of Georgia. The business is located at 1910 MacArthur Boulevard, Atlanta, Georgia 30318.

### III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on August 21, 1984, the State of Georgia received final authorization to carry out certain portions of RCRA, including those recited herein, in lieu of the federal program. The requirements of the authorized program are found at GA. CODE ANN § 12-8-60, *et. seq.* and GA. COMP. R. & REGS. 391-3-11-.01, *et. seq.* The Georgia Environmental Protection Division is charged with the statutory duty of enforcing the laws of Georgia relating to hazardous waste management. Therefore, for the purpose of this CAFO, a citation hereinafter to the requirements of RCRA and the federal regulations promulgated pursuant thereto, shall constitute a citation to the equivalent requirements of the Georgia Code and regulations.

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by EPA until the State is granted final authorization with respect to those requirements. On September 18, 1986, the State of Georgia received authorization under HSWA.

8. Although EPA has granted the state of Georgia authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the state of Georgia.

9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to the State of Georgia before the issuance of this CAFO.

10. A "cathode ray tube" (CRT) is defined as a vacuum tube, composed primarily of glass, which is the video or visual display component of an electronic device. 40 C.F.R. § 261.10; GA. COMP. R. & REGS. 391-3-11-.02(1).

11. Manufacturers use significant quantities of lead in order to make color CRTs. Studies show that CRTs leach lead at levels considerably above the toxicity characteristic regulatory level used to classify lead-containing wastes as hazardous (40 C.F.R. § 261.24(b)). In addition, CRTs often contain other hazardous constituents, such as mercury, cadmium, and arsenic. *See* 71 Fed. Reg. 42928, at 42930 (July 28, 2006). Although lead contained in used, intact CRTs may be less likely to be released to the environment, EPA believes that "used CRTs sent abroad are sufficiently waste-like" to be subject to regulation in order to "help ensure that the CRTs are not discarded." *See id.* at 42938.

12. Section 3007 of RCRA, 42 U.S.C. § 6927, authorizes the EPA Administrator to promulgate regulations necessary to obtain information pertaining to materials that may become solid or

hazardous wastes. This authority served as the basis for the promulgation of the regulations set forth at 40 C.F.R. § 261.41. *See* 71 Fed. Reg. 42928, at 42939 (July 28, 2006).

13. Pursuant to 40 C.F.R. § 261.41(a) and GA. COMP. R. & REGS. 391-3-11-.07(1), persons who export used, intact CRTs for reuse must send a one-time notification to the EPA Regional Administrator.

14. The 40 C.F.R. § 261.41(a) notification must include a statement that the notifier plans to export used, intact CRTs for reuse, and the notification must include the notifier's name, address, and EPA ID number (if applicable) and the name and phone number of a contact person.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

15. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); 40 C.F.R. § 260.10; and GA. COMP. R. & REGS. 391-3-11-.02(1).

16. Respondent is in the business of refurbishing, recycling and selling used electronic equipment. Between May 2008 and January 2009, Respondent sold used, intact CRTs for reuse to exporting companies such as Trans Atlantic Exports, Misr America for Import & Export, Tech Mart, Inc, and DGX Canada, which subsequently exported the CRTs.

17. In a letter dated November 17, 2008, pursuant to 40 C.F.R. § 261.41(a), Respondent notified EPA Region 4 that it intended "to export used CRT monitors for reuse, refurbishment, or remanufacturing." In addition, pursuant to 40 C.F.R. § 261.41(a), the letter contained the notifier's name, address, and the name and phone number of a contact person.

18. As set forth above, prior to its November 17, 2008, letter to EPA, EPA asserts that Respondent had already exported used, intact CRTs for reuse. Specifically, EPA asserts that Respondent facilitated the export of 16 shipments of used CRTs for reuse in Egypt, Canada, and Tanzania. Therefore, EPA alleges that Respondent violated 40 C.F.R. § 261.41, because Respondent failed to comply with the notification requirements set forth at 40 C.F.R. § 261.41(a) prior to facilitating these shipments. Respondent disagrees, asserting that because it sold the CRTs to exporting companies, it was not itself exporting the CRTs, and therefore was not subject to the notification requirements.

#### **V. TERMS OF AGREEMENT**

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

19. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

20. Respondent neither admits nor denies EPA's factual allegations and determinations set out in this CAFO.

21. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
22. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.
23. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official accept and issue this CAFO.
24. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA.
25. Respondent, by signing this CAFO, certifies that all violations alleged in this CAFO have been corrected.
26. The parties agree that compliance with the terms of this CAFO shall resolve all of Respondent's liability for civil penalties for the violations and facts alleged and stipulated to in this CAFO.
27. Each party will pay its own costs and attorney's fees.

#### **VI. PAYMENT OF CIVIL PENALTY**

28. Respondent consents to the payment of a civil penalty in the amount of SIXTEEN THOUSAND TWO-HUNDRED NINETY DOLLARS (\$16,290.00) within thirty (30) calendar days of the effective date of this CAFO.
29. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearinghouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check and in a cover letter transmitting the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
**US EPA Fines & Penalties**  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read: "D 68010727  
Environmental Protection Agency"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 – checking  
Environmental Protection Agency  
808 17th Street NW  
Washington, District of Columbia 20074  
Contact: Jesse White, (301) 887-6548

30. Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

And to:

Larry L. Lamberth, Chief  
South Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

31. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

(a) Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

(b) Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.

(c) Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

32. Penalties paid pursuant to this CAFO are not deductible for federal tax purposes under 26 U.S.C. § 162(f).

#### **VII. PARTIES BOUND**

33. This CAFO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CAFO.

34. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CAFO.

35. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to it.

#### **VIII. RESERVATION OF RIGHTS**

36. Notwithstanding any other provision of this CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or

hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.

37. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CAFO.

38. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

39. This CAFO may be amended or modified only by written agreement executed by both the EPA and Respondent.

#### **IX. OTHER APPLICABLE LAWS**

40. All actions required to be taken pursuant to this CAFO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

#### **X. SERVICE OF DOCUMENTS**

41. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Alfred Politzer  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

A copy of any documents that Complainant files in this action shall be sent to the following attorney who represents Respondent in this matter and who is authorized to receive service for Respondent in the proceedings:


Barbara H. Gallo, Esq.  
Krevolin Horst, LLC  
One Atlantic Center, Suite 3250  
1201 West Peachtree Street  
Atlanta, Georgia 30309



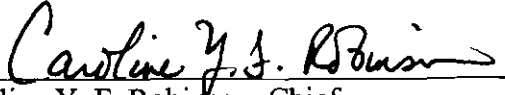
43. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Apto Solutions Inc.**

By:  Dated: 6/30/10  
Name: Jeffrey A. Jones (Typed or Printed)  
Title: CEO (Typed or Printed)

**U.S. Environmental Protection Agency**

By:  Dated: 7/7/10  
Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
)  
APTO SOLUTIONS, INC. )  
1910 MACARTHUR BOULEVARD )  
ATLANTA, GEORGIA 30318 )  
RESPONDENT )  
\_\_\_\_\_ )


) DOCKET NO. RCRA-04-2010-4002(b)  
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) ACT, 42 U.S.C. § 6928(a)  
)

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**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 26<sup>th</sup> day of July, 2010.

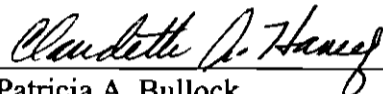
  
\_\_\_\_\_  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4

Alfred R. Politzer (Via EPA's internal mail)  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

Barbara H. Gallo, Esq. (Via Certified Mail - Return Receipt Requested)  
Krevolin Horst, LLC  
One Atlantic Center, Suite 3250  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 888-0169

Quantindra Smith (Via EPA's internal mail)  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

Date: August 3, 2010

  
for Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511