

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)

JUAN HERNANDEZ)
585 East Main Street)
Bridgeport, Connecticut 06608)

RESPONDENT.)

DOCKET NO.: TSCA-01-2012-0029

NOVEMBER 19, 2012

RECEIVED BY OALJ
2012 NOV 25 AM 9:24

OBJECTION TO MOTION FOR STAY OF PROCEEDING

The respondent Juan Hernandez (the "Respondent") hereby objects to complainant United States Environmental Protection Agency, Region I's (the "Complainant") Motion for Stay of Proceedings, dated November 6, 2012.

1. On March 27, 2012, the Complainant filed a five-count Complaint in the above-captioned matter, alleging violations of the Toxic Control Substances Act and the Residential Lead-Based Paint Hazard Reduction Act (the "Complaint").
2. Between April 2012 and June 2012, the Respondent worked diligently with the City of Bridgeport, Connecticut to provide Complainant with documentation pertaining to the allegations in the Complaint.
3. On June 20, 2012, in anticipation of a settlement conference between the Complainant and Respondent (collectively the "Parties"), the Respondent provided Complainant with a detailed Memorandum in Support of Penalty Reduction and documentation addressing all counts in the Complaint (the "Memorandum").

4. On June 22, 2012, the Parties participated in a settlement conference (the "Settlement Conference"). At that time, Complainant requested further documentation and more specific proposed penalty reduction.
5. On July 9, 2012, pursuant to the Settlement Conference, the Respondent submitted an Amended Supplemental Memorandum in Support of Penalty Reduction with additional documentation in support thereof (the "Supplemental Memorandum").
6. In July and August 2012, the Complainant requested that the Respondent file fourth and fifth extensions of time to allow the Complainant additional time to review the documentation. Respondent filed accordingly on July 30, 2012 and August 22, 2012.
7. On September 6, 2012, the Parties participated in a conference call with ALJ Leann Jensen, at which time she inquired as to the reason for the fifth extension, set a strict pleading deadline of October 5, 2012, and informed the Parties that no further extensions would be granted.
8. On October 2, 2012, three days before the October 5th deadline, Complainant informed Respondent that additional time was needed to further review the documentation.
9. On October 4, 2012, the Respondent filed his Answer.
10. By letter dated October 23, 2012, the Office of Administrative Law Judges offered the Parties the opportunity to settle the above-captioned matter via an alternative dispute resolution ("ADR") process.
11. On November 6, 2012, the Respondent accepted the offer to participate in ADR.

12. On November 6, 2012, the Complainant filed the Motion for Stay of Proceedings.
13. The Respondent has diligently responded to all of Complainant's requests for documentation over the past eight (8) months and voluntarily compiled, indexed, and outlined all documents provided.
14. After consenting to five extensions, producing two lengthy memoranda with voluminous supporting documentation, participating in a settlement conference at Complainant's office, and partaking in a conference call with ALJ Jensen, the Respondent has exhausted his efforts to resolve this matter and wishes to proceed in a timely manner.
15. Accordingly, the Respondent respectfully objects to the Complainant's Motion for Stay of Proceedings and requests that the Presiding Officer order the above-captioned matter to proceed as scheduled.

**THE RESPONDENT,
JUAN HERNANDEZ**

By: 

Daniel S. Nagel, Esq.
Rachel A. Schwartzman, Esq.
COHEN AND WOLF, P.C.
1115 Broad Street
Bridgeport, Connecticut 06604
Tel. 203.368.0211
Fax. 203.394.9901
Email: rschwartzman@cohenandwolf.com

CERTIFICATION OF SERVICE

I hereby certify that on November 19, 2012, the Objection to the Motion to Stay of Proceedings has been sent to the following persons on the date noted below:

Original via overnight mail/Fed Ex and copy by email:

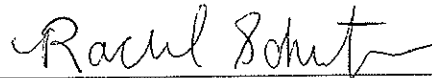
Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1
5 Post Office Square
Mail Code – ORA18-1
Boston Massachusetts 02109-3912

Copies via overnight mail/Fed Ex and email:

Steven Schlang
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square
Mail Code – ORA18-1
Boston Massachusetts 02109-3912

Copy via overnight mail/Fed Ex:

Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, DC 20460



Rachel A. Schwartzman