

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of:)
)
Amerimart Development Company, Inc.,) Docket No. RCRA-02-2012-7501
Qual-Econ Lease Co., Inc., Commercial)
Realty Fund II, MJG Enterprises, Inc., and)
Clear Alternative of Western, NY, Inc.,)
(d/b/a G & G Petroleum),)
)
Respondents.)

**ORDER ON JOINT MOTION FOR REAPPOINTMENT OF ADR NEUTRAL AND FOR
EXTENSION OF TIME TO FILE FULLY EXECUTED CONSENT
AGREEMENT/FINAL ORDER**

The United States Environmental Protection Agency (“EPA” or “Agency”), Region 2 (“Complainant”), initiated this proceeding on October 11, 2012, by filing a Complaint and Notice of Opportunity for Hearing against Amerimart Development Company, Inc., Qual-Econ Lease Co., Inc., Commercial Realty Fund II, MJG Enterprises Inc., and Clear Alternative of Western NY, Inc., (dba G & G Petroleum) (collectively “Respondents”). The Complaint alleges in thirty-three counts that Respondents violated Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C Section 6901 et seq. The Respondents filed their Answers on September 25, 2012.

On October 18, 2012 the undersigned issued an Order Initiating Alternative Dispute Resolution Process and Appointing Neutral. Judge Barbara A. Gunning was designated as the ADR Neutral. The parties were informed in that order that “the ADR process shall automatically terminate on December 17, 201,” but may be granted an extension of up to 60 days and “in no event shall ADR continue for longer than 4 months.” On November 21, 2012, the ADR Neutral recommended the continuation of the ADR process until January 18, 2013.

On December 19, 2012, the undersigned reassigned this matter to Judge M. Lisa Buschmann to serve as the ADR Neutral for the remainder of the ADR process due to the retirement of Judge Gunning.

On February 14, 2013, the Judge Buschmann recommended that the Alternative Dispute Resolution process in this case be terminated. In her Report Recommending Termination, the Judge Buschmann stated that the parties have developed a framework for settlement to settle the charges raised in the Complaint in this matter but have not reached a final agreement.

On February 15, 2013, I was designated to preside over this matter as the litigation judge. On February 25, 2013, I issued an Initial Prehearing Order which instructed the parties to file a fully-executed Consent Agreement and Final Order no later than March 25, 2013.

On March 11, 2013, the parties filed a Joint Motion for Reappointment of ADR Neutral and for Extension of Time to File Fully Executed Consent Agreement/Final Order ("Motion"). In the Motion, the parties state that they had made progress towards settlement during the ADR process, but need an additional 45 days because the process was adversely impacted by Hurricane Sandy and the departure of Judge Gunning. The parties further state that they need guidance with respect to some complex issues pertaining to settlement. The parties represent that Judge Buschmann indicated a willingness to extend ADR before it was terminated.

In that it is in the interest of the parties and judicial economy for there to be an amicable and efficient resolution of this matter, if possible, the Joint Motion for Reappointment of ADR Neutral and for Extension of Time to File Fully Executed Consent Agreement/Final Order is **GRANTED**. Therefore, all deadlines established in the Initial Prehearing Order issued on February 25, 2013 are hereby STAYED. Further, **Judge M. Lisa Buschmann**, is hereby appointed as a neutral to initiate and conduct such ADR processes as may facilitate a settlement of this proceeding. Unless terminated earlier at the request of either party, the ADR process shall automatically terminate on **May 6, 2013**.

SO ORDERED.



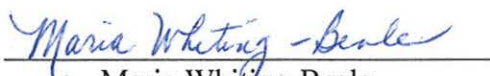
Susan L. Biro
Chief Administrative Law Judge

Dated: March 22, 2013
Washington, D.C.

In the Matter of Amerimart Development Company, Inc., Qual-Econ Lease Co., Inc., Commercial Realty Fund II, MJG Enterprises, Inc., and Clear Alternative or Western NY, Inc., (d/b/a G & G Petroleum), Respondents
Docket No. RCRA-02-2012-7501

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Joint motion For Reappointment Of ADR Neutral And For Extension of Time To File Fully Executed Consent Agreement/Final Order**, dated March 22, 2013, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: March 22, 2013

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