



State of New Jersey
SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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January 4, 2019

**Offer of Settlement In Lieu of Filing a
Formal Disciplinary Complaint**

By Certified and Regular Mail

Matthew DeMaio, LSRP
12 Edgewood Road
Sicklerville, NJ 08081

RE: In the matter of LSRP Matthew DeMaio, LSRP #591583
SRPL Board Complaint 004-2016

Dear Mr. DeMaio:

This letter is to advise you that the New Jersey Site Remediation Professional Licensing Board (“Board”) has reviewed information concerning your professional conduct in connection with the above captioned matter.

The Curtiss Wright Corporation Site (“Site”) is owned by Wood-Ridge Industrial Property Owner, LLC, and is located at 1 Passaic Street, Wood-Ridge Borough, Bergen County, New Jersey. The New Jersey Department of Environmental Protection (“Department”) has designated this contaminated site as PI 018813 and G000005620.

On or about April 10, 2013 and July 19, 2013, non-LSRP employees of Roux Associates, Inc. sent proposals and cost estimates to Wood-Ridge Industrial Property Owner, LLC on behalf of your company Roux Associates, Inc., that presented a professional fee estimate to complete remediation at the Site. Such work included the installation of sub slab vapor points to delineate the vapor levels in the sub slab to facilitate the design of a venting system, installation of pilot test and design of venting system, and installation of soil borings at three outside locations and two inside locations to be analyzed for volatile organic compounds. These activities meet the definition of remediation in N.J.S.A. 58:10C-2. As a result of the proposal, you arranged for non-LSRP employees of Roux Associates, Inc. to conduct remediation at the Site for Wood-Ridge Industrial Property Owner, LLC, including the collection for analysis of 67 sub slab samples, four soil borings, air samples and a soil vapor extraction pilot test. The non-LSRP

employees were not overseen by you or any other LSRP employed by Roux Associates, Inc. and retained by Wood-Ridge Industrial Property Owner, LLC for the Site.

Upon review of the available information, the Board has preliminarily found that probable cause exists to support a finding that you are in violation of N.J.S.A. 58:10C-16.i. and N.J.A.C. 7:26I-6.3(a) for failure to comply with the requirements and procedures set forth in the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 et seq. SRRA and related amendments of the Brownfield Act created a program requiring that a person initiating remediation of a contaminated site shall hire an LSRP to perform the remediation. SRRA also confers upon LSRPs the responsibility for remediating contaminated sites in conformance with the SRRA and all rules, regulations and orders adopted or issued pursuant thereto. In order to conform to this program, an LSRP has the responsibility to recognize when a site is a contaminated site, recognize when the work he or his company is hired to conduct constitutes remediation, recognize when the person hiring him or his company is a person responsible for conducting the remediation, and finally, recognize that an LSRP is required to be retained by the person responsible for conducting remediation to perform or oversee the remediation of the contaminated site.

An LSRP is required to adhere to statutory and regulatory mandates, including the requirement that the person responsible for conducting the remediation retain an LSRP to perform or oversee the remediation, pursuant to N.J.A.C. 7:26C-2.3(a)1. You did not adhere to these mandates when you arranged for non-LSRP employees of your company Roux Associates, Inc. to conduct remediation for Wood-Ridge Industrial Property Owner, LLC at the Site and neither you nor any other LSRP employed by Roux Associates, Inc. was retained by Wood-Ridge Industrial Property Owner, LLC to oversee the work conducted by the non-LSRP personnel.

As a result of the foregoing, the Board has preliminarily determined that the above violations are sufficient to warrant the initiation of formal proceedings against you. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in order to avoid the initiation of more formal proceedings if you consent to the following terms:

Agree to pay a civil administrative penalty in the amount of \$1,000.00, which is 80% of the assessed civil administrative penalty of \$1250.00 for a first violation of "medium" conduct and "low" severity as evaluated pursuant to the Board's "Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties." Payment should be by certified check or money order payable to "Treasurer, State of New Jersey."

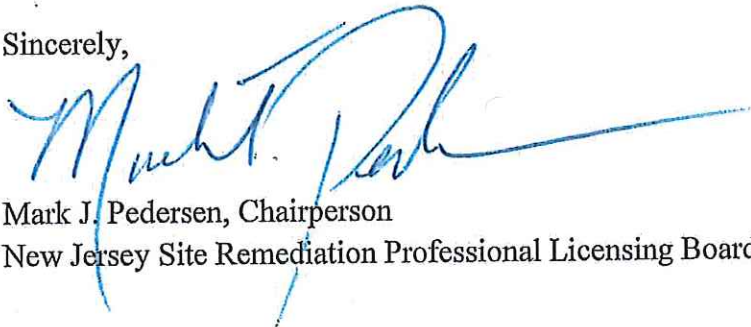
If we are unable to settle this matter, the Board will initiate formal proceedings. In such event, you will be afforded an opportunity to request a hearing before the Office of Administrative Law. You are advised, however, that if formal charges are filed, you may be assessed civil

penalties in an amount greater than that herein offered in settlement. Pursuant to N.J.S.A. 58:10C-17.e., any person who engages in conduct which is in violation of any provisions of the statutes and regulations administered by the Board shall, in addition to any other sanctions provided by statute, be liable for a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for every subsequent violation. Additionally, the Board may enter an order requiring you to pay the costs for the investigation which led to the establishment of the violations, and the costs of preparing and litigating the matter, pursuant to N.J.S.A. 58:10C-17.c.

If you elect to settle this matter, you should sign the attached Acknowledgement and return it to the Board within thirty-five (35) days following your receipt of this letter. Here, and throughout this document, the beginning date to calculate this 35-day time period is the date of delivery as indicated on the return receipt of this letter. If the Board receives no response from you within thirty-five (35) days, the Board's settlement offer shall be considered withdrawn and the Board will initiate formal proceedings before the Office of Administrative Law.

Should you have any questions concerning this letter or the Acknowledgement, you should seek the advice of your legal counsel. Please note that this letter and Acknowledgement are public documents.

Sincerely,



Mark J. Pedersen, Chairperson
New Jersey Site Remediation Professional Licensing Board

cc: Lawrence Powers, Esq.

ACKNOWLEDGEMENT

I, Matthew DeMaio, LSRP, hereby acknowledge that I have reviewed the attached January 4, 2019 letter and the settlement offer of the SRPL Board set forth therein ("Letter").

I accept the settlement offer of the SRPL Board and agree to the following to settle the matters addressed in the Letter:

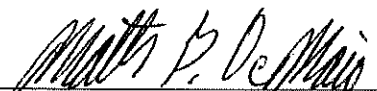
Immediate payment of a civil penalty of \$1,000.00.

Notwithstanding my decision to settle this matter, I do not admit any liability or wrongful act in connection with this matter. Neither this Acknowledgement nor any payment of penalty shall in any way be construed as an admission of any finding, wrongdoing, liability or violation of law or regulation.

I am aware that by signing this Acknowledgement I am waiving any rights I may have to an administrative hearing with respect to this matter. I am aware that the findings of the Board in connection with this matter are a matter of public record and that the Letter and this Acknowledgement are public documents.

Dated: _____

3/15/2019



Matthew DeMaio, LSRP #591583