



State of New Jersey

SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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Trenton, NJ 08625-0420
Tel: 609-292-1250 – Fax: 609-777-1914
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May 8, 2019

Board Determination and Offer of Settlement

By Certified and Regular Mail

Ronald Dooney, LSRP
TERMS Environmental Services, Inc.
599 Springfield Avenue
Berkeley Heights, NJ 07922

RE: In the matter of LSRP Ronald Dooney, LSRP #577384
SRPL Board Complaint 004-2015

Dear Mr. Dooney:

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.

You were hired to conduct remediation at the Major Automotive Products Company Site located at 825 Bloomfield Avenue, Clifton, Passaic County, New Jersey. The New Jersey Department of Environmental Protection (“Department”) has designated this contaminated site as PI G000001476.

Upon review of the available information regarding your work at this Site, the Board has determined that you are in violation of N.J.S.A. 58:10C-16.b. of the Site Remediation Reform Act and N.J.A.C. 7:26I-6.3(d) of the Regulations of the Board for failure to exercise reasonable care or diligence in the remediation of the Site.

Specifically, on or about April 28, 2014 you submitted to the Department a “May 7, 2014 Remedial Investigation Complete” supporting documentation form that had been signed by Charles Rosencranz, president of Major Enterprises, Inc., the person responsible for conducting remediation of the Site. The Board considers the issuance of this form as demonstration that you failed to exercise reasonable care and diligence in the remediation of this site because:

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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1. You did not provide documentation to substantiate that the remedial investigation was complete. The "May 7, 2014 Remedial Investigation Complete" form indicated that the remedial investigation was complete based on "previously submitted Remedial Investigation Report(s) that did not receive NJDEP response by May 7, 2012" and "other supporting documentation." The specific documents referenced were not named or submitted to the Department with the form. Furthermore, in May 1, 2014 correspondence to the Department, you acknowledged that the Department had conducted off-site vapor sampling, but you were not aware of the results;
2. Based on correspondence from Department representatives to you in 2015 the remedial investigation was not in fact complete;
3. Prior to the May 7, 2014 deadline to complete the remedial investigation for the site, there is no record that you communicated to your client Mr. Rosencranz the activities that needed to be done to complete the Remedial Investigation Report in time to meet the May 7, 2014 deadline, or that an extension to the May 7, 2014 deadline was available if you were unable to complete the work in time to meet the deadline; and
4. Your actions caused your client to fail to submit to the Department a Remedial Investigation Report in time to meet the May 7, 2014 deadline or to request an extended deadline.

Pursuant to N.J.S.A. 58:1-C-17.f., the Board has assessed a civil administrative penalty of \$7,000.00 for violation of N.J.S.A. 58:10C-16.b. and N.J.A.C. 7:26I-6.3(d). This penalty was assessed using the Board's "Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties." The Board determined that this was a first violation of "high" conduct and "medium" severity.

As a result of the foregoing, the Board intends to pursue formal disciplinary proceedings against you for the above-referenced violations and penalty assessment. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in order to avoid continuation of these proceedings if you consent to the following terms:

Agree to pay a civil administrative penalty in the amount of \$4,900.00, which is 70% of the assessed civil administrative penalty of \$7,000.00. Payment should be by certified check or money order payable to "Treasurer, State of New Jersey."

The Board's original offer of settlement transmitted to you by letter dated January 14, 2019 is hereby rescinded. Based on settlement discussions, the offer herein is modified from the original offer to reduce the percentage from 80% to 70% of the penalty amount to take into account your explanation that you endeavored to convince your client to authorize you to proceed with

required remediation, but he would not agree. However, the Board cannot accede to your request during settlement discussions to reduce the conduct assessment from “high” to “medium,” because the Board believes you were remiss in submitting a form in which you certified that the remedial investigation was complete when you were aware that it was not. The Board considers this a “knowing” act justifying an assessment of “high” for conduct in accordance with the Board’s “Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties.”

If you are unwilling or unable to settle this matter, the Board will pursue formal disciplinary proceedings for these violations pursuant to N.J.S.A. 58:10C-17.f. and you will be afforded an opportunity to request a hearing regarding this matter before the Office of Administrative Law. In that event, the Board, pursuant to N.J.S.A. 58:10C-17.f., may also enter an order assessing and requiring you to pay the costs for the investigation which led to the establishment of the violations, and its costs for successfully enforcing its penalty action against you. In addition, pursuant to N.J.S.A. 58:10C-17.e., any person who violates the Site Remediation Reform Act, or any rule, regulation or order of the Board, or who fails to pay a civil administrative penalty assessed by the Board, shall be subject, upon order of the Superior Court, to pay 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.

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 pursue formal disciplinary proceedings.

Should you have any questions concerning this letter or the Acknowledgement, please contact Board Executive Director Janine MacGregor at SRPLBoardContact@dep.nj.gov or seek the advice of your legal counsel. Please note that this letter and Acknowledgement are public documents.

Sincerely,



Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

cc: David Pierce, Esq.

ACKNOWLEDGEMENT

I, Ronald Dooney, LSRP, hereby acknowledge that I have reviewed the attached May 8, 2019 letter and the settlement offer set forth therein ("Letter").

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

Immediate payment of a civil administrative penalty of \$4,900.00.

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 in this matter. I am aware that the findings of the Board in connection with this matter are a matter of public record and that this Letter and this Acknowledgement are public documents.

Dated: 6/11/19



Ronald Dooney, LSRP #577384