



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Martin Suuberg
Commissioner

June 22, 2020

**In the Matter of
Paul Lessard Plumbing and Heating, Inc.**

Docket No. 2019-015
DEP Enforcement Document
No. 00006292

FINAL DECISION

In February 2019, the Petitioner Paul Lessard Plumbing and Heating, Inc. filed this appeal challenging a \$61,725.00 Penalty Assessment Notice (“PAN” or “Civil Administrative Penalty”) that the Central Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on January 30, 2019 for purported violations of the Department’s Asbestos Regulations at 310 CMR 7.15. The Department issued the PAN to the Petitioner in connection with the Petitioner’s removal of asbestos containing materials at the real property located at 117 Winfield Street, Worcester, Massachusetts (“the Site”). The Petitioner denied the PAN’s allegations and requested that the PAN be vacated. The Petitioner also requested that the PAN be vacated, claiming a financial inability to pay the \$61,725.00 penalty amount.

Currently pending before me for review pursuant to 310 CMR 1.01(8)(c), is a proposed Settlement Agreement that the Petitioner and the Department have executed to settle the Petitioner’s appeal of the PAN as set forth above. The Settlement Agreement is in the form of an

Administrative Consent Order With Penalty and Notice of Non-Compliance (“Consent Order”) that was executed by: (1) Paul Lessard, the Petitioner’s President, on March 13, 2020 and (2) Mary Jude Pigsley, Regional Director of the Department’s Central Regional Office, on April 2, 2020.

After reviewing the Consent Order, I find that it is reasonable and furthers the statutory and regulatory interests of G.L. c. 111, §§ 142A-142O and the Department’s Air Pollution Regulations at 310 CMR 7.00, including the Asbestos Regulations at 310 CMR 7.15.

Accordingly, I issue this Final Decision approving and incorporating the Consent Order.

Pursuant to the Consent Order, I issue the following Orders:

(1) In accordance with ¶ 26 of the Consent Order, the effective date of the Consent Order is the date of this Final Decision.

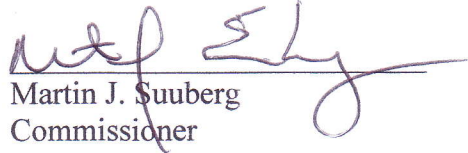
(2) In accordance with ¶ 11 of the Consent Order, the Petitioner timely provided the Department with sufficient documentation to satisfactorily substantiate the Petitioner’s claim that it lacked the financial ability to pay the \$61,725.00 penalty amount at issue in this appeal. As a result, the Department has reduced the original \$61,725.00 penalty amount by \$44,325.00 to \$17,400.00, which is now the penalty amount that the Department has assessed against Petitioner for the violations of the Asbestos Regulations as set forth in ¶¶ 4.A through 4.G., at pp. 1-4 of the Consent Order. The reduced penalty amount of \$17,400.00 is reflected in ¶ 12 of the Consent Order, as set forth below in ¶¶ 3-5 of this Final Decision.

(3) In accordance with ¶¶ 12, 13, and 21 of the Consent Order, the Petitioner shall pay the sum of Seventeen Thousand Four Hundred dollars (\$17,400.00) to the Commonwealth as a civil administrative penalty for the violations set forth in ¶¶ 4.A through 4.G., at pp. 1-4 of the

Consent Order as follows:

- (a) Within 30 days after the date of this Final Decision, the Petitioner shall pay to the Commonwealth the sum of Six Thousand Eight Hundred dollars (\$6,800.00), leaving a remaining penalty amount of Ten Thousand Six Hundred dollars (\$10,600.00);
 - (b) The Petitioner's payment of the remaining penalty amount of \$10,600.00 is suspended. However, if the Petitioner violates any provision of the Consent Order or further violates any of the Asbestos Regulations as set forth in ¶¶ 4.A through 4.G., at pp. 1-4 of the Consent Order, within three (3) years of the date of this Final Decision, the Petitioner shall pay to the Commonwealth the suspended \$10,600.00 penalty amount within 30 days of the date that the Department issues the Petitioner a written demand for payment.
- (4) In accordance with ¶¶ 20 and 21 of the Consent Order, if the Petitioner violates any provision of the Consent Order, the Petitioner shall pay to the Commonwealth, in addition to the civil administrative penalty (including any suspended penalty) set forth in ¶ 12 of the Consent Order and discussed above in ¶ 3, stipulated civil administrative penalties to the Commonwealth in the amount of five hundred dollars (\$500.00) per day for each day, or a portion thereof, each such violation continues.
- (5) In accordance with ¶ 21 of the Consent Order and G.L. c. 21A, § 16, if the Petitioner fails to pay in full any civil administrative penalty as required by the Consent Order as set forth above, the Petitioner will be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorney's fees, including all costs and attorney's fees incurred in the collection thereof. The rate of interest will be the rate set forth in G.L. c. 231, § 6C.
- (6) In accordance with ¶¶ 6, 7, and 14 of the Consent Order, G.L. c. 30A, and 310

CMR 1.01(8)(c), this appeal is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.


Martin J. Suuberg
Commissioner

SERVICE LIST

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