

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiffs

By: Lisa J. Morelli
Attorney ID No. 039951998
Deputy Attorney General
(609) 376-2740
Lisa.Morelli@law.njoag.gov

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND; and SHAWN LATOURETTE, COMMISSIONER OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Plaintiffs,

v.

INDUSTREX-FRIMAIR USA, INC.; KIM HUONG DILLNER; and THOMBOS INTERNATIONAL CO., INC.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: GLOUCESTER COUNTY
DOCKET NO. GLO-L-_____ -23

VERIFIED COMPLAINT

Plaintiffs the New Jersey Department of Environmental Protection ("DEP"), the Commissioner of DEP ("Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "Department"), by way of a Verified Complaint against Industrex-Frimair USA, Inc.; Kim Huong Dillner; and Thombos International, Inc. to collect statutory

penalties, as authorized by R. 4:70 and R. 4:67, and for other non-summary relief, allege:

STATEMENT OF THE CASE

1. The Department brings this civil action to compel defendants to remediate contamination with hazardous substances at and from certain real property located at 350 Fries Mill Road, Washington Township, Gloucester County (the "Frimair Site"), which has exposed the surrounding community to public health hazards and caused environmental harm. The Department also seeks to hold defendants accountable for their improper disposal of hazardous substances at and failure to remediate the Frimair Site.

2. Beginning around 1985 and continuing to the early 1990s, defendant Industrex-Frimair USA, Inc., previously known as Frimair USA, Inc. ("Frimair"), and its individual owner(s)/operator(s) repaired and scrapped dry cleaning equipment at the Frimair Site. In the course of its repair and scrapping operations, on information and belief Frimair dumped and/or spilled spent dry-cleaning fluid on the ground at the Frimair Site, where it migrated to soil, and eventually, to groundwater.

3. A major component of dry-cleaning fluid is tetrachloroethylene, also known as perchloroethylene ("PCE"), a hazardous substance under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:19-23.11 to -23.24.

4. Exposure to PCE can harm the nervous system and negatively impact visual memory, color vision, and the ability to process information. Inhalation of PCE can cause headaches, vision problems, and problems with muscle coordination. Studies have also found PCE exposure has been associated with several types of cancer including bladder cancer, non-Hodgkin lymphoma, and multiple myeloma. The United States Environmental Protection Agency ("EPA") has classified PCE as likely to be carcinogenic to humans.

5. The Department issued a Spill Act Directive in 2017 ordering defendants Frimair and its individual owners/operators, as well as the current site owner, defendant Thombos International, Inc. ("Thombos"), to remediate the hazardous substances discharged at and from the Frimair Site, but Defendants failed to comply with the Directive.

6. Defendants' conduct violates the New Jersey Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24; the Brownfield and Contaminated Site Remediation Act ("Brownfield Act"), N.J.S.A. 58:10B-1 to -20; as amended by the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29 ("SRRA"); and the Water Pollution Control Act ("WPCA"), N.J.S.A. 58:10A-1 to -20; as well as the applicable rules and regulations promulgated thereunder.

7. The Department now brings this civil action: (1) to require defendants to remediate the Frimair Site and all other

areas where hazardous substances discharged from the site have migrated in accordance with DEP requirements; (2) to compel defendants to reimburse DEP for costs it has incurred investigating and/or remediating the hazardous substances discharged from the Frimair Site, as well as for any costs DEP may incur in the future to further investigate and remediate contamination resulting from the hazardous substances discharged at the Frimair Site; (3) to impose civil penalties on defendants under the Spill Act; and (4) for any other appropriate relief.

PARTIES

8. DEP is a principal department in the Executive Branch of the State of New Jersey with offices at 401 East State Street, Trenton, New Jersey. DEP administers programs and enforces laws and regulations to conserve the natural resources of the State, to promote environmental protection, and to prevent pollution of the environment of the State. N.J.S.A. 13:1D-9.

9. Shawn LaTourette is the Commissioner of DEP, N.J.S.A. 58:10A-3, and is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-9. The Commissioner is authorized to commence a civil action in Superior Court for appropriate relief for any violation of the WPCA, 58:10A-10c.

10. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("Spill Fund"), N.J.S.A. 58:10-

23.11j. As the chief executive officer of the Spill Fund, the Administrator is authorized to approve and pay any cleanup and removal costs DEP incurs, N.J.S.A. 58:10-23f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund. N.J.S.A. 58:10-23.11j.d.

11. The Commissioner and the Administrator maintain their principal offices at 401 East State Street, Trenton, New Jersey.

12. Defendant Industrex-Frimair USA, Inc., formerly known as Frimair USA, Inc., is a corporation organized and existed under the laws of the State of New Jersey, with its principal place of business at the Frimair Site.

13. Defendant Kim Huong Dillner is an individual who resides at 402 Paddock Court, Sewell, New Jersey 08080, and who, on information and belief, was an owner and/or operator of Frimair.

14. Defendant Thombos International Co., Inc. ("Thombos") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at the Frimair Site. On information and belief, Thombos is in the business of collecting and shipping used clothing overseas.

OWNERSHIP HISTORY AND OPERATIONS

15. From approximately 1985 to 1991, Frimair and its individual owner, Gerhard H. Dillner (now deceased), operated a dry-cleaning equipment supply and repair shop at the Frimair Site, designated as Block 86, Lot 7.01 (formerly Lot 7A) on the tax maps

of Washington Township. On information and belief, Defendant Kim Huong Dillner, Gerhard Dillner's wife, also helped operate the business.

16. The Frimair Site is approximately 3.4 acres in size and contains an equipment yard, a two-bay maintenance garage, and a warehouse/repair building. Operations at the Frimair Site included the dismantling and scrapping of dry-cleaning equipment and the handling and disposal of dry-cleaning fluid. These activities resulted in the discharge of PCE.

17. PCE is a liquid solvent widely used for dry cleaning fabrics. PCE is a hazardous substance under the Spill Act, N.J.S.A. 58:10-23.11b, and the Spill Act's implementing regulations, N.J.A.C. 7:1E-1.7, Appx. A.

18. Frimair owned the Frimair Site from approximately 1985 to May 1988. On May 13, 1988, Frimair conveyed the Frimair Site to Gerhard H. Dillner and Kim Huong Dillner.

19. On information and belief, Kim Huong Dillner had decision-making authority regarding company operations and compliance matters.

20. On November 6, 2002, the Dillners conveyed the Frimair Site to James Riddick and his wholly-owned corporation, Thombos. On February 13, 2003, Riddick conveyed his interest in the Frimair Site to Thombos.

21. There were a series of foreclosure actions involving the Frimair Site from 2013 to 2017, with the result being that one of the persons who acquired the property following a foreclosure action transferred whatever interest he had in the Frimair Site, subsequent to another foreclosure action, back to Thombos by quitclaim deed dated February 16, 2018.

22. Defendant Thombos is an informed purchaser and current owner of the Frimair Site who knew, or had reason to know, of the contamination at and emanating from the Frimair Site.

23. Thombos has taken no action to remediate hazardous substances at and emanating from the Frimair Site.

ENVIRONMENTAL INVESTIGATION AND SAMPLING

24. In 1996, the Washington Township Municipal Utilities Authority ("WTMUA") constructed a new drinking water well ("Well 18") near the Frimair Site to address growing water supply demands.

25. Well 18 is located within 300 feet of the Frimair Site at 356 Fries Mill Road, Washington Township, Gloucester County, which is designated as Block 86.04, Lot 22 on the tax maps of Washington Township ("Well Property"). The Well Property is located immediately south of Joseph Drive, across the street from the Frimair Site.

26. Before bringing Well 18 online, WTMUA tested the water and discovered it contained PCE.

27. Follow-up sampling and testing of Well 18 in the fall of 1997 revealed PCE levels far exceeding safe drinking water standards. PCE concentration levels in Well 18 ranged from approximately 79 parts per billion ("ppb") to 178 ppb, whereas the safe drinking water standard (maximum contaminant level or "MCL") for PCE is 1 ppb. N.J.A.C. 7:10-5.2, Table 1.

28. In light of this contamination, WTMUA installed a treatment system at Well 18, consisting of an air stripper tower and granular activated carbon canisters.

29. The Department and WTMUA entered into a contract in early 1998 under which DEP provided up to \$439,500 to WTMUA to construct the air stripper tower and for related work.

30. Well 18 went online in approximately 2000.

31. To find the source of the PCE contamination in the groundwater, DEP used Spill Compensation Fund monies to retain a third-party contractor, L. Robert Kimball & Associates ("Kimball"). Kimball conducted a preliminary assessment, reviewed public records, and researched local land use history at the Well Property and nearby properties, including the Frimair Site.

32. In its assessment, Kimball observed that PCE is a common product used at dry cleaning facilities and that it was highly likely PCE was stored and/or disposed of at the Frimair Site because it was a former dry cleaning supply business with a machine

disassembly shop on-site. Kimball accordingly classified the Frimair Site as a "high priority" site.

33. Kimball followed up its preliminary assessment investigation with a Site Investigation ("SI") at the Frimair Site in 2003. Samples taken during the SI indicated that PCE contamination from the Frimair Site was migrating in groundwater southward toward Well 18.

34. As a result of the SI, Kimball concluded that PCE was likely removed and stored at the Frimair Site during disassembly and scrapping of old dry-cleaning machines. Based on the results of its groundwater investigation, Kimball concluded the PCE-contaminated groundwater originates at the Frimair Site.

35. Based on these investigations, DEP determined that operations at the Frimair Site during approximately 1985 to 1992 were the source of PCE contamination at Well 18.

36. On August 1, 2017, DEP issued a Spill Act Directive to Frimair, Gerhard Dillner, Kim Huong Dillner, Thombos, James Riddick, and Simon Tache. Tache was an intermediary owner of the property who obtained the Frimair Site via a foreclosure sale; he subsequently quitclaimed his interest in the Frimair Site to Thombos in February 2018.

37. The Dillner's daughter responded to the Spill Act Directive on behalf of Gerhard Dillner, stating he had no assets to conduct remediation.

38. DEP subsequently hand-delivered a copy of the Spill Act Directive to James Riddick, as agent for Thombos, on January 23, 2019. Defendant Thombos never responded to the directive.

39. DEP placed a Spill Act lien on the Frimair Site on February 11, 2020, in the amount of \$524,204.72 for costs spent by DEP to investigate the contamination at the Frimair Site, including amounts paid to its contractor (Kimball) to perform the preliminary assessment and site investigation.

40. DEP may elect to conduct a remedial investigation of the PCE contamination at and from the Frimair Site to establish the vertical and horizontal extent of contamination within soil and groundwater. DEP may also, in its discretion, conduct a remedial action, which would ensure that the contamination is remediated to applicable remediation standards.

41. The Department has incurred and will continue to incur significant costs to investigate and remediate hazardous substances at and emanating from the Frimair Site.

COUNT I

**Violation of the Spill Act and Brownfield Act
(as amended by SRRA)
(Against Defendants Frimair and Kim Huong Dillner)**

42. DEP and the Administrator repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

43. Defendants Frimair and Dillner are "persons" within the meaning of N.J.S.A. 58:10-23.11b.

44. The strict liability provision of the Spill Act, N.J.S.A. 58:10-23.11g.c.(1), provides in pertinent part:

[A]ny person who has discharged a hazardous substance, or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred by the department or a local unit pursuant to subsection b. of section 7 of P.L.1976, c. 141 (C:58:10-23.11f).

45. "Hazardous substances," as defined by N.J.S.A. 58:10-23.11b, includes PCE. N.J.A.C. 7:1E, App. A.

46. The hazardous substances discharged at and from the Frimair Site have not been remediated, in violation of the Spill Act. N.J.S.A. 58:10-23.11.c.

47. The costs the Department has incurred, and will incur, to remediate hazardous substances at and from the Frimair Site are "cleanup and removal costs" within the meaning of the Spill Act. N.J.S.A. 58:10-23.11b.

48. Defendants Frimair and Dillner are dischargers or persons in any way responsible for the hazardous substances discharged on the Frimair Site, as defined by N.J.S.A. 58:10-23.11. As such, they are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred

by DEP and the Spill Fund to remediate contamination at and from the Frimair Site.

49. Under N.J.S.A. 58:10-23.11u of the Spill Act, the Department may bring a civil action in the Superior Court against any person who has violated the Spill Act, or any rule, regulation, plan, information request, access request, order, or directive promulgated or issued pursuant thereto:

- a. For injunctive relief, N.J.S.A. 58:10-23.11u.b.(1);
- b. For the costs incurred for any investigation, cleanup or removal, and for the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2);
- c. For any other related costs incurred by the Department under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5); and
- d. For the assessment of civil penalties for violations of the Spill Act, N.J.S.A. 58:10-23.11u.d.

50. Pursuant to N.J.S.A. 58:10-23.11g, the Administrator also is authorized to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund.

51. Additionally, due to Frimair's and Dillner's failure to comply with the Spill Act Directive, defendants are strictly liable, without regard to fault, in an amount up to three times the cleanup and removal costs that the Department has incurred,

and will incur, related to the discharge of hazardous substances at and from the Frimair Site. N.J.S.A. 58:10-23.11f.a(1).

52. Effective January 6, 1998, the Legislature enacted the Brownfield Act, N.J.S.A. 58:10B-1 to -20.

53. As amended by SRRA, N.J.S.A. 58:10C-1 to -29, the Brownfield Act provides in part that a discharger of a hazardous substance or a person in any way responsible for a hazardous substance under N.J.S.A. 58:10-23.11g of the Spill Act has an affirmative obligation to remediate discharges of hazardous substances. N.J.S.A. 58:10B-1.3.a.

54. Defendants Frimair and Dillner are "persons" as defined in the Brownfield Act. N.J.S.A. 58:10B-1.

55. As persons liable under the Spill Act, defendants Frimair and Dillner, pursuant to N.J.S.A. 58:10B-1.3.a of the Brownfield Act, have affirmative obligations, jointly and severally, to remediate the hazardous substances discharged on and emanating from the Frimair Site.

56. As persons responsible for conducting the remediation, defendants Frimair and Dillner were required to comply with the remediation requirements enumerated in N.J.S.A. 58:10B-1.3.a.

57. Defendants Frimair and Dillner failed to comply with N.J.S.A. 58:10B-1.3.a, as Defendants have not conducted or completed remediation of the Frimair Site.

58. Any person who fails to comply with the provisions of N.J.S.A. 58:10B-1.3 of the Brownfield Act shall be liable and subject to the enforcement provisions established in N.J.S.A. 58:10-23.11.u of the Spill Act. N.J.S.A. 58:10B-1.3.e.

59. Pursuant to N.J.S.A. 58:10-23.11u.a and N.J.S.A. 58:10-23.11u.d, defendants Frimair and Dillner are also subject to civil penalties of up to \$50,000 per day for their violations of the Spill Act, which include the discharge of hazardous substances at the Frimair Site, the failure to remediate the discharge of hazardous substance at and from the Frimair Site, and the failure to comply with the Spill Act Directive.

WHEREFORE, plaintiffs DEP and the Administrator demand judgment from the Court:

- a. Finding that defendants Frimair and Dillner are liable and obligated to remediate the hazardous substances discharged at and from the Frimair Site pursuant to N.J.S.A. 58:10B-1.3a, and in violation of N.J.S.A. 58:10B-1.3a for their failure to do so;
- b. Finding defendants Frimair and Dillner liable, jointly and severally, without regard to fault, for any cleanup and removal costs and damages incurred by DEP as a result of the discharge of hazardous substances at and from the Frimair Site pursuant to N.J.S.A. 58:10-23.11g(c);

- c. Ordering defendants Frimair and Dillner to reimburse DEP, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred as a result of the discharge of hazardous substances at and from the Frimair Site pursuant to N.J.S.A. 58:10-23.11g(c);
- d. Ordering defendants Frimair and Dillner to complete the remediation of hazardous substances discharged at and from the Frimair Site in accordance with N.J.S.A. 58:10B-1.3, SRRA, and all other applicable statutes and regulations and/or DEP directives;
- e. Ordering defendants Frimair and Dillner to pay DEP an amount up to three times the cleanup and removal costs that the Department has incurred, and will incur, related to the discharge of hazardous substances at and from the Frimair Site pursuant to N.J.S.A. 58:10-23.11f(a)(1), based on defendants' failure to comply with DEP's 2017 Spill Act Directive;
- f. Imposing upon defendants Frimair and Dillner, pursuant to N.J.S.A. 58:10-23.11u.a., N.J.S.A. 58:10-23.11u.d, and R. 4:70, a civil penalty for defendants' violation of the Spill Act, namely for their discharges of hazardous substances at the Frimair Site and for their failure to remediate hazardous substance discharges at and from the Frimair Site; or, in the alternative,

ordering that should the defendants' penalty liability not be resolved in a summary proceeding, plaintiffs' penalty claim shall proceed as a plenary action;

g. Awarding DEP its costs and fees in this action;

h. Awarding DEP any other relief the Court deems appropriate; and

i. Reserving DEP's and the Administrator's rights to bring a claim against defendants Frimair and Dillner in the future for natural resource damages arising out of the discharge of hazardous substances at and from the Frimair Site.

COUNT II

Violation of the Spill Act and Brownfield Act (as amended by SRRA) (Against Defendant Thombos)

60. DEP and the Administrator repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

61. Defendant Thombos is a "person" as defined in the Spill Act, N.J.S.A. 58:10-23.11b.

62. N.J.S.A. 58:10-23.11g.c.(3) of the Spill Act provides, in part:

In addition to the persons liable pursuant to this subsection, any person who owns real property acquired on or after September 14, 1993 on which there has been a discharge prior to the person's acquisition of that property and who knew or should have known that a hazardous substance had been discharged at the

real property, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred.

63. Defendant Thombos acquired the Frimair Site after September 14, 1993, and as a purchaser of previously contaminated property, knew or should have known that hazardous substances had been discharged on the site prior to Thombos' acquisition of the property. Therefore, defendant Thombos is strictly liable, jointly and severally, without regard to fault under N.J.S.A. 58:10-23.11g.c.(3) for all cleanup and removal costs incurred by DEP and the Spill Fund to investigate and remediate the hazardous substances discharged on or emanating from the Frimair Site.

64. In addition, as the current owner of the Frimair Site defendant Thombos is a person who is "in any way responsible for any hazardous substance," and thus has an affirmative obligation to remediate the hazardous substances discharged at and from the Frimair Site. N.J.S.A. 58:10B-1.3.a.

65. As a person responsible for conducting the remediation, defendant Thombos was required to comply with the remediation requirements enumerated in N.J.S.A. 58:10B-1.3.a.

66. Defendant Thombos failed to comply with N.J.S.A. 58:10B-1.3.a, as defendant has not conducted or completed remediation at the Frimair Site.

67. Any person who fails to comply with the provisions of N.J.S.A. 58:10B-1.3 of the Brownfield Act shall be liable and subject to the enforcement provisions established in N.J.S.A. 58:10-23.11.u of the Spill Act. N.J.S.A. 58:10B-1.3.e.

68. Additionally, due to defendant Thombos' failure to comply with DEP's 2017 Directive, defendant Thombos is strictly liable, without regard to fault, in an amount up to three times the cleanup and removal costs that the Department has incurred, and will incur, related to the discharge of hazardous substances at and emanating from the Frimair Site. N.J.S.A. 58:10-23.11f(a)(1).

69. Pursuant to N.J.S.A. 58:10-23.11u.a and N.J.S.A. 58:10-23.11u.d, defendant Thombos is also subject to civil penalties of up to \$50,000 per day for its violations of the Spill Act, including the failure to remediate the discharge of hazardous substance at and from the Frimair Site, and the failure to comply with the Spill Act Directive.

WHEREFORE, Plaintiffs DEP and the Administrator demand judgment from the Court:

- a. Finding that defendant Thombos is liable and obligated to remediate hazardous substances discharged at and from the Frimair Site pursuant to N.J.S.A. 58:10B-1.3a, and in violation of N.J.S.A. 58:10B-1.3a for its failure to do so;

- b. Finding defendant Thombos liable, jointly and severally, without regard to fault, for any cleanup and removal costs and damages incurred by DEP as a result of the discharge of hazardous substances at the Frimair Site;
- c. Ordering defendant Thombos to pay costs in an amount up to three times the cleanup and removal costs that DEP has incurred, and will incur, related to the discharge of hazardous substances at and emanating from the Frimair Site pursuant to N.J.S.A. 58:10-23.11f(a)(1), based on defendant's failure to comply with DEP's 2017 Directive;
- d. Ordering defendant Thombos to reimburse DEP, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred as a result of the discharge of hazardous substances at and from the Frimair Site;
- e. Ordering defendant Thombos to complete the remediation at the Frimair Site in accordance with the Brownfield Act, N.J.S.A. 58:10B-1.3, SRRA, and all other applicable statutes and regulations and/or DEP directives;
- f. Ordering defendant Thombos to immediately retain and maintain a Licensed Site Remediation Professional to implement the remediation of the Frimair Site;

- g. Imposing upon defendant Thombos, pursuant to N.J.S.A. 58:10-23.11u.a., N.J.S.A. 58:10-23.11u.d, and R. 4:70, a civil penalty for defendant's violation of the Spill Act, namely for its failure to remediate hazardous substance discharges at and from the Frimair Site; or, in the alternative, ordering that should the defendant's penalty liability not be resolved in a summary proceeding, plaintiffs' penalty claim shall proceed as a plenary action;
- h. Awarding DEP its costs and fees in this action;
- i. Awarding DEP any other relief the Court deems appropriate; and
- j. Reserving DEP's and the Administrator's rights to bring a claim against defendant Thombos in the future for natural resource damages arising out of the discharge of hazardous substances at and from the Frimair Site.

COUNT III

**Violation of the Water Pollution Control Act
(Against Defendant Kim Huong Dillner)**

70. The Commissioner and DEP repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

71. Defendant Kim Huong Dillner is a "person" within the meaning of the WPCA, N.J.S.A. 58:10A-3.

72. "Pollutants," as defined by the WPCA, N.J.S.A. 58:10A-

3, includes PCE. N.J.A.C. 7:9C-1.4.

73. The unauthorized discharge of pollutants is a violation of the WPCA for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6a.

74. Defendant, as a person whose actions or omissions resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants at the Frimair Site, is a "discharger" and therefore is strictly liable, without regard to fault, for violation of the WPCA. N.J.S.A. 58:10A-6a.

75. The Commissioner may bring an action in the Superior Court: (1) for injunctive relief, N.J.S.A. 58:10A-10c.(1), for the reasonable costs of any investigation, inspection, or monitoring which led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10c.(2); (2) to recover reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects on water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10c(3); and (3) to recover the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by

reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10c.(5).

76. Defendant's actions or omissions which caused the discharge of pollutants and subsequent failure to perform remediation of the discharge conferred economic benefits upon defendant. Upon information and belief, the benefits include but are not limited to, savings realized from avoided capital or noncapital costs necessary to conduct remediation of the discharge, the return earned on the amount of avoided costs, and the benefits accruing as a result of a competitive market advantage enjoyed by reason of defendant's failure to remediate the Frimair Site.

WHEREFORE, the Commissioner demands judgment against defendant Kim Huong Dillner:

- a. Ordering defendant to remove, correct, or terminate the adverse effect upon water quality resulting from any unauthorized discharge of pollutants;
- b. Entering an order requiring defendant, without regard to fault, to pay DEP for its reasonable costs incurred for any investigation, inspection, or monitoring survey, that led to establishment of the violation, including the costs of preparing and litigating this case;
- c. Finding defendant liable, without regard to fault, and assessing all reasonable costs that will be incurred for

any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;

- d. Entering an order requiring defendant, without regard to fault, to pay DEP all reasonable costs it has incurred or will incur removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Frimair Site;
- e. Awarding the Commissioner his costs and fees in this action;
- f. Awarding the Commissioner such other relief as the Court deems appropriate; and
- g. Reserving the right to bring a claim in the future for natural resources damages arising out of the discharge of pollutants at and from the Frimair Site.

COUNT IV

**Unjust Enrichment
(Against Defendant Thombos)**

77. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

78. Defendant Thombos has failed to perform the remediation required to address the contamination at the Frimair Site.

79. Plaintiffs have used and will continue to use public funds to remediate the contamination at and from the Frimair Site.

80. Plaintiffs' use of public funds for the investigation and remediation of the Frimair Site, which otherwise would be defendant Thombos' obligation to fully fund or perform, has unjustly enriched defendant. Therefore, defendant Thombos is required by law and equity to reimburse plaintiffs accordingly.

WHEREFORE, plaintiffs request judgment in their favor and against defendant Thombos:

- a. Finding that defendant Thombos has been unjustly enriched by plaintiffs' expenditure of public funds to perform the remediation of the Frimair Site;
- b. Ordering defendant Thombos to reimburse plaintiffs for costs plaintiffs have incurred, and will incur, to remediate the Frimair Site, with applicable interest;
- c. Finding defendant Thombos liable for all other compensatory and consequential damages; and
- d. Awarding the plaintiffs such other relief as this Court deems appropriate.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 4/20/2023

By: /s/ Lisa J. Morelli
Lisa J. Morelli
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Lisa J. Morelli, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to Plaintiffs at this time, nor is any non-party known to Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

Dated: 4/20/2023

By: /s/Lisa J. Morelli
Lisa J. Morelli
Deputy Attorney General

VERIFICATION

ANN WOLF, by way of verification, states that:

1. I am an employee of the New Jersey Department of Environmental Protection ("DEP") and I am familiar with the facts and circumstances in this matter.
2. I currently am Assistant Director of the Enforcement and Information Support Element within the Contaminated Site Remediation & Redevelopment Program at DEP. My duties include enforcing New Jersey's environmental statutes and regulations pertaining to site remediation by issuing enforcement documents such as Directives, Administrative Orders, Notices of Civil Administrative Penalty Assessment, Municipal Summonses and settlement documents such as Administrative Consent Orders.
3. I oversee DEP's site remediation enforcement efforts against Defendants.
4. I have personal knowledge of the factual allegations contained in Paragraphs 36-39, 48, 55, 57, 60 and 62, of the Verified Complaint, and I certify that these paragraphs are true and correct.
5. Attached to the Verified Complaint as **Exhibit A** is a true and correct copy of the August 1, 2017, Spill Act Directive issued by DEP to Frimair, Gerhard Dillner, Kim Huong Dillner, Thombos, James Riddick, and Simon Tache.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false I am subject to punishment.

Dated: 4/20/2023

Ann H. Wolf
ANN WOLF

Assistant Director
Enforcement and Information
Support Element

Exhibit A to Verified Complaint



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

*Enforcement and Information Support Element
Bureau of Enforcement and Investigations
401 East State Street
P.O. Box 420, 401-06U
Trenton, NJ 08625-0028
Fax: (609) 292-1975*

TO: All those listed on the attached service list

RE: DIRECTIVE AND NOTICE TO INSURERS

Frimair USA, Inc.
350 Fries Mill Road
Washington Township, Gloucester County
PI#: 706300

AUG 01 2017

Dear Sirs and Madam:

There is enclosed for service upon you a Directive and Notice to Insurers issued by the New Jersey Department of Environmental Protection ("the Department").

Within 7 days after receipt of this Directive, you must communicate your response to the Department in writing pursuant to N.J.A.C. 7:26C-9.11(f) regarding your/its decision to comply with this Directive and Notice to Insurers. If you choose not to follow the enclosed Directive and Notice to Insurers, the required remedial activities will be conducted by the Department using public funds. You may be responsible for reimbursement of up to three times the amount of public funds expended.

If you would like to discuss this matter, please contact Nadine Drake, Enforcement Manager, at the address above, or by telephone at (609) 777-1912.

Sincerely,

A handwritten signature in blue ink that reads "Kevin F. Kratina".

Kevin F. Kratina, Assistant Director
Enforcement and Information Support Element

Attachment

c: Nadine Drake, Enforcement Manager, BEI



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

*Enforcement and Information Support Element
Bureau of Enforcement and Investigations
401 East State Street
P.O. Box 420, 401-06U
Trenton, NJ 08625-0420
Fax: (609) 292-1975*

Frimair USA, Inc. Directive Service List

CERTIFIED MAIL

7015 1730 0001 2030 3137

Frimair USA, Inc.
C/O Gerhard Dillner
402 Paddock Court
Sewell, NJ 08080

CERTIFIED MAIL

7015 1730 0001 2030 3175

Kim Huong Dillner
402 Paddock Court
Sewell, NJ 08080

CERTIFIED MAIL

7014 0510 0000 9079 5811

Thombos International Co.,
Inc.
C/O James Riddick
110 Hannum Drive
Bear, DE 19701

CERTIFIED MAIL

7015 1730 0001 2030 3144

Frimair USA, Inc.
C/O Gerhard Dillner
745 North 26th Street
Philadelphia, PA 19130

CERTIFIED MAIL

7015 1730 0001 2030 3182

Kim Huong Dillner
745 North 26th Street
Philadelphia, PA 19130

CERTIFIED MAIL

7014 0510 0000 9079 5828

Thombos International Co.,
Inc.
C/O James Riddick
350 Fries Mill Road
Washington Township, NJ
08080

CERTIFIED MAIL

7015 1730 0001 2030 3151

Gerhard Dillner
402 Paddock Court
Sewell, NJ 08080

CERTIFIED MAIL

7015 1730 0001 2030 3199

Thombos International Co.,
Inc.
C/O James A Thomson,
Registered Agent
3011 Centre Street
Pennsauken, NJ 08109

CERTIFIED MAIL

7014 0510 0000 9079 5835

James Riddick
110 Hannum Drive
Bear, DE 19701

CERTIFIED MAIL

7015 1730 0001 2030 3168

Gerhard Dillner
745 North 26th Street
Philadelphia, PA 19130

CERTIFIED MAIL

7014 0510 0000 9079 5842

James Riddick
350 Fries Mill Road
Washington Township, NJ
08080

CERTIFIED MAIL

7012 3460 0003 3347 1280

Simon W. Tache
350 Fries Mill Road
Sewell, NJ 08080

CERTIFIED MAIL

7015 1730 0001 2030 3113

Simon W. Tache
2042 Appletree Street
Philadelphia, PA 19103-1410

CERTIFIED MAIL

7015 1730 0001 2030 3212

Simon W. Tache
1700 Race Street
Philadelphia, PA 19103

CERTIFIED MAIL

7015 1730 0001 2030 3205

Simon W. Tache
1700 Parkway
Philadelphia, PA 19103



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

*Enforcement and Assignment Element
Bureau of Enforcement and Investigations
401 East State Street
5th Floor West
P.O. Box 028
Trenton, NJ 08625-0420
Phone: (609) 633-1464
Fax: (609) 633-1439*

DIRECTIVE AND NOTICE TO INSURERS

EA ID #: PEA160001 - 706300

Site Name: — Frimair USA, Inc. Site

Respondents: Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache

Location: 350 Fries Mill Rd
Washington Township, New Jersey 08080

Identifying #: 706300

Case #: 15-10-15-1552-35

This Directive and Notice to Insurers is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and duly delegated to the Assistant Director of the Enforcement and Information Support Element pursuant to N.J.S.A. 13:1B-4. This Directive and Notice to Insurers is issued in order to notify the above-captioned Respondents that the Department, pursuant to the Spill Compensation and Control Act, has determined that it is necessary to cleanup and remove discharges, and in order to notify the Respondents that the Department believes them to be responsible for the hazardous substances that were discharged and/or the remediation of the discharges.

FINDINGS

1. The Frimair USA, Inc. site, is located at 350 Fries Mill Road and is also known as Block 86, Lot 7.01; on the tax maps of Washington Township, Gloucester County (hereinafter "the Site"). The Site, and all other areas to which any hazardous substances discharged on the Site have migrated, are collectively referenced hereinafter as "the Contaminated Site".
2. Frimair USA, Inc. owned the site from October 17, 1985 until May 13, 1988.
3. Frimair USA, Inc. operated at the site from October 17, 1985 until approximately 1991. Frimair USA, Inc.'s operations included the manufacturing and repair of dry cleaning equipment.
4. Gerhard and Kim Huong Dillner, husband and wife, jointly owned the Site from May 13, 1988 until November 6, 2002.

FRIMAIR USA, INC., GERHARD DILLNER, KIM HUONG DILLNER, JAMES M. RIDDICK, THOMBOS INTERNATIONAL CORPORATION, INC. AND SIMON W. TACHE
PEA160001 - 706300
Page 2 of 6

5. James M. Riddick and Thombos International Corporation, Inc. jointly owned the Site from November 6, 2002 until February 13, 2003.
6. Thombos International Corporation, Inc. owned the Site from February 13, 2003 until September 23, 2013.
7. Simon W. Tache has owned the Site from September 23, 2013 until the present.
8. On November 11, 1993, the Washington Township Municipal Utilities Authority (hereinafter "WTMUA") constructed a public-supply well on what is currently known as Block 86.04, Lot 22 on the tax maps of Washington Township, Gloucester County (hereinafter "WTMUA Well No. 18").
9. In or around September 1997, the WTMUA sampled WTMUA Well No. 18 and detected concentrations of tetrachloroethylene (hereinafter "PCE") at a maximum concentration of 178.3 micrograms per liter (ug/l). This concentration exceeds the Department's Drinking Water Standards at N.J.A.C. 7:10 and Ground Water Quality Standards at N.J.A.C. 7:9C.
10. In or around September 1997, the WMTUA sampled a private potable well located Block 86, Lot 7.02 and detected PCE at a maximum concentration of 34.2 ug/L.
11. On March 30, 2001, the Department contracted L. Robert Kimball & Associates, Inc. (hereinafter "Kimball") to perform a source investigation at WTMUA Well No. 18.
12. During or around January 2002, Kimball submitted a Preliminary Assessment Report dated January 2002 to the Department.
13. In the January 2002 Preliminary Assessment Report, Kimball reported that the Site's former owner and operator, Frimair USA, Inc., had been a distributor of dry cleaning machines and supplies as well as a repair business for said machines.
14. In or around May 2004, Kimball submitted a Site Investigation Report to the Department.
15. In the May 2004 Site Investigation Report, Kimball reported that soil samples taken at the Site had detected PCE at a maximum concentration of 0.17 milligrams per kilogram (mg/kg). This concentration is in excess of the Department's Impact to Ground Water Soil Screening Levels.
16. The May 2004 Site Investigation Report also indicated that ground water samples taken at the Site had detected concentrations of PCE in the ground water at a maximum concentration of 190 ug/l. This concentration exceeds the Department's Ground Water Quality Standards and Vapor Intrusion Screening Levels.
17. On December 21, 2015, the Department sent a letter to Simon W. Tache informing him that the Site is the source of the contamination discovered in WTMUA Well No. 18 and the private well located at Block 86, Lot 7.02. In its letter, the Department informed Simon W. Tache of his responsibility to conduct the remediation in accordance with the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b.

FRIMAIR USA, INC., GERHARD DILLNER, KIM HUONG DILLNER, JAMES M. RIDDICK, THOMBOS INTERNATIONAL CORPORATION, INC. AND SIMON W. TACHE
PEA160001 - 706300

Page 3 of 6

18. The substances referenced in the paragraphs above are hazardous substances pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b.
19. The Department believes Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache are responsible for the hazardous substances that were discharged at the Site and/or for the remediation of the hazardous substances which were discharged to the lands and waters of the state.
20. Pursuant to N.J.S.A. 58:10-23.11g.c., Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache are strictly liable, without regard to fault, for all cleanup and removal costs.
21. Pursuant to N.J.S.A. 58:10-23.11f., whenever any hazardous substance is discharged, the Department may, in its discretion, act to clean up and remove or arrange for the cleanup and removal of such discharge, or may direct any person in any way responsible for the hazardous substance to clean up and remove, or arrange for the cleanup and removal of the discharge.

DIRECTIVE

22. Within seven (7) calendar days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache must reply to the Department pursuant to N.J.A.C. 7:26C-9.11(f), regards their decision to comply with this Directive and Notice to Insurers.
23. The Department hereby directs Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache to clean up and remove the hazardous substances discharged at Block 86, Lot 7.01 by taking the following actions according to the following expedited site specific timeframes established pursuant to N.J.A.C. 7:26C-3.4. Note the timeframes specified herein do not represent an extension for any past due timeframes and the Department reserves the right to pursue penalties back to the original due dates:
 - A. Within fifteen (15) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall retain and maintain a licensed site remediation professional (LSRP) to perform the remediation of the Contaminated Site in accordance with N.J.A.C. 7:26C-2.3(a) 1 and 2;
 - B. Within twenty (20) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall notify the Department, in accordance with N.J.A.C. 7:26C-2.3(a)2, of the name and license information of the Licensed Site Remediation Professional that has been hired to perform this remediation;
 - C. Within forty-five (45) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall submit the Annual Remediation Fee Reporting Form in accordance with N.J.A.C. 7:26C-4.3. Furthermore, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache

FRIMAIR USA, INC., GERHARD DILLNER, KIM HUONG DILLNER, JAMES M. RIDDICK, THOMBOS INTERNATIONAL CORPORATION, INC. AND SIMON W. TACHE
PEA160001 - 706300

Page 4 of 6

shall pay all applicable overdue fees and oversight costs immediately. Currently there are outstanding annual remediation fees totaling \$3,170.00; The unpaid 2016 annual remediation fee of \$1,410.00 and the unpaid 2017 annual remediation fee of \$1,760;

- D. Within sixty (60) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache must submit an Initial Remediation Cost Review Form prepared and certified by an LSRP, pursuant to N.J.A.C. 7:26C-5.10(a);
- E. Within sixty (60) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall establish and maintain a remediation funding source in the form of a letter of credit, line of credit or remediation trust fund pursuant to N.J.A.C. 7:26C-5 in the amount determined by a detailed LSRP - certified cost review pursuant to 7:26C-5.10 for the full cost of remediation of the Contaminated Site;
- F. Within sixty (60) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall submit to the Department the 1% remediation funding source surcharge with the remediation funding source and annually thereafter pursuant to N.J.A.C. 7:26C-5.9;
- G. Within three hundred sixty-five (365) days after the date required to submit a remediation funding source, and annually thereafter on the same calendar day Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall submit a detailed LSRP-certified cost review to the Department pursuant to N.J.A.C. 7:26C-5.10;
- H. Within ninety (90) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache conduct an initial receptor evaluation and submit to the Department an initial receptor evaluation report pursuant to N.J.A.C. 7:26E-1.14. Additionally, in accordance with N.J.A.C. 7:26E-1.14(a)1, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall conduct a well search to identify wells that may be impacted by the Contaminated Site;
- I. Within one hundred twenty (120) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall sample the potable well located at Block 86, Lot 7.02 in accordance with N.J.A.C. 7:26E-1.14(a)2 ;
- J. Within one hundred twenty (120) days after receipt of this Directive and Notice to Insurers, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall conduct a preliminary assessment/site investigation and submit to the Department the preliminary assessment/site investigation report pursuant to N.J.A.C. 7:26E-3 to identify the source of sources of soil and ground water contamination;

FRIMAIR USA, INC., GERHARD DILLNER, KIM HUONG DILLNER, JAMES M. RIDDICK, THOMBOS INTERNATIONAL CORPORATION, INC. AND SIMON W. TACHE
PEA160001 - 706300

Page 5 of 6

- K. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall immediately conduct a vapor intrusion investigation and submit to the Department the vapor intrusion investigation report to the Department within one hundred twenty (120) pursuant to N.J.A.C. 7:26E-1.15. Specifically, Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall conduct a vapor intrusion investigation at the resident located at Block 86, Lot 7.02 and the on-site building;
- L. Within three hundred sixty-five (365) days after receipt of this Directive and Notice to Insurers Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall complete a remedial investigation by delineating all soil and ground water contamination above the Department's respective remediation standards, and Submit the Remedial Investigation Report to the Department; and
- M. Within three hundred sixty-five (365) days after receipt of this Directive and Notice to Insurers Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall initiate the remedial action for soil and ground water.
24. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall conduct the required remediation pursuant to N.J.A.C. 7:26E without prior Department approval;
25. Simon W. Tache shall provide access to the Contaminated Site to the Department;
26. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall provide access to all applicable documents concerning remediation to the Department; and
27. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache shall obtain all necessary permits.

NOTICE

28. If Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and/or Simon W. Tache fail to respond or comply with this Directive and Notice to Insurers, the Department may conduct the remediation using public funds.
29. Failure to comply with this Directive and Notice to Insurers will increase Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache potential liability to the Department in an amount equal to three (3) times the cost of arranging for the cleanup and removal of the discharge and may cause a lien to be placed on Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache's real and personal property pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f., including a first priority lien on the property subject of the discharge.

FRIMAIR USA, INC., GERHARD DILLNER, KIM HUONG DILLNER, JAMES M. RIDDICK, THOMBOS INTERNATIONAL CORPORATION, INC. AND SIMON W. TACHE
PEA160001 - 706300

Page 6 of 6

30. Pursuant to N.J.S.A. 58:10-23.11u., the Department may issue an order to require compliance with the Spill Compensation and Control Act and/or assess penalties. Failure by Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache to comply with this Directive may result in the issuance of an order and/or the assessment of penalties of up to \$50,000 per day and each day of violation constitutes an additional, separate and distinct violation of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

RESERVATION OF RIGHTS

31. The Department reserves the right to direct Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache to take or arrange for the taking of any and all additional remediation which the Department determines to be necessary to protect the public health and safety or the environment and to seek full reimbursement and treble damages for all costs incurred in taking such additional remediation.
32. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache are advised that the discharges referenced in this Directive and Notice to Insurers may also constitute violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and that Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache may, therefore, be subject to the penalties prescribed for violations of these Acts. The Department reserves all rights and remedies under those Acts as well as any other rights and remedies under any applicable law.

NOTICE TO INSURERS

33. BE ON NOTICE THAT, pursuant to N.J.S.A. 58:10-23.11s., any claims for costs of cleanup or civil penalties by the State and any claim for damages by any injured person, may be brought directly against the bond, insurer or any other person providing evidence of financial responsibility. Frimair USA, Inc., Gerhard Dillner, Kim Huong Dillner, James M. Riddick, Thombos International Corporation, Inc. and Simon W. Tache is therefore urged to contact such insurers and notify them of the issuance of this Directive and Notice to Insurers.

Date: _____

AUG 01 2017



Kevin F. Kratina, Assistant Director
Enforcement and Information Support Element

Civil Case Information Statement

Case Details: GLOUCESTER | Civil Part Docket# L-000423-23

Case Caption: NJ DEP'T OF ENVTL. P ROT. VS
INDUSTREX-FRIMAIR U

Case Initiation Date: 04/20/2023

Attorney Name: LISA JO MORELLI

Firm Name: ATTORNEY GENERAL LAW

Address: 25 MARKET STREET PO BOX 93

TRENTON NJ 08625

Phone: 6093762965

Name of Party: PLAINTIFF : NJ Dep't of Env'tl. Prot.

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: ENVIRONMENTAL/ENVIRONMENTAL COVERAGE
LITIGATION

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: NJ Dep't of Env'tl. Prot.? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

04/20/2023

Dated

/s/ LISA JO MORELLI

Signed

