

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
C.A.No. 2184CV2644

COMMONWEALTH OF MASSACHUSETTS,	)
	)
Plaintiff,	)
	)
v.	)
	)
IMPRESAIR ENVIRONMENTAL CORP. and	)
TED RILEY & COMPANY, INC. d/b/a	)
ENVIRO-SAFE ENGINEERING,	)
	)
Defendants.	)

**CONSENT JUDGMENT**  
**BETWEEN THE**  
**COMMONWEALTH AND TED**  
**RILEY & COMPANY, INC. d/b/a**  
**ENVIRO-SAFE ENGINEERING**

I. INTRODUCTION

WHEREAS, Plaintiff, the Commonwealth of Massachusetts ("Commonwealth"), acting by and through the Attorney General and the Massachusetts Department of Environmental Protection ("Department"), has filed a Complaint in this action alleging that Defendant, Ted Riley & Company, Inc. d/b/a Enviro-Safe Engineering ("Enviro-Safe"), has violated the Massachusetts Clean Air Act, G.L. c. 111, §§ 142A-O ("CAA") and its regulations at 310 C.M.R. § 7.15 ("Asbestos Regulations") at three homes in Malden, Waltham, and Boston, Massachusetts ("the Homes") and has also violated the asbestos licensing requirements of G.L. c. 149, §§ 6-6F1/2 and their regulations now found at 454 C.M.R. §§ 28.00, *et seq.* and prior to April 2021 found at 453 C.M.R. §§ 6.00, *et seq.* ("Asbestos Licensing Regulations");

WHEREAS, the Complaint alleges that Enviro-Safe caused, suffered, allowed, or permitted asbestos abatement activity at the Homes that violated the rules for conducting safe asbestos abatement activity in the CAA and Asbestos Regulations and that resulted in conditions

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JUDGMENT ENTERED ON NOV 11 2021  
 PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 58(b)  
 AND NOTICE SENT TO PARTIES PURSUANT TO THE PROVISIONS  
 OF MASS. R. CIV. P. 77(d) AS FOLLOWS.  
*Dec 8 21*

of air pollution, including by failing to properly perform and accurately and completely document clearance inspections at each of the Homes;

WHEREAS, the Complaint also alleges that Enviro-Safe violated the Asbestos Licensing Regulations by keeping inaccurate and misleading records and performing air sampling analysis without being certified to do so;

WHEREAS, the Commonwealth's Complaint seeks injunctive relief and the assessment of civil penalties;

WHEREAS, the Commonwealth and Enviro-Safe (collectively, the "Parties") have reached an agreement to resolve the Commonwealth's claims against Enviro-Safe, including an agreement on the amount of a civil penalty;

WHEREAS, the Commonwealth and Enviro-Safe consent to the entry of this Consent Judgment without a trial on any issues and agree that the entry of this Consent Judgment is an appropriate means to resolve this case; and

WHEREAS, the Parties agree that the settlement of this matter has been negotiated in good faith and at arm's length, that implementation of this Consent Judgment will avoid prolonged and complicated litigation between the Parties, and that this Consent Judgment is consistent with the goals of the CAA and Asbestos Regulations and in the public interest.

NOW, THEREFORE, based on the Joint Motion of the Parties for Entry of this Consent Judgment, and before taking any testimony and without the adjudication of any issue of fact or law except as provided in Section II (Jurisdiction and Venue), it is **ADJUDGED, ORDERED, AND DECREED**, as follows:

## II. JURISDICTION AND VENUE

1. The Superior Court has jurisdiction over the subject matter of this action and over the parties to it pursuant to G.L. c. 111, § 142A, and G.L. c. 214, §§ 1 and 3. Venue is proper in Suffolk County pursuant to G. L. c. 223, § 5.

2. The Complaint alleges facts, which, if proven, would constitute good and sufficient grounds for the relief set forth in this Consent Judgment.

## III. PARTIES BOUND

3. This Consent Judgment shall constitute a binding agreement between the Parties, and Enviro-Safe consents to its entry as a final judgment by the Court and waives all rights of appeal upon its entry on the docket. If the Superior Court declines to enter this Consent Judgment on any ground except one related to form, this Consent Judgment is voidable at the option of either Party within fourteen (14) days of the Court's decision. If, on the other hand, the Superior Court determines that substantive modifications to this Consent Judgment are necessary prior to the Court's entry of it, the Parties shall enter into good faith negotiations to discuss the modifications, and this Consent Judgment shall be void unless the Commonwealth and Enviro-Safe agree otherwise in writing within fourteen (14) days of the Court's decision.

4. The provisions of this Consent Judgment shall apply to and bind Enviro-Safe, and any person or entity acting by, for, or through Enviro-Safe, including Enviro-Safe's managers, directors, officers, supervisors, employees, agents, servants, attorneys-in-fact, successors, and assigns, and those persons in active concert or participation with Enviro-Safe who receive notice of this Consent Judgment.

5. Enviro-Safe shall provide a true copy of this Consent Judgment to all of its managers, directors, officers, supervisors, employees, and agents whose duties might include compliance

shall be suspended ("Suspended Penalty"). The Commonwealth shall waive this Suspended Penalty three (3) years from the date the Court enters this Consent Judgment onto the docket in this matter ("Entry Date") and complies with all of the requirements in Section V (Injunctive Relief), whichever is later, provided that Enviro-Safe has, in

(a) Within ten (10) days of the entry of this Consent Judgment, Enviro-Safe shall pay to the Commonwealth a sum of One Hundred Twenty-Five dollars (\$125,000.00);  
(b) The balance of the civil penalty, being Forty Thousand dollars (\$40,000.00).

dollars (\$165,000.00) in the following manner:  
to the Commonwealth a civil penalty pursuant to the CAA of One Hundred Sixty-Five Thousand dollars (\$165,000.00) in the following manner:  
8. Within thirty (30) days of the entry of this Consent Judgment, Enviro-Safe shall pay

**IV. PAYMENT OF CIVIL PENALTIES**

understands and agrees that violations of this Consent Judgment may be punishable by contempt.

7. In addition to any relief specifically provided in this Consent Judgment, Enviro-Safe

provisions of this Consent Judgment.

supervisors, employees, agents, or contractors to take any actions necessary to comply with the

Enviro-Safe shall not raise as a defense the failure by any of its managers, directors, officers,

contractors to violate this Consent Judgment. In any action to enforce this Consent Judgment,

its officers, directors, agents, servants, attorneys-in-fact, employees, successors, assigns, or

6. Enviro-Safe shall not violate this Consent Judgment, and Enviro-Safe shall not allow

compliance with the terms of this Consent Judgment.

Judgment, and shall condition any such contract on the contractor's performance of the work in

Consent Judgment to any contractor retained to perform work required under this Consent

with any provision of this Consent Judgment. Enviro-Safe shall also provide a copy of this

the opinion of the Commonwealth, complied with all of the terms of this Consent Judgment. If the Commonwealth believes that Enviro-Safe has not complied with all of the terms of this Consent Judgment, then it shall notify Enviro-Safe in writing of that determination and Enviro-Safe shall pay the Suspended Penalty to the Commonwealth within ten (10) days of the written determination, unless Enviro-Safe requests reconsideration of the Commonwealth's determination pursuant to Section VIII (Dispute Resolution). If Enviro-Safe requests reconsideration pursuant to Section VIII (Dispute Resolution) and the Commonwealth's determination ultimately becomes final or is otherwise upheld in whole or in part, Enviro-Safe shall pay the Suspended Penalty to the Commonwealth within fifteen (15) days after the Commonwealth's determination is final or the court's decision is entered on the docket; and

(c) Notwithstanding any other provision of this Section IV, the Commonwealth may, in its unreviewable discretion, waive any portion of the suspended penalty that becomes due pursuant to this Consent Judgment.

9. Enviro-Safe shall make the above-described civil penalty payments by Electronic Funds Transfer ("EFT") to the Commonwealth of Massachusetts in accordance with current EFT procedures, using the following account information:

Commonwealth of Massachusetts, Office of the Attorney General  
ABA#: 011075150  
ACCOUNT#: 00088882022  
SANTANDER BANK  
75 STATE STREET  
BOSTON, MA 02109  
TIN: 046002284

and shall include the following in the payment information: "EPD, *Commonwealth v. Enviro-Safe, et al.*" Any payments received by the Commonwealth after 4:00 P.M. (Eastern Time) will

be credited on the next business day. At the time of payment, Enviro-Safe shall send notice that such payment has been made to the Commonwealth by electronic mail as set forth below in Section XI (Notices) and shall include all of the payment information stated in this Paragraph in addition to the amount of the payment.

## **V. INJUNCTIVE RELIEF**

10. For the purposes of this Section V, all terms that are defined by the CAA, the Asbestos Regulations, and the Asbestos Licensing Regulations shall have the meaning assigned to them in those acts and regulations.

11. Enviro-Safe shall not perform asbestos consulting services, asbestos analytical services, surveys for asbestos, asbestos sampling, or monitoring or inspection of asbestos abatement activity except in compliance with the CAA, Asbestos Regulations, and Asbestos Licensing Regulations.

### **A. NOTIFICATION REQUIREMENTS**

12. For three (3) years from the Entry Date, Enviro-Safe shall provide to the Department on a weekly basis beginning the first Friday after the Entry Date, notification of all of the work Enviro-Safe will perform during the following calendar week (i.e., the seven days beginning the first Sunday after the Friday) related to a project where any portion of such project would require notification to the Department pursuant to 310 C.M.R. § 7.15(6) ("Enhanced Notification"). This Enhanced Notification shall include, at minimum, the date of the work, the location of the work, the entity performing the related asbestos-abatement activity, the entity with whom Enviro-Safe has contracted for the work, a brief description of the asbestos abatement activity and the work Enviro-Safe has contracted to perform, and a sworn certification that the information provided is true and accurate. Enviro-Safe shall transmit each Enhanced Notification by e-mail to the

Department's regional office or offices responsible for the municipality or municipalities in which the relevant asbestos abatement activity will occur at the e-mail addresses set forth in the following paragraph, which addresses the Commonwealth or the Department may change from time to time by written notification to Enviro-Safe at the contact information set forth below in Section XI (Notices). If Enviro-Safe contracts to perform work that would have been included in an Enhanced Notification, but was not included because Enviro-Safe was hired less than a week prior to performance of the work, Enviro-Safe shall provide the information that it would have provided in the Enhanced Notification promptly after being retained to perform such work, but in any event at least twenty-four (24) hours prior to performing such work unless Enviro-Safe was hired within twenty-four (24) hours prior to performing such work, in which case Enviro-Safe shall provide the information that it would have provided in the Enhanced Notification as soon as possible prior to conducting the work.

13. Enviro-Safe shall make the Enhanced Notifications described in the previous Paragraph to the appropriate Department regional office at the following e-mail addresses:

For the Central Region:

Asbestos Program Section Chief  
Department of Environmental Protection  
8 New Bond Street  
Worcester, MA 01606  
[Gregory.Levins@mass.gov](mailto:Gregory.Levins@mass.gov)

For the Northeastern Region:

Asbestos Program Section Chief  
Department of Environmental Protection  
205B Lowell Street  
Wilmington, MA 01887  
[Nero.asbestos@mass.gov](mailto:Nero.asbestos@mass.gov)

For the Southeastern Region

Asbestos Program Section Chief  
Department of Environmental Protection  
20 Riverside Drive  
Lakeville, MA 02347  
[SERO.Asbestos@mass.gov](mailto:SERO.Asbestos@mass.gov)

For the Western Region:

Asbestos Program Section Chief  
Department of Environmental Protection  
436 Dwight Street  
Springfield, MA 01103  
[David.slowick@mass.gov](mailto:David.slowick@mass.gov)

## **B. TRAINING AND CERTIFICATION REQUIREMENTS**

14. Within thirty (30) days of the Entry Date Enviro-Safe shall submit to the Commonwealth a sworn certification that each of its employees who performed asbestos consulting services at any of the Homes has successfully completed an asbestos project monitor training course that meets the requirements of 454 C.M.R. § 28.05(4)(f) and is approved by the Massachusetts Department of Labor Standards ("DLS") during the 2021 calendar year prior to such certification, and the supporting documentation from the training provider (i.e., certificates of completion).

## **C. DOCUMENTATION REQUIREMENTS**

15. Within ten (10) days of the Entry Date, Enviro-Safe shall implement a document management system for all of its asbestos consulting services, asbestos analytical services, surveys for asbestos, asbestos sampling, monitoring or inspection of asbestos abatement activity, and final visual clearances. This document management system shall include at least the following:

- a. A requirement that each Enviro-Safe employee who performs asbestos inspection or monitoring services shall keep accurate, legible, contemporaneous notes of their actions, observations, conclusions, and professional opinions for each job and/or site at which they perform such services ("Inspection/Monitor Logs").
- b. A requirement that the Inspection/Monitor Logs contain accurate dates and times documenting when the activities they describe were performed.
- c. A requirement that each employee provide a signed certification swearing to the truth and accuracy of the contents of each of the Inspection/Monitor Logs.



d. A requirement that Enviro-Safe maintain and preserve a copy of each of the Inspection/Monitor Logs.

16. Enviro-Safe shall promptly provide a copy of any of the Inspection/Monitor Logs to the Department, DLS, or the Commonwealth upon request.

17. Any information provided by Enviro-Safe pursuant to this Consent Judgment may be used by the Commonwealth in any proceeding to enforce the provisions of this Consent Judgment.

#### **VI. PRESERVATION OF RECORDS**

18. In addition to complying with any other applicable local, State, or federal records preservation requirements, until five (5) years after the Entry Date, Enviro-Safe shall preserve at least one legible copy of all documents in its possession, custody, or control that relate to the performance of Enviro-Safe's obligations under this Consent Judgment. If Enviro-Safe retains or employs any agent, consultant, or contractor for the purpose of complying with the terms of this Consent Judgment, then Enviro-Safe's agreement or contract with the agent, consultant, or contractor shall require such person or persons to provide Enviro-Safe with a copy of all documents relating to the performance of Enviro-Safe's obligations under this Consent Judgment. This requirement includes electronic documents. Any copies of documents subject to this requirement may be maintained in an electronic format.

#### **VII. INTEREST AND COLLECTIONS**

19. If any payment required pursuant to this Consent Judgment is late or not made, Enviro-Safe shall pay interest on any overdue amount for the period of such nonpayment at the rate of twelve percent (12%) pursuant to G.L. c. 231, § 6B, computed monthly, and shall pay all expenses associated with collection by the Commonwealth of the unpaid amounts and interest

for any period of nonpayment after the payment obligation becomes due, including reasonable attorneys' fees.

### VIII. DISPUTE RESOLUTION

20. Unless otherwise provided in this Consent Judgment, the Dispute Resolution procedures in this Section shall be the exclusive mechanism for Enviro-Safe to resolve disputes arising under or with respect to this Consent Judgment. These procedures, however, shall not apply to actions by the Commonwealth or the Department to enforce Enviro-Safe's obligations under the Consent Judgment.

21. If Enviro-Safe disagrees with a written determination of the Commonwealth or the Department, then Enviro-Safe may, within thirty (30) days of the date of the determination, request reconsideration of the determination by submitting to the Department, with a copy to the Attorney General, any information or material it believes demonstrates that the Department's or the Commonwealth's determination was erroneous. Unless otherwise provided in this Consent Judgment, Enviro-Safe's failure to submit a request for reconsideration within the period specified in this Paragraph shall constitute a waiver of Enviro-Safe's ability to seek reconsideration and, in that case, the Department's or the Commonwealth's determination shall be final and unreviewable. If, after consideration of a timely request for reconsideration, the Department or the Commonwealth decides to affirm, in whole or in part, the agency's original determination, then the Department or the Commonwealth shall notify Enviro-Safe of its determination on reconsideration.

22. The Department's or the Commonwealth's determination on reconsideration shall be final unless Enviro-Safe seeks judicial review of the dispute by filing with the Court and serving on the Commonwealth, in accordance with Section XI (Notices), a motion in this case requesting

judicial resolution of the dispute within fourteen (14) days of receipt of the Department's or the Commonwealth's determination. In an action for judicial review under this Section, Enviro-Safe shall bear the burden of demonstrating that the Department's or the Commonwealth's determination on reconsideration was arbitrary and capricious or otherwise not in accordance with law. Enviro-Safe's motion and supporting memorandum shall not raise any new issues or be based on new facts or information that Enviro-Safe did not present previously to the Department or the Commonwealth during the dispute resolution process described in this Section.

### **IX. EFFECT OF CONSENT JUDGMENT**

23. Upon compliance with the requirements of this Consent Judgment, (a) this Consent Judgment shall resolve Enviro-Safe's liability for the specific legal claims alleged against it in the Complaint and (b) the Commonwealth shall release Enviro-Safe from liability for the specific legal claims alleged against Enviro-Safe in the Complaint.

24. Nothing in this Consent Judgment, or any permit or approval issued by the Department or DLS: (a) shall bar any action by the Commonwealth on any legal claim not specifically pleaded in the Complaint or for any violations not revealed to the Commonwealth; (b) shall be deemed to excuse noncompliance by Enviro-Safe or any of the persons or entities otherwise bound by this Consent Judgment with any law or regulation; or (c) shall preclude a separate or ancillary action by the Commonwealth to enforce the terms of this Consent Judgment, or any permit or other approval issued by the Department or DLS. The Commonwealth expressly reserves all claims for injunctive relief for violations of all of the statutes and regulations referred to in this Consent Judgment, whether related to the specific legal claims resolved by this Consent Judgment or otherwise.

25. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Judgment.

#### X. MISCELLANEOUS

26. Enviro-Safe understands and agrees that, pursuant to 11 U.S.C. § 523(a)(7), the civil penalty and any other costs or sums that Enviro-Safe may be required to pay under this Consent Judgment are not subject to discharge in any bankruptcy.

27. Enviro-Safe shall pay all expenses, including reasonable attorneys' fees and costs, incurred by the Commonwealth in the enforcement of this Consent Judgment.

28. Enviro-Safe waives entry of findings of fact and conclusions of law pursuant to Rule 52 of the Massachusetts Rules of Civil Procedure.

29. The titles in this Consent Judgment have no independent legal significance and are used merely for the convenience of the Parties.

30. Massachusetts law shall govern the interpretation and enforcement of this Consent Judgment.

31. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State or Federal holiday, the period shall run until the close of business of the next business day.

32. This Consent Judgment shall be effective when the Court enters the Consent Judgment on the docket.

#### XI. NOTICES

33. Unless otherwise specified in this Consent Judgment, notices and submissions required by this Judgment shall be made in writing by first class mail to the following addresses:

For the Attorney General's Office and the Commonwealth:

Louis Dundin  
Assistant Attorney General  
Senior Enforcement Counsel  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
Louis.dundin@mass.gov

For the Department:

Colleen McConnell  
Senior Regional Counsel  
Northeast Regional Office  
Massachusetts Department of  
Environmental Protection  
205B Lowell Street  
Wilmington, MA 01887  
Colleen.McConnell@mass.gov

For Enviro-Safe:

Patricia E. Riley  
President  
Enviro-Safe Engineering  
203 Prospect Street  
Brockton, MA 02301  
prileyasb@aol.com

or, to such other place or to the attention of such other individual as a Party may from time to time designate by written notice to the other Party to this Consent Judgment.

## **XII. INTEGRATION**

34. Except as expressly set forth in this Consent Judgment, this Consent Judgment sets forth all of the obligations of the Parties and represents the complete and exclusive statement of the Parties with respect to the terms of the settlement agreement embodied by this Consent Judgment; any other representations, communications or agreements by or between the Parties shall have no force and effect.

## **XIII. MODIFICATION**

35. The terms of this Consent Judgment may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material change to any term of this Consent Judgment, it shall be effective only by written approval of the Parties and

the approval of the Court. The Commonwealth's decision to extend a deadline in this Consent Judgment shall not constitute a material change for purposes of this Paragraph.

36. Any disputes concerning modification of this Judgment shall be resolved pursuant to Section VIII (Dispute Resolution) of this Consent Judgment, provided, however, that instead of the burden of proof provided in Section VIII (Dispute Resolution), the party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Rule 60(b) of the Massachusetts Rules of Civil Procedure.

#### **XIV. AUTHORITY OF SIGNATORY**

37. The person signing this Consent Judgment on behalf of Enviro-Safe acknowledges: (a) that he or she has personally read and understands each of the numbered Paragraphs of this Consent Judgment, including any Appendices attached to it; (b) that, to the extent necessary, Enviro-Safe's managers, directors, officers, and shareholders have consented to Enviro-Safe entering into this Consent Judgment and to its entry as a Final Judgment; and (c) that he or she is authorized to sign and bind Enviro-Safe to the terms of this Consent Judgment.

#### **XV. RETENTION OF JURISDICTION**

38. The Court shall retain jurisdiction over this case for purposes of resolving disputes that arise under this Consent Judgment, entering orders modifying this Consent Judgment, or effectuating or enforcing compliance with the terms of this Consent Judgment and any permits, approvals, or directives issued by the Department pursuant to the terms of this Consent Judgment.

**XVI. FINAL JUDGMENT**

39. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a Final Judgment of the Court.

**IT IS SO ORDERED. JUDGMENT** is hereby entered in accordance with the foregoing.

By the Court:

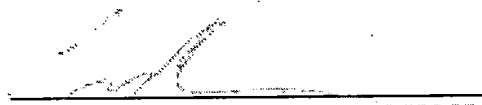
  
\_\_\_\_\_  
JUSTICE, SUPERIOR COURT

11/29/21  
Date

The Undersigned Parties enter into this Consent Judgment in the matter of  
*Commonwealth v. Ted Riley & Company, Inc. d/b/a Enviro-Safe Engineering* (Suffolk Superior  
Court).

FOR THE COMMONWEALTH OF  
MASSACHUSETTS

MAURA HEALEY  
ATTORNEY GENERAL



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Louis M. Dundin, BBO No. 660359  
Assistant Attorney General  
Senior Enforcement Counsel  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
(617) 963-2433  
Louis.dundin@mass.gov

Dated: November 16, 2021

FOR TED RILEY & COMPANY, INC. d/b/a  
ENVIRO-SAFE ENGINEERING

*Patricia Riley*  
\_\_\_\_\_  
Patricia E. Riley  
President  
Ted Riley & Company, Inc. d/b/a Enviro-Safe  
Engineering  
203 Prospect Street  
Brookton, MA 02301  
(617) 593-0599  
prileyasb@aol.com

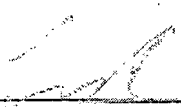
Dated: 09/11/2021



The Undersigned Parties enter into this Consent Judgment in the matter of  
*Commonwealth v. Ted Riley & Company, Inc. d/b/a Enviro-Safe Engineering, et al.* (Suffolk  
Superior Court).


FOR THE COMMONWEALTH OF  
MASSACHUSETTS

MAURA HEALEY  
ATTORNEY GENERAL

  
\_\_\_\_\_  
Louis M. Dundin, BBO No. 660359  
Assistant Attorney General  
Senior Enforcement Counsel  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
(617) 963-2433  
Louis.dundin@mass.gov

Dated: November 16, 2021

FOR IMPRESAIR ENVIRONMENTAL  
CORP.

  
\_\_\_\_\_  
Calixto Alvarado, Director  
Impresair Environmental Corp.  
439 Ferry Street  
Malden, MA 02148

Dated:

#### NOTICE OF TRANSLATION

This document was translated into Spanish by a professional translator at the request of Impresair. A copy of the Spanish translation and the translator's certification is attached as "Attachment A."

# **ATTACHMENT A**

Commonwealth de Massachusetts

Suffolk, ss . Corte superior

Acción Civil No . \_\_\_\_\_

\_\_\_\_\_ )  
COMMONWEALTH OF MASSACHUSETTS, )

DEMANDANTE, )

CONTRA )

IMPRESAIR ENVIRONMENTAL CORP. Y T )  
ED RILEY & COMPANY, INC. D / B / A )  
ENVIRO-SAFE ENGINEERING, )

DEMANDADOS )

FALLO POR CONSENTIMIENTO  
ENTRE LA COMMONWEALTH Y LA  
CORPORACIÓN AMBIENTAL DE  
IMPRESAIR.

I. INTRODUCCIÓN

Considerando que , el demandante, Commonwealth de Massachusetts ("Commonwealth"), actuando por y a través del Fiscal General y el Departamento de Protección Ambiental de Massachusetts ("Departamento"), ha presentado una demanda en esta causa, alegando que el demandado, Impresair Environmental Corp. ( " Impresair "), ha violado la Ley de Aire Limpio de Massachusetts, GL c. 111, §§ 142A-D ("CAA") y sus regulaciones en 310 CMR § 7.15 ("Regulaciones sobre amianto") en cuatro casas en Malden, Waltham, Arlington y Boston, Massachusetts ("las casas");

CONSIDERANDO que, la demanda alega que Impresair realizó una actividad de eliminación de amianto en las casas que violó las reglas de eliminación segura de amianto según la CAA y las regulaciones sobre el amianto y que resultó en la contaminación del aire en cada una de las casas;

CONSIDERANDO que, la demanda de la Commonwealth busca medidas cautelares y la evaluación de sanciones civiles;

CONSIDERANDO que, la Commonwealth ha revisado la información financiera enviada por Impresair y ha determinado que Impresair ha demostrado una capacidad limitada para pagar una multa civil en este asunto;

CONSIDERANDO que, la Commonwealth e Impresair (colectivamente, las partes) han llegado a un acuerdo para resolver las reclamaciones de la Commonwealth contra Impresair, incluido un acuerdo sobre el monto de la multa civil que Impresair puede pagar teniendo en cuenta su capacidad limitada para pagarla;

CONSIDERANDO que, la Commonwealth e Impresair consienten en el ingreso de este Fallo por consentimiento sin juicio sobre ninguna causa y acuerdan que la entrada de este Fallo por consentimiento es un medio adecuado para resolver este caso; y

CONSIDERANDO, que las partes están de acuerdo en que la solución de este asunto se ha negociado de buena fe y de forma completa, y que la aplicación del presente Fallo por consentimiento evitará un litigio prolongado y complicado entre las partes, y que este Fallo acordado es consistente con los objetivos de la CAA y en el interés público;

AHORA, POR LO TANTO, con base en la moción conjunta de las partes para la entrada de este Fallo por consentimiento, y antes de tomar cualquier testimonio y sin la adjudicación de cualquier cuestión de hecho o de derecho, excepto lo dispuesto en la Sección II (Jurisdicción y Lugar), se Decide, Ordena y Decreta, de la siguiente manera:

## II. JURISDICCIÓN Y COMPETENCIA

1. La Corte Superior tiene jurisdicción sobre el asunto en cuestión y sobre las partes involucradas, de conformidad con GL c. 111, § 142A y GL c. 214, §§ 1 y 3. La competencia recae en Suffolk County de conformidad con GL c. 223, párrafo
2. La demanda alega hechos que, si se prueban, constituirían motivo suficiente para la reparación establecida en este Fallo por consentimiento.

## III. PARTES VINCULADAS

3. Este fallo por consentimiento constituirá un acuerdo vinculante entre las partes e Impresair consiente su entrada como sentencia final por parte del Tribunal y renuncia a todos los derechos de apelación en el momento de su entrada en el expediente. Si la Corte Superior declina entrar este Fallo por consentimiento por cualquier motivo, salvo que esté relacionado con la forma, esta sentencia es anulable si cualquiera de las partes lo solicita después de los catorce (14) días de la decisión de la Corte. Si, por otro lado, el Tribunal Superior determina que son necesarias modificaciones sustantivas a este Fallo por consentimiento antes de su entrada por el mismo tribunal, las partes entablarán negociaciones de buena fe para discutir las modificaciones, y este Fallo por consentimiento será nulo a menos que la Commonwealth e Impresair acuerden lo contrario por escrito dentro de los catorce (14) días después de la decisión de la Corte.

4. Las disposiciones de este Fallo por consentimiento se aplicarán y vincularán a Impresair y a cualquier persona o entidad que actúe por, para o a través de Impresair, incluidos los gerentes, directores, funcionarios, supervisores, empleados, agentes, sirvientes y apoderados, sucesores y cesionarios de Impresair, y aquellas personas en concierto o participación activa con Impresair que reciban notificación de este Fallo por Consentimiento.

5. Impresair proporcionará una copia fiel de este Fallo por consentimiento a todos sus gerentes, directores, funcionarios, supervisores, empleados y agentes cuyas funciones podrían incluir el cumplimiento de cualquier disposición de este fallo por consentimiento. Impresair también proporcionará una copia de este Fallo de consentimiento a cualquier contratista que realice el trabajo requerido bajo este Fallo de consentimiento, y condicionará dicho contrato al rendimiento del contratista en cumplimiento con los términos de este Fallo de Consentimiento.

6. Impresair no violará este Fallo de consentimiento, e Impresair no permitirá que sus funcionarios, directores, agentes, sirvientes, apoderados, empleados, sucesores, cesionarios o contratistas violen este acuerdo. En cualquier acción para hacer cumplir este acuerdo, Impresair no presentará como defensa la falta, por parte de sus gerentes, directores, oficiales, supervisores, empleados, agentes o contratistas de acciones necesarias para cumplir con las disposiciones de este Fallo por consentimiento.

7. Además de cualquier reparación prevista específicamente en este Fallo por consentimiento, Impresair comprende y acepta que las violaciones de este Fallo por consentimiento pueden ser castigadas con desacato.

#### IV. PAGO DE SANCIONES PENALES

8. Dentro de los treinta (30) días siguientes a la entrada de este Fallo por consentimiento, Impresair deberá pagar a la Commonwealth una sanción según CAA de ochenta mil dólares (\$ 80,000.00) de la siguiente manera:

(a) Dentro de los diez (10) días siguientes a la entrada del presente Fallo por Consentimiento ("Fecha de Entrada"), Impresair deberá pagar a la Commonwealth una suma de diez mil (\$ 10,000.00);

(b) En el plazo de un (1) año a partir de la fecha de inscripción, Impresair pagará a la Commonwealth una suma de diez mil (\$ 10,000.00);

(c) En el plazo de dos ( 2 ) años desde la fecha de entrada, Impresair deberá pagar a la Commonwealth una cantidad de diez mil (\$ 10,000.00 );

(d) En el plazo de tres ( 3 ) años de la fecha de entrada, Impresair deberá pagar a la Commonwealth una cantidad de diez mil (\$ 10,000.00 );

(e) En el plazo de cuatro ( 4 ) años desde la fecha de entrada, Impresair deberá pagar a la Commonwealth una cantidad de diez mil (\$ 10,000.00 );

(f) La cantidad de la multa civil de treinta mil dólares (\$ 30,000.00), quedará en suspenso ("pena suspendida"). La Commonwealth renunciará a esta multa suspendida tras (3) años a partir de la fecha en que el Tribunal ingrese este Fallo por consentimiento en el expediente ("fecha de entrada") y cumpla con todos los requisitos de la sección V (medidas cautelares), lo

que sea más posterior, siempre que Impresair, en opinión de la Commonwealth, haya cumplido con todos los términos de este Fallo por consentimiento. Si la Commonwealth cree que Impresair no ha cumplido con todos los términos de este Fallo, entonces notificará a Impresair por escrito esa determinación e Impresair pagará la sanción suspendida a la Commonwealth dentro de los diez (10) días posteriores a la determinación escrita, a menos que Impresair solicite la reconsideración de la determinación de la Commonwealth de conformidad con la Sección VIII (Resolución de disputas). Si Impresair solicita una reconsideración de conformidad con la Sección XI (Resolución de disputas) y la determinación de la Commonwealth finalmente se vuelve definitiva o se confirma en su totalidad o en parte, Impresair pagará la sanción suspendida a la Commonwealth dentro de los quince (15) días después de que la determinación de la Commonwealth sea final o la decisión del tribunal se registre en el expediente.

(g) Sin perjuicio de cualquier otra disposición de esta Sección IV, la Commonwealth pueda, a su discreción no revisable, renunciar a cualquier parte de la pena suspendida que se adeude de conformidad con este Fallo por consentimiento.

9. Impresair realizará los pagos de multas civiles descritos anteriormente mediante transferencia electrónica de fondos ("EFT") al Estado de Massachusetts de acuerdo con los procedimientos actuales de EFT, utilizando la siguiente información de cuenta:

Commonwealth of Massachusetts, Oficina del Procurador General

N. ° ABA: 011075150  
CUENTA #: 00088882022  
BANCO SANTANDER  
75 STATE STREET  
BOSTON, MA 02109  
TIN: 046002284

se incluirá lo siguiente en la información de pago: "EPD, Commonwealth v. Ted Riley & Company, Inc. d / b / a Enviro-Safe Engineering, et al. "Cualquier pago recibido por la Commonwealth después de las 4:00 PM (hora del este) se acreditará el siguiente día hábil. En el momento del pago, Impresair enviará un aviso por correo electrónico de que dicho pago se ha realizado a la Commonwealth, como se establece a continuación en la Sección XI (Avisos) o incluirá toda la información de pago indicada en este párrafo además del monto del pago.

10. La multa civil establecida en el párrafo 8 se ha reducido de lo que la Commonwealth cree que de otro modo sería una pena civil apropiada para las violaciones alegadas en la demanda basándose en la demostración de Impresair a la Commonwealth de que Impresair tiene una capacidad limitada para pagar una multa civil.

## V. MEDIDAS CAUTELARES

11. A los efectos de esta sección V, todos los términos que son definidos por la CAA y las regulaciones de amianto tendrán el significado que se les asigne en esa ley y sus regulaciones.

12. Impresair no realizará actividades de eliminación de amianto excepto en cumplimiento de las regulaciones de CAA y amianto.

#### A. REQUISITOS DE NOTIFICACIÓN

13. Durante tres (3) años a partir de la fecha de entrada, siempre que Impresair deba notificar al Departamento de conformidad con 310 CMR § 7.15 (6), Impresair también transmitirá una copia adicional de los documentos de notificación requeridos por 310 CMR § 7.15 (6) por correo electrónico a la oficina regional del departamento responsable del municipio en el que se llevará a cabo la retirada de amianto relevante, a las direcciones de correo electrónico establecidas en el siguiente párrafo, las cuales puede cambiar de vez en cuando la Commonwealth o el Departamento mediante notificación por escrito a Impresair en la información de contacto que se establece a continuación en la Sección XI (Avisos).

14. Impresair realizará las notificaciones descritas en el párrafo anterior a la oficina regional del Departamento correspondiente en las siguientes direcciones de correo electrónico:

Para la Región Central:

Jefe de Sección del Programa de Amianto  
Departamento de Protección Ambiental  
8 New Bond Street  
Worcester, MA 01608  
[Gregory.Levins@mass.gov](mailto:Gregory.Levins@mass.gov)

Para la región noreste:

Jefe de Sección del Programa de Amianto  
Departamento de Protección Ambiental  
205B Lowell Street  
Wilmington, MA 01887  
[nero.asbestos@mass.gov](mailto:nero.asbestos@mass.gov)

Para la región sureste

Jefe de Sección del Programa de Amianto  
Departamento de Protección Ambiental  
20 Riverside Drive  
Lakeville, MA 02347  
[SERO.Asbestos@mass.gov](mailto:SERO.Asbestos@mass.gov)

Para la región occidental:

Jefe de Sección del Programa de Amianto  
Departamento de Protección Ambiental  
436 Dwight Street  
Springfield, MA 01103  
[David.Slowick@mass.gov](mailto:David.Slowick@mass.gov)

## **B. REQUISITOS DE CAPACITACIÓN Y CERTIFICACIÓN**

15. Dentro de los noventa ( 90) días desde la fecha de entrada, Impresair presentará a la Commonwealth una certificación jurada de que Calixto Alvarado y Adrien Soriano han completado con éxito un curso de formación para trabajar con amianto, que cumpla con los requisitos de 454 CMR § 26.05 (4) ( a ) y esté aprobado por el Departamento de normas laborales de Massachusetts ("DLS") durante el año 2021 antes de dicha certificación, y la documentación necesaria del proveedor de la capacitación (por ejemplo, certificados de finalización).

## **C. LIMITACIÓN DE LA ACTIVIDAD DE REDUCCIÓN DE AMIANTO**

16. Si Impresair no realiza ningún pago de conformidad con este Fallo por consentimiento antes de la fecha requerida por este mismo Fallo, Impresair no podrá realizar ninguna actividad de eliminación de amianto hasta que dicho pago se haya realizado en su totalidad o la Commonwealth proporcione a Impresair una autorización por escrito para continuar la actividad de eliminación de amianto.

## **VI . CONSERVACIÓN DE REGISTROS**

17. Además de cumplir con cualquier otro requisito aplicable de conservación de registros locales, estatales o federales, hasta siete (7) años después de que Impresair complete todas las acciones requeridas por este Fallo por consentimiento, Impresair conservará al menos una copia legible de todos los documentos en su posesión, custodia o control que se relacionan con el cumplimiento de las obligaciones de Impresair en virtud de este Fallo. Si Impresair contrata o emplea a cualquier agente, consultor o contratista con el fin de cumplir con los términos de este Fallo por consentimiento, entonces el acuerdo o contrato de Impresair con el agente, consultor o contratista requerirá que dicha persona o personas proporcionen a Impresair una copia de todos los documentos relacionados con el cumplimiento de las obligaciones de Impresair en virtud de este Fallo por consentimiento. Este requisito incluye documentos electrónicos. Cualquier copia de los documentos sujetos a este requisito pueden ser mantenidos en formato electrónico.

## **VII . INTERESES Y COBROS**

18. Si algún pago requerido de conformidad con este acuerdo se retrasa o no se realiza, Impresair pagará intereses sobre cualquier monto vencido durante el periodo de dicha falta de pago a una tasa del doce por ciento (12%) de conformidad con GL c. 231, § 6B, calculado mensualmente, y pagará todos los gastos asociados con el cobro por parte de la Commonwealth de las cantidades impagas y los intereses por cualquier periodo de falta de pago una vez vencida la obligación de pago, incluidos los honorarios razonables de abogados .

## **VIII . RESOLUCIÓN DE CONFLICTOS**

19. A menos que se disponga lo contrario en este Fallo por consentimiento, los procedimientos de resolución de disputas en esta sección serán el mecanismo exclusivo para que Impresair



resuelva las disputas que surjan bajo o con respecto a este Fallo por consentimiento. Sin embargo, estos procedimientos no se aplicarán a las acciones de la Commonwealth o del Departamento para hacer cumplir las obligaciones de Impresair en virtud de este Fallo por consentimiento.

20. Si Impresair no está de acuerdo con una determinación escrita del Departamento o de la Commonwealth, entonces Impresair puede, dentro de los treinta (30) días posteriores a la fecha de la determinación del Departamento o del Commonwealth, solicitar la reconsideración de la determinación enviándola al Departamento, con copia al Fiscal general, cualquier información o material que crea que demuestre que la determinación del Departamento o de la Commonwealth fue errónea. A menos que se disponga otra cosa en el presente Fallo por consentimiento, la falta de presentación por parte de Impresair de una solicitud de reconsideración dentro del plazo establecido en este apartado, constituirá una renuncia por parte de Impresair de su derecho a obtener una revisión y, en ese caso, la determinación del Departamento o de la Commonwealth será definitiva e inapelable. Si, tras el examen de una solicitud de reconsideración presentada a tiempo, el Departamento o la Commonwealth decide afirmar, en su totalidad o en parte, la determinación inicial de la agencia, el Departamento o la Commonwealth notificará a Impresair su decisión sobre la reconsideración.

21. La determinación del Departamento o de la Commonwealth sobre la reconsideración será definitiva a menos que Impresair busque una revisión judicial de la disputa ante el Tribunal y sirviendo a la Commonwealth, de conformidad con la Sección XIV (Avisos), una moción en este caso solicitando una resolución judicial de la disputa dentro de los catorce (14) días posteriores a la recepción de la determinación del Departamento o de la Commonwealth. En una acción para revisión judicial en virtud de esta Sección, Impresair asumirá la carga de demostrar que la determinación del Departamento o de la Commonwealth sobre la reconsideración fue arbitraria y caprichosa o no se ajustó a la ley. La moción de Impresair y la memoria adjunta no plantearán ningún problema nuevo ni se basarán en nuevos hechos o información que Impresair no presentara previamente al Departamento o a la Commonwealth durante el proceso de resolución de disputas descrito en esta Sección.

#### **IX . EFECTO DEL FALLO POR CONSENTIMIENTO**

22. Tras el cumplimiento de los requisitos de este Fallo por consentimiento, (a) este Fallo resolverá la responsabilidad de Impresair por las reclamaciones legales específicas alegadas en su contra en la demanda y (b) la Commonwealth liberará a Impresair de la responsabilidad de las reclamaciones legales específicas alegadas contra Impresair en la demanda.

23. Nada en este Fallo por Consentimiento, o cualquier permiso o aprobación emitido por el Departamento o DLS: (a) impedirá cualquier acción por parte de la Commonwealth en cualquier demanda legal que no esté específicamente alegada en la denuncia o por cualquier violación no revelada a la Commonwealth; (b) se considerará que excusa el incumplimiento de Impresair o de cualquiera de las personas o entidades obligadas por otra parte y a través de este Fallo por consentimiento con cualquier ley o reglamento; o (c) impedirá una acción separada o auxiliar por parte de la Commonwealth para hacer cumplir los términos de este Fallo por consentimiento, o cualquier permiso u otra aprobación emitida por el Departamento o DLS. La Commonwealth se reserva expresamente todas las reclamaciones de medidas cautelares por las violaciones de todos los estatutos y reglamentos a los que se hace referencia en este Fallo por consentimiento, ya sea relacionado con las denuncias legales específicas resueltas por este Fallo por consentimiento o de otro modo.

24. Nada en este Fallo por consentimiento se interpretará para la creación de derechos o para otorgar cualquier causa legal a cualquier persona no contemplada en este Fallo.

#### X. TEMAS DIVERSOS

25. Impresair entiende y acepta que, de conformidad con el 11 USC § 523 (a) (7), la multa civil y cualquier otro costo o monto que Impresair deba pagar en virtud de este Fallo por consentimiento no están sujetos a su exoneración en caso de quiebra.

26. Impresair pagará todos los gastos, incluidos los honorarios y costos razonables de abogados, incurridos por la Commonwealth en la ejecución de este Fallo por consentimiento.

27. Impresair renuncia a la entrada de hallazgo de hechos y conclusiones de derecho, de conformidad con la Regla 52 de las Reglas de Procedimiento Civil de Massachusetts.

28. Los títulos de este Fallo por consentimiento no tienen un significado legal independiente y se utilizan simplemente para la conveniencia de las partes.

29. La ley de Massachusetts se aplicará en la interpretación y ejecución de este Fallo por consentimiento.

30. Al computar cualquier período de tiempo bajo esta sentencia acordada, en el que el último día caería en un sábado, domingo o día festivo estatal o federal, el plazo estará vigente hasta el cierre de los negocios del día siguiente laborable.

31. Este Fallo por consentimiento entrará en vigor cuando el Tribunal lo ingrese en el expediente.

#### XI AVISOS

32. A menos que se especifique lo contrario en este Fallo por consentimiento, las notificaciones y presentaciones requeridas por este Fallo se harán por escrito por correo de primera clase a las siguientes direcciones:

Para la Oficina del Fiscal General y la Commonwealth:

Louis Dundin

Secretario de Justicia Auxiliar

Abogado senior de ejecución

División de Protección Ambiental

Oficina del Fiscal General

One Ashburton Place, piso 18

Boston, MA 02108

Louis.dundin@mass.gov

Para el Departamento:

Colleen McConnell

Asesor Regional Senior

Oficina Regional Noreste

Departamento de Protección Ambiental de Massachusetts

205B Lowell Street

Wilmington, MA 01887

Colleen.McConnell @ mass.gov

Para Impresair :

o, a cualquier otro lugar o la atención de cualquier otra persona que una de las partes pueda designar de vez en cuando mediante notificación por escrito a la otra parte de este Fallo por consentimiento.

#### **XV. INTEGRACIÓN**

33. A excepción lo que de manera expresa determine este Fallo por consentimiento, en él se establecen todas las obligaciones de las partes y representa la declaración completa y exclusiva de las partes con respecto a los términos del acuerdo recogido por este Fallo por consentimiento; cualquier otra representación, comunicación o acuerdo por o entre las partes no tendrá fuerza ni efecto.

#### **XVI. MODIFICACIÓN**

34. Los términos de este Fallo pueden ser modificados únicamente mediante un acuerdo escrito posterior firmado por las partes. Cuando la modificación constituya un cambio material en cualquier término de este Fallo, será efectiva únicamente mediante la aprobación por escrito de las partes y la aprobación de la Corte. La decisión del Departamento de prolongar una fecha límite en este Fallo no constituirá un cambio material según lo establecido en este párrafo.

35. Cualquier disputa relacionada con la modificación de este Fallo se resolverá de conformidad con la Sección XI (Resolución de disputas) de este Fallo, siempre que, en lugar de la aplicación de la carga de la prueba según la Sección XI (Resolución de disputas), la parte que busca la modificación asuma la carga de demostrar que tiene derecho a la modificación solicitada de acuerdo con la Regla 60 (b) de las Reglas de Procedimiento Civil de Massachusetts.

#### **XVII . AUTORIDAD DEL SIGNATARIO**

36. La persona que firma este Fallo por consentimiento en nombre de Impresair reconoce: (a) que ha leído y comprende personalmente cada uno de los párrafos enumerados de este Fallo, incluidos los Apéndices adjuntos; (b) que, siempre que sea necesario, los gerentes, directores, oficiales, y los accionistas de Impresair habrán consentido que Impresair entre este Fallo por consentimiento y su entrada como un juicio final; y (c) que está autorizado para firmar y obligar a Impresair a los términos de este Fallo por consentimiento.

#### **XIX . RESERVA DE JURISDICCIÓN**

37. El Tribunal conservará la jurisdicción sobre este caso a los efectos de resolver las disputas que surjan en la relación a este Fallo por consentimiento, emitir órdenes que modifiquen este Fallo, o para efectuar o hacer cumplir los términos del mismo y cualquier permiso, aprobación o directiva emitida por el Departamento de conformidad con los términos de este Fallo por consentimiento.

#### **XX . SENTENCIA FINAL**

38. Tras la aprobación y la entrada por el Tribunal de este Fallo por consentimiento, este Fallo se constituye como sentencia final de la Corte.

**ASÍ QUEDA ORDENADO. LA SENTENCIA** queda registrada de acuerdo con lo anterior.

Por la Corte:

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Justicia, Tribunal Superior

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Fecha

Las partes abajo firmantes aprueban este Fallo por consentimiento en el asunto Commonwealth v. Ted Riley & Company, Inc. d / b / a Enviro-Safe Engineering, et al. (Tribunal Superior de Suffolk).

<p>POR LA COMMONWEALTH DE MASSACHUSETTS</p> <p>MAURA HEALEY FISCAL GENERAL</p> <hr/> <p>Louis M. Dundin, BBO No. 660359 Secretario del Fiscal general Abogado senior de ejecución División de Protección Ambiental Oficina del Fiscal General One Ashburton Place, piso 18 Boston, MA 02108 (617) 963-2433 <a href="mailto:louis.dundin@mass.gov">louis.dundin@mass.gov</a></p> <p>Con fecha de:</p>	<p>PARA IMPRESAIR ENVIRONMENTAL CORP.</p>          <p>[Insertar nombre, título] [Insertar dirección]</p> <p>Con fecha de:</p>
---	---

NOTICE

NOTICE  
11/30

4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
C.A.No. 2184CV2644

COMMONWEALTH OF MASSACHUSETTS,	)
	)
Plaintiff,	)
	)
v.	)
	)
IMPRESAIR ENVIRONMENTAL CORP. and	)
TED RILEY & COMPANY, INC. d/b/a	)
ENVIRO-SAFE ENGINEERING,	)
	)
Defendants.	)

CONSENT JUDGMENT  
BETWEEN THE  
COMMONWEALTH AND  
IMPRESAIR ENVIRONMENTAL  
CORP.

Notice sent 120621  
RLR  
LOFNO  
Lp  
JKJC  
LMO  
AAG  
MD

I. INTRODUCTION

WHEREAS, Plaintiff, the Commonwealth of Massachusetts ("Commonwealth"), acting by and through the Attorney General and the Massachusetts Department of Environmental Protection ("Department"), has filed a Complaint in this action alleging that Defendant, Impresair Environmental Corp. ("Impresair"), has violated the Massachusetts Clean Air Act, G.L. c. 111, §§ 142A-O ("CAA") and its regulations at 310 C.M.R. § 7.15 ("Asbestos Regulations") at four homes in Malden, Waltham, Arlington, and Boston, Massachusetts ("the Homes");

WHEREAS, the Complaint alleges that Impresair performed asbestos abatement activity at the Homes that violated the rules for conducting safe asbestos abatement activity in the CAA and Asbestos Regulations and that resulted in conditions of air pollution at each of the Homes;

WHEREAS, the Commonwealth's Complaint seeks injunctive relief and the assessment of civil penalties;

JUDGMENT ENTERED ON DOCKET. Dec 9 2021  
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 77(d)  
AND NOTICE SENT TO PARTIES PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 77(d) AS FOLLOWS.

NOTICE SENT 12.8.21

Suffolk County pursuant to G. L. c. 223, § 5.

parties to it pursuant to G.L. c. 111, § 142A, and G.L. c. 214, §§ 1 and 3. Venue is proper in

1. The Superior Court has jurisdiction over the subject matter of this action and over the

**II. JURISDICTION AND VENUE**

**AND DECREED, as follows:**

law except as provided in Section II (Jurisdiction and Venue), it is **ADJUDGED, ORDERED,**

Judgment, and before taking any testimony and without the adjudication of any issue of fact or

**NOW, THEREFORE,** based on the Joint Motion of the Parties for Entry of this Consent

consistent with the goals of the CAA and in the public interest.

prolonged and complicated litigation between the Parties, and that this Consent Judgment is

good faith and at arm's length, that implementation of this Consent Judgment will avoid

**WHEREAS,** the Parties agree that the settlement of this matter has been negotiated in

appropriate means to resolve this case; and

Judgment without a trial on any issues and agree that the entry of this Consent Judgment is an

**WHEREAS,** the Commonwealth and Impresari consent to the entry of this Consent

penalty;

the amount of a civil penalty that Impresari can pay in light of its limited ability to pay a civil

agreement to resolve the Commonwealth's claims against Impresari, including an agreement on

**WHEREAS,** the Commonwealth and Impresari (collectively, the Parties) have reached an

penalty in this matter;

Impresari and has determined that Impresari has demonstrated a limited ability to pay a civil

**WHEREAS,** the Commonwealth has reviewed financial information submitted by

2. The Complaint alleges facts, which, if proven, would constitute good and sufficient grounds for the relief set forth in this Consent Judgment.

### III. PARTIES BOUND

3. This Consent Judgment shall constitute a binding agreement between the Parties, and Impresair consents to its entry as a final judgment by the Court and waives all rights of appeal upon its entry on the docket. If the Superior Court declines to enter this Consent Judgment on any ground except one related to form, this Consent Judgment is voidable at the option of either Party within fourteen (14) days of the Court's decision. If, on the other hand, the Superior Court determines that substantive modifications to this Consent Judgment are necessary prior to the Court's entry of it, the Parties shall enter into good faith negotiations to discuss the modifications, and this Consent Judgment shall be void unless the Commonwealth and Impresair agree otherwise in writing within fourteen (14) days of the Court's decision.

4. The provisions of this Consent Judgment shall apply to and bind Impresair, and any person or entity acting by, for, or through Impresair, including Impresair's managers, directors, officers, supervisors, employees, agents, servants, attorneys-in-fact, successors, and assigns, and those persons in active concert or participation with Impresair who receive notice of this Consent Judgment.

5. Impresair shall provide a true copy of this Consent Judgment to all of its managers, directors, officers, supervisors, employees, and agents whose duties might include compliance with any provision of this Consent Judgment. Impresair shall also provide a copy of this Consent Judgment to any contractor retained to perform work required under this Consent Judgment and shall condition any such contract on the contractor's performance of the work in compliance with the terms of this Consent Judgment.



6. Impresair shall not violate this Consent Judgment, and Impresair shall not allow its officers, directors, agents, servants, attorneys-in-fact, employees, successors, assigns, or contractors to violate this Consent Judgment. In any action to enforce this Consent Judgment, Impresair shall not raise as a defense the failure by any of its managers, directors, officers, supervisors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Judgment.

7. In addition to any relief specifically provided in this Consent Judgment, Impresair understands and agrees that violations of this Consent Judgment may be punishable by contempt.

#### IV. PAYMENT OF CIVIL PENALTIES

8. Within thirty (30) days of the entry of this Consent Judgment, Impresair shall pay to the Commonwealth a civil penalty pursuant to the CAA of eighty thousand dollars (\$80,000.00) in the following manner:

- (a) Within ten (10) days of the entry of this Consent Judgment ("Entry Date"), Impresair shall pay to the Commonwealth a sum of ten thousand (\$10,000.00);
- (b) Within one (1) year of the Entry Date, Impresair shall pay to the Commonwealth a sum of ten thousand (\$10,000.00);
- (c) Within two (2) years of the Entry Date, Impresair shall pay to the Commonwealth a sum of ten thousand (\$10,000.00);
- (d) Within three (3) years of the Entry Date, Impresair shall pay to the Commonwealth a sum of ten thousand (\$10,000.00);
- (e) Within four (4) years of the Entry Date, Impresair shall pay to the Commonwealth a sum of ten thousand (\$10,000.00); and

(f) The balance of the civil penalty, being thirty thousand dollars (\$30,000.00), shall be suspended ("Suspended Penalty"). The Commonwealth shall waive this Suspended Penalty four (4) years from the date the Court enters this Consent Judgment onto the docket in this matter ("Entry Date") or when Impresair complies with all of the requirements in Section V (Injunctive Relief), whichever is later, provided that Impresair has, in the opinion of the Commonwealth, complied with all of the terms of this Consent Judgment. If the Commonwealth believes that Impresair has not complied with all of the terms of this Consent Judgment, then it shall notify Impresair in writing of that determination, and Impresair shall pay the Suspended Penalty to the Commonwealth within ten (10) days of the written determination, unless Impresair requests reconsideration of the Commonwealth's determination pursuant to Section VIII (Dispute Resolution). If Impresair requests reconsideration pursuant to Section VIII (Dispute Resolution) and the Commonwealth's determination ultimately becomes final or is otherwise upheld in whole or in part, Impresair shall pay the Suspended Penalty to the Commonwealth within fifteen (15) days after the Commonwealth's determination is final or the court's decision is entered on the docket.

(g) Notwithstanding any other provision of this Section IV, the Commonwealth may, in its unreviewable discretion, waive any portion of the suspended penalty that becomes due pursuant to this Consent Judgment.

9. Impresair shall make the above-described civil penalty payments by Electronic Funds Transfer ("EFT") to the Commonwealth of Massachusetts in accordance with current EFT procedures, using the following account information:

Commonwealth of Massachusetts, Office of the Attorney General  
ABA#: 011075150  
ACCOUNT#: 00088882022  
SANTANDER BANK  
75 STATE STREET  
BOSTON, MA 02109  
TIN: 046002284

and shall include the following in the payment information: "EPD, *Commonwealth v. Ted Riley & Company, Inc. d/b/a Enviro-Safe Engineering, et al.*" Any payments received by the Commonwealth after 4:00 P.M. (Eastern Time) will be credited on the next business day. At the time of payment, Impresair shall send notice that such payment has been made to the Commonwealth by electronic mail as set forth below in Section XI (Notices) and shall include all of the payment information stated in this Paragraph in addition to the amount of the payment.

10. The civil penalty set forth in Paragraph 8 has been reduced from what the Commonwealth believes would otherwise be an appropriate civil penalty for the violations alleged in the Complaint based on Impresair's demonstration to the Commonwealth that Impresair has a limited ability to pay a civil penalty.

#### V. INJUNCTIVE RELIEF

11. For the purposes of this Section V, all terms that are defined by the CAA and the Asbestos Regulations shall have the meaning assigned to them in that act and those regulations.

12. Impresair shall not perform asbestos abatement activity except in compliance with the CAA and Asbestos Regulations.

#### A. NOTIFICATION REQUIREMENTS

13. For eighteen (18) months from the Entry Date, whenever Impresair is required to notify the Department pursuant to 310 C.M.R. § 7.15(6), Impresair shall also transmit an additional copy of the notification documents required by 310 C.M.R. § 7.15(6) by e-mail to the

Department's regional office responsible for the municipality in which the relevant asbestos abatement activity will occur at the e-mail addresses set forth in the following paragraph, which addresses the Commonwealth or the Department may change from time to time by written notification to Impresair at the contact information set forth below in Section XI (Notices).

14. Impresair shall make the notifications described in the previous Paragraph to the appropriate Department regional office at the following e-mail addresses:

For the Central Region:  
Asbestos Program Section Chief  
Department of Environmental Protection  
8 New Bond Street  
Worcester, MA 01606  
[Gregory.levins@mass.gov](mailto:Gregory.levins@mass.gov)

For the Northeastern Region:  
Asbestos Program Section Chief  
Department of Environmental Protection  
205B Lowell Street  
Wilmington, MA 01887  
[Nero.asbestos@mass.gov](mailto:Nero.asbestos@mass.gov)

For the Southeastern Region  
Asbestos Program Section Chief  
Department of Environmental Protection  
20 Riverside Drive  
Lakeville, MA 02347  
[SERO.Asbestos@mass.gov](mailto:SERO.Asbestos@mass.gov)

For the Western Region:  
Asbestos Program Section Chief  
Department of Environmental Protection  
436 Dwight Street  
Springfield, MA 01103  
[David.slowick@mass.gov](mailto:David.slowick@mass.gov)

## **B. TRAINING AND CERTIFICATION REQUIREMENTS**

15. Within ninety (90) days of the Entry Date, Impresair shall submit to the Commonwealth a sworn certification that all of the Impresair employees who worked at each of the Homes, including Calixto Alvarado, have successfully completed an asbestos worker training course that meets the requirements of 454 C.M.R. § 28.05(4)(a) and is approved by the Massachusetts Department of Labor Standards ("DLS") during the 2021 calendar year prior to such certification, and the supporting documentation from the training provider (i.e., certificates of completion).

### **C. LIMITATION ON ASBESTOS ABATEMENT ACTIVITY**

16. If Impresair fails to make any payment pursuant to this Consent Judgment by the date required by this Consent Judgment, Impresair may not perform any asbestos abatement activity until either such payment is made in full or the Commonwealth provides Impresair with written authorization to continue asbestos abatement activity.

### **VI. PRESERVATION OF RECORDS**

17. In addition to complying with any other applicable local, State, or federal records preservation requirements, until seven (7) calendar years after Impresair completes all of the actions required by this Consent Judgment, Impresair shall preserve at least one legible copy of all documents in its possession, custody, or control that relate to the performance of Impresair's obligations under this Consent Judgment. If Impresair retains or employs any agent, consultant, or contractor for the purpose of complying with the terms of this Consent Judgment, then Impresair's agreement or contract with the agent, consultant, or contractor shall require such person or persons to provide Impresair with a copy of all documents relating to the performance of Impresair's obligations under this Consent Judgment. This requirement includes electronic documents. Any copies of documents subject to this requirement may be maintained in an electronic format.

### **VII. INTEREST AND COLLECTIONS**

18. If any payment required pursuant to this Consent Judgment is late or not made, Impresair shall pay interest on any overdue amount for the period of such nonpayment at the rate of twelve percent (12%) pursuant to G.L. c. 231, § 6B, computed monthly, and shall pay all expenses associated with collection by the Commonwealth of the unpaid amounts and interest

for any period of nonpayment after the payment obligation becomes due, including reasonable attorneys' fees.

### VIII. DISPUTE RESOLUTION

19. Unless otherwise provided in this Consent Judgment, the Dispute Resolution procedures in this Section shall be the exclusive mechanism for Impresair to resolve disputes arising under or with respect to this Consent Judgment. These procedures, however, shall not apply to actions by the Commonwealth or the Department to enforce obligations of Impresair under this Consent Judgment.

20. If Impresair disagrees with a written determination of the Department or the Commonwealth, then Impresair may, within thirty (30) days of the date of the Department's or Commonwealth's determination, request reconsideration of the determination by submitting to the Department, with a copy to the Attorney General, any information or material it believes demonstrates that the Department's or the Commonwealth's determination was erroneous. Unless otherwise provided in this Consent Judgment, Impresair's failure to submit a request for reconsideration within the period specified in this Paragraph shall constitute a waiver of Impresair's ability to seek reconsideration and, in that case, the Department's or the Commonwealth's determination shall be final and unreviewable. If, after consideration of a timely request for reconsideration, the Department or the Commonwealth decides to affirm, in whole or in part, the agency's original determination, then the Department or the Commonwealth shall notify Impresair of its determination on reconsideration.

21. The Department's or the Commonwealth's determination or reconsideration shall be final unless Impresair seeks judicial review of the dispute by filing with the Court and serving on the Commonwealth, in accordance with Section XI (Notices), a motion in this case requesting

judicial resolution of the dispute within fourteen (14) days of receipt of the Department's or the Commonwealth's determination. In an action for judicial review under this Section, Impresair shall bear the burden of demonstrating that the Department's or the Commonwealth's determination on reconsideration was arbitrary and capricious or otherwise not in accordance with law. Impresair's motion and supporting memorandum shall not raise any new issues or be based on new facts or information that Impresair did not present previously to the Department or the Commonwealth during the dispute resolution process described in this Section.

**IX. EFFECT OF CONSENT JUDGMENT**

22. Upon compliance with the requirements of this Consent Judgment, (a) this Consent Judgment shall resolve Impresair's liability for the specific legal claims alleged against it in the Complaint and (b) the Commonwealth shall release Impresair from liability for the specific legal claims alleged against Impresair in the Complaint.

23. Nothing in this Consent Judgment, or any permit or approval issued by the Department or DLS: (a) shall bar any action by the Commonwealth on any legal claim not specifically pleaded in the Complaint or for any violations not revealed to the Commonwealth; (b) shall be deemed to excuse noncompliance by Impresair or any of the persons or entities otherwise bound by this Consent Judgment with any law or regulation; or (c) shall preclude a separate or ancillary action by the Commonwealth to enforce the terms of this Consent Judgment, or any permit or other approval issued by the Department or DLS. The Commonwealth expressly reserves all claims for injunctive relief for violations of all of the statutes and regulations referred to in this Consent Judgment, whether related to the specific legal claims resolved by this Consent Judgment or otherwise.

24. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Judgment.

#### X. MISCELLANEOUS

25. Impresair understands and agrees that, pursuant to 11 U.S.C. § 523(a)(7), the civil penalty and any other costs or sums that Impresair may be required to pay under this Consent Judgment are not subject to discharge in any bankruptcy.

26. Impresair shall pay all expenses, including reasonable attorneys' fees and costs, incurred by the Commonwealth in the enforcement of this Consent Judgment.

27. Impresair waives entry of findings of fact and conclusions of law pursuant to Rule 52 of the Massachusetts Rules of Civil Procedure.

28. The titles in this Consent Judgment have no independent legal significance and are used merely for the convenience of the Parties.

29. Massachusetts law shall govern the interpretation and enforcement of this Consent Judgment.

30. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State or Federal holiday, the period shall run until the close of business of the next business day.

31. This Consent Judgment shall be effective when the Court enters the Consent Judgment on the docket.

#### XI. NOTICES

32. Unless otherwise specified in this Consent Judgment, notices and submissions required by this Judgment shall be made in writing by first class mail to the following addresses:



For the Attorney General's Office and the Commonwealth:

Louis Dundin  
Assistant Attorney General  
Senior Enforcement Counsel  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
Louis.dundin@mass.gov

For the Department:

Colleen McConnell  
Senior Regional Counsel  
Northeast Regional Office  
Massachusetts Department of  
Environmental Protection  
205B Lowell Street  
Wilmington, MA 01887  
Colleen.McConnell@mass.gov

For Impresair:

Calixto Alvarado  
Maria Najarro  
ImpresAir Environmental Corporation  
439 Ferry Street  
Malden, MA 02148  
Mari50972@hotmail.com

or, to such other place or to the attention of such other individual as a Party may from time to time designate by written notice to the other Party to this Consent Judgment.

#### XV. INTEGRATION

33. Except as expressly set forth in this Consent Judgment, this Consent Judgment sets forth all of the obligations of the Parties and represents the complete and exclusive statement of the Parties with respect to the terms of the settlement agreement embodied by this Consent Judgment; any other representations, communications or agreements by or between the Parties shall have no force and effect.

#### XVI. MODIFICATION

34. The terms of this Consent Judgment may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material change to any term of this Consent Judgment, it shall be effective only by written approval of the Parties and

the approval of the Court. The Commonwealth's decision to extend a deadline in this Consent Judgment shall not constitute a material change for purposes of this Paragraph.

35. Any disputes concerning modification of this Judgment shall be resolved pursuant to Section VIII (Dispute Resolution) of this Consent Judgment, provided, however, that instead of the burden of proof provided in Section VIII (Dispute Resolution), the party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Rule 60(b) of the Massachusetts Rules of Civil Procedure.

#### **XVII. AUTHORITY OF SIGNATORY**

36. The person signing this Consent Judgment on behalf of Impresair acknowledges: (a) that he or she has personally read and understands each of the numbered Paragraphs of this Consent Judgment, including any Appendices attached to it; (b) that, to the extent necessary, Impresair's managers, directors, officers, and shareholders have consented to Impresair entering into this Consent Judgment and to its entry as a Final Judgment; and (c) that he or she is authorized to sign and bind Impresair to the terms of this Consent Judgment.

#### **XIX. RETENTION OF JURISDICTION**

37. The Court shall retain jurisdiction over this case for purposes of resolving disputes that arise under this Consent Judgment, entering orders modifying this Consent Judgment, or effectuating or enforcing compliance with the terms of this Consent Judgment and any permits, approvals, or directives issued by the Department pursuant to the terms of this Consent Judgment.

XX. FINAL JUDGMENT

38. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a Final Judgment of the Court.

IT IS SO ORDERED. JUDGMENT is hereby entered in accordance with the foregoing.

By the Court:

  
JUSTICE, SUPERIOR COURT

11/29/21  
Date