

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA,  
HAYWARD HALL OF JUSTICE

ENDORSED  
FILED  
ALAMEDA COUNTY

FEB 10 2014

CLERK OF THE SUPERIOR COURT  
By XOCHILT TALAYA GONZALEZ  
Deputy

PEOPLE OF THE STATE OF CALIFORNIA

v.

KIRK HAYWARD

CHARLES SEATON

COMPLAINT NO.

PFN: DRQ685

**TRUE PFN: BDZ593**

PFN: DRQ686

CEN: 4308411

CEN: 4308413

**WALK WARRANT**

Defendant(s).

**FIRST COUNT**

**[GRAND THEFT BY FALSE PRETENSES FROM CLOSURE SOLUTIONS]**

The Undersigned, being sworn says, on information and belief, that KIRK HAYWARD and CHARLES SEATON did, in the County of Alameda, State of California, between August 1, 2009 and October 15, 2009, commit a Felony, to wit: GRAND THEFT OF PERSONAL PROPERTY, a violation of section 487(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit CASH the property of CLOSURE SOLUTIONS.

**SECOND COUNT**

**[GRAND THEFT BY FALSE PRETENSES FROM RECOLOGY]**

The Undersigned further deposes and says on Information and belief, that said KIRK HAYWARD and CHARLES SEATON did, in the County of Alameda, State of California, between January 5, 2011 and March 2, 2011, commit a Felony, to wit: GRAND THEFT OF PERSONAL PROPERTY, a violation of section 487(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit CASH the property of RECOLOGY.

**THIRD COUNT**

**[GRAND THEFT BY FALSE PRETENSES ROM BART]**

The Undersigned further deposes and says on Information and belief, that said KIRK HAYWARD and CHARLES SEATON did, in the County of Alameda, State of California, between August 2, 2010 and April 23, 2011, commit a Felony, to wit: GRAND THEFT OF PERSONAL PROPERTY, a violation of section 487(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit CASH the property of BAY AREA RAPID TRANSIT DISTRICT (BART).

**FOURTH COUNT**

**[GRAND THEFT BY FALSE PRETENSES FROM PAPE MACHINERY]**

The Undersigned further deposes and says on Information and belief, that said KIRK HAYWARD and CHARLES SEATON did, in the County of Alameda, State of California, between December 7, 2010 and January 26, 2011, commit a Felony, to wit: GRAND THEFT OF PERSONAL PROPERTY, a violation of section 487(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit cash the property of PAPE MACHINERY.

**FIFTH COUNT  
[CONSPIRACY]**

The Undersigned further deposes and says on Information and belief, that said KIRK HAYWARD and CHARLES SEATON did, in the County of Alameda, State of California, between March 17, 2009 and July 13, 2011, commit a Felony, to wit: CONSPIRACY TO COMMIT A CRIME, a violation of section 182(a)(1) of the PENAL CODE of California, in that said defendant(s) did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Section 25191 of the HEALTH AND SAFETY CODE of California (CAUSING FALSE STATEMENTS IN HAZARDOUS WASTE MANIFESTS), and that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the County of Alameda County:

**OVERT ACTS IN FURTHERANCE OF HEALTH AND SAFETY CODE §25191:**

1. Between March 17, 2009 and July 2011, while managing the operations of Clearwater Environmental Management, Inc. (Clearwater) and while knowing that Clearwater did not have a valid transportation registration issued by the Department of Toxic Substances Control, defendants made false statements in hazardous waste manifests, stating that the transporter of the waste was UNI Waste, Inc. (UNI), when in truth, Clearwater was the transporter.
2. Between March 17, 2009 and July 2011, while managing the operations of Clearwater, defendants directed or otherwise caused Clearwater employees to make false statements in manifests, stating that the transporter of the waste was UNI, when in truth, Clearwater was the transporter.
3. Defendants met with environmental consultant Ronald Chinn of Closure Solutions in 2009 to discuss the transportation by Clearwater of hazardous waste from a site in Santa Clara County. On or about August 6, 2009, defendant Hayward emailed Chinn a bid for the transportation of hazardous waste from the site. On or about September 10, 2009, defendant Seaton signed a hazardous waste manifest representing UNI was the transporter of two bins of solid hazardous waste from the Santa Clara property, when in truth, Clearwater was the transporter (Manifest Number 004452746JJK). On or about October 1, 2009, defendant Seaton signed the same manifest, attesting that the two bins of solid waste had been transported to and accepted at a Clearwater facility in Silver Springs Nevada on October 1, 2009, when this was not true.
4. On or about January 5, 2011 and January 11, 2011, defendant Seaton signed five hazardous waste manifests (Manifest Numbers 007269277JJK, 007267675JJK, 007267682JJK, 007269168JJK and 004451766JJK) for waste from a fuel spill caused by the rupture of a gas tank on a Recology truck, in which Seaton falsely represented that UNI was the transporter of the waste, and in which Seaton falsely represented that the hazardous waste had been had been transported to and accepted at a Clearwater facility in Silver Springs Nevada on January 5, 2011 and January 11, 2011, when this was not true.
5. Defendant Seaton signed numerous hazardous waste manifests in which he attested that waste generated by BART had been had been transported to and accepted at a facility in Silver Springs Nevada, when this was not true, including on or about August 2, 2010 (Manifest Number 004451475JJK) and on or about April 23, 2011 (Manifest Number 007268409JJK). Defendant Seaton also caused the BART manifests to falsely represent that UNI was the transporter of the waste.

6. On or about December 22, 2010, defendant Seaton signed a hazardous waste manifest (Manifest Number 004449701JJK) in which he falsely represented that UNI was the transporter of waste from Pape Machinery, and in which Seaton attested the waste had been transported to and accepted at a Clearwater facility in Silver Springs Nevada on December 22, 2010, when this was not true

7. Defendant Seaton signed hazardous waste manifests on or about May 23, 2011 and June 11, 2011 (Manifest Numbers 007275601JJK and 007275625JJK) in which he attested that waste generated by the East Bay Regional Parks (EBRP) had been transported to and accepted at a facility in Silver Springs, Nevada, when this was not true. Defendant Seaton also caused the EBRP manifests to falsely represent that UNI Waste was the transporter of the waste.

8. On or about May 24, 2011, defendant Hayward signed a manifest attesting that a bin of hazardous waste had been generated at a Silver Springs, Nevada facility, which was not true; Hayward also falsely stated in the manifest that UNI Waste was the transporter of the waste, which was not true (Manifest Number 007275617JJK). On or about June 21, 2011, defendant Hayward signed a manifest attesting that a bin of hazardous waste had been generated at a Silver Springs, Nevada facility, which was not true; Hayward also falsely in the manifest stated that UNI Waste was the transporter of the waste, which was not true (Manifest Number 007275743JJK).

Further, that said defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of section **25163 of the HEALTH AND SAFETY CODE** of California (**ILLEGAL TRANSPORTATION OF HAZARDOUS WASTE WITHOUT A TRANSPORTER'S LICENSE**), and that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the County of Alameda County:

**OVERT ACTS IN FURTHERANCE OF HEALTH AND SAFETY CODE §25163:**

9. Between March 17, 2009 and July 2011, while managing the operations of Clearwater and while knowing that Clearwater did not have a valid transportation registration issued by the Department of Toxic Substances Control, defendants directed or otherwise caused Clearwater employees to transport hazardous waste for other businesses.

10. On or about May 23, 2011 and May 26, 2011, defendants directed or otherwise caused a Clearwater employee to transport hazardous waste for East Bay Regional Parks (respectively Manifest Number 007275601JJK and Manifest Number 007275625JJK).

11. Defendants directed or otherwise caused a Clearwater employee to transport hazardous waste to Kettleman City on May 24 2011 and June 21 of 2011 (respectively Manifest Number 007275617JJK and Manifest Number 007275743JJK).

11. Between February 2009 and July 2011, while managing the operations of Clearwater and while knowing that Clearwater did not have a valid transportation registration issued by the Department of Toxic Substances Control, defendants caused documents to be prepared that related to the transportation of hazardous waste by Clearwater, including hazardous waste manifests, invoices, and bills of lading.

Further, that said defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Section **487 of the PENAL CODE of California (GRAND THEFT)**, and that pursuant to and for the purpose of carrying out the objectives and purposes of the

aforsaid conspiracy, the said defendants committed the following overt act and acts at and in the County of Alameda County:

**OVERT ACTS IN FURTHERANCE OF PENAL CODE §487:**

12. Defendants represented to Clearwater customer Ronald Chinn of Closure Solutions, in August and September of 2009, including in Hazardous Waste Manifest Number 004452746JJK, that hazardous waste would be and had been transported by UNI; that UNI had transported the waste to Clearwater's facility in Silver Springs, Nevada on a certain day where it had been accepted; and that Clearwater would truly and accurately document the transportation and disposal of the waste in a hazardous waste manifest and had done so, while none of the foregoing representations were true.

13. Defendants falsely represented to Clearwater customer Recology, in January of 2011, including in Hazardous Waste Manifest Number Numbers 007269277JJK, 007267675JJK, 007267682JJK, 007269168JJK and 004451766JJK, that hazardous waste would be and had been transported by transporter UNI; that UNI had transported the waste to Clearwater's facility in Silver Springs, Nevada on a certain day where it had been accepted; and that Clearwater would truly and accurately document the transportation and disposal of the waste in a hazardous waste manifest and had done so, while none of the foregoing representations were true.

14. Defendants falsely represented to Clearwater customer BART on numerous dates, including in Hazardous Waste Manifest Number 007268409JJK on or about April 23, 2011, that hazardous waste would be and had been transported by transporter UNI; that UNI had transported the waste to Clearwater's facility in Silver Springs, Nevada on a certain day where it had been accepted; and that Clearwater would truly and accurately document the transportation and disposal of the waste in a hazardous waste manifest and had done so, while none of the foregoing representations were true.

15. Defendants falsely represented to Clearwater customer Pape Machinery in December of 2010, including Hazardous Waste Manifest Number 004449701JJK, that hazardous waste would be and had been transported by transporter UNI; that UNI had transported the waste to Clearwater's facility in Silver Springs, Nevada on a certain day where it had been accepted; and that Clearwater would truly and accurately document the transportation and disposal of the waste in a hazardous waste manifest and had done so, while none of the foregoing representations were true.

16. Defendants falsely represented to Clearwater customers, in May and June of 2011, including in Hazardous Waste Manifest Numbers 007275601JJK and 007275625JJK, that certain waste would be and had been transported by transporter UNI; that UNI had transported the waste to Clearwater's facility in Silver Springs, Nevada on a certain day where it had been accepted; and that Clearwater would truly and accurately document the transportation and disposal of the waste in a hazardous waste manifest and had done so, while none of the foregoing representations were true.

**STATUTE OF LIMITATIONS-LATE DISCOVERY CLAUSE AS TO DEFENDANT KIRK  
HAYWARD**

The Department of Toxic Substances Control (DTSC) first learned that Clearwater Environmental Management, Inc. (Clearwater) was alleged to be transporting hazardous waste without a license in March of 2010. Santa Clara County Department of Environmental Health representatives contacted DTSC in March of 2010 after a Santa Clara inspector had reviewed hazardous waste manifests during an inspection in which the transporter was listed as UNI WASTE, INC., but noticed a corresponding bill of lading was on Clearwater letterhead. DTSC first learned that Clearwater transported hazardous waste for Ronald Chinn of Closure Solutions in June of 2010, when representatives from the Santa Clara County Department of Environmental

Health forwarded documents to DTSC relating to a Closure Solutions job in Santa Clara County that had occurred in 2009.

**STATUTE OF LIMITATIONS-LATE DISCOVERY CLAUSE AS TO DEFENDANT CHARLES SEATON**

The Department of Toxic Substances Control (DTSC) first learned that Clearwater Environmental Management, Inc. (Clearwater) was alleged to be transporting hazardous waste without a license in March of 2010. Santa Clara County Department of Environmental Health representatives contacted DTSC in March of 2010 after a Santa Clara inspector had reviewed hazardous waste manifests during an inspection in which the transporter was listed as UNI WASTE, INC., but noticed a corresponding bill of lading was on Clearwater letterhead. DTSC first learned that Clearwater transported hazardous waste for Ronald Chinn of Closure Solutions in June of 2010, when representatives from the Santa Clara County Department of Environmental Health forwarded documents to DTSC relating to a Closure Solutions job in Santa Clara County that had occurred in 2009.

**FIRST PRIOR CONVICTION AS TO DEFENDANT KIRK HAYWARD**

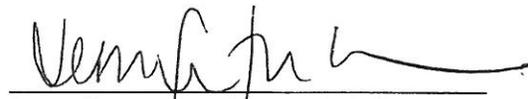
The undersigned further alleges that before the commission of the offense specified above, said defendant KIRK HAYWARD, on or about June 10, 2005, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: DISPOSAL OF HAZARDOUS WASTE, a violation of section 25189.5(b) of the HEALTH AND SAFETY CODE of California, and received a sentence of probation therefor.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Complainant therefore prays that a warrant issue and that said defendant(s) be dealt with according to law.

Subscribed and sworn to before me,  
Monday, February 10, 2014

  
ALYCE C. SANDBACH  
Deputy District Attorney  
State Bar #141894 dr  
Alameda County, California

  
Investigator Jennifer Kozak # 23  
Department of Toxic substances Control  
CEPD No. 11FE0152