

1 JAMES P. FOX, DISTRICT ATTORNEY
County of San Mateo, State of California
2 State Bar No. 45169
400 County Center, 3rd Floor
3 Redwood City, California 94063
By: Elizabeth M. Hill, Deputy
4 Telephone: (650) 363-4002
Attorney for Plaintiff

ENDORSED FILED
SAN MATEO COUNTY

FEB 16 2010

Clerk of the Superior Court
By ~~DANIEL SHEA~~
DEPUTY CLERK

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN MATEO

10 THE PEOPLE OF THE STATE OF CALIFORNIA

11 Plaintiff,

12 v.

13 ROMIC ENVIRONMENTAL TECHNOLOGIES
14 CORPORATION;

15 Defendant.

No. _____

GV 492022

**COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE
RELIEF FOR UNLAWFUL
DISPOSAL OF HAZARDOUS
WASTE AND OTHER UNLAWFUL
BUSINESS PRACTICES**

17 **PLAINTIFF**

18 1. Pursuant to California Health and Safety Code sections 25145.4 and 25182, the District
19 Attorney may bring a civil action in the name of the People of the State of California to enjoin any
20 violation of Chapter 6.5 of Division 20 of the California Health and Safety Code (hereinafter,
21 "Chapter 6.5") and to seek civil penalties for violations of the provisions of Chapter 6.5.

22 2. Pursuant to California Business and Professions Code sections 17203, 17204, and 17206,
23 the District Attorney may bring actions in the name of the People of the State of California in a
24 Superior Court for an injunction against any person who engages, has engaged, or proposes to
25 engage in unfair competition and for civil penalties for each act of unfair competition.

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GENERAL ALLEGATIONS

9. Since February 1, 2006, Plaintiff is informed and believes and thereupon alleges that defendants engaged in the following actions and omissions at and from the East Palo Alto facility and the Rail Terminal facility:

a. Negligently disposed of, or caused the disposal of, hazardous waste at a point not authorized, in violation of Health and Safety Code section 25189(d);

b. Negligently made a false statement or representation in a manifest maintained or used for purposes of compliance with Chapter 6.5 in violation of Health and Safety Code section 25189(a);

c. Failed to complete a manifest for shipment of hazardous waste in violation in of Health and Safety Code section 25160(b)(1);

d. Negligently treated or stored hazardous waste at a point not authorized by Chapter 6.5 in violation of Health and Safety Code section 25189(e);

e. Failed to maintain and operate the facilities so as to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment, in violation of California Code of Regulations, Title 22, section 66264.31;

f. While transferring, treating, or storing ignitable or reactive wastes or mixing incompatible wastes, failed to take precautions to prevent reactions which generated extreme heat or pressure, fire or explosion, or violent reactions in violation of California Code of Regulations, Title 22, section 66264.17(b)(1);

g. Failed to record all required equipment information in the facility operating record in violation of California Code of Regulations, Title 22, section 66265.1064(b);

1 h. Failed to maintain required records of equipment inspection in the facility
2 operating record in violation of California Code of Regulations, Title 22, section
3 66265.73(b)(6);

4 i. Failed to maintain records documenting inspections of air emission control devices
5 on tanks in violation of California Code of Regulations, Title 22, section 66265.1090(b);

6 j. Failed to obtain detailed chemical and physical analyses of a representative
7 samples of hazardous wastes prior to transferring, treating, storing, or disposing of the
8 wastes in violation of California Code of Regulations, Title 22, section 66264.13(a)(1);

9 k. Failed to implement an employee training program meeting the requirements of
10 California Code of Regulations, Title 22, section 66264.16 and failed to maintain records of
11 employee training in violation of California Code of Regulations, Title 22, section 66264.16;

12 l. Failed to record required information in the facility operating record in violation of
13 California Code of Regulations, Title 22, section 66264.73;

14 m. Failed to conduct required inspections and record observations of equipment
15 inspections in an inspection log or summary in violation of California Code of Regulations,
16 Title 22, section 66264.15;

17 n. Modified permitted equipment without notification to or approval of the
18 Department of Toxic Substances Control in violation of California Code of Regulations, Title
19 22, section 66270.42;

20 **FIRST CAUSE OF ACTION**

21 **(Negligent Violation of Hazardous Waste Control Law)**

22 10. Plaintiff realleges paragraphs one through nine inclusive.

23 11. Defendants are liable for civil penalties as set forth in California Health and Safety Code
24 section 25189(b) for each negligent violation of rules, regulations, standards or requirements
25 regarding hazardous waste as set forth above.

1 12. Defendants must be enjoined from further violations of Chapter 6.5.

2 **SECOND CAUSE OF ACTION**

3 **(Negligent Disposal of Hazardous Waste)**

4 13. Plaintiff realleges paragraphs one through nine inclusive.

5 14. Defendants are liable for civil penalties as set forth in California Health and Safety Code
6 section 25189(d) for each negligent disposal of hazardous waste as set forth in paragraph 14(a)
7 above.

8 15. Defendants must be enjoined from further violations of Chapter 6.5.

9 **THIRD CAUSE OF ACTION**

10 **(Negligent Treatment or Storage of Hazardous Waste)**

11 16. Plaintiff realleges paragraphs one through nine inclusive.

12 17. Defendants are liable for civil penalties as set forth in California Health and Safety Code
13 section 25189(e) for each instance of negligent storage or treatment of hazardous waste at an
14 unauthorized point as set forth in paragraph 14(f) above.

15 18. Defendants must be enjoined from further violations of Chapter 6.5.

16 **FOURTH CAUSE OF ACTION**

17 **(Unlawful Business Practices)**

18 19. Plaintiff realleges paragraphs one through eighteen, inclusive.

19 20. Within the last four (4) years, Defendants have engaged in unlawful acts or practices in
20 the conduct of a business, which acts or practices constitute unfair competition within the meaning of
21 section 17200 of the Business and Professions Code. Such acts or practices include, but are not
22 necessarily limited to, those alleged in the first through third causes of action above and incorporated
23 herein by reference.

24 21. Pursuant to California Business and Professions Code section 17206, a civil penalty
25 must be imposed against defendants for each violation.

1 22. Defendants must be enjoined from engaging in any act or practice that violates Chapter
2 6.5 of Division 20 of the California Health and Safety Code and their implementing regulations, at
3 the facilities and which therefore constitutes "unfair competition" within the meaning of California
4 Business and Professions Code section 17200.

5 **PRAYER**

6 WHEREFORE, Plaintiff prays judgment as follows:

7 1. For injunctive relief pursuant to Health and Safety Code §§ 25516 and 25181(b), and
8 Business and Professions Code §§ 17203, requiring that defendants, their directors, officers,
9 employees, agents, partners, representatives, successors, assignees and all persons acting in concert or
10 in participation with any defendant, who have actual or constructive knowledge of the injunction,
11 forthwith comply with statutory and regulatory law requiring:

12 (a) Proper disposal of hazardous waste;

13 (b) Proper storage and treatment of hazardous waste;

14 (c) Facility management which minimizes the risk of fire, explosion, or unplanned releases of
15 hazardous waste;

16 (d) Proper storage and treatment of incompatible waste streams;

17 (e) Compliance with terms of issued hazardous waste facilities permits;

18 (f) Proper maintenance of waste treatment facility records;

19 (g) Use of hazardous waste manifests for transportation of hazardous waste;

20 (h) Use of truthful and accurate information in complying with regulatory requirements for
21 site remediation;

22 (i) Prompt implementation of contingency plans after fire, explosion, or release of hazardous
23 waste.

24 2. That Defendants shall be required to pay a civil penalty of up to Twenty Five Thousand
25 Dollars (\$25,000) for each violation of Health and Safety Code § 25189(b).

1 3. That Defendants shall be required to pay a civil penalty in the amount of up to Twenty
2 Five Thousand Dollars (\$25,000) for each violation of Health and Safety Code § 25189(d).

3 4. That Defendants shall be required to pay a civil penalty in the amount of up to Twenty
4 Five Thousand Dollars (\$25,000) for each violation of Health and Safety Code § 25189(e).

5 5. That Defendants shall be required to pay a civil penalty in the amount of up to Two
6 Thousand Five Hundred Dollars (\$2,500) for each violation of Business and Professions Code §
7 17200 pursuant to Business and Professions Code section 17206.

8 6. That defendants shall be required to pay Seventy Five Thousand Dollars (\$75,000) for
9 remediation costs pursuant to the provisions of California Health and Safety Code Section
10 25189.1(a)(1) to the following agencies:

11 (a) The California Department of Toxic Substances Control in the amount of Forty Nine
12 Thousand Nine Hundred Sixty Four Dollars and Five Cents (\$49,964.05);

13 (b) The San Mateo County Health Department, Environmental Health Services Division in
14 the amount of Twelve Thousand Nine Hundred Twenty Six Dollars and Twenty Five Cents
15 (\$12,926.25);

16 (c) The Menlo Park Fire Protection District in the amount of Six Thousand One Hundred
17 Nine Dollars and Seventy Cents (\$6109.70);

18 (d) The East Palo Alto Police Department in the amount of Six Thousand Dollars (\$6000);

19 7. For cost of suit; and,

20 8. For such other relief as the Court deems just.

21 Dated: 2/12/2019

22 Respectfully submitted,

23 JAMES P. FOX, DISTRICT ATTORNEY

24 By Original signed by Elizabeth M. Hill
25 Elizabeth M. Hill, Deputy

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NOTE: that this action is by the People of the State of California and therefore the answer to this complaint must be verified. Code of Civil Procedure § 466.

1 JAMES P. FOX, DISTRICT ATTORNEY
County of San Mateo, State of California
2 State Bar No. 45169
400 County Center, 3rd Floor
3 Redwood City, California 94063
By: Elizabeth Hill, Deputy District Attorney
4 Telephone: (650) 363-4002
Attorney for Plaintiff
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ENDORSED FILED
SAN MATEO COUNTY

FEB 16 2010

Clerk of the Superior Court
By ~~DANIEL SHERA~~
~~BEATRIZ GARCIA~~

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN MATEO

10 THE PEOPLE OF THE STATE OF CALIFORNIA

No. CIV-492022

11 Plaintiff,

12 v.

**STIPULATION FOR
ENTRY OF FINAL JUDGMENT**

13 ROMIC ENVIRONMENTAL TECHNOLOGIES
CORPORATION;

14 Defendant.
15

16 It is hereby stipulated by and between Plaintiff, the People of the State of California,
17 appearing through its attorneys James P. Fox, District Attorney of San Mateo County and Elizabeth
18 Hill, Deputy District Attorney, and Defendant Romic Environmental Technologies Corporation, a
19 California corporation, appearing through its attorneys Dongell, Lawrence, Finney LLP, by Tim
20 Swickard, that the Stipulated Final Judgment, a copy of which is attached hereto and by reference
21 made a part hereof, may be entered in the above captioned matter. This stipulation and the Stipulated
22 Final Judgment may be signed by counsel and by the parties in counterpart.

23 It is further stipulated by the parties that this judgment does not constitute evidence of or an
24 admission by the defendant regarding any issue of law or fact alleged in the complaint filed in this
25 matter; and the complaint states a claim upon which relief may be granted against the defendant.

1 Respectfully submitted,

2 JAMES P. FOX, DISTRICT ATTORNEY

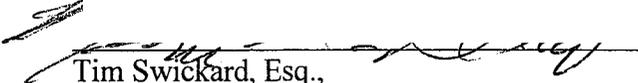
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4 Dated: 2/12/10

By **Original signed by Elizabeth Hill**

Elizabeth Hill, Deputy District Attorney
Attorney for Plaintiff

Original signed by Tim Swickard

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7 Dated: 2-17-10


Tim Swickard, Esq.,
Dongell, Lawrence, Finney LLP
Attorney for Defendant,
Romic Environmental Technologies Corporation

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11 Dated: _____

Wayne Kiso
President
Romic Environmental Technologies Corporation

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Respectfully submitted,

JAMES P. FOX, DISTRICT ATTORNEY

Dated: _____

By _____
Elizabeth Hill, Deputy District Attorney
Attorney for Plaintiff

Dated: _____

Tim Swickard, Esq.,
Dongell, Lawrence, Finney LLP
Attorney for Defendant,
Romic Environmental Technologies Corporation

Original signed by Wayne Kiso

Dated: 16 February 2010

Wayne Kiso
President
Romic Environmental Technologies Corporation

ENDORSED FILED
SAN MATEO COUNTY

FEB 16 2010

Clerk of the Superior Court
by DANIEL SHUA
CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

ROMIC ENVIRONMENTAL TECHNOLOGIES
CORPORATION,
Defendant.

No. CIV-492022

**STIPULATED
FINAL JUDGMENT**

Plaintiff, the People of the State of California, having filed the complaint herein, and plaintiff appearing through its attorneys James P. Fox, District Attorney of San Mateo County and Elizabeth Hill, Deputy District Attorney, and defendant Romic Environmental Technologies Corporation, a California corporation, appearing through its attorneys, Dongell, Lawrence, Finney, LLP by Tim Swickard; and

All parties having stipulated and consented to this final judgment prior to the taking of any proof and without trial or adjudication of any issue of law or fact and without this judgment constituting evidence of or an admission by the defendant regarding any issue of law or fact alleged in said complaint; and

1 The court having considered the pleadings and the parties having stipulated that the complaint
2 states a claim upon which relief may be granted against said defendant;

3 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

4 1. This court has jurisdiction over the subject matter of this lawsuit and over the parties
5 hereto.

6 2. This judgment is applicable to defendant Romic Environmental Technologies Corporation,
7 and to its officers, directors, current employees, and successor corporations of Romic Environmental
8 Technologies Corporation (hereinafter collectively referred to as "defendants").

9 3. Pursuant to Business and Professions Code section 17203 and Health and Safety Code
10 section 25181, defendants are hereby permanently enjoined and restrained from:

11 A. Disposing of hazardous waste at any unauthorized point or in any unlawful
12 manner, in violation of California Health and Safety Code section 25189;

13 B. Violating any provision of the Hazardous Waste Control Law, Chapter 6.5 of the
14 Health and Safety Code, sections 25100 et seq.

15 4. Pursuant to Business and Professions Code section 17203, defendant Romic
16 Environmental Technologies Corporation and any of its successor corporations are hereby
17 permanently enjoined and restrained from owning or operating any business or facility participating
18 in the handling, storage or treatment of hazardous waste in the State of California.

19 5. Pursuant to Business and Professions Code section 17206, defendant Romic
20 Environmental Technologies Corporation shall pay plaintiff the sum of Two Hundred Seventy Five
21 Thousand Dollars (\$275,000) as civil penalties.

22 6. Defendant Romic Environmental Technologies Corporation shall also pay an additional
23 sum of Seventy Five Thousand Dollars (\$75,000) as reimbursement of enforcement costs, divided as
24 follows:
25

1 (A) Forty Nine Thousand Nine Hundred Sixty Four Dollars and Five Cents (\$49,964.05) to
2 the Department of Toxic Substances Control;

3 (B) Twelve Thousand Nine Hundred Twenty Six Dollars and Twenty-Five Cents
4 (\$12,926.25) to the San Mateo County Health Department, Environmental Health Services Division;

5 (C) Six Thousand One Hundred Nine Dollars and Seventy Cents (\$6,109.70) to the Menlo
6 Park Fire Protection District;

7 (D) Six Thousand Dollars (\$6000) to the East Palo Alto Police Department.

8 7. All sums described above shall be paid by cashier's check payable to the District Attorney
9 of San Mateo County and delivered to the District Attorney's Office, Attention: Elizabeth Hill,
10 Deputy District Attorney, 400 County Center, Redwood City, California 94063 on or before the
11 effective date of this judgment.

12 8. Defendant Romic Environmental Technologies Corporation shall pay a first appearance
13 fee in the sum of Three Hundred Fifty Five dollars (\$355.00) as required by the San Mateo County
14 Superior Court fee schedule. This shall be in the form of a cashier's check payable to the Clerk of the
15 San Mateo County Superior Court and shall be delivered to Elizabeth M. Hill, Deputy District
16 Attorney, District Attorney's Office, 400 County Center, 3rd Floor, Redwood City, California 94063
17 on or before the date of entry of this judgment.

18 9. The parties waive the right to appeal this judgment both as to form and content.

19 10. Jurisdiction is retained for purpose of enabling any party to this judgment to apply to the
20 court at any time for such further orders and directions as are necessary or appropriate for carrying
21 out this judgment, for the modification of any of the injunctive provisions herein, for the enforcement
22 of compliance herewith and for punishment of violations hereof.

23 11. This judgment shall take effect immediately upon entry hereof.

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1 Dated: _____

2 _____
3 JUDGE OF THE SUPERIOR COURT

4 Approved as to form and content.

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7 Dated: 2/12/10

Original signed by Elizabeth M. Hill

Elizabeth M. Hill, Attorney for Plaintiff

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9 Original signed by Tim Swickard

10 Dated: 2-12-10

11 _____
12 Tim Swickard, Esq.,
13 Dongell, Lawrence, Finney LLP
14 Attorney for Defendant,
15 Romic Environmental Technologies Corporation

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25 Dated: _____

Wayne Kiso
President
Romic Environmental Technologies Corporation

Original signed by Judge of the Superior Court

~~JUDGE OF THE SUPERIOR COURT~~

2-16-10

Approved as to form and content.

Dated: _____

Elizabeth M. Hill, Attorney for Plaintiff

Dated: _____

Tim Swickard, Esq.,
Dongell, Lawrence, Finney LLP
Attorney for Defendant,
Romic Environmental Technologies Corporation

Original signed by Wayne Kiso

Dated: 16 February 2010

Wayne Kiso
President
Romic Environmental Technologies Corporation