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 the Department of Toxic Substances Control*

EXEMPT FROM FILING FEES
 GOVERNMENT CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

**PEOPLE OF THE STATE OF
 CALIFORNIA, ex rel. DEBORAH O.
 RAPHAEL, DIRECTOR OF THE
 DEPARTMENT OF TOXIC
 SUBSTANCES CONTROL,**

Plaintiff,

v.

**ELECTRO-FORMING, CO.; MARION
 PATIGLER; THE ESTATE OF
 GERHARD PATIGLER; THE ESTATE
 OF INGRID PATIGLER; AND DOES 1-50**

Defendants.

Case No. C 13 - 01691

~~[PROPOSED]~~ ORDER RE: PLAINTIFF'S
 APPLICATION FOR TEMPORARY
 RESTRAINING ORDER AND ORDER
 TO SHOW CAUSE RE: PRELIMINARY
 INJUNCTION

Date: November 8, 2013

Time: 10:00 a.m.

Dept: 9

Judge: The Honorable Judith Craddick

TO DEFENDANTS ELECTRO-FORMING, CO.; MARION PATIGLER; THE ESTATE OF
 GERHARD PATIGLER; THE ESTATE OF INGRID PATIGLER; AND DOES 1 through 50:

ORDER TO SHOW CAUSE

Based upon the Complaint on file in the above-entitled action and the Declarations of
 Michael Pixton, Diana Peebler, Essam Eissa, Robert Hrabak and Ben Beauchaine, the Request for

Judicial Notice, and the Memorandum of Points and Authorities in support of the Application for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction,

YOU AND EACH OF YOU ARE HEREBY ORDERED TO APPEAR AND SHOW CAUSE as follows:

DATE: 1/15/14
TIME: 9:00
PLACE: Department 33
Contra Costa Superior Court
725 Court Street
Martinez, CA 94553

why you, your representatives, employees, agents, successors in interest, assignees, attorneys in fact, and all other persons, corporations, partnerships, or other entities acting by, through, under you or on your behalf and all persons acting in concert with or for you with actual or constructive knowledge should not be restrained and enjoined from violating the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the Health and Safety Code ("HWCL"), Health and Safety Code section 25100 et seq., and its implementing regulations, California Code of Regulations, Title 22, Division 4.5 ("Title 22").

IT IS SO ORDERED.

DATED: 1/8/13


THE HONORABLE JUDITH CRADDICK
JUDGE OF THE SUPERIOR COURT

CMC SOS for 12/26
CONTINUED TO 1/15/14

1 **TEMPORARY RESTRAINING ORDER**

2 PENDING HEARING on the above Order to Show Cause, you, Defendants Electro-
3 Forming, Co., Marion Patigler, the Estate of Gerhard Patigler, and the Estate of Ingrid Patigler,
4 your representatives, employees, agents, successors in interest, assignees, attorneys in fact, and all
5 other persons, corporations, partnerships, or other entities acting by, through, under you or on
6 your behalf and all persons acting in concert with or for you with actual or constructive
7 knowledge are HEREBY RESTRAINED AND ENJOINED from violating the Hazardous Waste
8 Control Law, Chapter 6.5 of Division 20 of the Health and Safety Code ("HWCL"), Health and
9 Safety Code section 25100 et seq, and its implementing regulations, California Code of
10 Regulations, Title 22, Division 4.5 ("Title 22") as follows:

- 11 1. Defendants shall not dispose, or cause the disposal of, any hazardous waste at a point not
12 authorized or permitted by the Department of Toxic Substances Control ("the Department")
13 pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq.
- 14 2. Defendants shall not treat any hazardous waste without a permit or other authorization
15 from the Department, as required by Health and Safety Code section 25201(a). This includes, but
16 is not limited to, treatment of hazardous waste containing cyanide or metals, in any manner
17 requiring a hazardous waste facilities permit or other grant of authorization from the Department,
18 including, but not limited to, boiling off any cyanide or metal-containing solutions in any tank on
19 the property or mixing cyanide and metal-containing plating wastes, including plating rinse
20 waters in a large black polyethylene Baker tank labeled "Rain for Rent" located in the middle of
21 the rear yard of the Electro-Forming Inc., plating facility (Baker Tank) located at 130 Nevin
22 Avenue, Richmond, California ("the Facility"). Defendants shall immediately cease adding any
23 wastes or other substances to the Baker Tank and shall take any and all measures necessary to
24 prevent rainwater or any other materials/substances from entering the Baker Tank.
- 25 3. Defendants shall comply with California Code of Regulations, Title 22, section 66262.34
26 regarding proper and timely disposal of accumulated hazardous waste at the Facility. Defendants
27 shall at their expense, under the Department's oversight, initiate and cause to be performed by a
28 qualified and independent third party, an immediate proper removal and disposal of all hazardous
waste accumulated at the Facility in conformance with the provisions of the HWCL and Title 22.

1 Proper physical removal of hazardous waste at the Facility shall begin no later than five (5)
2 calendar days from the date of entry of this Order. Proper physical removal and proper disposal
3 of all hazardous waste at the Facility shall be completed no later than 14 calendar days from the
4 date of entry of this Order. If Defendants either refuse to initiate proper physical removal of
5 hazardous waste at the Facility within five (5) calendar days of the date of entry of this Order
6 and/or fail to complete the removal and proper disposal of hazardous waste within 14 days, the
7 Department's Emergency Response Program and its contractors, as well as other regulatory
8 agencies and their contractors, are authorized to access the Facility to remove the hazardous waste
9 from the Facility. The Department is authorized to seek recovery of all costs associated with the
10 removal from Defendants.

11 a. The hazardous waste to be removed from the Facility and properly disposed of by
12 a qualified third party contractor paid for by the Defendants includes, but is not limited to,
13 the following at the Facility:

- 14 i. the Baker Tank and its contents;
- 15 ii. the various drums, totes, bags, sacks, and other containers located
16 inside the Conex shipping containers;
- 17 iii. the 55-gallon drums and the five gallon container located in the rear
18 yard;
- 19 iv. the two 275-gallon totes located in the rear yard;
- 20 v. all buffing dust including, but not limited to, the buffing dust deposited
21 on the floor in the buffing area, the buffing dust deposited on the
22 walkway between the buffing area and the adjacent property, the
23 buffing dust deposited in drums and other containers in the buffing
24 area.

Completed
in 30
days.

25 b. The third party contractor shall be knowledgeable and experienced in proper
26 hazardous waste management practices in accordance with the HWCL and
27 Title 22, as well as other applicable state, federal, and local environmental
28 laws, regulations, and ordinances. The third party must also be able to

1 demonstrate to the Department that they: 1) are currently Hazwoper certified;
2 2) use a registered hauler who holds a valid registration issued by the
3 Department to transport hazardous waste to an authorized Treatment, Storage,
4 and Disposal Facility ("TSDF") in accordance with Health and Safety Code
5 section 25163 and California Code of Regulations, title 22, section
6 66262.12(c); and 3) possess the knowledge, training, experience, and
7 equipment necessary to properly profile wastes by performing hazard
8 categorization "HAZCAT" field testing.

9 c. The removal shall be done in compliance with all requirements of the HWCL
10 and Title 22, including, but not limited to the following:

- 11 i. Defendants must properly perform a hazardous waste determination for
12 all waste on the Facility in accordance with the method identified in
13 California Code of Regulations, title 22, section 66262.11, except that
14 Defendants may not use the options provided in California Code of
15 Regulations, title 22, sections 66262.11(b)(2) and (c)(2) unless
16 Defendants have applied for and received prior written approval from
17 the Department.
- 18 ii. Defendants must prepare a complete and correct hazardous waste
19 manifest for all waste in accordance with the HWCL and Title 22,
20 including Health and Safety Code section 25160(b) and the instructions
21 included in the Appendix to Chapter 12 of Division 4.5 of title 22,
22 California Code of Regulations.
- 23 iii. Defendants must use a valid generator ID number to ship the hazardous
24 waste in accordance with California Code of Regulations, title 22,
25 section 66262.12.
- 26 iv. Defendants must ship the hazardous waste only to facilities authorized
27 to accept the waste type in accordance with California Code of
28 Regulations, title 22, section 66262.20.

- 1 d. At least 24 hours prior to removal of hazardous waste from the Facility,
2 Defendants shall notify the Department as follows to ensure that a Department
3 representative(s) are present to observe the removal activities:
- 4 i. Call Michael Pixton of the Department's Emergency Response
5 Program at (510) 589-2981 and state that the call is being placed on
6 behalf of Electro-Forming Company Inc. located at 130 Nevin Street in
7 Richmond to notify the Department of the date(s) and time(s) that
8 hazardous waste will be removed from the Facility and the name,
9 address and telephone number of the third party contractor undertaking
10 the work.
- 11 ii. Submit electronic mail (e-mail) to michael.pixton@dtsc.ca.gov,
12 kirkmcinnis@doj.ca.gov and heidi.salerno@doj.ca.gov of the date(s)
13 and time(s) that hazardous waste will be removed from the Facility and
14 the name and contact information for the third party contractor retained
15 by Defendants to undertake the removal and transport of the hazardous
16 waste from the Facility.
- 17 e. The Department, and regulatory authorities working with DTSC, are
18 authorized access to the Facility to monitor the removal and transport of the
19 hazardous waste from the Facility. Defendants may not initiate removal of
20 hazardous waste from the Facility prior to the time indicated in the email to the
21 Department and the presence of a Department representative at the Facility.
- 22 f. Within ⁴⁸~~24~~ hours after the removal of hazardous waste from the Facility,
23 Defendants shall provide to the Department a copy of the hazardous waste
24 manifests prepared for the hazardous waste and an inventory of all hazardous
25 waste removed which includes the following information: 1) a description of
26 every hazardous waste container removed from the Facility (e.g. drum, tote,
27 etc.); 2) a description of the hazardous waste contained in each container,
28 including its correct waste code; 3) the method used to make a hazardous waste

1 determination for the hazardous waste in accordance with California Code of
2 Regulations, title 22, section 66262.11 and all supporting documentation (e.g.
3 analytical test results); 4) the volume of hazardous waste contained in each
4 container; and 5) the hazardous waste manifest number that corresponds to
5 every hazardous waste container removed.

6 4. Defendants shall comply with California Code of Regulations, title 22, section 66265.192
7 governing the assessment and certification of hazardous waste tanks and tank systems.

- 8 a. Defendants shall immediately remove and properly dispose of all
9 hazardous waste from tanks or tank systems at the Facility, including,
10 but not limited to, the Baker Tank.
- 11 b. Defendants shall not store hazardous waste in any tank at the Facility
12 without first obtaining and providing to the Department a written
13 assessment reviewed and certified by an independent, qualified
14 professional engineer, registered in California, attesting that the tank
15 system or components have sufficient structural integrity, are
16 acceptable for the waste handling activity, and are suitably designed
17 pursuant to California Code of Regulations, title 22, section 66265.192.

18 5. Defendants shall comply with California Code of Regulations, title 22, section 66262.11
19 and properly perform a hazardous waste determination for all waste at the Facility in accordance
20 with the method identified in California Code of Regulations, title 22, section 66262.11, except
21 that Defendants may not use the options provided in California Code of Regulations, title 22,
22 sections 66262.11(b)(2) and (c)(2) unless Defendants have applied for and received prior written
23 approval from the Department.

24 6. Defendants shall comply with California Code of Regulations, title 22, sections 66265.17
25 and 66265.177 and properly manage of Ignitable, Reactive, or Incompatible Hazardous Wastes at
26 the Facility.

- 27 a. Defendants shall take precautions to prevent accidental ignition or
28 reaction of ignitable or reactive waste at the Facility including, but not

1 limited to, ensuring that a container holding a hazardous waste that is
2 incompatible with any waste or other materials (e.g. cyanides are
3 incompatible with solutions with a pH that may cause the release of
4 hydrogen cyanide gas; low pH (acid) wastes or materials are
5 incompatible with high pH (base) wastes or materials) transferred or
6 stored nearby in other containers, piles, open tanks, or surface
7 impoundments shall be separated from the other materials or protecting
8 them by means of a dike, berm, wall, or other device.

9 7. Defendants shall comply with California Code of Regulations, title 22, section 66265.31
10 and maintain and operate at the Facility in a manner that minimizes the possibility of release of
11 hazardous waste.

- 12 a. Any release or spillage from plating operations must be properly
13 characterized and removed immediately.
- 14 b. All buffing dust generated at the Facility must be immediately captured
15 and properly contained in a closed drum or container to prevent any
16 disposal as defined in California Code of Regulations, title 22, section
17 66260.10.

18 8. Defendants shall comply with California Code of Regulations, title 22, sections 66262.32
19 and 66262.34(f) regarding the marking and labeling of hazardous waste containers at the Facility.

- 20 a. Defendants must ensure that all containers at the Facility are clearly
21 labeled or marked with the information required in section 66262.32(a)
22 and (b)(1) and (2), including but not limited to: the applicable United
23 States Department of Transportation regulations on hazardous materials
24 under 49 CFR part 172 and the words "Hazardous Waste" and contain
25 the following information: 1) Generator's Name and Address, Manifest
26 Document Number, Generator's EPA ID Number, and Manifest
27 Tracking Number. Additionally, the labeling shall include a
28 composition of and physical state of the wastes; 2) statement which

calls attention to the particular hazardous properties of the waste (e.g. flammable, reactive, etc.); and 3) the date the accumulation time begins.

9. Defendants shall comply with California Code of Regulations, title 22, section 66265.173 and store hazardous waste at the Facility in covered containers.

10. Defendants shall comply with California Code of Regulations, title 22, section 66265.171 and store hazardous waste at the Facility only containers in good condition.

11. Defendants shall comply with California Code of Regulations, title 22, section 66265.35 and maintain adequate aisle space at the Facility to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment.

12. Defendants shall comply with California Code of Regulations, title 22, section 66265.174 and shall inspect areas used for storage of containers of hazardous waste at least weekly looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

IT IS SO ORDERED.

DATED: 11/8/13


THE HONORABLE JUDITH CRADDICK
JUDGE OF THE SUPERIOR COURT

IT IS FURTHER ORDERED that a copy of this Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, and plaintiffs' supporting papers, shall be served on defendants not later than November 12, 2013.

DATED: 11/8/13


THE HONORABLE JUDITH CRADDICK
JUDGE OF THE SUPERIOR COURT