

FILED
ENDORSED
2010 AUG 12 AM 8:18
SACRAMENTO COURTS
DEPT. #54

1 ANNE MARIE SCHUBERT, District Attorney
LISA BROWN, Deputy District Attorney (99150)
2 Office of the District Attorney, County of Sacramento
Consumer and Environmental Protection Division
3 906 G Street, Suite 700
Sacramento, CA 95814
4 Telephone: (916) 874-9656
E-mail: BrownL@sacda.org

5 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

10 The People of the State of California,
11
12 Plaintiff,

13 v.

14 ELKHORN VENTURES, L.P.,
MFP-ONE, LLC,
15 MLP-TWO, LLC,
TERRY N. MEINZER, an individual,
16 TERRY N. MEINZER, as a Trustee of the Terry
N. Meinzer Family Trust dated October 26, 1981,
17 and
TERRY N. MEINZER doing business as
18 MEINCO PROPERTIES, a sole proprietorship.

19 Defendant(s),
20

No. 34-209-00262304
KM
(PROPOSED) FINAL JUDGMENT
PURSUANT TO STIPULATION

(Health & Saf. Code, Div. 20, Ch. 6.5;
Bus. & Prof. Code §17200 et seq.)

21 This Final Judgment Pursuant to Stipulation ("Stipulated Judgment") is made
22 between the People of the State of California ("Plaintiff"), by and through its attorney Anne
23 Marie Schubert, the District Attorney of the County of Sacramento and Terry N. Meinzer, an
24 individual, Terry N. Meinzer doing business as Meinco Properties (a sole proprietorship),
25 MLP-Two, LLC, MFP-One, LLC, Elkhorn Ventures, L.P., and Terry N. Meinzer, as Trustee
26 of the Terry N. Meinzer Family Trust dated October 26, 1981 ("Defendants"). The term
27 "Parties," as used hereafter, refers collectively to Plaintiff and Defendants. As used herein,
28 "Defendants" shall include any subsidiaries or affiliated entities, and their predecessors,

RECEIVED
AUG -7 2009
62
CIVIL

1 successors and assigns.

2 1.1 The Complaint in this action alleges that the Defendants owned and managed
3 several commercial/light industrial rental facilities ("Defendants' Facilities") in Sacramento
4 County, which are the subject matter of Plaintiff's Complaint. Defendants' Facilities which
5 are subject to this Stipulated Judgment are located at the following addresses: 6525 & 6529
6 32nd Street North Highlands, CA 95660; 3451 I Street North Highlands, CA 95660; 3245
7 Elkhorn Blvd. North Highlands, CA 95660; and 3305 Elkhorn Blvd. North Highlands, CA
8 95660.

9 1.2 Prior to filing the Complaint, the District Attorney's Office contacted
10 Defendants to discuss the violations alleged in Plaintiff's Complaint. Defendants
11 immediately acted to address the issues raised by Plaintiff's allegations. Defendants
12 voluntarily provided requested information and cooperated in the investigation.

13 1.3 Plaintiff alleged causes of action against the Defendants for injunctive relief
14 and civil penalties relating to the storage, transportation and disposal of hazardous waste in
15 violation of Health and Safety Code section 25189.2 and injunctive relief and civil penalties
16 relating to unlawful, unfair, and/or fraudulent business practices in violation of Business and
17 Professions Code sections 17200, et seq.

18 1.4 The Parties have agreed to settle the disputed claims outlined in Plaintiff's
19 Complaint on the terms set forth in this Stipulated Judgment. This Stipulated Judgment is a
20 fair and reasonable resolution of the violations alleged in Plaintiff's Complaint, fulfills the
21 Plaintiff's enforcement objectives as to Defendants so that no further action is warranted
22 concerning the violations alleged in the Complaint, and this Stipulated Judgment is in the
23 best interest of the public.

24 1.5 By signing this Stipulated Judgment, Defendants neither admit nor deny any
25 issue of law or fact in the above-captioned matter or any violation of law, or any allegation
26 contained in Plaintiff's Complaint.

27 1.6 The Parties, in accordance with, and in reliance upon the consideration and
28 covenants contained herein, the sufficiency of which is hereby acknowledged, enter into this

1 Stipulated Judgment to fully, completely and finally resolve and settle all the matters
2 released below.

3 JURISDICTION

4 2.0 This Court has subject matter jurisdiction over the matters alleged in Plaintiff's
5 Complaint and personal jurisdiction over the Parties to this Stipulated Judgment. This Court
6 shall retain said jurisdiction under Code of Civil Procedure section 664.6 until termination of
7 this Stipulated Judgment.

8 INJUNCTION

9 3.0 Compliance with Statutes, Regulations, and Permits

10 The injunctive provisions of this Stipulated Judgment are applicable to
11 Defendants, their subsidiaries and divisions, and any agents and employees,
12 representatives and all persons, corporations, or other entities acting by, through, under, or
13 on behalf of Defendants with notice of this injunction, only insofar as they are doing
14 business in the State of California and acting in concert with Defendants. Defendants are
15 hereby enjoined pursuant to Health and Safety Code section 25184 and Business and
16 Professions Code section 17203 as of the effective date of the Stipulated Judgment entered
17 in this action, as follows:

18 3.1. General Injunctive Provision

19 (a) Defendants shall not violate any of the laws and/or regulations detailed
20 in the First and Second Causes of Action of Plaintiff's Complaint.

21 3.2 Specific Injunctive Provisions

22 (a) Defendants shall include the following terms in all new leases and
23 lease renewals entered into with potentially-regulated hazardous waste generator tenants at
24 Defendants' Facilities identified in Paragraph 1.1:

25 (i) Tenants shall comply with all applicable hazardous waste laws and
26 regulations;

27 (ii) Tenants shall consent to hazardous waste inspections by any
28 California Unified Program Agency ("CUPA") or Participating Agency ("PA")

1 inspector, peace officer, agent of the Department of Justice, California
2 Environmental Protection Agency, the California Department of Toxic
3 Substances Control, District Attorneys, or any government agency with
4 jurisdiction that may be needed to assist in a lawful inspection during normal
5 business hours;

6 (iii) Tenants shall maintain a secured dumpster or other waste
7 receptacle and waste pickup must be maintained for each tenant dumpster;
8 and

9 (iv) No auto repair work or autobody-related painting shall be
10 conducted outside of the tenant's unit.

11 (b) Tenant lease agreements shall be available within ten (10) business
12 days upon request from any Sacramento County CUPA inspector or peace officer.

13 (c) After the effective date of this Stipulated Judgment, when renting to a
14 new potentially-regulated hazardous waste generator tenant, Defendants shall within thirty
15 (30) days send an e-mail to emd-e-reporting@sacounty.net and include the following
16 information:

- 17 • Name of Business or Individual
- 18 • Type of Business (if known)
- 19 • Address
- 20 • Point of contact name and phone number

21 (d) Within six (6) months of the effective date of this Stipulated Judgment,
22 Defendants shall give each of their existing potentially-regulated hazardous waste
23 generator tenants and thereafter each new potentially-regulated hazardous waste generator
24 tenant a copy of Sacramento County's publications "Guidelines for Generators of
25 Hazardous Waste" located on emd.sacounty.net/EC/CUPA/Documents/Form/, "Hazardous
26 Material Business Plan FAQ" and "HHW Drop Off Locations in Sacramento County".
27 Defendants shall obtain a signed receipt from each tenant with the tenant's name printed,
28 signature and date within thirty (30) days of delivery. These receipts shall be available

1 within ten (10) business days to Sacramento County CUPA inspectors and peace officers
2 upon request, until the termination of this Stipulated Judgment. In addition, within one (1)
3 year of the effective date of this Stipulated Judgment, Defendants shall have these
4 documents translated into Ukrainian and make the translations available for use by
5 Sacramento County.

6 (e) Within six (6) months of the effective date of this Stipulated Judgment,
7 Defendants shall retain the services of an environmental compliance specialist for the
8 purpose of verifying tenant compliance with hazardous waste license and/or permit
9 requirements at Defendants' Facilities. The environmental compliance specialist shall work
10 with Defendants once a year to verify the tenant information below:

- 11 ▪ Tenant's name and point of contact;
- 12 ▪ The type of business in the rental unit; and
- 13 ▪ That the business, if potentially-regulated as a hazardous waste
14 generator, has all applicable hazardous waste generator
15 licenses and/or permits.

16 **PAYMENT OF PENALTIES AND COSTS**

17 4.0 Defendants shall pay a total of One Hundred Twenty-Four Thousand One
18 Hundred dollars (\$124,100.00) as follows:

19 (a) \$15,000.00 as civil penalties in accordance with Health and Safety
20 Code section 25189.2 for violations of hazardous waste laws alleged in the Complaint. In
21 accordance with Health and Safety Code section 25192, fifty percent of those penalties
22 (\$7,500.00) will be paid to the Toxic Substances Control Account, twenty five percent of
23 those penalties (\$3,750.00) will be paid to the Sacramento County District Attorney, and
24 twenty five percent of those penalties (\$3,750.00) will be paid to the Sacramento County
25 Environmental Management Department.

26 (b) \$15,000.00 as civil penalties in accordance with Business and
27 Professions Code section 17203 for violations of the Unfair Competition Law alleged in the
28 Complaint to Sacramento County as required by Business and Professions Code section

1 17206, paid to the Treasurer of Sacramento County for the benefit of the Sacramento
2 County District Attorney's Office, as required by Business and Professions Code section
3 17206.

4 (c) \$2,000.00 as partial reimbursement to the Sacramento County District
5 Attorney for Plaintiff's investigative costs and attorneys' fees in this matter.

6 (d) \$90,000.00 as partial reimbursement to the Department of Toxic
7 Substances Control for investigative and enforcement costs in this matter.

8 (e) \$900.00 as reimbursement to the Yolo County District Attorney's Office
9 for investigative assistance in this matter.

10 (f) \$1,200.00 as reimbursement to the San Joaquin County District
11 Attorney's Office for investigative assistance in this matter.

12 4.1 Procedure for Payment and Notice: The payments imposed upon Defendants
13 pursuant to Paragraph 4.0 shall be made by check and delivered to:

14 Office of the District Attorney, Sacramento County
15 Attention: Douglas Whaley, Supervising Deputy District Attorney
16 Consumer & Environmental Protection Division
17 906 G Street, Suite 700
18 Sacramento, CA 95814

19 The payments imposed upon Defendants pursuant to Paragraph 4.0 shall be due
20 and delivered in installments over a three (3) year period from the effective date of the
21 Stipulated Judgment, as described further below:

22 (a) Within ninety (90) days of the effective date of this Stipulated Judgment:

23 i. \$22,500.00 payable to Department of Toxic Substances Control as
24 partial reimbursement to that agency for investigative and enforcement costs in this matter.

25 ii. \$2,000.00 payable to the Sacramento County District Attorney for
26 partial reimbursement for Plaintiff's investigative costs and attorneys' fees in this matter.

27 iii. \$3,750.00 as civil penalties in accordance with Health and Safety Code
28 section 25189.2 payable to the Sacramento County District Attorney.

iv. \$900.00 payable to the Yolo County District Attorney's Office for

1 reimbursement for investigative assistance in this matter.

2 v. \$1,200.00 payable to the San Joaquin County District Attorney's Office
3 for reimbursement for investigative assistance in this matter.

4 (b) Within twelve (12) months of the effective date of this Stipulated Judgment:

5 i. \$22,500.00 payable to the Department of Toxic Substances Control as
6 partial reimbursement to that agency for investigative and enforcement costs in this matter.

7 ii. \$7,500.00 as civil penalties in accordance with Health and Safety Code
8 section 25189.2 payable to the Toxic Substances Control Account, as required by Health
9 and Safety Code section 25192.

10 iii. \$5,000.00 as civil penalties in accordance with Business and
11 Professions Code section 17203. Said payments shall be made payable to the Treasurer of
12 Sacramento County as required by Business and Professions Code section 17206.

13 (c) Within twenty-four (24) months of the effective date of this Stipulated
14 Judgment:

15 i. \$22,500.00 payable to the Department of Toxic Substances Control as
16 partial reimbursement to that agency for investigative and enforcement costs in this matter.

17 ii. \$3,750.00 as civil penalties in accordance with Health and Safety Code
18 section 25189.2 payable to the Sacramento County Environmental Management
19 Department, as required by Health and Safety Code section 25192.

20 iii. \$5,000.00 as civil penalties in accordance with Business and
21 Professions Code section 17203. Said payments shall be made payable to the Treasurer of
22 Sacramento County as required by Business and Professions Code section 17206.

23 (d) The final payment shall be made within thirty-six (36) months of the effective
24 date of this Stipulated Judgment:

25 i. \$22,500.00 payable to the Department of Toxic Substances Control as
26 partial reimbursement to that agency for investigative and enforcement costs in this matter.

27 ii. \$5,000.00 as civil penalties in accordance with Business and
28 Professions Code section 17203. Said payments shall be made payable to the Treasurer of

1 Sacramento County as required by Business and Professions Code section 17206.

2 (d) All payments shall be delivered to the Sacramento County District Attorney's
3 Office. Upon receipt, the Sacramento County District Attorney's Office shall be responsible
4 for disbursing the checks to the named enforcement agencies in accordance with the terms
5 of this Stipulated Judgment.

6 (e) If a payment due date falls on a holiday or weekend, the payment due date
7 shall be the next business day following the holiday or weekend.

8 (f) In the event that Defendants fail to make timely payment of any of the civil
9 penalty payments, and Defendants fail to cure such failure within fifteen (15) days, the
10 entire unpaid balance of the Stipulated Judgment is immediately due and shall bear interest
11 of ten percent (10%) per annum from the date the payment was due under this Stipulated
12 Judgment until the date the full payment is received.

13 **MATTERS COVERED BY THIS STIPULATED JUDGMENT**

14 5.0 This Stipulated Judgment is a final and binding resolution and settlement of all
15 disputed claims, violations, and causes of action arising from the matters and allegations
16 set forth in Plaintiff's Complaint against Defendants and/or its officers, directors, employees,
17 agents, representatives, successors, and assignees up to the effective date of this
18 Stipulated Judgment, related to the following facilities: 7291 32nd Street, North Highlands,
19 CA 95660; 6525 & 6529 32nd Street North Highlands, CA 95660; 3451 I Street North
20 Highlands, CA 95660; 3245 Elkhorn Blvd. North Highlands, CA 95660; 3305 Elkhorn Blvd.
21 North Highlands, CA 95660; 3233-3229-3225-3221 Elkhorn Blvd. North Highlands, CA
22 95660; 4554 & 4558 Roseville Rd. North Highlands, CA 95660; and 3479 Orange Grove
23 Ave. North Highlands, CA 95660, collectively known as "Covered Matters". Any claim,
24 violation, or cause of action that is not a Covered Matter as defined above is a "Reserved
25 Claim."

26 5.1 Reserved Claims include, without limitation: (1) any unknown violations
27 arising out of matters or allegations that are not set forth in Plaintiff's Complaint, (2) any
28 violation of the injunctive provisions of the Stipulated Judgment entered in this action, (3)

1 any violation that occurs after the effective date of this Stipulated Judgment; and (4) any
2 claim, violation, or cause of action against Defendants' independent contractors or
3 subcontractors. The parties reserve the right to pursue, or defend against, any Reserved
4 Claim. This Paragraph does not affect any statute of limitations, if any, which may be
5 applicable to any Reserved Claim, and does not prohibit Defendants from asserting any
6 statute of limitations or other legal or equitable defenses that may be applicable to any
7 Reserved Claim.

8 5.2 The provisions of Paragraphs 5.0 and 5.1 are expressly conditioned on
9 Defendants making full payment pursuant to Paragraph 4.0.

10 **ENFORCEMENT AND EFFECT OF STIPULATED JUDGMENT**

11 6.0 Except as expressly provided in this Stipulated Judgment, nothing in this
12 Stipulated Judgment is intended, nor shall it be construed, to preclude the People from
13 exercising their authority under any law, statute, or regulation or the rights of Defendants to
14 defend against any request of the People for such relief or remedies. Prior to taking any
15 action to enforce the injunctive provisions of this Stipulated Judgment by civil contempt or
16 pursuant to Business and Professions Code section 17207, Plaintiff shall provide
17 Defendants with at least ten (10) days' notice before filing any such action.

18 **ADDITIONAL PROVISIONS**

19 7.0 Representations and Warranties: Each Party to this Stipulated Judgment
20 represents, warrants and agrees that each Party has made such investigation of the facts
21 and matters pertaining to this Stipulated Judgment as it deems necessary and is not relying
22 on any representations made by the other Parties in entering into this Stipulated Judgment;
23 each Party has had an opportunity to consult with an attorney regarding the contents of this
24 Stipulated Judgment; each Party or the responsible agent of the Party has read this
25 Stipulated Judgment and understands its contents; and each person signing this Stipulated
26 Judgment has the full authority to sign on behalf of the Party for which he or she is signing
27 and to bind that Party to the obligations and commitments set forth herein.

28 7.1 Costs and Attorney's Fees: Except as specifically provided herein, each Party

1 to this Stipulated Judgment will bear its own costs and attorneys' fees incurred in
2 prosecuting, defending, and settling this action.

3 7.2 Entire Agreement: This Stipulated Judgment is intended to be a final and
4 binding resolution of the subject matter set forth in this Stipulated Judgment and
5 supersedes and replaces any and all prior negotiations, confirmatory letters, and proposed
6 agreements or final agreements, whether written or oral.

7 7.3 Amendment: This Stipulated Judgment may not be amended or modified
8 except by a writing signed by the Parties.

9 7.4 Governing Law and Venue: This Stipulated Judgment and its enforcement
10 shall be governed by the laws of the State of California exclusive of its choice of law
11 principles. The Parties agree that proper venue for any dispute or litigation arising from this
12 Stipulated Judgment shall be Sacramento County, California.

13 7.5 Waiver of Terms: A waiver of any term or condition of this Stipulated
14 Judgment shall not be deemed to be a waiver of any other term or condition of this
15 Stipulated Judgment or as to the future applicability of such term or condition unless agreed
16 to in writing by the waiving Party.

17 7.6 Neutral Construction: The Parties acknowledge and agree that the terms and
18 provisions of this Stipulated Judgment have been negotiated and discussed between the
19 Parties and their counsel, and this Stipulated Judgment reflects their mutual agreement
20 regarding the same. No Party shall be deemed to have drafted this Stipulated Judgment,
21 and this Stipulated Judgment shall be construed neutrally and shall not be applied or
22 interpreted more strictly against one Party than another Party.

23 7.7 Counterparts: This Stipulated Judgment may be signed in counterparts by the
24 Parties and those counterparts when taken together shall have the same force and effect as
25 if a single, original document has been signed by the Parties. For purposes of this
26 Stipulated Judgment, facsimile signatures shall be deemed originals.

27 7.8 Binding Effect: This Stipulated Judgment and its terms, covenants,
28 conditions, provisions, obligations, undertakings, rights and benefits shall be binding upon

1 and inure to the benefit of the Parties and their respective successors-in-interest and
2 assigns.

3 7.9 More Stringent Requirements: Nothing in this Stipulated Judgment shall
4 excuse Defendants from meeting any more stringent requirements that may be imposed
5 after the effective date of this Stipulated Judgment by changes in applicable and legally
6 binding legislation or regulations; however, Plaintiff is releasing all Covered Matter claims
7 related to such additional requirements that accrued before the effective date of this
8 Stipulated Judgment. To the extent any future statutory or regulatory change makes
9 Defendants' obligations less stringent than those provided for in this Stipulated Judgment,
10 Defendants' compliance with the changed law shall be deemed compliance with this
11 Stipulated Judgment.

12 7.10 Notice: All notices required or permitted to be given pursuant to this
13 Stipulated Judgment shall be sent by email and by first class mail, postage prepaid, as
14 follows:

15 If to Defendants:

16 Alanna Lungren
17 Hartman King PC
18 520 Capitol Mall, Suite 750
19 Sacramento, CA 95814
20 ALungren@HartmanKingLaw.com

21 If to Plaintiff:

22 Douglas Whaley, Supervising Deputy District Attorney
23 Office of the District Attorney, Sacramento County
24 Consumer & Environmental Protection Division
25 906 G Street, Suite 700
26 Sacramento, CA 95814
27 WhaleyD@sacda.org

28 The Parties shall inform each other of any change in the address, email address, or
identity of person(s) to whom notice is to be directed pursuant to this section.

7.11 Plaintiff and Defendants, by and through their respective and duly authorized
representatives, hereby stipulate and consent to this Stipulated Judgment.

7.12 The effective date of this Stipulated Judgment shall be upon entry. The

1 Parties need not file a Notice of Entry of Judgment.

2 **TERMINATION OF INJUNCTION**

3 8.0 At any time after this Stipulated Judgment has been in effect for five (5) years,
4 and Defendants have paid any and all amounts due under the Stipulated Judgment,
5 pursuant to Code of Civil Procedure section 533 and Civil Code section 3424, any party
6 may provide notice to the Court (which shall be served on all parties) that the injunctive
7 provisions of this Stipulated Judgment should expire and have no further force and effect
8 ("Notice of Termination"). The injunctive provisions of this Stipulated Judgment will be of no
9 further force or effect sixty (60) days thereafter, unless the People file a motion contesting
10 the expiration of any injunctive provisions within forty (40) days of receipt of the Notice of
11 Termination. If such motion is filed, none of the injunctive provisions of the Stipulated
12 Judgment contested in the People's motion will terminate pending the Court's ruling on the
13 motion.


14 After the Stipulated Judgment has been in effect for six (6) years, and Defendants
15 have paid all amounts required under the Stipulated Judgment, the injunctive provisions in
16 the Stipulated Judgment will terminate automatically. The termination of the injunctive
17 provisions of the Stipulated Judgment shall have no effect on Defendants' obligation to
18 comply with the requirements imposed by statute, regulation, ordinance, or law.

19 **IT IS SO STIPULATED.**

20
21 For the Plaintiff:

22 Dated: July 24, 2019

ANNE MARIE SCHUBERT, District Attorney
SACRAMENTO COUNTY DISTRICT
ATTORNEY'S OFFICE

24 By: 

25 Lisa Brown

26 Attorney for Plaintiff

27 The People of the State of California

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

For Defendants:

Dated: 7/20, 2019 By: Terry N. Meinzer
Terry N. Meinzer

Dated: 7/20, 2019 By: Terry N. Meinzer
Terry N. Meinzer, d.b.a. Meinco Properties (a sole proprietorship)

Dated: 7/20, 2019 Elkhorn Ventures, L.P.
By: Terry N. Meinzer
Terry N. Meinzer, General Partner

Dated: 7/20, 2019 MLP-Two, LLC
By: Terry N. Meinzer
Terry N. Meinzer, Manager

Dated: 7/20, 2019 MFP-One, LLC
By: Terry N. Meinzer
Terry N. Meinzer, Manager

Dated: 7/20, 2019 Terry N. Meinzer Family Trust, dated October 25, 1981
By: Terry N. Meinzer
Terry N. Meinzer, Trustee

Approved as to Form:

Dated: 7/23/, 2019 Alanna Lungren
Alanna Lungren
Hartman King PC
Attorneys for Defendants

It appearing to the court that there is good cause for the entry of this Stipulated Judgment, IT IS SO ORDERED.

Dated: 8-12-, 2019



Christopher E. Krueger
JUDGE OF THE SUPERIOR COURT