

Proposed Administrative Consent Agreement Background Summary

Subject: Roger Soucy Jr.
PuroClean (RMH Cleaning and Restoration, Inc)
513 Boothby Road
Livermore, ME 04253

Date of Incident(s): Occasions prior to inspection on 7-30- 2010

Background Narrative: The BPC received a complaint call from a PuroClean customer on 7-29-2010. The caller said that PuroClean did a mold remediation job in the basement of her home in Strong on December 9, 2009, and that she developed breathing problems shortly afterwards. An inspector conducted a follow-up inspection with the owner of PuroClean and determined no pesticides were used on the job in Strong. However, a check of products in storage on the shelves of PuroClean's office in Livermore Falls revealed three EPA registered pesticides. The company owner acknowledged these had been used on prior commercial job sites. One of the products was not registered in Maine. No one at the company was licensed as a commercial pesticide applicator.

Summary of Violation(s): 22 M.R.S.A. § 1471- D (1) (A): That commercial pesticide applications may only be conducted by certified commercial applicators.

CMR 01-026 Chapter 20, Section 1(A): The use of any pesticide not registered by the Maine Board of Pesticides Control in accordance with Title 7 M.R.S.A. 601 is prohibited except as otherwise provided in this chapter or by FIFRA, Section 2(ee).

Rationale for Settlement: The staff compared the violation to similar cases settled by the Board in formulating a penalty proposal. The penalty also took into account that pesticide use was not the primary mold abatement practice used by the company.

Attachments: Proposed Consent Agreement

**STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL**

Roger Soucy Jr.)
PuroClean (RMH Cleaning and) ADMINISTRATIVE CONSENT AGREEMENT
Restoration, Inc) AND
513 Boothby Road) FINDINGS OF FACT
Livermore, ME 04253)

This Agreement, by and between PuroClean (RMH Cleaning and Restoration, Inc) (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company provides structural property damage services for hire, including mold remediation.
2. That on July 7, 2010, the Board received a call from a homeowner in Strong reporting concerns about mold remediation work done to the basement of her home on December 9, 2009.
3. That in response to the call in paragraph two, a Board inspector contacted the homeowner as part of the follow-up investigation. The homeowner provided the company name and contact information for the contractor who performed the work in paragraph two.
4. That using the information provided by the homeowner in paragraph three a Board inspector contacted Company owner Richard Soucy Jr. (unlicensed applicator) on July 30, 2010.
5. That Soucy stated the Company did not use a pesticide for the work done in paragraph two.
6. That as part of the follow-up investigation with Soucy in paragraph four, the inspector checked the company's product inventory and found the following three EPA registered pesticide in storage on the company's shelves: Quest QD-64 (EPA reg.#47371-37-44446), Sporidicin (EPA reg.#8383-3), and EnviroCon HVAC (EPA reg.#9804-3).
7. That Soucy acknowledged personnel from his company applied the three pesticides described in paragraph six to some of his customer's property for hire prior to the inspection in paragraph four.
8. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
9. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) as any application of any pesticide under contract or for which compensation is received or any application of a pesticide to a property open to use by the public.
10. That no one from the Company had a commercial pesticide applicator's license at the time of the applications described in paragraph seven.

11. That the circumstances described in paragraphs one through ten constitute a violation of 22 M.R.S. § 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A) III.
12. That CMR 01-026 Chapter 20, Section 1(A) prohibits the use of any unregistered pesticide.
13. That one of the pesticides applied commercially by the company, EnviroCon HVAC (EPA reg.#9804-3), described in paragraphs six and seven, was not registered in Maine at the time of application.
14. That the circumstances described in paragraphs one through seven, twelve and thirteen, constitute a violation of CMR 01-026 Chapter 20, Section 1(A).
15. That the Board has regulatory authority over the activities described herein.
16. That the Company expressly waives:
 - a. Notice of or opportunity for hearing;
 - b. Any and all further procedural steps before the Board; and
 - c. The making of any further findings of fact before the Board.
17. That this Agreement shall not become effective unless and until the Board accepts it.
18. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs eleven and fourteen, the Company agrees to pay to the State of Maine the sum of \$350. (Please make checks payable to Treasurer, State of Maine.)

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

PUROCLEAN (RMH CLEANING AND RESTORATION, INC)

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General