

Proposed Administrative Consent Agreement Background Summary

Subject: Adam Patterson
Patterson Properties
3001 North Belfast Ave.
Augusta, ME 04330

Date of Incident(s): August 15, 2008

Background Narrative: The owner of an apartment building in Hallowell applied two different insecticides to a rented apartment to control fleas. Later, after reentering the apartment, the tenant did not feel well and the Board was called about the incident. This resulted in a follow-up inspection with the landlord to document the products used and to determine if label directions were followed. No label violations were found, however the applications were considered "custom applications" because the landlord received compensation in the form of rent. A commercial license is required to make custom applications.

Summary of Violation(s): 22 M.R.S.A. §1471-D (1)(A), No commercial applicator may use or supervise the use of any pesticide within the State without prior certification of the Board...

Rationale for Settlement: This incident was compared to similar cases in the past.

Attachments: Proposed Consent Agreement

**STATE OF MAINE
DEPT. OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL**

| | | |
|-------------------------|---|------------------------|
| Adam Patterson |) | ADMINISTRATIVE CONSENT |
| Patterson Properties |) | AGREEMENT |
| 3001 North Belfast Ave. |) | AND |
| Augusta, ME 04330 |) | FINDINGS OF FACT |

This Agreement by and between Adam Patterson (hereinafter called the “Applicator”) 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 adopted by the Board on September 19, 1984 and amended September 7, 1990.

The parties to this Agreement agree as follows:

1. That on August 15, 2008, the Applicator was the owner of the apartment building located 140 Water Street in Hallowell, Maine.
2. That on August 15, 2008, the Applicator applied Bio Spot Room Fogger, EPA registration number 2724-666-270, to the interior of rented apartment number six at 140 Water Street.
3. That on or about this same date the applicator applied Zodiac Fletrol Carpet and Upholstery Powder, EPA registration number 2724-777, to two rugs inside this same apartment.
4. That the applications referred to in paragraph two and three constitute commercial pesticide applications as defined under 22 M.R.S.A. § 1471-C (5) and (5A), and as such, require the presence of an on site commercial applicator.
5. That the Applicator was not licensed as a commercial pesticide applicator nor was there a licensed applicator present at the time of the applications described in paragraph two and three..
6. That the actions described in paragraphs two and three constitute a violation of 22 M.R.S.A. §1471-D (1)(A).
7. That the Board has regulatory authority over the activities described herein.
8. That the Applicator 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.

9. That this agreement shall not become effective unless and until the Board accepts it.
10. That in consideration for release by the Board of the causes of action which the Board has against the Applicator, resulting from the violations referred to in paragraph six, the Applicator agrees to pay to the State of Maine the sum \$350. (Please make check payable to Treasurer, State of Maine).

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

PATTERSON PROPERTIES.

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General