

Proposed Administrative Consent Agreement Background Summary

Subject: Craig Pooler
Tailor Done Lawn Care, Inc.
135 Portland Avenue
Old Orchard Beach, Maine 04064

Date of Incident(s): May 25, 2010

Background Narrative: A caller reported to the Board that Craig Pooler the owner of Tailor Done Lawn Care, Inc. was making an unlicensed commercial pesticide application to a condominium complex in Scarborough. Through a follow-up inspection and sampling it was determined that Pooler did make an herbicide application at the site. Pooler was not licensed as a commercial applicator at the time of the application.

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

Rationale for Settlement: This was a commercial landscaping company applying a pesticide without a license. The base penalty established for this activity is \$500. Pooler did not admit the violation until lab results confirmed the presence of glyphosate, the active ingredient in Roundup Herbicide. For this reason a settlement was reached for \$600.

Attachments: Proposed Consent Agreement

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

Craig Pooler)
Tailor Done Lawn Care, Inc.) ADMINISTRATIVE CONSENT AGREEMENT
135 Portland Avenue) AND
Old Orchard Beach, Maine 04064) FINDINGS OF FACT

This Agreement, by and between Tailor Done Lawn Care, 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 property maintenance services for hire, including in the Scarborough area.
2. That on May 25, 2010, the Board received a call from an individual who was observing Craig Pooler, the Company Owner, applying Roundup Herbicide to plant beds at the Whistlers Landing Condo Association complex on the Eastern Road in Scarborough.
3. That in response to the call in paragraph two, a Board inspector did a follow-up inspection at Whistlers Landing Condo Association complex on May 26, 2010. The inspector interviewed a number of people at this site, two who saw Pooler making a pesticide application to mulched plant beds and rocked drainage ditches.
4. That based on follow-up inspection in paragraph three, the inspector took a one liter vegetation sample (100526EPM01A) from mulched plant beds and rocked drainage areas.
5. That on May 26, 2010, the Board inspector called Craig Pooler about the complaint. Pooler told the inspector that all he applied to Whistlers Landing Condo Association complex on May 25, 2010, was Miracle Grow Fertilizer to plant beds because the flowers were not doing well.
6. That the lab result for the one liter vegetation sample (100526EPM01A) collected in paragraph four was positive for glyphosate, the active ingredient in Roundup Herbicide, at 1,789 ppm.
7. 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 in accordance with 22 M.R.S. § 1471-D(1) (A).
8. 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.
9. That, as evidenced by the lab results described in paragraph six, the Company made an application of Roundup Herbicide to the plant beds at the Whistlers Landing Condo Association complex on May 26, 2010, as described in paragraphs two and three, which application constitutes a custom application, as defined in 22 M.R.S. § 1471-C(5-A), because it was an application for which compensation was received and/or it was to an area that was 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 application described in paragraphs two and three.
11. That the circumstances described in paragraphs one through ten constitute a violation of 22 M.R.S. § 1471-D(1)(A).
12. That the Board has regulatory authority over the activities described herein.
13. 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.
14. That this Agreement shall not become effective unless and until the Board accepts it.
15. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay to the State of Maine the sum of \$600. (Please make checks payable to Treasurer, State of Maine.)

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

TAILOR DONE LAWN CARE, INC.

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Henry Jennings, Director

APPROVED

By: _____ Date: _____
Mark Randlett, Assistant Attorney General