

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Supreme Asset Management Recovery, Inc.

FILE NO.: 2011-48-HW

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Administrative History

The DEM issued an informal written notice to the Respondent on July 31, 2012 for the violations. The notice required that specific actions be taken to correct the violations. The Respondent’s attorney sent a letter to DEM that was received on September 14, 2012 requesting additional time to comply with the deadline in the notice. DEM sent a letter to the Respondent’s attorney on September 19, 2012 stating that DEM would agree to additional time if the Respondent committed to taking the specific actions in the notice. Neither the Respondent nor its attorney responded to the letter.

C. Facts

- (1) Respondent operates a facility located at 1950 Rutgers University Boulevard in Lakewood, New Jersey (the “NJ Facility”) and registered with the New Jersey Department of Environmental Protection as a State generator of hazardous waste and a handler of universal waste pursuant to Title 40 of the Code of Federal Regulations (“40 CFR”) under the name of “Supreme Asset Management and Recovery SAMR” with the U.S. Environmental Protection Agency (“EPA”) identification number NJR000071902.
- (2) The subject property is located at 21 Sabin Street, Assessor’s Map 8, Lot 329 in the city of Pawtucket, Rhode Island (the “Property”).
- (3) On March 11, 2011, DEM inspected the Property. The inspection revealed that waste, in the form of broken glass from cathode ray tubes (CRTs) (the “CRT Waste”), was disposed at the Property as evidenced by the following:
 - (a) Five (5) open cardboard containers and twenty-four (24) sealed cardboard containers marked with the words “universal waste CRT glass” or “SAMR

Inc leaded glass tubes from televisions and computers” dated either 8/3/10 or 8/30/10;

- (b) The labels on the containers identified the weight of each container, which averaged 2,700 pounds for each container;
 - (c) Observations of broken CRT glass in the open cardboard containers; and
 - (d) Discussions with Thurston Hartford, who identified himself as the owner of e-LifeCycle Management, LLC, who provided the DEM inspector with the following information:
 - (i) His company entered into a contract with the Respondent to receive broken CRT glass from the NJ Facility;
 - (ii) His company received two (2) shipments of broken CRT glass from the Respondent comprising a total of about forty (40) tons; and
 - (iii) The first shipment was received on August 3, 2010 and the second shipment was received on August 10, 2010
- (4) On March 14, 2012 DEM inspected the Property and determined that the CRT Waste was still present.
 - (5) On October 12, 2012 DEM inspected the Property and completed a detailed inventory of the CRT Waste. DEM documented twenty nine (29) cardboard containers holding broken glass, twenty eight (28) of which were marked with the words “SAMR, Inc. leaded glass/tubes from televisions or computers” and dated 7/23/10 or 8/30/10. During the inspection DEM collected samples from five (5) of the containers and transported the samples to a laboratory for analysis.
 - (6) On October 24, 2012 DEM received a copy of a report containing the results from the samples collected on October 12, 2012. DEM reviewed the report and determined that four (4) of the samples contained concentrations of lead exceeding the regulatory threshold of 5 parts per million making the material in the containers hazardous waste.
 - (7) Upon information and belief, Respondent failed to complete a hazardous waste manifest for the shipments to the Property on August 3 and 10, 2010.
 - (8) DEM has not issued a permit to the owner of the Property to treat, store and/or dispose of hazardous waste on the Property.
 - (9) As of the date of this Notice of Violation (“NOV”), the Respondent has failed to ship the hazardous waste to a properly licensed treatment, storage and disposal facility.

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **R.I. Gen. Laws Section 23-19.1-10 and DEM's Rules and Regulations for Hazardous Waste Management ("Hazardous Waste Regulations"), Regulation 5.3** - requiring a person to send hazardous waste to a designated facility that is authorized to receive hazardous waste.
- (2) **R.I. Gen. Laws Section 23-19.1-9, DEM's Hazardous Waste Regulations, Regulation 5.3B, and 40 CFR 262.20(a)(1)** – requiring generators of hazardous waste to complete a manifest for each shipment of hazardous waste.

E. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to **within thirty (30) days of receipt of the NOV** transport all of the CRT Waste using a permitted hazardous waste transporter to a licensed Treatment, Storage and Disposal Facility and submit a copy of the manifest to the DEM.

F. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

Thirty Nine Thousand Four Hundred Eighty Five Dollars (\$39,485.00)

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the DEM within thirty (30) days of your receipt of this NOV. Payment shall be in the form of a certified check, cashier's check or money order made payable to the "General Treasury - Environmental Response Fund," and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against respondent in this NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with this NOV.

G. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Paragraphs B through F above. All requests for hearing MUST:
 - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
 - (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within twenty (20) days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
One Capitol Hill, 2ND Floor
Providence, RI 02903

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
 - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.
- (2) A copy of each request for hearing must also be forwarded to:

Susan Forcier, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).

- (5) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Susan Forcier at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of the DEM Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

David E. Chopy, Chief
DEM Office of Compliance and Inspection

Date: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

Supreme Asset Management Recovery, Inc.
c/o Michael A. Clark
1950 Rutgers University Blvd

Lakewood, NJ 08701

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE SECTION
 File No.: 2011-48-HW
 Respondent: Supreme Asset Management Recovery, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) – Failure to ship to a licensed facility	Type I (\$ <u>25,000</u> Max. Penalty)*	Major	\$12,500	2 violations	\$25,000.00
D (2) – Failure to complete a manifest	Type I (\$ <u>25,000</u> Max. Penalty)*	Moderate	\$6,250	2 violations	\$12,500.00
SUB-TOTAL					\$37,500.00

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

COST RECOVERY		
ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.		
DESCRIPTION OF COST	CALCULATION OF ACTUAL COST INCURRED	AMOUNT
TCLP Extraction – Solid	5 samples x \$35.00 per sample	\$ 175.00
TCLP RCRA 8 Metals – Solid	5 samples x \$70.00 per sample	\$ 350.00
SUB-TOTAL		\$525.00

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT ARE IN COMPLIANCE. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

DESCRIPTION OF BENEFIT	CALCULATION		AMOUNT
<p>Economic benefit of noncompliance identified by DEM for shipping hazardous waste to a facility that was not licensed to receive hazardous waste. The one-time non-depreciable expense associated with this activity was obtained by contacting a licensed facility. The cost of properly disposing of the hazardous waste was determined to be eighteen thousand nine hundred fifty seven dollars (\$18,957.00).</p> <p>The Economic benefit gained by the instances of noncompliance was calculated by utilizing an EPA computer model entitled "BEN". The model calculates the economic gain of noncompliance by performing a detailed economic analysis. The dates, dollar amounts and values used in this analysis are as listed in this table.</p>	<ul style="list-style-type: none"> • Profit Status • Filing Status • Initial Capital Investment • One-time Non-depreciable Expense • Annual Expense • First Month of Non-Compliance • Compliance Date • Penalty Due Date • Useful Life of Pollution Control • Equipment Annual Inflation Rate • Discount/Compound Rate 	<p>C-Corporation</p> <p>C-Corporation</p> <p>\$0</p> <p>\$18,957.00</p> <p>\$0</p> <p>August 2010</p> <p>September 30, 2013</p> <p>September 30,2013</p> <p>N/A</p> <p>N/A</p> <p>7.8%</p>	<p>\$1,460.00</p>
<i>SUB-TOTAL</i>			\$1,460.00

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$39,485.00

PENALTY MATRIX WORKSHEET

CITATION: Failure to ship waste to a licensed facility

VIOLATION NO.: D (1)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> </u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> </u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent shipped hazardous waste to a facility in Rhode Island that was not authorized to receive hazardous waste. The requirement to only ship hazardous waste to licensed facilities is an integral part of the DEM's Hazardous Waste Regulations because a licensed facility is required to develop waste analysis plans, contingency plans, to maintain fire and spill control equipment store liquid waste within containment systems and carefully track all shipments of hazardous waste,. In addition, the company operating the facility must train all personnel in proper waste handling methods and to respond to fires, spill or other emergencies in a safe manner. .</p> <p>(B) Environmental conditions: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: Respondent transported twenty nine (29) containers of broken glass (hazardous waste) via two shipments to the property. Based upon markings on the containers holding hazardous waste DEM estimates that the Respondent transported approximately 80,000 pounds of hazardous waste.</p> <p>(D) Toxicity or nature of the pollutant: The broken glass contains lead at levels that exceed regulatory thresholds making it hazardous waste. Lead is a heavy metal that is known to be toxic to humans causing behavioral problems, learning disabilities, seizures and mortality.</p> <p>(E) Duration of the violation: 2 days. The hazardous waste was transported on August 3, 2010 and August 10, 2010.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</p>		
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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to ensure that the hazardous waste was transported to a licensed facility. DEM issued a notice to Respondent on July 31, 2012 requiring the proper removal of the hazardous waste from the property. The Respondent failed to comply with the notice.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized in this calculation.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized in this calculation.

<u> </u> X MAJOR	<u> </u> MODERATE	<u> </u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000 \$12,500	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Failure to complete a manifest

VIOLATION NO.: D (2)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent shipped hazardous waste to the property without first completing a hazardous waste manifest. The requirement to complete a hazardous waste manifest for each shipment of waste is an integral part of the DEM's Hazardous Waste Regulations because the manifest provides a tracking system to confirm that the waste was received by the treatment, storage and disposal facility. The failure to complete a manifest eliminates the tracking system that functions to prevent disposal of hazardous waste at unlicensed facilities or locations.</p> <p>(B) Environmental conditions: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: Based upon markings on the containers holding hazardous waste DEM estimates that the Respondent shipped approximately 80,000 pounds of broken glass (hazardous waste) in twenty nine (29) containers to the property.</p> <p>(D) Toxicity or nature of the pollutant: The broken glass contains lead at levels that exceed regulatory thresholds making it hazardous waste. Lead is a heavy metal that is known to be toxic to humans causing behavioral problems, learning disabilities, seizures and mortality.</p> <p>(E) Duration of the violation: 2 shipments. Respondent shipped hazardous waste to the property on August 3, 2010 and August 10, 2010.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to complete manifests prior to shipping hazardous waste to the property. DEM issued a notice to Respondent on July 31, 2012 requiring the proper removal of the hazardous waste from the property. The Respondent failed to comply with the notice.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized in this calculation.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized in this calculation.

<u> </u> MAJOR	<u> X </u> MODERATE	<u> </u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250