FILED
DEC - 4 2013
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT
Sean Gallagher
Clerk of the Boards
Bay Area Air Quality
Management District

BEFORE THE HEARING BOARD OF THE

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

AIR POLLUTION CONTROL OFFICER of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT Complainant, vs. MICHAEL FASANO; COMPLETE COLLISION CENTER LLC; and DOES 1 through 25, inclusive, Respondents.	DOCKET NO. 3655 STIPULATED CONDITIONAL ORDER FOR ABATEMENT

On October 15, 2013, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District"), Complainant in this matter, filed its Accusation of Violation of District Regulation 2, Rule 1 and Request for Conditional Order for Abatement ("Accusation") against MICHAEL FASANO; COMPLETE COLLISION CENTER LLC; and DOES 1 through 25, inclusive ("Respondents"). The APCO sought an order from this Hearing Board requiring that Respondents cease operating the solvent evaporating source ("Source S-1") at their auto body and paint facility, located at 326 Yolanda Avenue, Santa Rosa, Sonoma County, California, District Site No. B3085 ("Facility"), as of 15 days from the Hearing Board's filing of the Conditional Order for Abatement unless and until Respondents come into compliance with District Regulation 2, Rule 1, Section 302.

The Clerk of the Hearing Board assigned this matter Docket No. 3655 and set a hearing for

November 14, 2013. The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance with the requirements of California Health and Safety Code section 40823.

On November 5, 2013, the APCO filed the Bay Area Air Quality Management District's Request for Official Notice in Support of Accusation and Request for Conditional Order for Abatement ("Request for Official Notice") and served the Request for Official Notice on Respondents that day.

The Hearing Board conducted a hearing on the District's Accusation on November 14, 2013.

Susan Adams, Assistant Counsel, appeared for the Air Pollution Control Officer.

Respondent FASANO appeared for himself and described himself as a former Member of Respondent COMPLETE COLLISION CENTER LLC. He stated on the record that COMPLETE COLLISION CENTER LLC is "officially closed" and that he has applied for a change of business name for the Facility.

Both the APCO and Respondent FASANO made an opening statement. Respondent FASANO admitted to having operated the Facility since August 1, 2011 without a required District permit to operate the solvent evaporating source. He stated on the record that while he has been changing the business name and organization he has not conducted refinishing operations since March 13, 2013.

The Chair of the Hearing Board called a hearing recess. During the recess, the APCO and Respondent FASANO reached agreement on a proposed stipulated conditional order for abatement in this matter.

Following the recess, the APCO presented to the Hearing Board the terms of a proposed stipulated conditional order for abatement, as follows:

1) Respondent FASANO shall pay all outstanding permit to operate fees, which include reinstatement and all associated permit fees, that are required pursuant to District Regulation 2, Rule 1 and Regulation 3, to reinstate and bring current and valid the permit to operate the Facility's Source S-1 for the Facility's permit years August 1, 2011 – August 1, 2012; August 1, 2012 – August 1, 2013; and August 1, 2013 – August 1, 2014; and
2) Respondent FASANO shall pay all such outstanding permit to operate fees by the end of July 2014 and in accordance with the schedule that provides for the first payment of $500.00 to be

received as of November 27, 2013 and monthly payments of $200.00 to be received by the Air District on the last day of each month thereafter until all permit fees are paid (but no later than July 31, 2014), which payment schedule shall be annexed to the stipulated conditional order for abatement, to bring the Facility into compliance with the Facility permit to operate through August 1, 2014 ("Permit Payment Schedule"); and

3) Based on Respondent FASANO's agreement to comply with the terms of the Permit Payment Schedule and his agreement to settle NOV Nos. A50097 and A50093 issued to Respondents for violations of District Regulation 2, Rule 1, Section 302 by payment of stated civil monetary penalties by December 31, 2014 and in accordance with an agreed-upon payment schedule, the District has agreed that Respondent FASANO may continue to operate Source S-1 from November 14, 2013, the date of this hearing, until December 31, 2014 ("Compliance Period"); and

4) Failure to comply with the Permit Payment Schedule and failure to bring the Facility into compliance by July 31, 2014 with all permit fee requirements of District Regulation 2, Rule 1, Section 302 and Regulation 3 for the period of August 1, 2011 through August 1, 2014 are violations of the stipulated conditional order for abatement; and

5) The Hearing Board would retain jurisdiction over this matter, Docket No. 3655, until the later date of either: (a) the end of the Compliance Period; or (b) compliance with all Facility permit requirements of District Regulation 2, Rule 1, Section 302 and Regulation 3 pertaining to the period of August 1, 2011 through August 1, 2014.

In response to an inquiry of the Hearing Board, the District stated that the total amount of fees due is $1,913.00; Respondent FASANO did not dispute the amount due.

Following the APCO's recitation of the proposed terms, Respondent FASANO stated on the record his agreement to the terms of proposed stipulated conditional order for abatement.

The Hearing Board provided the public with an opportunity to testify at the hearing, as required by the California Health and Safety Code. No members of the public testified. The Hearing Board closed the hearing and approved unanimously the Parties' proposed stipulated conditional order for abatement. The Hearing Board did not take action on the District's Request for Official Notice.

WRITTEN EXPLANATION OF ACTION

Because the Parties have stipulated to the entry of the proposed stipulated conditional order as the Stipulated Conditional Order for Abatement ("Stipulated Conditional Order") in this matter, the Hearing Board is not required to make any factual findings to support the Stipulated Conditional Order under California Health and Safety Code Section 42451(b). However, the Hearing Board must include a written explanation of its action in this Stipulated Conditional Order. To that end, the Hearing Board explains its action as follows.

Respondent FASANO has admitted to having violated the permit requirements of District Regulation 2, Rule 1, by having operated Source S-1, a solvent evaporating source, since August 1, 2011 without a valid, current District permit to operate. He has agreed to address the violations of District Regulation 2, Rule 1, Section 302 identified in the Accusation, by payment all outstanding permit fees and associated fees for the permit to operate a solvent evaporating source at 326 Yolanda Avenue, Santa Rosa, Sonoma County, District Site No. B3085, to cover the permit years August 1, 2011 through August 1, 2014, in accordance with a permit payment schedule ("Permit Payment Schedule"), which is annexed to this Stipulated Conditional Order as Exhibit A. The total amount due is $1,913.00. He has not disputed the amount due. The schedule provides that the first payment is due November 27, 2013, and the final payment is due on or before July 31, 2014. The Parties have agreed that Respondent FASANO may continue to operate Source S-1 based on Respondent FASANO's agreement to comply with the terms of the Permit Payment Schedule (as well as payment of certain civil monetary penalties that are not the subject of this Docket No. 3655).

Failure to comply with the Permit Payment Schedule and failure to bring the Facility into compliance with District Regulation 2, Rule 1, Section 302 by July 31, 2014 are violations of the stipulated conditional order for abatement.

The Hearing Board believes that the Parties' agreed course of action is in the public interest and that therefore, the entry of this Stipulated Conditional Order for Abatement is appropriate under the circumstances.

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Conditional Order for Abatement

Cause being found therefore, pursuant to Sections 42451(b) and 42452 of the California Health and Safety Code, THE HEARING BOARD of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT hereby ORDERS:

1. That the APCO's and Respondents' request for this Stipulated Conditional Order for Abatement shall be and hereby is GRANTED as follows:

   a. Respondent FASANO shall pay all outstanding permit to operate fees, which include reinstatement and any other associated permit fees, that are required pursuant to District Regulation 2, Rule 1 and Regulation 3, to reinstate and bring current and valid the permit to operate a solvent evaporating source (Source S-1) at 326 Yolanda Avenue, Santa Rosa, Sonoma County, District Site No. B3085 ("Facility") for permit years August 1, 2011 – August 1, 2012; August 1, 2012 – August 1, 2013; and August 1, 2013 – August 1, 2014; and

   b. Respondent FASANO shall pay all such outstanding Facility permit to operate fees by the end of July 2014 and in accordance with the schedule annexed to this Stipulated Conditional Order for Abatement, to bring the Facility into compliance through August 1, 2014 with the Facility's permit to operate requirements ("Permit Payment Schedule"); and

   c. Respondent FASANO may continue to operate the Facility's Source S-1 from November 14, 2013, the date of this hearing, until July 31, 2014 unless Respondent FASANO violates the terms of this Stipulated Conditional Order; and

   d. Respondent FASANO's failure to comply with the Permit Payment Schedule and failure to bring the Facility into compliance by July 31, 2014 with all permit fee requirements of District Regulation 2, Rule 1, Section 302 for the period of August 1, 2011 through August 1, 2014 are violations of the Stipulated Conditional Order for Abatement; and

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2. That this Stipulated Conditional Order for Abatement shall become effective as of the date the Chair or Hearing Board or his designee files it, pursuant to Hearing Board Rule 10.3; and

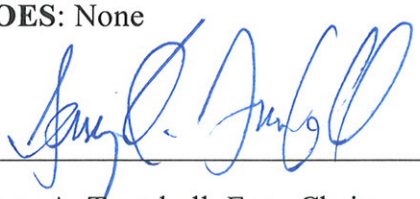
3. That the Hearing Board shall retain jurisdiction over this matter, Docket No. 3655, until the later date of either: (a) the end of the Compliance Period; or (b) compliance with all permit requirements of District Regulation 2, Rule 1, Section 302 pertaining to operation of the Facility's Source S-1 for the period of August 1, 2011 through August 1, 2014.

Moved by: Peter Y. Chiu, M.D., P.E.

Seconded by: Gilbert G. Bendix, P.E.

AYES: Valerie J. Armento, Esq.; Peter Y. Chiu, M.D., P.E.; Gilbert G. Bendix, P.E.; Julio A. Magalhães, Ph.D.; Terry A. Trumbull, Esq.

NOES: None



12/4/13

Terry A. Trumbull, Esq., Chair Date

EXHIBIT A

PERMIT PAYMENT SCHEDULE

PERMIT FEES

August 1, 2011 – August 1, 2012 and August 1, 2013 – August 1, 2014

The Permit Payment Schedule for all required permit to operate and associated fees for the operation of the solvent evaporating source (Source S-1) at 326 Yolanda Avenue, Santa Rosa (Facility), for Facility Permit Years August 1, 2011 - August 1, 2012 through August 1, 2013 – August 1, 2014 is as follows:

Payment Due Date (Date Payment Must Be Received)	**Amount Due**
November 27, 2013	$500.00
December 31, 2013	$200.00
January 31, 2014	$200.00
February 28, 2014	$200.00
March 31, 2014	$200.00
April 30, 2014	$200.00
May 30, 2014	$200.00
June 30, 2014	$200.00
July 31, 2014	Balance of Outstanding Permit Fees Owed

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

AIR POLLUTION CONTROL OFFICER of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT, Complainant, vs. MICHAEL FASANO; COMPLETE COLLISION CENTER LLC; and DOES 1 through 25, inclusive, Respondents.	NO. 3655 CERTIFICATE OF SERVICE

STATE OF CALIFORNIA)
) ss.
City and County of San Francisco)

I, Sean Gallagher, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action; that I served a true copy of the attached Notice of Hearing on:

Michael Fasano
326 Yolanda Avenue
Santa Rosa, CA 95404-6321

AND

Complete Collision Center LLC
c/o Michael Shane Fasano
Agent for Service of Process
326 Yolanda Avenue
Santa Rosa, CA 95404-6321

by depositing same in the United States certified mail, return receipt requested, on December 12, 2013; and on

Susan D. Adams

Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street, 7th Floor
San Francisco, CA 94109

by hand-delivery deposit of same in the in-box of the District Counsel's office, on December 12, 2013.

DATED: December 12, 2013

Sean Gallagher
Clerk of the Boards

CERTIFICATE OF SERVICE