

FILED

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HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Lisa Harper
Clerk, Hearing Board
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

DOCKET NO. 3573

CONDITIONAL ORDER FOR
ABATEMENT

Complainant,

vs.

KAMBIZ SEPEHR, individually and *d/b/a*
GATEWAY CLEANERS, Site No. B1023

Respondents.

On April 2, 2010, the Air Pollution Control Officer (“APCO”) of the Bay Area Air Quality Management District (“District”), Complainant in the above-entitled matter, filed with the Hearing Board an Accusation and Request for Order for Abatement (“Accusation”) against S&O Group, Inc., a corporation, and Kambiz Sepehr, individually and *d/b/a* Gateway Cleaners, to cease and desist dry cleaning operations at Gateway Cleaners, a dry cleaning facility located at 160 Donahue Street #G, Sausalito, California (the “Facility”), until the Facility obtains a valid permit to operate and is in compliance with the requirements of District Regulation 2, Rule 1, Section 302.

The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance with the requirements of the California Health and Safety Code. The Hearing Board heard the request

1 for an Abatement Order on May 6, 2010.

2 Mr. Kambiz Sepehr, owner and operator of the Facility, did not appear at the hearing or file a
3 notice of defense.

4 Nancy M. Wang, Assistant Counsel, appeared for the Air Pollution Control Officer. At the
5 hearing, the District withdrew that portion of its request in the Accusation that the Order for Abatement
6 be directed to S&O Group, Inc., in light of the fact that that entity's powers, rights and privileges have
7 been suspended in the State of California and the entity currently cannot legally operate in the state.

8 Mr. Kambiz Sepehr, individually and *d/b/a* Gateway Cleaners, will hereinafter be referred to collectively
9 as "Respondents".

10 The Hearing Board provided the public with an opportunity to testify at the hearing, as required
11 by the Health and Safety Code. No members of the public testified. The Hearing Board heard evidence,
12 testimony and argument from the APCO.

13 The Hearing Board closed the hearing after receiving evidence, testimony and argument, and
14 took the matter under submission for decision. After consideration of the evidence, the Hearing Board
15 voted to issue a Conditional Order for Abatement against Respondents, as set forth in more detail below.

16 BACKGROUND

17 Since 1980, the District has regulated the use of synthetic solvents, also known as halogenated
18 organic solvents, in dry cleaning operations. One of the most widely used synthetic dry cleaning
19 solvents is Perchloroethylene. Also known as Tetrachloroethylene or "Perc", this solvent is classified as
20 a Group IIA, "probably carcinogenic" substance by the International Agency for Research on Cancer
21 (IARC). In 1991, the California Air Resources Board (CARB) identified Perc as a toxic air contaminant
22 (TAC) under California's Toxic Air Contaminant Identification and Control Program (Health and Safety
23 Code section 39650 et. seq.).

24 The purpose of the District's dry cleaning program is to limit emissions of Perc and other
25 synthetic solvents from dry cleaning and related operations. Most of the minimum requirements that
26 affect the construction, operation, maintenance, monitoring, and testing of dry cleaning equipment,
27 including emission control equipment, are designed to meet this objective. A critical feature of the
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1 District's dry cleaning program is that use or operation of any dry cleaning equipment requires
2 authorization under general District rules or specific permits. This allows the District to, among other
3 things, ensure that only approved equipment is used, and identify and impose any conditions,
4 limitations, and restrictions to the operation of that equipment and the usage of solvent that are
5 necessary to minimize emissions.

6 The authorization and permitting requirements are found in District Regulation 2, Rule 1.
7 Specifically, District Rule 2-1-302 prohibits the use or operation of any article, machine, equipment or
8 other contrivance that causes or controls the issuance of air contaminants—including toxic air
9 contaminants such as Perc—by any person without first obtaining a written authorization from the
10 APCO in the form of a Permit to Operate. Respondents' operation of one Perchloroethylene solvent dry
11 cleaning machine ("Perc machine") at the Facility causes the issuance of toxic air contaminants in the
12 form of Perchloroethylene vapors, and is subject to the permitting requirements of District Rule 2-1-302.

13 DISCUSSION

14 Pursuant to California Health and Safety Code section 42451(a), the Hearing Board may issue an
15 Order for Abatement if it finds that a person is operating a Perc machine without a District Permit to
16 Operate.

17 Respondents have owned and operated the Facility since December 2004. The Facility operates
18 one Perc machine. Under District Rule 2-1-302, Respondents are required to maintain a current Permit
19 to Operate the Perc machine. Under District Rule 3-408, a Permit to Operate is valid for 12 months
20 (or other period authorized by the APCO). The Permit to Operate the Perc machine at this Facility
21 covers the period February 1 through January 31 of the following year. After the initial Permit to
22 Operate expires, the dry cleaning facility must renew the permit on an annual basis and pay associated
23 permit fees pursuant to District Regulation 3. Permit fees for dry cleaning facilities are calculated using
24 Schedules I ("Dry Cleaners") and N ("Toxic Inventory Fees") of District Regulation 3. In addition, for
25 every renewal, a processing fee is assessed pursuant to District Rule 3-327. Reinstatement fees are
26 assessed for late payment of fees. All permit fees, including Schedule I and N fees, processing fees and
27 reinstatement fees, will hereinafter be referred to collectively as "permit fees".

1 Currently, Respondents do not have a valid Permit to Operate the Perc machine at the Facility.
2 Since February 1, 2006, Respondents have failed to maintain a current Permit to Operate. Respondents
3 owe permit fees for the period February 1, 2006, until February 1, 2011. The District has determined
4 that the total amount of permit fees owed is Two Thousand Six Hundred and Seventy Dollars
5 (\$2,670.00). At the hearing, the District introduced into evidence, the District's updated invoice No.
6 1GM50, which shows in detail the District's calculation of permit fees owing for the period February 1,
7 2006 through February 1, 2011. The Hearing Board accepted the document into evidence.

8 The District provided notice to Respondents of their need to obtain and maintain a current Permit
9 to Operate on numerous occasions before and after February 1, 2006, through mailings and site visits.
10 Respondents have not paid the outstanding permit fees but have continued to operate. At the hearing,
11 the District introduced into evidence a series of five color photographs taken by a District Inspector
12 during a site visit on March 18, 2010. The photographs showed the Facility was still in operation as of
13 that date. The Hearing Board accepted the photographs into evidence.

14 The District stated that Respondents have a history of noncompliance. Specifically, the District
15 stated that it had discovered leaking equipment and recordkeeping violations at this Facility in the past.
16 The District stated that it will conduct a thorough inspection and investigation of the Facility to identify
17 all potential violations of District rules and regulations prior to issuing a Permit to Operate to this
18 Facility.

19 SPECIFIC FINDINGS

20 The Hearing Board finds that Respondents own and operate the Facility known as Gateway
21 Cleaners, located at 160 Donahue Street #G, Sausalito, California, and have owned and operated the
22 Facility since December 2004. Respondents operate one Perc dry cleaning machine at the Facility. The
23 Hearing Board finds that Respondents are currently operating the Perc machine at Gateway Cleaners
24 without a District Permit to Operate, in violation of District Rule 2-1-302. Respondents have failed to
25 maintain a current District Permit to Operate since February 1, 2006.

26 The Hearing Board finds that Respondents owe a total of Two Thousand Six Hundred and
27 Seventy Dollars (\$2,670.00) in permit fees for the period February 1, 2006, until February 1, 2011.

1 The Hearing Board finds that Respondents have a history of noncompliance.

2 **THEREFORE, pursuant to Sections 42451(a) and 42452 of the California Health and**
3 **Safety Code, THE HEARING BOARD of the BAY AREA AIR QUALITY MANAGEMENT**
4 **DISTRICT hereby ORDERS:**

5 1. That the APCO's Request for a Conditional Order for Abatement shall be and hereby is
6 GRANTED as follows: Kambiz Sepehr, individually and *d/b/a* Gateway Cleaners, Respondents in this
7 matter, are hereby ordered to cease and desist immediately from operating the Perc machine at Gateway
8 Cleaners, 160 Donahue Street #G, Sausalito, California, until Respondents pay permit fees in the amount
9 of Two Thousand Six Hundred and Seventy Dollars (\$2,670.00) in the form of cash, credit card, regular
10 check, or cashier's check, made payable to the Bay Area Air Quality Management District;

11 2. That the Hearing Board shall retain jurisdiction over this matter for a period of three
12 years from the effective date of this Order;

13 3. That beginning as of the effective date of this Order, and for three years thereafter,
14 Respondents shall submit to the Hearing Board an annual report, in writing, each year on the status of
15 Respondents' payment of the District Permit to Operate fees for that permit year; and

16 4. That this Order shall become effective immediately upon the filing of this Order and shall
17 be served upon Respondents immediately thereafter.

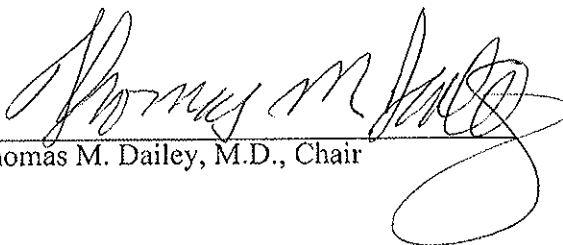
18 Moved by: Christian Colline, P.E.

19 Seconded by: Terry A. Trumbull, Esq.

20 AYES: Christian Colline, P.E., Rolf Lindenhayn, Esq., Julio Magalhaes, Ph.D.,
21 Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

22 NOES: None

23 ABSTAINED: None

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28 Thomas M. Dailey, M.D., Chair