



STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER  
COWSPST16-020

Issue Date November 18, 2016

MAYLING CHOW  
DBA/OLD GLORY LANDSCAPING AND PROPERTY MAINTENANCE, LLC  
AND  
KRISTOPHER MANCINI  
RESPONDENTS

A. With the agreement of Mayling Chow dba/Old Glory Landscaping and Property Maintenance, LLC and their employee, Kristopher Mancini (collectively Respondents) the Commissioner of Energy and Environmental Protection (Commissioner) finds:

1. Old Glory Landscaping and Property Maintenance, LLC ("Respondent Old Glory") is registered with the Secretary of the State of Connecticut with Mayling Chow ("Respondent Chow") as the Owner, and the principal place of business is 186 Morningside Drive in Bridgeport, Connecticut.
2. Kristopher Mancini ("Respondent Mancini") is an employee of Respondent Old Glory and holds commercial pesticide operator certification issued by the Commissioner.
3. On 4/1/11, 9/30/11, 9/5/12 and 9/8/14, Respondent Mayling Chow submitted applications for registration as a commercial pesticide application business representing that commercial pesticide supervisor, Steven Kamen, was an employee and that Kamen Tree Company, LLC was a subcontractor on the Respondents' behalf. In fact, Steven Kamen was never an employee and Respondent's employee, Kristopher Mancini, performed and solicited to perform commercial applications of pesticides and arboriculture services without subcontracting the work to Kamen Tree Company, LLC.
4. From 4/1/11 through October 2014, Respondent Mancini, acted as a commercial pesticide supervisor by deciding whether or not pesticides were to be used, how they would be mixed, where they would be used, which pesticides would be used, the dosages and timing involved in the use of the pesticides, the methods of application to be used and precautions to be taken in their use for multiple pesticide applications performed on multiple properties within Connecticut.

5. Respondents continued to engage in the operation of a commercial pesticide application business by performing and soliciting to perform commercial pesticide applications after the expiration of the commercial pesticide application business certificate of registration on 8/31/14.

6. Respondents continued to engage in the operation of a commercial pesticide application business without first employing an individual with commercial pesticide supervisor certification after the expiration of the business registration on 8/31/14.

7. Permanent records of pesticide applications maintained by Respondents do not contain specific required information including the name and certification number of the commercial supervisor and commercial operator, the amount of pesticide used, the amount of acreage treated, the target pest and the crop or site treated for pesticide applications performed by Respondent Mancini, on multiple dates at multiple locations within Connecticut.

By virtue of the above, Respondents have violated sections 22a-61(b)(14), 22a-61(e), 22a-61(f)(1)(G), 22a-66c(a), 22a-66f and 22a-66g(a)(1) of the Connecticut General Statutes.

Respondents make no admission of fact or violation of law with respect to the matters asserted herein, other than the facts set forth above in paragraphs A.1 through A.3.

B. With the agreement of Respondents, the Commissioner, acting under §22a-6, §22a-63(e) and §22a-66h of the Connecticut General Statutes, orders Respondents as follows:

1. Respondents shall take all steps necessary to comply with all requirements of Chapter 441 "Pesticide Control" and Chapter 451 "Public Shade Trees and Tree Protection Examining Board" of the Connecticut General Statutes.

2. Progress reports: On or before the last day of March, June, September, and December of each year after issuance of this consent order and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondents shall submit a progress report to the Commissioner describing the actions which Respondents have taken to date to comply with this consent order.

3. Full compliance. Respondents shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.

4. Civil penalty. Respondents shall pay a penalty of \$5,161.50 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in A.4 through A.7 of this consent order. Payment of the civil penalty will be in eleven installments as follows; ten payments of \$500.00 and one payment of \$161.50 due on or before the last day of each month beginning within thirty (30) days of issuance of this consent order.

B.5 Supplemental Environmental Project.

In addition to the civil penalty referenced in paragraph B.4, Respondents have agreed to undertake the following supplemental environmental project(s) ("SEP(s)") requiring an expenditure of at least two-thousand eight-hundred thirty-eight dollars and fifty cents (\$2,838.50), which is the total estimated cost as determined by the Commissioner for all SEPs required under this paragraph, or make payment(s) as follows:

- a. Respondents shall perform a landscape renovation project by the removal of invasive species and installation of trees and shrubs along the Mill River between Congress Street in Fairfield, Connecticut and Park Avenue in Easton, Connecticut as follows; donate plant materials for a total value of \$1,788.00; placement and planting of trees/plant materials for a total value of \$400.00; truck time equal to two trucks for five hours including labor \$538.00; four and one half hours labor for hand watering of trees/plant materials \$112.50 per the project proposal submitted by Respondents on 9/14/16. Respondents shall perform each such SEP in accordance with the schedule approved by the Commissioner, and shall obtain any federal, state or local permit or approval necessary to carry out such SEP. Respondent shall maintain and submit pursuant to Paragraph B.5.c & d of this consent order, detailed records verifying the time and material cost for each item of this SEP.
- b. If Respondents fail to fully perform any SEP in accordance with paragraph B.5.a., Respondents shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to: the total estimated cost, as determined by the Commissioner, of all such SEP(s); plus either \$2,500 or 10% of such total estimated cost, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondents shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.e. of this consent order.
- c. On or before ninety (90) days after the date of issuance of this consent order, Respondents shall submit written progress reports to the Commissioner in accordance with the schedule approved by the Commissioner. Each progress report shall include the following information: Respondent's progress in performing each SEP including tasks performed to date, a complete accounting of actual project costs incurred to date, planning for the remaining project tasks to be performed, significant activities or findings related to the project, and any other reasonable information requested by the Commissioner for the purpose of evaluating Respondent's progress in performing the SEP(s).
- d. On or before thirty (30) days after completion of each SEP, Respondents shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of such SEP. Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation, summary of any data

collected, complete final accounting of actual project costs including receipts for out-of-pocket costs, and a discussion of environmental benefits resulting from the SEP.

- e. Should the Commissioner determine that the actual cost to the Respondents of any fully completed SEP is less than the estimated cost, as determined by the Commissioner, of such SEP, Respondents shall pay the difference between such actual cost and the estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify the Respondents in writing of the amount of any such unexpended SEP funds that are due. Respondents shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" and the check shall state on its face "Statewide SEP Account, Consent Order No. COWSPST16-020." Respondents shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.
- f. If and when Respondents disseminate any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- g. Respondents shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

6. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "BMMCA- Pesticide Management Program civil penalty, consent order COWSPST16-020."

7. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.

9. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

10. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondents or, if Respondents are not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

11. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondents to an injunction and penalties.

12. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.

13. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, Respondents shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this

consent order shall not be affected by the passage of title to any property to any other person or municipality.

14. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate violations or pollution.

15. Respondent's obligations under law. Nothing in this consent order shall relieve Respondents of other obligations under applicable federal, state and local law.

16. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance [or prevent or abate pollution.

17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the Respondents' place of business without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

18. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.

19. Notice to Commissioner of changes. Within 15 days of the date Respondents become aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.

20. Notification of noncompliance. In the event that Respondents become aware that it/they did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial

notice, Respondents shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

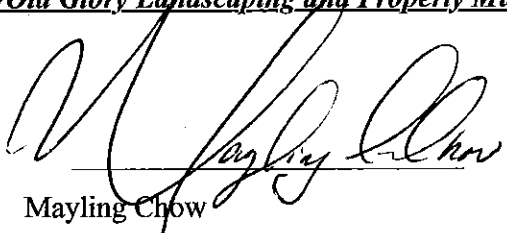
DIANE JORSEY  
Department of Energy and Environmental Protection  
BUREAU OF MATERIALS MANAGEMENT & COMPLIANCE ASSURANCE  
Pesticide Management Program  
79 Elm Street  
Hartford, Connecticut 06106-5127

22. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

Respondents consent to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondents to the terms and conditions of the consent order.

Mayling Chow  
DBA/Old Glory Landscaping and Property Maintenance, LLC

BY:

  
Mayling Chow

Owner/Respondent

10/26/16  
Date

Kristopher Mancini

Respondent

BY:

  
Kristopher Mancini

Respondent

10/26/16  
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Issued as a final order of the Commissioner of Energy and Environmental Protection.

*Michael Sullivan*

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Michael Sullivan  
Deputy Commissioner

*11/18/16*

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Date

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