

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
Docket No. 61-2-196wncv

aw
2019 MAR 14 A 8:16

STATE OF VERMONT,
Plaintiff,

v.

SAFETY-KLEEN SYSTEMS, INC.
Defendant.

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CONSENT ORDER AND FINAL JUDGMENT ORDER

This action came before the Court pursuant to the parties filing of Pleadings by Agreement under Vermont Rule of Civil Procedure 8(g). Based upon those Pleadings by Agreement and the Stipulation for the Entry of Consent Order and Final Judgment Order, and pursuant to 10 V.S.A. § 8221, 3 V.S.A. § 157, and the Court's inherent equitable powers, it is hereby ADJUDGED, ORDERED and DECREED as follows:

VIOLATIONS

1. Plaintiff, State of Vermont, has alleged violations of 10 V.S.A., Chapter 159, the Vermont Hazardous Waste Management Regulations (VHWMR), and the terms and conditions of an Agency issued Hazardous Waste Facility Permit by Defendant Safety-Kleen Systems, Inc. (Defendant) as set forth in paragraphs 25-64 of the parties' Pleadings by Agreement. Defendant admits the factual allegations set forth in paragraphs 1-6 and 25-54 of the Pleadings by Agreement solely for purposes of resolving this case, and neither admits nor denies liability for the alleged violations but agrees to the entry of

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

this Consent Order and Final Judgment Order to resolve this matter.

Defendant agrees that each of the violations alleged in paragraphs 55–64 of the Pleadings by Agreement is deemed proven and established as a “prior violation” in any future State proceeding considering Defendant’s compliance record, including but not limited to administrative or judicial enforcement actions for civil penalties calculated pursuant to 10 V.S.A. § 8010, and permit proceedings.

PENALTIES

2. For the violations described above, Defendant shall pay a civil penalty of seventy thousand dollars (\$70,000.00).

3. Payment of the seventy thousand dollars (\$70,000.00) civil penalty shall be made to the “State of Vermont” and shall be sent to Ryan P. Kane, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609-1001.

4. Payment of the seventy thousand dollars (\$70,000.00) civil penalty shall be received by the State within 10 days of the issuance of this Order.

OTHER PROVISIONS

5. Defendant waives: (a) all rights to contest or appeal this Consent Order; and (b) all rights to contest the obligations imposed upon Defendant under this Consent Order in this or any other administrative or judicial proceeding involving the State of Vermont.

6. This Consent Order is binding upon Defendant and its successors, assigns, and affiliated companies.

7. Nothing in this Consent Order shall be construed to create or deny any rights in, or grant or deny any cause of action to, any person not a party to this Consent Order.

8. This Consent Order shall become effective only after it is entered as an order of the Court. When so entered by the Court, this Consent Order shall become a Final Judgment Order.

9. Any violation of this Consent Order shall be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties for contempt, as set forth in 10 V.S.A. Chapters 201 and 211.

10. The State of Vermont and the Court reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and circumstances set forth herein.

11. Nothing in this Consent Order shall be construed as having relieved, modified, or in any manner affected Defendant's obligations to comply with all other federal, state, or local statutes, regulations, permits or directives applicable to Defendant. The State reserves all rights, claims and interests not expressly waived herein.

12. This Consent Order may only be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and approved by this Court. Alleged representations not set forth in this Consent Order, whether written or oral,

shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

13. Defendant shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein or in the Pleadings by Agreement occurring before the effective date of the Order, provided that the Defendant fully complies with the terms of this Consent Order.

14. The Court hereby finds, based on the representations of the parties, that the parties have negotiated this Consent Order in good faith, that implementation of this Consent Order will avoid prolonged and complicated litigation between the parties, and that this Consent Order is fair, reasonable, and in the State of Vermont's interest.

15. The Court hereby enters this Consent Order as an Order of the Court and Final Judgment in this case.

SO ORDERED, and ENTERED as FINAL JUDGMENT. DATED at Montpelier, Vermont, this 13th day of March, 2019.

May Miles Leach
Honorable Superior Court Judge