

**Proposed Administrative Consent Agreement
Background Summary**

Subject: Green Thumb Lawn Services
64 Stevens Road
Brewer, ME 04412

Date of Incident(s): June 19, 2020

Background Narrative: The owner of Green Thumb Lawn Services self-reported a misapplication of pesticides to the incorrect property by one of their licensed applicators. On June 19, 2020, licensed applicator, Justin Thomas, made an application of Bisect L Insecticide to a portion of the property at 3 Waldron Way in Bar Harbor. The owners of 3 Waldron Way were not customers of Green Thumb Lawn Services. The intended property was 2 Glen Mary Road, Bar Harbor. The company did have a positive property identification system in place including GPS coordinates and detailed property description. The applicator failed to use the property identification system prior to commencing the application.

Summary of Violations: CMR 01-026 Chapter 20 Section 6(D)2: No person may apply a pesticide to a property of another unless prior authorization for the pesticide application has been obtained from the owner, manager or legal occupant of that property. The term "legal occupant" includes tenants of rented property.

Rationale for Settlement: Green Thumb lawn Services did not have the property owners' authorization to apply a pesticide to their property. The applicator failed to positively identify the application location.

Attachments: Proposed Consent Agreement

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL

DEC 10 2022

Ck# 14957
Date - 12/12/22
Amt - \$1000.00

In the Matter of:		ADMINISTRATIVE CONSENT
Green Thumb Lawn Services)	AGREEMENT
64 Stevens Road)	AND
Brewer, Maine 04412)	FINDINGS OF FACT

This Agreement by and between Green Thumb Lawn Services (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

- 1) That the Company provides commercial pest control services and has the firm license number SCF 956 issued by the Board pursuant to 22 M.R.S. § 1471-D (1)(B).
- 2) That the Company operations manager/owner Jeremy LeGasse, called the Board's office to report one of the Company's licensed applicators made a pesticide application to the wrong property in Bar Harbor on June 19, 2020.
- 3) That in response to the call described in paragraph two, a Board inspector met with Company licensed applicator, Daniel Love, and the Company owner on June 26, 2020, to conduct a follow up inspection. During the course of the inspection, the following facts and documents were ascertained:
 - a) Written statements about the misapplication were obtained from Love and LeGasse.
 - b) A written statement from applicator Justin Thomas was obtained.
 - c) A copy of the Company work order Thomas was given to make the pesticide application was obtained. The work order included the GPS decimal coordinates for the house and the correct customer's name, street name, and house number. The color of the house was listed as beige.
 - d) It was the first time that Company was to spray Daugherty's property.
 - e) Thomas began spraying what he assumed was Daugherty's property until he came to the front door and noticed that the front door faces Waldron Way. This observation provided evidence that the location might have been incorrect.
 - f) Thomas stopped spraying, knocked on the door and got the owner's information from a painter working inside the home.
 - g) The intended property was Denise Daugherty's residence at 2 Glen Mary Road, across the street. Thomas had mistakenly begun spraying at Kristin Murphy's residence on 3 Waldron Road.
 - h) Both properties were on corner lots of a four-way intersection facing each other and there was a 3 on the front of the house where Thomas was spraying.
 - i) The inspector documented the details associated with Thomas' application. Bisect L insecticide was mistakenly applied to a portion of Kristin Murphy's residence on June 19, 2020.

- 4) That CMR 01-026 Chapter 20 Section 6(D)2 requires prior consent from the property owner before another person can apply pesticides to the property.
- 5) That the Company did not have the homeowner's authorization to make a pesticide application at 3 Waldron Road in Bar Harbor.
- 6) That from the inspection described in paragraph three, it was determined that Thomas' June 19, 2020 application was on the wrong street, the house number was incorrect, and the house color was white instead of beige listed on the work order.
- 7) That the circumstances described in paragraphs one through seven constitute a violation of CMR 01-026 Chapter 20 Section 6(D)2
- 8) That the Company expressly waives:
 - A. Notice of or opportunity for hearing;
 - B. Any and all further procedural steps before the Board; and
 - C. The making of any further findings of fact before the Board.
- 9) That this Agreement shall not become effective unless and until the Board accepts it.

That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph eight, the Company agrees to pay a penalty to the State of Maine in the sum of \$1,000.00. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

GREEN THUMB LAWN SERVICES

By:  Date: 12/17/2022

Type or Print Name: Jeremy Legasse

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Megan Patterson, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General