Proposed Administrative Consent Agreement Background Summary

Subject: Christian Bulleman III PO Box 327 Dresden, Maine 04242

Date of Incident(s): December 17, 2010 – February 3, 2011

Background Narrative: The Board received a call alleging that Bulleman was doing an unlicensed, commercial mold remediation job at the Phippsburg Town Hall. A follow-up inspection was done and the allegation was confirmed. Part of the project involved applying Shockwave (EPA reg. no. 61178-1-73884), a broad spectrum cleaner and disinfectant to disinfect areas of concern inside the structure. Commercial mold remediation work that involves the use of registered pesticides requires a commercial pesticide applicator license.

Summary of Violation(s): Any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.

Rationale for Settlement: Bulleman was completely cooperative when dealing with the compliance issues and took immediate steps to become licensed as a commercial master applicator. The penalty amount and alternative payment option was based largely on the company's ability to pay the penalty and holding the company accountable for the violation.

Attachments: Proposed Consent Agreement

STATE OF MAINE DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES BOARD OF PESTICIDES CONTROL

Christian Bulleman III	ADMINISTRATIVE CONSENT AGREEMENT
PO Box 327	
Dresden, Maine 04342	AND
Diesden, Manie 04542	FINDINGS OF FACT

This Agreement, by and between Christian Bulleman III (hereinafter called the "Applicator") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

- 1. That the Applicator provides structural property damage services for hire, including mold remediation.
- 2. That on February 1, 2011, the Board received a call alleging the Applicator was performing unlicensed commercial pesticide application work at the Phippsburg Town Hall at 1042 Main Road, Phippsburg.
- 3. That in response to the call in paragraph two, a Board inspector contacted the Applicator on February 3, 2011, at the Phippsburg town office to conduct a follow-up pesticide inspection. The Applicator was still in the process of the mold remediation work to the inside of the building at this site. The pesticide used was Shockwave (EPA reg. # 61178-1-73884).
- 4. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
- 5. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) as any application of any pesticide under contract, or for which compensation is received, or any application of a pesticide to a property open to use by the public.
- 6. That from the inspection in paragraph three, it was determined the application described in paragraph three was a custom application.
- 7. That neither the Applicator nor anyone in his company had a commercial pesticide applicator's license at the time of the application described in paragraph three.
- 8. During the inspection in paragraph three, the Applicator stated he was not aware of the pesticide applicator license requirement.
- 9. That the circumstances described in paragraphs one through eight constitute a violation of 22 M.R.S. § 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A) III.
- 10. That the Board has regulatory authority over the activities described herein.
- 11. That the Company expressly waives:
 - a. Notice of or opportunity for hearing;
- b. Any and all further procedural steps before the Board; and Page 1 of 2

- c. The making of any further findings of fact before the Board.
- 12. That this Agreement shall not become effective unless and until the Board accepts it.
- 13. That, in consideration for the release by the Board of the causes of action which the Board has against the Applicator resulting from the violation referred to in paragraph nine, the Applicator agrees to pay to the State of Maine the sum of \$350 (Please make checks payable to Treasurer, State of Maine). In lieu of payment of the \$350 penalty, the Applicator may perform public service work. The number of hours of public service work performed must be equivalent to the \$350 penalty assessed herein, calculated at the standard rate per hour for the type of service work performed. The Applicator must submit proof of completion of the public service work to the Board Staff before this Consent Agreement is presented to the Board for final approval.

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

CHRISTIAN BULLEMAN III	
By:	Date:
Type or Print Name:	
BOARD OF PESTICIDES CONTROL	
By: Henry Jennings, Director	Date:
APPROVED	
By: Mark Randlett, Assistant Attorney General	Date: