

2009-2012: Contractor Remediation Procedures, Docket No: EO07030203 (October 5, 2010) (Contractor Remediation Procedures). If a contractor violates NJCEP program procedures, it may be subject to the penalties set forth in the Contractor Remediation Procedures.

The NJCEP Program involved in this matter is the C&I Retrofit Program ("Program"). The Program offers prescriptive rebates to commercial customers who install various measures such as high efficiency lighting, motors, or heating or cooling equipment. The Program's prescriptive lighting component offers lighting rebates for the installation of certain high efficiency lamps and fixtures, including LED lighting. A business customer may contract with a lighting professional to install incentive qualified lighting at their place of business or choose to self-install incentive qualified lighting. By way of process, an application is submitted to TRC specifying, among other things, the type of incentive-qualified light bulbs to be installed, the total amount of incentive per bulb and the total expected incentive based on the units to be installed. After review of the initial application to ensure all program requirements have been met, TRC issues a letter either rejecting or approving the application. Approved applications are given a date by which the project must be completed in order to receive the rebate.

A C&I customer may assign his approved rebate to the contractor by submitting a signed form to TRC designating the lighting contractor as the recipient of the rebate. In those cases, the rebate check is addressed and sent directly to the lighting contractor by TRC. In most circumstances, and in all instances relevant to this matter, a rebate will not be issued unless the C&I customer first obtains and submits to TRC a Tax Clearance Certificate ("TCC") from the New Jersey Department of Treasury, Division of Taxation ("Taxation"), indicating that Taxation has reviewed the records of the C & I customer seeking an incentive or rebate and Taxation has no objection to the issuance of the incentive. The TCC is valid for a set time period upon its issuance, as noted on each TCC. The TCC is applied for and, if approved, received by the C&I customer.

Manis is the owner of Manis Lighting, LLC, located in Hasbrouck Heights, New Jersey. Manis participates in the Program as a lighting contractor. For each application relevant to this proceeding, Manis acted as the entity submitting all application paperwork to the Program on behalf of his C&I customers, including the TCC. In each of these cases, Manis was assigned the right to receive the rebate by his C&I customers.

In January 2014, TRC reviewed two TCCs Manis submitted to the Program related to two pending applications. TRC noticed that both TCCs were printed on an outdated Taxation form that had been replaced by Taxation a few months prior. That same month, TRC contacted Taxation about the two TCCs and was informed that both were invalid TCCs that Taxation had not issued. Later in January, Manis submitted a third TCC to the Program concerning another application. TRC again contacted Taxation, in light of the two other invalid TCCs, and was informed that it, too, was an invalid TCC that Taxation had not issued.

By letter dated February 21, 2014, TRC notified Manis of its findings with the three TCCs and of the Market Manager's intention to recommend a Level Four Suspension pursuant to the Board's Contractor Remediation Procedures, for alleged "intentional misconduct intended to be outside the established program guidelines and procedures" in the submission of invalid TCCs. The letter also informed Manis that all pending applications including "Michael Manis" as the contractor or payee would immediately be placed on hold without payment pending Board review of the Market Manager's recommendation; no additional New Jersey C&I incentive applications would be accepted from Manis; and all pending Manis projects would be inspected at a 100% rate by the Market Manager. Manis was offered the option to request a meeting with the Market Manager's Team after filing his response to the allegations.

Manis responded to TRC in a signed letter on February 26, 2014. In his letter, Manis admitted to altering the three TCCs identified in TRC's February 21, 2014 letter, and further admitted to altering nine others. Manis listed the names and project numbers for all twelve altered TCCs. Manis admitted to changing expired dates on Taxation issued TCCs to reflect that the documents were still valid. Manis acknowledged that his actions were the result of bad judgment and explained that financial crisis, frustration with the slow pace of the TCC application process, and lack of assistance from his customers led him to commit these acts. Manis was clear that his customers had no knowledge of or involvement in these fraudulent acts. Manis ended his letter requesting a meeting with the Market Manager's Team.

Manis met with the Market Manager's team on March 21, 2014 without legal counsel and confirmed that he had chosen to appear on his own. Manis explained his alterations to each of the twelve TCCs and additionally admitted to altering a utility bill on one of the twelve applications in order to expedite payment of the rebate. The alterations of the TCCs fall into three categories:

- Changing the official date on the TCC so that it would appear that an expired document was still valid;
- Creating a TCC in his customer's name when either a valid TCC had not arrived or Manis had not received it from the C&I customer; and
- Creating a TCC in his customer's name after Manis learned that the C&I customer was ineligible to receive a TCC.

At its April 23, 2014 Agenda Meeting, the Board issued an Order to Show Cause against Manis outlining the allegations detailed above and seeking from Manis an answer within fifteen days of the Order's service upon him stating why a Level Four Suspension should not be imposed that would prohibit Manis from participating in any NJCEP Program for one year with no reinstatement absent Board approval. The Board's Order directed Manis to also provide all exhibits upon which Manis would rely in response to the allegations.¹

On April 30, 2014, Manis filed an answer admitting to the allegations and relying on the same explanations and circumstances outlined in his February 24, 2014 letter and his statements at the March 21, 2014 meeting with the Market Manager's team. Manis requested an additional opportunity to explain to the Board the circumstances that led to his actions.

On May 19, 2014, the Board Secretary sent Manis a letter acknowledging the absence of a material dispute as to the allegations and granting Manis an additional ten days to submit to the Board all evidence he sought to have the Board review prior to issuing a decision.

On May 22, 2014, Manis responded in writing, again admitting to the allegations and relying on the same explanations and circumstances outlined in his April 30, 2014 answer, February 24, 2014 letter and his statements at the March 21, 2014 meeting. In addition, Manis reported his recent discovery that some of the applications for which he falsified TCCs, had since received valid TCCs.

¹ The Order also allowed for any interested party to file a brief within ten days after service of the answer. No briefs were filed.

Pursuant to the Board's June 18, 2014 Order titled In the Matter of Michael Manis and Manis Lighting, LLC – New Jersey Clean Energy Program (NJCEP) Renewable Energy Incentive Program (REIP) Imposition of Level Four Suspension, Docket No: QS14040316 (June 18th Order) the Board suspended Mr. Michael Manis and Manis Lighting, LLC, (collectively, "Manis") from participation in all New Jersey Clean Energy Programs ("NJCEP Programs") for the period of one year. At the time of the suspension, Manis had several open applications with the C&I Retrofit Program, which needed to be resolved. Accordingly, the Board directed staff to review the outstanding applications, solicit additional information from the affected applicants, and make a recommendation to the Board to approve or deny financial awards on the remaining applications. A list of the applicants is attached hereto.

During staff's review of the open applications, it considered information from Manis and the customers. On or about October 9, 2014, the Office of the Secretary issued a letter to the companies, whose applications were still pending. The letter requested that the companies provide staff with the following information: 1) Tax Clearance Certificate received from the NJ Division of Taxation; 2) Percent of project completion; 3) Written contract or invoice outlining the cost of the lighting project; 4) Oral contractual arrangement if a written invoice or contract was not received.

Four companies provided responses to the Secretary's letter. Manis informed staff that he believed additional applicants submitted responses to the Secretary's letter, but staff has no record of those additional responses. On or about August 8, 2014 and October 28, 2014 Mr. Manis provided additional information to staff and requested that the Board approve all of the outstanding applications for an incentive.

Upon review of the applications and supplemental information, staff found that certain projects expired under the program rules. The program requires that projects must be completed within one year from the date of initial approval to qualify for an incentive. The following projects did not meet that program requirement.

17114	Mediterranean Tile & Marble
20210	Goldstein Jewelers
20241	Esthetica Hair Studio
20867	Marsha Optical Corp.
20916	La Hui Boutique
21027	Starlite Pizzeria
21207	Thinka Dinka
24149	Super Sweats
18181	Land Neil Inc. T/A Fiesta
19285	Lana Inc.
18646	Fleet Feet Sports
19482	Ruggiero Manhattan West
19249	Little Ones
22786	Duke & Duchess
22787	Jewelry Works, LLC

These projects have been rejected by staff under the program rules and are no longer considered pending.

Per the June 18th Order, the twelve projects for which Staff identified a false Tax Clearance Certificates (TCC) are listed below. Staff recommends that the Board deny an incentive for these projects because they are the basis for the Level 4 suspension.²

24117	Corfu, Inc. t/a Crows Nest
23035	Kidegories
20866	Ravji Caterers
23542	Leo Fasseas
23233	Super Sweats
23396	Summit Beverage King
23656	Land Neil
23523	Just Our Shoes
23937	Artistic Tile
18387	The Rockleigh
22936	Duke & Duchess
21107	Purple Rain Salon

There were four pending applications for which Manis had submitted a valid TCC. However, staff identified deficiencies with those applications. For two of the applications with valid TCCs, Manis and the customer did not providing supporting information to validate project costs or confirm the program received valid invoices. Labor and material invoices are required for the Market Manager to calculate the actual incentive. Staff recommends that the Board deny payment of incentives for these projects because the program is not able to verify the costs of the project to determine an incentive. Projects for which there was a valid TCC but lacking sufficient invoice documentation include:

23844	Wayne Park Foods, Inc.
23658	Palmiro Ferraro Inc.

The remaining two projects had valid TCCs, but the customer was not responsible for any of the project costs. Manis negotiated an arrangement with the customer where Manis would receive the entire NJCEP incentive as his payment and the applicant would not pay any share of the project costs. This type of arrangement is a violation of the program requirements. The program explicitly requires, "Products offered at no direct cost to the customer are ineligible."

Accordingly, Staff recommends the Board deny payment for the following two projects because the arrangement precludes payment by the customer in direct violation of Program guidelines.

19240	The Brownstone
22852	Bouffant Salon

Staff recommends that the Board deny the five projects for which Manis either submitted false invoices or failed to require customer contribution. These deficiencies violate the program rules and are further evidence of Manis' disregard for the NJCEP.

² Staff also discovered during its investigation that Manis had submitted false invoices for these projects.

Last, Staff identified three applications that did not contain the fatal flaws described above.

24525	Biondi Funeral Home
23963	Galloping Hill Inn
23274	Different Strokes for Little Folks

Concerning Biondi Funeral Home, Galloping Hill Inn, and Different Strokes for Little Folks, Staff does not have evidence of an invalid TCC, false invoice, or other violation of a core requirement. As such, Staff recommends that the Board authorize payment pursuant to the program rules, subject to the modifications detailed below.

The applications for Biondi Funeral Home and Galloping Hill Inn are not imperfect and the Staff recommends that the incentive payments be adjusted to account for those imperfections. For those two applications Manis is unable to submit invoices between the company and the customer as required by the program rules. Rather, Manis is requesting the Board to accept receipts from his purchases as an accurate representation of his materials costs. Because Staff is still able to determine Manis' actual costs, Staff is recommending payment of the incentive for these two applications limited to its evidence of the total costs represented in the receipts submitted. Limiting the incentive to the receipts is consistent with the Market Manager's normal process in that the Market Manager would otherwise cap the incentive at the amount of the invoice.

This exception would not apply to Different Strokes for Little Folks because Manis produced a valid invoice, which the applicant was able to verify. Therefore, Staff recommends that the Board award the normal incentive payment for that application.

DISCUSSION AND FINDINGS

The Board's authority to use ratepayer dollars in administering NJCEP programs pursuant to N.J.S.A. 48:3-60(a)(3) comes with the responsibility to ensure that the funds are used judiciously and for their intended purposes. The Board takes these responsibilities quite seriously and has no tolerance for the misuse of NJCEP funds by any party. The allegations underlying the suspension were egregious and the additional deficiencies that staff has identified are equally troubling.

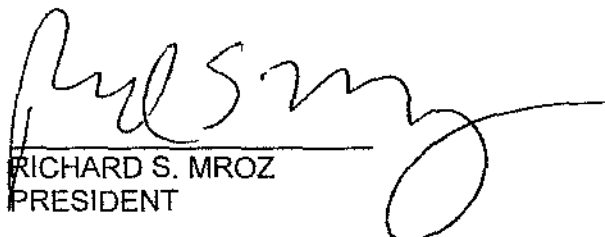
The Board **HEREBY APPROVES** Staff's recommendation. Subject to receipt of required documentation, compliance with program guidelines, and customer confirmation, Staff is authorized to pay an incentive of \$1,019.50 for the Biondi Funeral Home project, and an incentive of \$2,967 for the Galloping Hill Inn project.³ The incentive payments shall be based on receipts for Manis's actual cost, rather than a materials invoice. The result is that the project will be capped at the amount of the receipts. This accommodation is reasonable because the receipts represent Manis's actual cost and, given the number of projects at issue, it does not create an undue burden on Staff. Following standard program guidelines, Staff is also authorized to pay an incentive of \$760 for the Different Strokes for Little Folks project.

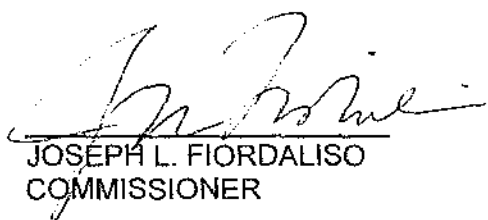
³ If upon review of final documentation, staff determines that the incentive amount should be adjusted, additional Board approval is not required provided that staff applies the Program guidelines in the normal course.

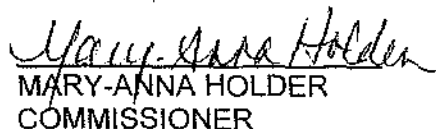
In addition the Board **HEREBY APPROVES** Staff's recommendation to deny the seventeen projects noted above, which have not otherwise expired under the program rules.

DATED: 12/17/14

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

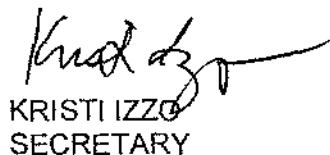

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COMMISSIONER

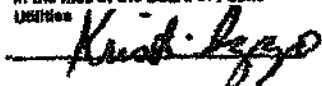

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**IN THE MATTER OF MICHAEL MANIS AND MANIS LIGHTING, LLC –
NEW JERSEY CLEAN ENERGY PROGRAM (NJCEP)
RENEWABLE ENERGY INCENTIVE PROGRAM (REIP)
DOCKET NO. QS14040316**

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Application Number	Applicant Name
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