



State of New Jersey
SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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December 28, 2018

**Offer of Settlement In Lieu of Filing a
Formal Disciplinary Complaint**

By Certified and Regular Mail

Patrick Nocera, LSRP
Arecon Ltd
2633A Whitehorse Hamilton Square Road
Hamilton, NJ 08690

RE: In the matter of LSRP Patrick Nocera, LSRP #585046
SRPL Board Complaint 001-2016

Dear Mr. Nocera:

This letter is to advise you that the New Jersey Site Remediation Professional Licensing Board ("Board") has reviewed information concerning your professional conduct in connection with the above captioned matter.

You were hired to conduct remediation at the Auto Magic Site located at 201 North Delsea Drive, Glassboro, Gloucester County, New Jersey. The New Jersey Department of Environmental Protection ("Department") has designated this contaminated site as PI 005443.

As part of the remediation, on or about November 23, 2011, you issued a Remedial Action Outcome ("RAO") that included a notice that ground water contamination remained onsite due to offsite contamination. The RAO notice is based on a Preliminary Assessment Report prepared by Birdsall Services Group, Inc.-PMK Group, Inc. dated August 21, 2009. That report names 17 Areas of Concern ("AOCs"), and recommends further investigation of several of them, including that "a subsurface evaluation be conducted at the entire Site utilizing non-invasive geophysical survey techniques in order to locate any undocumented or abandoned underground storage tanks."

In addition, you submitted a Remedial Investigation/Remedial Action Report for soils and Remedial Investigation Report for ground water each of which recommended further investigation to identify the source of ground water contamination.

Without conducting the recommended further investigation to establish that no source of ground water contamination existed at the Site, you concluded in the RAO that "there is no onsite contribution to this contamination and I have confirmed the source of this contamination is from offsite."

Upon review of the available information, the Board has preliminarily found that probable cause exists to support a finding that you are in violation of N.J.S.A. 58:10C-16.b. and N.J.A.C. 7:26I-6.3(d) for failure to exercise reasonable care or diligence in the remediation of this Site.

Specifically:

1. The Preliminary Assessment Report upon which you based the RAO did not establish that the Site was not contributing to ground water contamination, instead it recommended further investigation; and
2. The Remedial Investigation/Remedial Action Report for soils and Remedial Investigation Report for ground water submitted by you also recommended further ground water investigation to identify the source of ground water contamination that was identified in two onsite wells, which you did not complete.

As a result of the foregoing, the Board has preliminarily determined that the above violations are sufficient to warrant the initiation of formal proceedings against you. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in order to avoid the initiation of more formal proceedings if you consent to the following terms:

Agree to pay a civil administrative penalty in the amount of \$5,600.00, which is 80% of the assessed civil administrative penalty of \$7,000.00 for a first violation of "medium" conduct and "high" severity as evaluated pursuant to the Board's "Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties." Payment should be by certified check or money order payable to "Treasurer, State of New Jersey."

If we are unable to settle this matter, the Board will initiate formal disciplinary proceedings. In such event, you will be afforded an opportunity to request a hearing before the Office of Administrative Law. You are advised, however, that if formal charges are filed, you may be assessed civil penalties in an amount greater than that herein offered in settlement. Pursuant to N.J.S.A. 58:10C-17.e., any person who engages in conduct which is in violation of any provisions of the statutes and regulations administered by the Board shall, in addition to any other sanctions provided by statute, be liable for a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for every subsequent violation. Additionally, the Board may enter an order requiring you to pay the costs for the investigation which led to the establishment of the violations, and the costs of preparing and litigating the matter, pursuant to N.J.S.A. 58:10C-17.c.

If you elect to settle this matter, you should sign the attached Acknowledgement and return it to the Board within thirty-five (35) days following your receipt of this letter. Here, and throughout this document, the beginning date to calculate this 35-day time period is the date of delivery as indicated on the return receipt of this letter. If the Board receives no response from you within thirty-five (35) days, the Board's settlement offer shall be considered withdrawn and the Board will initiate formal proceedings before the Office of Administrative Law.

Should you have any questions concerning this letter or the Acknowledgement, you should seek the advice of your legal counsel. Please note that this letter and Acknowledgement are public documents.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Pedersen", with a long horizontal flourish extending to the right.

Mark J. Pedersen, Chairperson

cc: George Tyler, Esq.
James Aversano, Esq.

ACKNOWLEDGEMENT

I, Patrick Nocera, LSRP, hereby acknowledge that I have reviewed the settlement offer set forth in the above letter.

I acknowledge the conduct which has been charged and hereby agree to the following to settle the penalty assessed for violation of N.J.S.A. 58:10C-16.b. and N.J.A.C. 7:26I-6.3(d):

Immediate payment of a civil penalty of \$5,600.00.

I am aware that by signing this Acknowledgement I am waiving any rights I may have to defend myself against any charges at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record and that this letter and Acknowledgement are public documents.

Dated: _____

Patrick Nocera, LSRP #585046