



State of New Jersey
SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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April 15, 2019

Board Determination and Offer of Settlement

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.

Upon review of the available information regarding your work at this Site, the Board has determined that you are in violation of N.J.S.A. 58:10C-16.b. of the Site Remediation Reform Act and N.J.A.C. 7:26I-6.3(d) of the Regulations of the Board for failure to exercise reasonable care and diligence in the remediation of the Site.

Specifically, 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 Board considers the issuance of the RAO as demonstration that you failed to exercise reasonable care and diligence in the remediation of the Site because:

1. The RAO is based on a Preliminary Assessment Report prepared by Birdsell 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” that could serve as a source of ground water contamination on the Site. You did not conduct the recommended subsurface evaluation to locate any undocumented or abandoned underground storage tanks.

2. The RAO is also based on two reports that you submitted to the Department: a Remedial Investigation/Remedial Action Report for soils dated August 16, 2010 and a Remedial Investigation Report for ground water dated November 2011, each of which recommends further investigation to identify the source of ground water contamination. You did not conduct the recommended investigation to identify the source of ground water contamination.

3. The RAO concluded that “there is no onsite contribution to this contamination and I have confirmed the source of this contamination is from offsite,” even though you had not conducted the recommended subsurface evaluation to establish that no source of ground water contamination existed at the Site or further investigation to identify the source of ground water contamination.

Pursuant to N.J.S.A. 58:1-C-17.f., the Board has assessed a civil administrative penalty of \$7,000.00 for violation of N.J.S.A. 58:10C-16.b. and N.J.A.C. 7:26I-6.3(d). This penalty was assessed using the Board’s “Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties.” The Board determined that this was a first violation of “medium” conduct and “high” severity.

As a result of the foregoing, the Board intends to pursue formal disciplinary proceedings against you for the above-referenced violations and penalty assessment. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in order to avoid continuation of these 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. Payment should be by certified check or money order payable to “Treasurer, State of New Jersey.”

If we are unwilling or unable to settle this matter, the Board will initiate formal disciplinary proceedings pursuant to N.J.S.A. 58:10C-17.f. and you will be afforded an opportunity to request a hearing regarding this matter before the Office of Administrative Law. In that event, the Board, pursuant to N.J.S.A. 58:10C-17.f., may also enter an order assessing and requiring you to pay the costs for the investigation which led to the establishment of the violations, and its costs for successfully enforcing its penalty action against you. In addition, pursuant to N.J.S.A.

58:10C-17.e., any person who violates the Site Remediation Reform Act, or any rule, regulation or order of the Board, or who fails to pay a civil administrative penalty assessed by the Board, shall be subject, upon order of the Superior Court, to pay 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.

If you elect to settle this matter, you must 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 may contact Executive Director Janine MacGregor at 609-984-3424 or seek the advice of your legal counsel. Please note that this letter and Acknowledgement are public documents.

Sincerely,

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

Mark J. Pedersen, Chairperson

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

ACKNOWLEDGEMENT

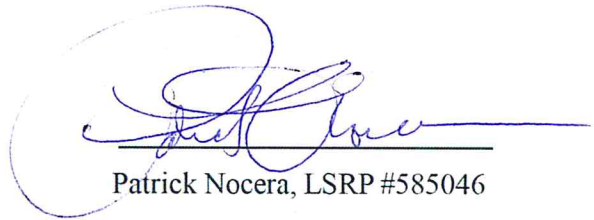
I, Patrick Nocera, LSRP, hereby acknowledge that I have reviewed the attached April 15, 2019 letter and the settlement offer of the SRPL Board set forth therein ("Letter").

I acknowledge the conduct discussed therein and I accept the settlement offer of the Board without admission of fact or law and agree to the following to settle the matters addressed in the Letter:

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

I am aware that by signing this Acknowledgement I am waiving any rights I may have to an administrative hearing in this matter. I am aware that the findings of the Board in connection with this matter are a matter of public record and that this Letter and this Acknowledgement are public documents.

Dated: 5-9-19



Patrick Nocera, LSRP #585046