

Proposed Administrative Consent Agreement Background Summary

Subject: Theodore St. Amand
Atlantic Pest Solutions
1881 Portland Road
Arundel, Maine 04046

Date of Incident(s): July 21, 2011

Background Narrative: A customer of Atlantic Pest Solutions had a job performed by the company on June 22, 2011. The customer was ok with this application. Later on July 21, 2011, Atlantic Pest Solutions made a second application. This second application was made without the consent of the customer. Atlantic Pest Solutions bought H&G Pest Control and added H&G Pest Control's customer list to their company list. According to an Atlantic Pest Solutions employee, Atlantic Pest Solutions had the understanding that all H&G Pest Control customers they acquired were previously contacted through a mailing by H&G Pest Control and informed that two applications were scheduled, one in the spring when the snow was gone and another at the end of July. The customer in this case said he never was contacted about this practice and did not agree to it. The customer stated to Atlantic Pest Solutions that he operated on a call as needed basis. The Board inspector found that the H&G Pest Control postcard was sent to this customer's MA address. This customer was in Maine at that time. Atlantic Pest Solutions could not provide evidence that Atlantic Pest Solutions had an agreement with this customer where he agreed to two service calls.

Summary of Violation(s): CMR 01-026 Chapter 20 Section 6 (B)... no person may apply a pesticide to a property of another unless prior consent for the pesticide application has been obtained from the owner, manager or legal occupant of that property....

Rationale for Settlement: The staff took into account the circumstances of this incident. The treated property was a customer of Atlantic Pest Solutions. Atlantic Pest Solutions thought there was an understanding reached with this customer both through a mailing by the pest control company they bought and later their own mailing that stated two ant applications would be made. The customer said he never received any mailings.

Attachments: Proposed Consent Agreement

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

In the Matter of:)
Theodore St.Amand) ADMINISTRATIVE CONSENT AGREEMENT
Atlantic Pest Solutions) AND
2 Durham Road) FINDINGS OF FACT
Brunswick, Maine 04011)

This Agreement by and between Atlantic Pest Solutions (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.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 Company is licensed as a spray contracting firm holding license number SCF 14996.
2. That Christopher Currie, a Company employee, is a Board licensed commercial applicator (COA 49452).
3. That on July 21, 2011, Currie applied Demand CS Insecticide (EPA Reg. # 100-1066) to the outdoors perimeter of the house and barn of Craig Whitaker's property at 246 Bell Chadbourne Road in Bridgton, Maine.
4. That the following day, Whitaker called the Board and said he did hire the company to make an earlier spring application, but that the application described in paragraph three was unauthorized.
5. That a Board inspector conducted a follow-up inspection with Currie on July 28, 2011, and from that inspection confirmed that the pesticide application as outlined in paragraph three was made.
6. That during the inspection described in paragraph five, the inspector collected a signed statement from Company employee Sam Newcombe. In his statement, Newcombe reported that Whitaker called the Company subsequent to the July 21, 2011 application and informed Newcombe that he had not agreed to multiple applications. Whitaker further specified during that call that he wanted service only when and if he deemed it necessary.
7. That CMR 01-026 Chapter 20 Section 6(B) requires prior consent from the property owner before a person can apply pesticides to the property of another.
8. That the Company did not have Whitaker's consent for the July 21, 2011, application of pesticide to his property.
9. That the circumstances described in paragraphs one through eight constitute a violation of CMR 01-026 Chapter 20 Section 6(B).
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
 - 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 cause of action which the Board has against the Company resulting from the violation referred to in paragraph nine, the Company agrees to pay a penalty to the State of Maine in the sum of \$400.00. (Please make checks payable to Treasurer, State of Maine).

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

ATLANTIC PEST SOLUTIONS

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General