

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY
BOARD OF PESTICIDES CONTROL

DEC 05 2017

CCAPS, LLC)
d/b/a Service Master Elite) ADMINISTRATIVE CONSENT AGREEMENT
14 Willey Road.) AND
Saco, Maine 04072) FINDINGS OF FACT

This Agreement, by and between CCAPS, LLC., d/b/a Service Master Elite (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. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company, located at 14 Wiley Road in Saco, is a commercial company which offers mold remediation services to both residential and commercial properties, including in the Lewiston area.
2. That on July 10, 2017, Board staff received a phone call alleging that the Company was making unlicensed commercial pesticide applications when doing commercial mold remediation work. JS
3. That in response to the call described in paragraph three, a Board inspector documented ^{water mitigation} mold remediation work done by the Company at Roland Mailhot's property at 26 Caron Street in Lewiston. On July 20, 2017, Mailhot's insurance company mailed the Board the Company's work plan at this address.
4. That the Company work plan described in paragraph three included the application of an anti-microbial agent.
5. That on July 2, 2017, a Board inspector completed an inspection with Joseph Scroggins, the Company's director of operations. During the inspection, the inspector documented that a Company employee applied Benefect Botanical Disinfectant to the interior of Mailhot's property at 26 Caron Street in Lewiston on April 30, 2016.
6. That during the inspection described in paragraph five, the inspector saw approximately fifteen to twenty, one gallon containers of Benefect Botanical Disinfectant on the Company shelves.
7. That during the inspection in paragraph five, Scroggins acknowledged that company employees apply the pesticide Benefect Botanical Disinfectant during commercial and residential mold remediation jobs, including to Mailhot's property as described in paragraph five.
8. 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.
9. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) includes 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.
10. That the circumstances described in paragraphs one through nine constitute a custom application of a pesticide in accordance with 22 M.R.S. § 1471-C (5-A).

11. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time of the application described in paragraph four.
12. That the circumstances described in paragraphs one through eleven constitute a violation of 22 M.R.S. 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
13. That the Board has regulatory authority over the activities described herein.
14. 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.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violation referred to in paragraph twelve, the Company agrees to pay to the State of Maine the sum of \$1,000. (Please make checks payable to Treasurer, State of Maine).

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

CCAPS, LLC, d/b/a SERVICE MASTER ELITE

By:  Date: 11-30-17

Type or Print Name: Joe J Crossin

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Cam Lay, Director

APPROVED

By: _____ Date: _____
Mark Randlett, Assistant Attorney General

CASE SUMMARY

Subject: CCAPS, LLC
d/b/a Service Master Elite
14 Willey Road
Saco, Maine 04072

Date of Incident(s): April 13, 2016, and other occasions as indicated below.

Background Narrative: On July 10, 2017, the Board received a call alleging Service Master Elite was making unlicensed commercial pesticide applications when doing mold remediation work.

A Board inspector confirmed this type of work had been performed at a residential home in Lewiston on April 13, 2016.

The inspector later met with Service Master Elite's Saco director of operations on July 2, 2017. The director acknowledged company employees applied Benefect Botanical Disinfectant during both commercial and residential mold remediation jobs.

No one employed by Service Master Elite in Saco was a certified commercial pesticide applicator at the time the pesticide applications were made.

Summary of Violation(s):

- 22 M.R.S. § 1471-D(1)(A) Requires that any person making a pesticide application that is a custom application must be a certified commercial applicator.

- CMR 01-026 Chapter 31 Section 1(A) III.

1. Individual Certification and Company/Agency Licensing Requirements

A. Any commercial applicator must be either:

I. licensed as a commercial applicator/master; or

II. licensed as a commercial applicator/operator; or

III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator.

Rationale for Settlement: Commercial for hire work, involved multiple applications, botanical product.