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NEW YORK CITY
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
ENVIRONMENTAL CONTROL BOARD

BOARD MEETING

Office of Administrative Trials and Hearings
OATH Multi-Purpose Training Room
100 Church Street, 12th Floor, New York, New York
August 17, 2023
9:32 a.m. to 9:39 a.m.

August 17, 2023

MEMBERS PRESENT:

Asim Rehman, Esq. - Commissioner/Chief Administrative Law Judge, OATH, Chair/Executive Director, OATH ECB
Shamonda Graham - Department of Buildings (DOB)
Joseph Gregory, Esq. - New York City Fire Department (FDNY)
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)
Harminderpal Rana, Esq. - Department of Health & Mental Hygiene (DOHMH)
Russell Pecunies, Esq. - Department of Environmental Protection (DEP)
Matthew Schneid, Esq. - Appointed Member (Real Estate)
Thomas D. Shpetner, Esq. - Appointed Member (Business)
Matthew Smith, Esq. - New York City Police Department (NYPD)

ALSO PRESENT:

Rachel Amar - Senior Advisor to Commissioner, OATH
Sola Best, Esq. - Assistant General Counsel, OATH
Tanya Bonner - Member of Public
Cindy Chen - Analyst, Office of Management and Budget (OMB)
Dietmar Detering - Member of Public
Timothy Jones, Esq. - Senior Counsel, OATH
David C. Kim, Esq. - Assistant General Counsel, OATH
Karin McAvoy - Administrative Coordinator, OATH
Peter Schulman, Esq. - Deputy Commissioner/Appeals Division, OATH
Peter Santella - Legal Intern, Department of Environmental Protection (DEP)
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division, OATH
Olga Statz, Esq. - Deputy Commissioner/General Counsel, OATH
Eric E. - Member of Public
Cheri - Member of Public

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2 (The board meeting commenced at 9:32
3 a.m.)

4 ASIM REHMAN, ESQ., COMMISSIONER/CHIEF
5 ADMINISTRATIVE LAW JUDGE, OATH, CHAIR/EXECUTIVE
6 DIRECTOR, OATH ECB: Thank you. Good morning,
7 everyone. I'm pleased to start our August 17th
8 ECB meeting. I'll call this meeting to order,
9 and I'll ask the General Counsel team for roll
10 call to verify a quorum.

11 DAVID C. KIM, ESQ., ASSISTANT GENERAL
12 COUNSEL, OATH: Okay. Good morning, all. We
13 will start with Commissioner Asim Rehman.

14 MR. REHMAN: Present.

15 MR. KIM: Shamonda Graham?

16 SHAMONDA GRAHAM, DEPARTMENT OF BUILDINGS
17 (DOB): Present.

18 MR. KIM: Joseph Gregory?

19 JOSEPH GREGORY, ESQ., NEW YORK CITY FIRE
20 DEPARTMENT (FDNY): Present.

21 MR. KIM: Elizabeth Knauer? Madelynn
22 Liguori?

23 MADELYNN LIGUORI, ESQ., DEPARTMENT OF
24 SANITATION (DSNY): Present.

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MR. KIM: Thank you. Harminderpal Rana?

HARMINDERPAL RANA, ESQ., DEPARTMENT OF
HEALTH AND MENTAL HYGIENE (DOHMH): Present.

MR. KIM: Russell Pecunies?

RUSSELL PECUNIES, ESQ., DEPARTMENT OF
ENVIRONMENTAL PROTECTION (DEP): Present.

MR. KIM: Matthew Schneid?

MATTHEW SCHNEID, ESQ., APPOINTED MEMBER
(REAL ESTATE): Present.

MR. KIM: Thomas Shpetner?

THOMAS D. SHPETNER, ESQ., APPOINTED
MEMBER (BUSINESS): Present.

MR. KIM: Thank you. Matthew Smith?

MATTHEW SMITH, ESQ., NEW YORK CITY
POLICE DEPARTMENT (NYPD): Here.

MR. KIM: Douglas Swann? Jarrod

Whittington? We have a quorum, nine out of 12.

MR. REHMAN: Thank you very much. I

will now proceed to the [unintelligible]
[00:00:57]. It's a presentation of a resolution
by General Counsel Olga Statz, the resolution
respecting the Environmental Control Board's
exercise of its authority to remit its penalty

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2 under Code, Administrative Code 24-244(b)

3 matters.

4 OLGA STATZ, ESQ., DEPUTY COMMISSIONER/

5 GENERAL COUNSEL, OATH: Thank you very much.

6 Good to see, I'm happy to see everyone.

7 We reviewed the Administrative Code and,

8 in our review, we observed that 24-257(a), as you

9 know, allows the Board to impose civil penalties

10 and to hear matters that are brought by DEP. And

11 furthermore, in the Administrative Code, the

12 civil penalties are set out.

13 In addition to that, we also noticed

14 that according 24-257(b) (5), in addition to the

15 possibility of imposing a civil penalty, the

16 Board is also --

17 RACHEL AMAR, SENIOR ADVISOR TO

18 COMMISSIONER, OATH: Just, let's put the

19 microphone [unintelligible] [00:01:57].

20 MS. STATZ: Sure. The Board is also

21 empowered to remit that civil penalty in certain

22 instances, specifically where there's been a

23 finding at the hearing that the condition, the

24 violating condition has been corrected.

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2 The Board has reviewed that law and has
3 determined that it chooses to exercise this
4 authority with respect to Noise Code violations
5 that occur under section 24-244(b). And in order
6 to effectuate that, that use of discretion, the
7 Board is basically saying that whenever hearings,
8 whenever, at a hearing, a determination is made
9 that the condition was corrected, the Board will
10 be remitting those penalties to zero. And that
11 is, that is what the, that is what this was
12 about.

13 Are there any questions?

14 MR. REHMAN: Thank you. Matthew?

15 MR. SCHNEID: Can you explain how this
16 will work in practice, and what -- how we're
17 going to tell the hearing officers about how they
18 should be enforcing this particular rule?

19 MS. STATZ: Yes. One of the roles of
20 the General Counsel's Office, my office, is, on a
21 regular basis, we put out memoranda to the
22 hearing officers, explaining changes in the law,
23 updates in the law, changes in civil penalties,
24 case law that's come out that can affect their

1 August 17, 2023

2 determinations. So what we'll be doing is
3 putting out a memorandum with this resolution
4 amended and a short statement summarizing the
5 resolution, saying, from now on, if there is a
6 finding of correction of the violation, the Board
7 has decided to exercise its discretion to remit
8 the penalty.

9 MR. SCHNEID: Does that, or does that
10 mean each case, if they find, have a finding,
11 that they will not [unintelligible] [00:03:51]?
12 Or is that at the discretion of each?

13 MS. STATZ: No. Actually, the, the
14 statute allows, it gives the Board the
15 discretion. It doesn't give the hearing officers
16 the discretion. So what the Board is doing is
17 it's exercising its discretion by informing the
18 hearing officers that this is the result that
19 they want in those cases where correction has
20 been found.

21 MR. REHMAN: Other questions or
22 comments? Okay, thank you. I'd like to ask for
23 a motion to vote on the resolution respecting the
24 Environmental Control Board's exercise of its

1 August 17, 2023

2 authority to remit a civil penalty in Code 24-
3 244(b) matters. Thank you. I see a motion. And
4 a second? Thank you. I see a second. And we'll
5 call for a vote.

6 MR. KIM: Are there any objections to
7 the motion to adopt the resolution respecting
8 the, the Environmental Control Board's exercise
9 of its authority to remit a civil penalty in Code
10 section 24-244(b) matters? Seeing none, hearing
11 none, the motion is approved unanimously.

12 MR. REHMAN: Okay. Thank you, everyone,
13 for your review on that and for your votes. Now
14 asking the Board if there are any other questions
15 or any other matters to discuss today. Okay.
16 Seeing none, hearing none, I'd like to request a
17 motion to adjourn today's meeting. Okay, there's
18 a motion and a second. Thank you very much. We
19 have a second. Today's meeting is adjourned.
20 Thank you very much. Have a good day, everyone.

21 MR. SCHNEID: Thank you.

22 MS. LIGUORI: Thank you.

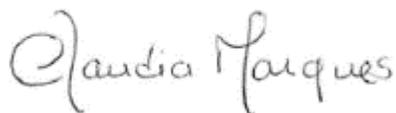
23 (The board meeting concluded at 9:39
24 a.m.)

Environmental Control Board, 8/17/2023

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on August 17, 2023, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: September 1, 2023

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018

Reviewed and corrected by OATH General Counsel

Office September 15, 2023.