

CORRECTED

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

BOARD MEETING

VIA VIDEO CONFERENCE

100 Church Street, New York, New York

June 2, 2022

9:33 a.m. to 9:54 a.m.

June 2, 2022

MEMBERS PRESENT:

Elizabeth Knauer, Esq. - Appointed Member (Water)
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)

**Jose Marquez (for Joseph Gregory, Esq.) - New York City
Fire Department (FDNY)**

**Jorge Martinez, Esq. - Department of Health & Mental
Hygiene (DOHMH)**

**Russell Pecunies, Esq. - Department of Environmental
Protection (DEP)**

Thomas Shpetner, Esq. - Appointed Member (Business)

**Matthew Smith, Esq. - New York City Police Department
(NYPD)**

Douglas S. Swann - Appointed Member (Air)

Jarrod Whittington - Appointed Member (Noise)

ALSO PRESENT:

Rachel Amar - Special Advisor to Commissioner (OATH)

**Cindy Chen - Analyst, Office of Management and Budget
(OMB)**

**Kelly Corso, Esq. - Assistant Commissioner/Hearings
Division Adjudications, OATH**

Hamsa Fayed - Legal Intern, OATH

Catherine Naas - Legal Intern, OATH

Frank Ng, Esq. - Deputy General Counsel, OATH

**Asim Rehman, Esq. - Commissioner/Chief Administrative Law
Judge, OATH, Chair/Executive Director, OATH ECB**

**Peter Schulman, Esq. - Assistant Commissioner for Appeals,
OATH**

Spencer Shih - Legal Intern, OATH

Frances Shine - Secretary to the Board, OATH

**Amy Slifka, Esq. - Deputy Commissioner/Hearings Division,
OATH**

**Samuel Solomon, Esq. - Chief of Staff/Special Counsel,
OATH**

**Olga Statz, Esq. - Deputy Commissioner/General Counsel,
OATH**

Ann Sun - Legal Intern, OATH

Joy A. Thompson, Esq. - Assistant General Counsel, OATH

Tianren (Jason) Zhang - Legal Intern, OATH

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2 (The board meeting commenced at 9:33
3 a.m.)

4 OLGA STATZ, ESQ., DEPUTY COMMISSIONER /
5 GENERAL COUNSEL, OATH, DESIGNEE FOR ASIM REHMAN,
6 ESQ., COMMISSIONER/CHIEF ADMINISTRATIVE LAW
7 JUDGE, OATH, CHAIR/EXECUTIVE DIRECTOR, OATH ECB:
8 -- on this bright and cheerful June 2nd meeting.
9 I'd like to call for a motion for the adoption of
10 the minutes, please. Thanks, Matt. Second,
11 Madelynn

12 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
13 COUNSEL, OATH: Olga, may I do the roll call
14 first?

15 MS. STATZ: Oh, yes, I'm sorry.
16 Absolutely.

17 MS. THOMPSON: No problem.

18 MS. STATZ: Okay.

19 MS. THOMPSON: I just want to check to
20 see if, please allow me to just make sure
21 everyone here. Is Shamonda Graham on the line?
22 Okay. Joseph Gregory?

23 JOSE MARQUEZ (FOR JOSEPH GREGORY, ESQ.),
24 NEW YORK CITY FIRE DEPARTMENT (FDNY): Jose

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2 Marquez for Joseph Gregory, Fire Department.

3 MS. THOMPSON: Thank you, Mr. Marquez.
4 Elizabeth Knauer?

5 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER
6 (WATER): I'm here.

7 MS. THOMPSON: Good morning. Madelynn
8 Liguori?

9 MADELYNN LIGUORI, ESQ., Department of
10 Sanitation (DSNY): Here.

11 MS. THOMPSON: Thank you. Jose
12 Martinez?

13 JORGE MARTINEZ, ESQ. - DEPARTMENT OF
14 HEALTH & MENTAL HYGIENE (DOHMH): Jorge Martinez
15 here.

16 MS. THOMPSON: Thank you. Russell
17 Pecunies?

18 RUSSELL PECUNIES, ESQ., DEPARTMENT OF
19 ENVIRONMENTAL PROTECTION (DEP): Here.

20 MS. THOMPSON: Matthew Schneid? Thomas
21 Shpetner?

22 THOMAS SHPETNER, ESQ., APPOINTED MEMBER
23 (BUSINESS): Here.

24 MS. THOMPSON: Matthew Smith?

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2 MATTHEW SMITH, ESQ., NEW YORK CITY

3 POLICE DEPARTMENT (NYPD): Here.

4 MS. STATZ: Good morning.

5 MS. THOMPSON: Doug Swann?

6 DOUGLAS S. SWANN, APPOINTED MEMBER

7 (AIR): I'm here.

8 MS. THOMPSON: Good morning. And Jarrod
9 Whittington?

10 JARROD WHITTINGTON, APPOINTED MEMBER

11 (NOISE): Here.

12 MS. THOMPSON: We have nine out of our
13 11 members, so we have a quorum.

14 MS. STATZ: Wonderful. Thank you. I'm
15 going to accept the motion made by Matt and
16 Madelynn for adoption of the minutes. Has, can
17 everyone, has any-, does anyone have any
18 questions about the minutes? All in favor of
19 adopting these minutes? Any --

20 MR. SWANN: I abstain.

21 MS. THOMPSON: That was Doug Swann as to
22 -- Olga, I'm happy to do the call for you, if
23 you'd like.

24 MS. STATZ: Okay. Alright, yeah.

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2 MS. THOMPSON: We'll start with, I, I
3 will start with asking if there are any
4 objections to the adoption of the minutes. And I
5 will ask for abstentions. I believe Mr. Swann?

6 MR. SWANN: Yes.

7 MS. THOMPSON: Thank you. The minutes
8 are adopted.

9 MS. STATZ: Wonderful. Thank you. Do
10 you want to do the next item on, on the agenda?

11 MS. THOMPSON: Sure. At this time, I'll
12 be happy to, General Counsel Statz, at this time,
13 General Counsel Statz will introduce a proposal
14 to appoint Commissioner Asim Rehman as Executive
15 Director of the Environmental Control Board.

16 MS. STATZ: Thank you so much, Joy. I
17 don't know if you recall when our last
18 commissioner was here, Commissioner Kletter, we
19 also presented this motion to give Commissioner
20 Kletter the title of Executive Director of ECB in
21 addition to the titles of, of Admini-, Chief
22 Administrative Law Judge and Commissioner of
23 OATH. And, and the, the explanation is the same
24 for our proposal to, to so nominate our present

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2 commissioner, Commissioner Rehman.

3 The, the title of Executive Director of
4 OATH is a, is a charter title, which is found in
5 1049-a(a). It's the second to the last statement
6 in, in that section. And the reason we think
7 it's important to give Commissioner Rehman that
8 title is that some of our extant rules,
9 especially in Chapter 3, rules that we don't talk
10 about much now, but the, the title is, is used in
11 those sections.

12 And, generally, this, this title is
13 about being the repository of, of the documents
14 and the recordings, etcetera. And, so, we just
15 don't think it's wise not to have someone fill
16 that slot, although that's not really a walking,
17 talking, moving job. But we think that it, it's
18 important to, to maintain that title. So, with
19 that said, I, I'll entertain any questions that
20 anyone might have. I don't hear any questions.
21 Joy, do you want to --

22 MS. THOMPSON: Sure. At this time, we
23 will be accepting a motion, and that motion would
24 be to approve the appointment of Commissioner

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2 Rehman as Executive Director of the Environmental
3 Control Board. I have Thomas Shpetner and
4 seconded by Madelynn. Okay. And, at this time,
5 we will ask if there are any objections to the
6 appointment of Commissioner Rehman as the
7 Executive Director of the ECB? Seeing and
8 hearing none, the motion is approved. Thank you.

9 ASIM REHMAN, ESQ., COMMISSIONER/CHIEF
10 ADMINISTRATIVE LAW JUDGE, OATH, CHAIR/EXECUTIVE
11 DIRECTOR, OATH ECB: Well, just for the record,
12 I'll abstain from voting for myself.

13 MS. THOMPSON: Thank you.

14 MR. REHMAN: Alright. And thank you all
15 very much, everyone. You know, I look forward
16 to, to this role.

17 MS. STATZ: The next item on the agenda
18 is the adoption of the final rule for extending
19 the time to make motions to vacate the defaults.
20 And, again, this is, you, you, the la-, when this
21 was brought up as a proposed rule, there was,
22 there was a little bit of discussion and there
23 was, there was an adoption of that proposed rule.
24 It is now in final form. There have been no

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2 changes to it. And, so, we're presenting it
3 again to you, to, for your vote to, to adopt it
4 as a final rule. Joy, would you like to --

5 MS. THOMPSON: Yes. This rule, again,
6 as General Counsel Statz mentioned, the ECB voted
7 to approve a proposed version of this rule on
8 February 10th of 2022. It was published in the
9 City Record on March 2nd, and a public hearing
10 was held on April 5th in which there were no oral
11 comments, but two written comments in favor. So,
12 we are now going to ask for a motion for the
13 approval of the final rule. For a motion,
14 basically extending the deadline for motions to
15 vacate defaults. May I have a motion, please? I
16 see Madelynn and I see, also, Elizabeth. Very
17 good. At this time, I'm going to ask if there
18 are any objections to the approval of this
19 motion, final rule regarding motions to vacate
20 defaults? Seeing and hearing none, this motion
21 is approved.

22 MS. STATZ: Thank you. The next item on
23 our agenda is the DEP's request for cease and
24 desist orders. So I'm going to ask Russ to, to

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2 present that, please.

3 MR. PECUNIES: Alright, thank you. Good
4 morning. This is Russell Pecunies. I am with
5 the Bureau of Legal Affairs at the Department of
6 Environmental Protection. And, for this Board
7 Meeting, DEP is requesting that the Board issue a
8 cease and desist order under the Sewer Code.

9 The request is for the order to be
10 issued to SPS Manhattan, LLC, which does business
11 at 643 Manhattan Avenue in Brooklyn. And the
12 establishment in question is a Dunkin' Donuts.
13 DEP did an inspection at this establishment,
14 which resulted, in February of last year, in the
15 issuance of a Commissioner's Order requiring the
16 respondent to install two grease traps on the
17 three-compartment sink and on the one-compartment
18 sink.

19 In July, the respondent still had not
20 complied with the Commissioner's Order, so DEP
21 issued a summons to the Respondent for violating
22 section 24-524(f) of the Administrative Code for
23 failing to comply with a Commissioner's order.
24 When there was still no compliance, DEP then

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2 issued further summonses for failing to comply
3 with the order on September 10th, October 19th of
4 last year, and February 25th of this year. The
5 respondent has failed to appear for its hearings
6 on these summonses. They were also sent a letter
7 directing them to appear at a mandatory
8 compliance meeting on March 21st of this year,
9 which they also failed to appear for. And, to
10 today's date, respondent has still not complied
11 with the Commissioner's order issued in February
12 of last year.

13 DEP is therefore requesting that the
14 Board issue a cease and desist order to the
15 respondent, directing them to appear at a cease
16 and desist hearing to show good reason why
17 immediate compliance with the order should not be
18 required and why their water and sewer service
19 should not be terminated.

20 MS. STATZ: Does anyone have any
21 questions for Russ? Hearing no questions, I'm
22 going to turn it over to Joy to look for a
23 motion, please.

24 MS. THOMPSON: Thank you. Thank you,

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2 Deputy General Counsel. At this time, I'll ask
3 for a motion to approve the DEP cease and desist
4 order. Thank you, Madelynn and Elizabeth. At
5 this time, I will ask if there are any objections
6 to the approval of the cease and desist order?
7 Seeing and hearing none, that motion is approved.
8 Thank you.

9 MR. PECUNIES: Alright, thank you.

10 MS. STATZ: Thanks, Russ. The next item
11 on our agenda are the pre-, are the pre-sealing
12 reports. I'm going to ask Kelly to please
13 present those.

14 KELLY CORSO, ESQ., ASSISTANT
15 COMMISSIONER/HEARINGS DIVISION ADJUDICATIONS,
16 OATH: Hi. This is Kelly Corso, Assistant
17 Commissioner for Adjudications, the Hearing
18 Division. We have three pre-sealing reports
19 today for the Board. All of them involve
20 backflow cases. And the respondent in all the
21 cases presented evidence of compliance at the
22 pre-seal hearings, showing that they had come
23 into compliance with the Water Code. So the DEP
24 recommended that there be no further action on

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2 these and no sealing on these. And hearing
3 officers in all three cases agreed with DEP's
4 recommendations for no sealing.

5 MS. STATZ: Thank you.

6 MS. CORSO: And that's it.

7 MS. STATZ: Thank you, Kelly. Are there
8 any questions for Kelly? I'll be asking Joy to
9 call for a motion, please.

10 MS. THOMPSON: Okay. At this time, may
11 I have a motion to approve the three pre-sealing
12 reports? Madelynn, thank you. Seconded. Thank
13 you, Elizabeth. At this time, I will ask if
14 there are any objections to the approval of these
15 three pre-sealing reports? The motion passes.
16 Thank you.

17 MS. STATZ: Thank you so much, Joy.
18 Next, I'm going to be asking for a motion for us
19 to go into Executive Session, please. Thank you,
20 Matt. Thank you, Madeline.

21 PETER SCHULMAN, ESQ. - ASSISTANT
22 COMMISSIONER FOR APPEALS, OATH: Okay. Can I
23 just, before we go in, can I just ask? Cindy, if
24 you can identify yourself. I'm not sure who you

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2 are.

3 CINDY CHEN, OFFICE OF MANAGEMENT AND
4 BUDGET (OMB): Oh. Hi, I'm Cindy. I'm a new
5 analyst with OMB and I was just listening in to
6 see what's happening with OATH.

7 MS. SCHULMAN: Okay. I just wanted to
8 have that for the record.

9 MS. CHEN: Thank you.

10 MR. SCHULMAN: Thank you.

11 MS. THOMPSON: May I have Cindy's last
12 name, please?

13 MS. CHEN: Oh, sorry. Chen, C-H-E-N.

14 MS. THOMPSON: Thank you.

15 MS. CHEN: Thanks.

16 MR. SCHULMAN: We're going into
17 Executive Session?

18 MS. STATZ: Yes. May I ask --

19 MR. SCHULMAN: Okay. So, so, Cindy, I
20 can either put you into a waiting room and bring
21 you back once it's done, or, if you want to
22 disconnect and, and --

23 MS. CHEN: Oh, okay. I guess put me in
24 the waiting room. I'm not sure how, usually,

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2 these meetings work. Is, do we come back after?

3 MS. STATZ: We, we come back after.

4 MS. CHEN: Okay. Okay, yeah. So, the
5 waiting room is good. Thank you, guys.

6 MS. STATZ: Thank you.

7 [OFF THE RECORD]

8 [ON THE RECORD]

9 MS. THOMPSON: Deputy Commissioner
10 Statz?

11 MS. STATZ: We're now --

12 MS. THOMPSON: This is Joy. I just
13 wanted to correct for the record our attendance.
14 You, of course, are attending as the designee for
15 the Commissioner. So, our full Board attendance
16 is 10.

17 MS. STATZ: Thank you very much. Thank
18 you. Now that we're back in Public Session, the
19 only thing we have left on our agenda was
20 figuring out when we have the pleasure of meeting
21 once again in August. Our proposed date for the
22 next meeting is August 4th. Does that work for
23 everybody?

24 MR. MARTINEZ: No, I will be away August

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2 4th. This is Jorge Martinez with the Health
3 Department.

4 MS. STATZ: Thank you. Is that, is that
5 -- I'm sorry. Okay. Did I see another hand go
6 up for a problem for August 4th? So, is, is
7 August 4th the best date for, is it good for
8 everybody else? We could also do, perhaps, the
9 11th. If that, if everybody can be there on the
10 11th. Otherwise, we can keep August 4th. Is
11 everybody available on the 11th?

12 MR. WHITTINGTON: I am not available on
13 the 11th. I'll be out of the county.

14 MS. STATZ: So, our, the original date
15 we selected was the 4th, so we're going to be
16 missing one Board member whether we do the 4th or
17 the 11th. So, what, what, what is the
18 preference? I should maybe say that. What's
19 everybody's preference between the 4th and --
20 because, either way, we're going to be missing
21 one Board member. What's everybody's preference
22 for the date? Joy, can you, can you see who,
23 who, who wants the 4th? Give Joy a sense. And
24 please give Joy a sense, also, of who prefers the

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2 11th. So let's, let's look at the 4th first.

3 Joy?

4 MS. THOMPSON: Okay, sure. At this
5 time, I will just ask, who can, with the
6 exception of Jorge Martinez, approves of the 4th,
7 can make it on the 4th for our next ECB Board
8 Meeting? If you could raise your hand to
9 indicate who will, who prefers that date. So I
10 have Elizabeth. Are you, you're a no?

11 MS. KNAUER: I don't have a preference.

12 MS. THOMPSON: You don't have a
13 preference. So, so I have Commissioner --

14 MR. SHPETNER: I'm in the same camp.
15 I'm equally okay.

16 MS. THOMPSON: Tom, okay. Very good. I
17 see Jarrod's hand up, Jo- Jose. Madelynn, how
18 are you?

19 MS. LIGUORI: Both dates are fine for
20 me.

21 MS. THOMPSON: Okay. It looks like --
22 thank you, Tom, thank you, Matt Smith. Thank you
23 for your weighing in. Thank you, Commissioner.
24 Therefore, I --

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2 MR. REHMAN: Just, just a slight --
3 sorry, Joy. Just a slight preference.

4 MS. THOMPSON: Sure.

5 MR. REHMAN: I can do both dates, but I
6 have a slight preference for the 4th.

7 MS. THOMPSON: Very good. This is an
8 informal poll. It looks like, with the exception
9 of -- wait, Russ, what are your thoughts?

10 MR. PECUNIES: Yeah. Either, either,
11 either date is fine for me.

12 MS. THOMPSON: Very good. I believe
13 that for all the ECB Board members who are
14 present, with the exception of Jorge Martinez,
15 the 4th works. Of course, we, we don't have
16 input from Shamonda Graham or, so sorry, Matthew
17 Schneid. However, this works for us.

18 MS. STATZ: So, are we all agreed about
19 the 4th?

20 MS. THOMPSON: Yes.

21 MS. STATZ: Okay.

22 MS. THOMPSON: Yes, General Counsel.

23 MS. STATZ: So let's just -- so our next
24 date is the 4th, everybody. And I look forward

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to seeing you then. Are there any questions or anything before we, before we, before we say goodbye? Thank you very much. It was a pleasure to work with you. And have a good weekend, everybody.

MR. MARQUEZ: Have a good weekend.

MR. REHMAN: Have a good weekend, everyone. Thank you.

MS. LIGUORI: Bye. Thank you.

MR. PECUNIES: Alright, take care.

MS. STATZ: Take care. Bye-bye.

MS. THOMPSON: Bye.

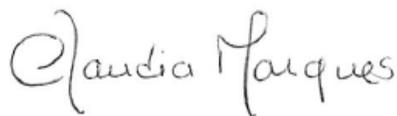
(The board meeting concluded at 9:54 a.m.)

Environmental Control Board, 6/2/2022

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on June 2, 2022, was prepared using the required transcription equipment and is a true and accurate record of the proceeding.

Certified By



Claudia Marques

Date: July 1, 2022

GENEVAWORLDWIDE, INC

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**Reviewed and corrected by OATH General Counsel
Office. July 11, 2022**