

Message

From: von Schaumburg, Kenneth [kvonschaumburg@clarkhill.com]
Sent: 7/31/2018 10:43:10 PM
To: Bodine, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8c2cc6086fcc44c3be6b5d32b262d983-Bodine, Sus]
CC: Beck, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=168ecb5184ac44de95a913297f353745-Beck, Nancy]
Subject: RE: Earth Science Laboratories/Request for Meeting

Tom Charlton is the lead.

Tom Charlton, Attorney
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Tel: (202) 564-6960
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Kenneth von Schaumburg

CLARK HILL PLC

Ex. 6

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From: von Schaumburg, Kenneth
Sent: Tuesday, July 31, 2018 5:05 PM
To: Bodine, Susan
Cc: Beck, Nancy
Subject: Re: Earth Science Laboratories/Request for Meeting

HQ. Brian Dyer/Tony Kish.

Kenneth von Schaumburg
Clark Hill PLC

Ex. 6

On Jul 31, 2018, at 7:21 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

What Region?

Sent from my iPad

On Jul 30, 2018, at 6:16 PM, von Schaumburg, Kenneth <kvonschaumburg@clarkhill.com> wrote:

Assistant Administrator Susan Bodine and Acting Assistant Administrator Nancy Beck-

Clark Hill represents Earth Science Laboratories (“ESL”) in its defense of a U.S. Environmental Protection Agency (“EPA”) Federal Insecticide, Fungicide, and Rodenticide (“FIFRA”) enforcement action. Negotiations to resolve the matter have come to a critical deadlock and we therefore respectfully request a meeting with you as soon as one can be coordinated and arranged.

As background, ESL is a small business that manufactures copper-based algaecides for use in, among other uses, swimming pools. EPA is alleging 940 FIFRA violations and is demanding a \$200,000 payment for settlement. Despite providing EPA with significant factual information and legal analysis contradicting EPA position, ESL is now being forced to choose between paying this civil penalty or defending an administrative civil penalty proceeding (an equally expensive option). The cost of either option is likely to bankrupt the company. This Hobson's choice is even more troubling because the only explanation of the basis for the \$200,000 civil penalty is that EPA "continues to reject these arguments as a legal matter." EPA has never responded to the extensive factual documentation that demonstrates such an enormous penalty is unwarranted. Further, EPA has never articulated what the 940 FIFRA violations entail or how the penalty was calculated.

We are prepared to provide you with additional information prior to meeting.

Thank you in advance of your consideration,

Kenneth von Schaumburg

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Ex. 6

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