



## Legislative Fiscal Bureau

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November 14, 2022

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Paper for the Committee's November 15, 2022, Meeting Under S. 13.10

Attached is a memorandum from Anne Sappenfield, Director of the Legislative Council, on proposed settlements for cases submitted to the Committee by the Department of Justice.

The meeting will be held on Tuesday, November 15, in Room 412 East, State Capitol, beginning at 12:00 p.m.

BL/bh  
Attachment

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# Wisconsin Legislative Council



Anne Sappenfield  
Director

TO: MEMBERS, JOINT COMMITTEE ON FINANCE

FROM: Anne Sappenfield, Director

RE: Department of Justice Settlement and Proposed Plans of Settlement

DATE: November 15, 2022

This memorandum summarizes four proposed plans of settlement that the Department of Justice (DOJ) submitted to the Joint Committee on Finance (JCF) pursuant to s. 165.08 (1), Stats., in letters dated September 22 and October 18, 2022. In addition, the memorandum summarizes a proposed settlement for a case that DOJ submitted to the JCF in a letter dated September 22, 2022. DOJ seeks approval of its proposed settlement and proposed plans of settlement.

## **AHLSTROM-MUNKSJO NA SPECIALTY SOLUTIONS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM I**

DOJ and Ahlstrom-Munksjo NA Specialty Solutions LLC have reached a pre-suit settlement relating to an alleged violation of an air pollution control permit. The State alleges that Ahlstrom exceeded its particulate matter emissions limitation based on a July 31, 2020 test of its lime kiln.

The total monetary penalty proposed is \$25,000, which includes \$16,920.07 in forfeitures.

## **CONTAINER LIFE CYCLE MANAGEMENT PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM II**

DOJ and the U.S. Department of Justice have reached a pre-suit settlement with Container Life Cycle Management, LLC (CLCM), relating to alleged violations regarding clean air and hazardous materials. The State alleges CLCM committed various violations at three of its facilities located in Oak Creek, St. Francis, and Milwaukee. The plants refurbish 55-gallon steel drums and large plastic chemical containers and clean them for reuse or recycling.<sup>1</sup>

The State alleges that CLCM, at the Oak Creek facility:

- Emitted particulate matter from the interior and exterior spray booths in excess of its air permit limits from March 28, 2017 through August 6, 2017.
- Failed to maintain complete logs for inspections of the spray booths, as required by its air permit, on multiple occasions between January 2016 and September 29, 2017.

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<sup>1</sup> Milwaukee Journal Sentinel, *EPA has criminal investigation into Wisconsin chemical barrel plants, whistleblower says*, October 3, 2018.

The State alleges that CLCM, at the St. Francis facility:

- Failed to use filters in its spray booth that met the control efficiency for particulate matter required by its air permit from March 22, 2017 through August 7, 2017.
- Exceeded the opacity limit in its air permit and emission limitations set forth in administrative rule on September 21, 2017.
- Failed to maintain or maintained incomplete logs for inspections of the wet scrubber, as required by its air permit, from January 2016 through February 2017.
- Failed to achieve 85 percent control of volatile organic compound emissions from the wash process lines since around March 9, 2015.
- Began construction on a major stationary source of air contaminants without first complying with the administrative rule requirements relating to the review and major modifications of a major stationary source of air contaminants.
- Emitted objectionable odors on November 2, 2015 and June 5, 2018, and from April 2016 through February 2017.

Finally, the State alleges that CLCM at the Oak Creek, St. Francis, and Milwaukee facilities:

- Stored hazardous waste without a license to operate a hazardous waste facility since March 2017.
- Failed to make, or to make accurate, hazardous waste determinations for solid waste that it generated on multiple occasions since 2017.
- Failed to maintain records of hazardous waste determinations since March 2017.
- At the Oak Creek facility, treated hazardous waste without a license since March 2017.

According to DOJ, the negotiated consent decree will include a total monetary penalty of \$1.65 million. Of this, the State will receive \$850,000, including \$544,217.69 in forfeitures and \$50,000 in attorney fees. In addition, CLCM:

- Must comply with a container management plan that specifies how CLCM must review, store, characterize, and dispose of incoming containers that contain hazardous waste. The management plan will be in effect for two years. If the consent decree continues to be in effect after two years, CLCM must continue to report to the United States and the State regarding any containers it receives that are found to contain hazardous waste.
- Has installed a regenerative thermal oxidizer to treat its air emissions at the St. Francis facility. CLCM must install additional capture technology for volatile organic compound emissions from the wash process lines and complete testing to verify that the facility is controlling at least 85 percent of such emissions from these lines.
- Must monitor when the drum reclamation furnace at the Oak Creek facility is operating and comply with limits for particulate matter and volatile organic compound emissions. CLCM must also test the furnace to verify compliance with these limits.
- Must submit permit applications to the Department of Natural Resources (DNR) to incorporate the requirements of the consent decree into air permits for the Oak Creek and St. Francis facilities.

The consent decree also includes stipulated additional penalties if CLCM fails to comply with the requirements in a timely manner.

## **US AUTOMOTIVE PROTECTION SERVICES PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM III**

DOJ and US Automotive Protection Services, LLC (US Auto), have reached a pre-suit settlement for violations relating to direct-mail marketing of vehicle service plans (also known as extended auto warranties). The State alleges that US Auto's mail solicitations:

- Failed to identify the name of the principal seller.
- Were designed to mislead consumers to believe that US Auto was the provider of their existing vehicle warranty or was affiliated with that provider.
- Were designed to create a false sense of urgency, misleading consumers to believe that their existing warranty coverage was about to expire or that the sales offer was about to expire.

The total monetary penalty proposed is \$75,000 and includes forfeitures of \$49,208.22 and \$4,000 to cover DOJ's and the Department of Agriculture, Trade and Consumer Protection's (DATCP's) costs and attorney fees. If US Auto is shown to have violated any of these conditions in the three-year period following the judgment, US Auto will be required to make an additional payment of \$125,000.

## **AMERICAN TAX SOLUTIONS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM IV**

DOJ and American Tax Solutions (American Tax) have reached a pre-suit settlement for violations relating to sending illegal mailers to individual Wisconsin consumers to sign up for services purported to resolve outstanding tax judgments. The solicitations are alleged to have:

- Failed to identify American Tax as the sender.
- Failed to disclose that the seller was offering or promoting the sale of consumer services and the nature of the services being promoted.
- Used fictitious names.
- Misrepresented that American Tax was affiliated with, or endorsed by, a government or government agency.
- Misrepresented American Tax's identity, affiliation, location, and characteristics.
- Misrepresented the nature or purpose of the mail solicitations.

American Tax is also alleged to be operating an adjustment service company<sup>2</sup> and was not properly licensed to engage in adjustment service activities.

The total monetary penalty proposed is \$328,950 and includes \$119,077.43 to provide complete refunds to all of American Tax's Wisconsin consumers, \$129,412.55 in forfeitures, and \$13,000 to cover DOJ's and DATCP's costs and attorney fees.

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<sup>2</sup> "Adjustment service company" is defined as a corporation, limited liability company, association, partnership, or individual engaged as principal in the business of prorating the income of a debtor to the debtor's creditor or creditors, or of assuming the obligations of any debtor by purchasing the accounts the debtor may have with the debtor's several creditors, in return for which the principal receives a service charge or other consideration. [s. 218.02 (1) (a), Stats.]

## ***STATE V. N.C.W.C.—AGENDA ITEM V***

*State of Wisconsin v. N.C.W.C., Inc.* (Dane County Circuit Court, Case No. 2022-CX-7), is a prosecution relating to telemarketing violations. N.C.W.C. is alleged to have made telemarketing calls to Wisconsin residents without being registered as a solicitor. In addition, N.C.W.C. is alleged to have made calls to Wisconsin telephone numbers that are listed on the Do-Not-Call Registry.

The total monetary penalty proposed is \$200,000 and includes \$131,470.06 in forfeitures and \$11,225.05 in attorney fees. In addition, N.C.W.C. has agreed to immediately cease all unregistered telemarketing activities in Wisconsin and take immediate steps to stop its third-party agents from conducting unregistered telemarketing activities in Wisconsin. Compliance with these rules must be a condition of all of N.C.W.C.'s vendor contracts going forward. There will be a three-year monitoring period with reporting requirements. If N.C.W.C. is shown to have violated any of these conditions in this three-year period, N.C.W.C. will be required to make an additional payment of \$150,000.

Please let me know if I can provide any further assistance.

AS:jal