

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT

IN THE MATTER OF:
INDUSTRIAL RECYCLING &
DEMOLITION, INC.
26159 Highway 27
Crystal Springs, MS 39059

ADMINISTRATIVE PROCEEDING
No. LM-14-1105
SOS REGISTRATION No. 12095442

CONSENT AGREEMENT

I. Jurisdiction

Finding it appropriate and in the public interest, the Regulation and Enforcement Division of the Office of the Secretary of State of Mississippi (hereafter "Division"), on behalf of the Secretary of State, having the power to administer and to provide for the Mississippi Scrap Metal Dealer Act of 2008, Miss. Code Ann. § 97-17-71 to § 97-17-71.2 (hereafter "Act"), and Respondent, Industrial Recycling & Demolition, Inc. (hereafter "Respondent"), do hereby enter into this Consent Agreement (hereafter "Agreement"). This Agreement is entered into as a resolution and settlement of all administrative charges issued by the Division in a letter dated September 19, 2014, wherein the Division alleges violations of the Act by the Respondent.

II. Agreement

Respondent admits the jurisdiction of the Division as to all parties and matters herein under the authority of the Act. In consideration of a final resolution of the matters set forth herein, the Division and Respondent hereby agree and stipulate to the following:

1. The Secretary of State has the authority to administer and to provide for the enforcement of all provisions of the Act, which regulates the purchase of regulated metals in the State of Mississippi.

2. As a purchaser of regulated metal property, Industrial Recycling & Demolition, Inc., is subject to the requirements of the Act.
3. Following an examination of Respondent by the Division on August 8, 2014, the following violations of the Act were alleged:
 - a. The Division alleges that Industrial paid cash on the spot for regulated metals. Specifically, the Division alleges that a total of \$12.00 was paid for a metal beer keg, and the purchase was listed on the purchase ticket as “clean stainless”. A cash purchase of regulated metal is prohibited by Mississippi Code Annotated Section 97-17-71(8). Additionally, it is a violation of Mississippi Code Annotated Section 97-17-71(11) for a scrap metal dealer to purchase a metal beer keg unless the dealer obtains a bill of sale for the keg sourced to either the beverage manufacturer or beverage distributor. The Division alleges that no source documentation from a manufacturer or distributor was requested by Respondent.
 - b. Pursuant to Mississippi Code Annotated Section 97-17-71(2)(e), a scrap metal dealer must obtain a customer’s vehicle license tag number, the state the tag was issued, and the make and type of vehicle used to transport the regulated metals to the business. Specifically, on August 8, 2014, the Division alleges that while Respondent obtained the vehicle license tag number and the make of the vehicle from the Division’s Examiner, it nonetheless failed to record the state of issue for the tag and the type of vehicle. In addition to the examiner’s experience at the business on August 8, 2014, the Division alleged that Respondent failed to obtain

any vehicle information from three other customers who visited the business in July of 2014.

- c. Customer transaction records of all regulated metal purchases must be uploaded to the Secretary's agent, LeadOnline, by 5:00 p.m., following the date of purchase. Mississippi Administrative Code, Title I, Pt. 13, Rule 5.1. The Division alleges several occurrences where Respondent failed to upload the purchase transactions by 5:00 p.m. of the following business day.
4. Respondent agrees to comply with all provisions of the Act as currently enacted and any further amendments.
5. Respondent will remit upon execution of this Agreement an administrative fine to the Secretary of State in the amount of Two Thousand Dollars (\$2,000.00), made payable to the Secretary of State's Office.
6. As a result of this Agreement, the Secretary of State agrees not to pursue any further actions against Respondent regarding any and all violations alleged by the Division to have occurred on or before November 14, 2014, contingent upon compliance with the terms of this Consent Agreement.
7. Nothing contained herein shall be construed as an admission of the alleged violations of the Act by Respondent, and nothing contained herein shall be construed as limiting Respondent's rights to contest any finding or determination made by the Division or by a court of competent jurisdiction concerning an alleged failure by Respondent to comply with any of the terms and provisions of this Agreement.

8. Respondent and the Division are aware of their right to a hearing on this matter at which they may be represented by counsel, present evidence, and cross-examine witnesses.
Respondent and the Division hereby irrevocably waive the right to such a hearing.
9. Respondent and the Division understand that the entry of this Agreement represents the settlement of all regulatory claims alleged or which could have been alleged by the Division against the Respondent through November 14, 2014.
10. The Consent Agreement shall not constitute an adjudication of or finding on the merits of the allegations made against Respondent by the Division and shall not be construed as an admission or acknowledgment by Respondent of any violation of the Act.

III. Acknowledgement

The parties acknowledge that they have read this Agreement in its entirety and fully understand the rights, terms, and obligation of each contained therein and they have been vested with the express authority to enter into this Agreement. The parties further acknowledge that they have not been threatened or otherwise coerced into entering into this Consent Agreement. This Consent Agreement constitutes the complete agreement among the parties with respect to matters referred to herein. The Agreement is final and binding upon the parties, their agents, successors, and assigns.

The undersigned hereby acknowledge and agree to the terms and conditions of the foregoing Agreement by written consent.

So Agreed, this the 20th day of November, 2014.

By: David Pino
Mr. David Pino
President, Industrial Recycling
& Demolition, Inc.

Date: 11-25-14

C. DELBERT HOSEMAN, JR.
SECRETARY OF STATE

By: Dave Scott
Dave Scott
Assistant Secretary of State
Regulation and Enforcement

Date: 11-20-14