

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ULSTER

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BASIL SEGGOS, as COMMISSIONER OF THE  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION, NEW  
YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION, and  
STATE OF NEW YORK, by LETITIA JAMES,  
Attorney General of the State of New York,

Plaintiffs,

-v-

AGP INDUSTRIES LLC, GEORGE FAKIRIS,  
PANTELIS FAKIRIS A/K/A PETER FAKIRIS,  
JANINE FAKIRIS, AMERICAN RECYCLING  
MANAGEMENT LLC., CHRIS HEIN, ATLAS  
ROLL-OFF CORP., JOHN VINCENT  
POL SINELLI, PAUL POL SINELLI, THOMAS  
POL SINELLI, VINCENT POL SINELLI, B&A  
TRUCKING CORP., CARLOS BERNAL, DNA  
TRANSPORT, LLC, ALLEGRA ROBERTS, NINA  
ROBERTS, DAMON ROBERTS, DYNAMIC  
ENVIRONMENTAL CONTRACTORS, INC.,  
MARIO BARAHONA, E&E COMMERCIAL  
CORP., ELMER ESPINAL, ECC TRUCKING  
CORP., EDGAR WILFREDO CORDERO,  
FINEST MATERIALS LLC, GERRADO  
MANNIELLO, H&P INDUSTRIES INC., HENRY  
PASCUAL HERNANDEZ, IEV INDUSTRIES  
CORP., CARLOS MELGAR, JAMES DEPIETRO  
ENTERPRISES LLC, JAMES DEPIETRO, J & D  
CARRYING & CONSTRUCTION CORP.,  
MANUEL MAYALCELA, J.B. TRUCKING OF  
NY INC., MAURICIO VILLALTA, JK  
CONCRETE READY MIX INC., GURJINDER  
DHILLON, NARENDRA DHILLON, JR'S  
PREMIUM TRUCKING, INC., CHRISTOPHER  
TODINO, K.D.E. TRUCKING CORP., DOUGLAS  
A. ESPINAL, LA AMERICANA CAR SERVICE,  
LLC D/B/A LA AMERICANA TRUCKING,  
FRANCISCO MOLINA, LOGAN TRUCKING,  
INC., SHAM RAM LOGAN, NORTHSIDE

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**COMPLAINT**

Index No.

Related Case  
Index No. EF2020-1432

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INDUSTRIES LLC, MICHAEL FRANCESE,  
MODERN LEASING, INC., MICHAEL LEE  
HEINRICKS, P.J. LOGISTICS, INC., ISRAEL  
REYES, RICHMOND CONSTRUCTION INC.,  
RAWINDER DHILLON, RIVER  
TRANSPORTATION SERVICES INC., T. & R.  
CONSTRUCTION CORP., TEUFIK RADONCIC,  
TULLY ENVIRONMENTAL INC., DAVID  
CINQUEMANI, DANIEL SCULLY, PETER  
TULLY, THOMAS TULLY, JAMES TULLY, KEN  
TULLY, VIGOROUS INDUSTRIES INC., JOHN  
DEVITO, WAY TRUCKING CORP., WALTER  
YUMBLA, ZEVEL TRANSFER LLC, JACK  
GUTTMAN, SAM SHERR, A/K/A RALPH  
SHERR, and YITZCHAK (ISAAC) DANESH  
A/K/A BAHMAN PANAHY DANESH

Defendants.

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Plaintiffs the State of New York and Basil Seggos, Commissioner of the New York State Department of Environmental Conservation (DEC) and DEC (collectively, the State), by their attorney, Letitia James, Attorney General of the State of New York, allege upon information and belief as follows:

**NATURE OF THE ACTION**

1. Developing and maintaining New York City's vast infrastructure generates significant construction and demolition waste. To guard against the mishandling and mismanagement of that waste, the Environmental Conservation Law (ECL) and DEC's solid waste management regulations provide, among other things, that construction and demolition waste may lawfully be disposed of only at facilities authorized to receive that type of waste. The State brings this action, pursuant to the Environmental Conservation Law, its implementing regulations,

and Executive Law § 63(12), against waste transporters and brokers (the defendants) for repeated and persistent violations of New York's solid waste management laws and corresponding regulations relating to the unlawful transportation to and disposal of solid waste at J. Karolys & Son, a facility located at 1446 Route 212, in the Town of Saugerties, Ulster County (the Karolys facility) that was not authorized to accept such waste.

2. From early 2017 through December 2019 (hereinafter, the relevant time period), defendants caused over 3,000 loads of construction and demolition waste to be transported from multiple construction sites in New York City and Long Island to the Karolys facility, which was authorized by DEC to accept only specified solid waste from Ulster and Dutchess counties. Consequently, defendants violated provisions of ECL Article 27 and accompanying solid waste management regulations located at Title 6, Parts 360 and 364 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR). The State therefore seeks statutory penalties and disgorgement of all gain wrongfully derived by defendants on account of their unlawful solid waste management activities.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction pursuant to ECL 71-2703 and 71-2727, Judiciary Law § 140-b, and Executive Law § 63(12).

4. Pursuant to CPLR 503(a), venue lies in Ulster County because the plaintiff DEC maintains a regional office in Ulster County and the events giving rise to the claims herein occurred in Ulster County.

## THE PARTIES

### **A. Plaintiffs**

5. Plaintiff DEC is an executive department of the State of New York charged with enforcing the ECL and regulations promulgated pursuant to the ECL.

6. Plaintiff Basil Seggos is the duly appointed Commissioner of the DEC.

7. Plaintiff State of New York is a body politic and sovereign entity that brings this action on behalf of itself and, as *parens patriae*, on behalf of all residents and citizens of the State.

8. The New York Attorney General is the chief law enforcement officer of the State of New York and is authorized to bring this action pursuant to ECL 71-2703 and 71-2727, and Executive Law § 63(12).

### **B. Defendants**

9. Defendant AGP Industries LLC is a foreign limited liability company, headquartered in Delaware, authorized to do business in New York State.

10. George Fakiris is a resident of Englewood Cliffs, New Jersey.

11. Pantelis Fakiris a/k/a Peter Fakiris is a resident of Glen Cove, New York.

12. Janine Fakiris is a resident of Glen Cove, New York.

13. During the relevant time period, George Fakiris, Peter Fakiris, and Janine Fakiris were owners and/or operators of AGP Industries LLC. Hereinafter, these defendants will be referred to as the AGP defendants.

14. Defendant American Recycling Management, LLC, is a domestic

limited liability company authorized to do business in New York State.

15. Christopher Hein is a resident of Syosset, New York. During the relevant time period, Christopher Hein was the sole member and/or operator of American Recycling Management, LLC.

16. Defendant Atlas Roll-Off Corp. is a domestic business corporation authorized to do business in New York State.

17. John Vincent Polsinelli, Jr. is a resident of Bellmore, New York.

18. Paul Polsinelli is a resident of Syosset, New York.

19. Thomas Polsinelli is a resident of Atlantic Beach, New York.

20. Vincent Polsinelli is a resident of Syosset, New York.

21. During the relevant time period, John Vincent Polsinelli, Paul Polsinelli, Thomas Polsinelli, and Vincent Polsinelli were owners and/or operators of Atlas Roll-Off Corp. Hereinafter, these defendants will be referred to as the Atlas Roll-Off defendants.

22. Defendant B & A Trucking Corp. is a domestic business corporation authorized to do business in New York State.

23. Carlos Bernal is a resident of South Richmond Hill, New York. During the relevant time period, Carlos Bernal was an owner and/or operator of B & A Trucking Corp.

24. Defendant DNA Transport, LLC is a domestic limited liability company authorized to do business in New York State.

25. Allegra Roberts is a resident of Milton, New York.

26. Nina Roberts is a resident of Newburgh, New York.

27. Damon Roberts is a resident of Marlboro, New York.

28. During the relevant time period, Allegra Roberts, Nina Roberts, and Damon Roberts were owners and/or operators of DNA Transport, LLC. Hereinafter, these defendants will be referred to as the DNA defendants.

29. Defendant Dynamic Environmental Contractors, Inc. is a domestic business corporation authorized to do business in New York State.

30. Mario Barahona is a resident of Huntington Station, New York. During the relevant time period, Mario Barahona was an owner and/or operator of Dynamic Environmental Contractors, Inc.

31. ECC Trucking Corp. is a domestic business corporation authorized to do business in New York State.

32. Edgar Wilfredo Cordero is a resident of Woodside, New York. During the relevant time period, Edgar Wilfredo Cordero was an owner and/or operator of ECC Trucking Corp.

33. Defendant E&E Commercial Corp. is a domestic business corporation authorized to do business in New York State.

34. Elmer Espinal is a resident of Huntington Station, New York. During the relevant time period, Elmer Espinal was an owner and/or operator of E&E Commercial Corp.

35. Defendant Finest Materials LLC is a domestic limited liability company authorized to do business in New York State.

36. Gerardo Manniello is a resident of Astoria, New York. During the relevant time period, Gerardo Manniello was an owner and/or operator of Finest Materials LLC.

37. Defendant H&P Industries Inc. is a domestic business corporation authorized to do business in New York State.

38. Henry Pascual Hernandez is a resident of Melville, New York. During the relevant time period, Henry Pascual Hernandez was an owner and/or operator of H&P Industries Inc.

39. Defendant IEV Industries Corp. is a domestic business corporation authorized to do business in New York State.

40. Carlos Melgar is a resident of Brentwood, New York. During the relevant time period, Carlos Melgar was an owner and/or operator of IEV Industries Corp.

41. Defendant James Depietro Enterprises, LLC is a domestic limited liability company authorized to do business in New York State.

42. James Depietro is a resident of Kingston, New York. During the relevant time period, James Depietro was an owner and/or operator of James Depietro Enterprises, LLC. Hereinafter, these defendants will be referred to as the Depietro Enterprises defendants.

43. Defendant J.B. Trucking of NY Inc. is a domestic business corporation authorized to do business in New York State.

44. Mauricio Villalta is a resident of Winnetka, California. During the

relevant time period, Mauricio Villalta was an owner and/or operator of J.B. Trucking of NY Inc.

45. Defendant J & D Carrying and Construction Corp. is a domestic business corporation authorized to do business in New York State.

46. Manuel Mayalcela is a resident of South Richmond Hill, New York. During the relevant time period, Manuel Mayalcela was an owner and/or operator of J & D Carrying and Construction Corp.

47. Defendant JK Concrete Ready Mix Inc. is a domestic business corporation authorized to do business in New York State.

48. Gurjinder Dhillon is a resident of Staten Island, New York.

49. Rawinder Dhillon is a resident of Staten Island, New York.

50. Narendra Dhillon is a resident of Staten Island, New York.

51. During the relevant time period, Gurjinder Dhillon, Narendra Dhillon, and Rawinder Dhillon were owners and/or operators of JK Concrete Ready Mix Inc. Hereinafter, these defendants will be referred to as the JK Concrete defendants.

52. JR's Premium Trucking, Inc. a domestic business corporation authorized to do business in New York State.

53. Christopher Todino is a resident of Eastchester, New York. During the relevant time period, Christopher Todino was an owner and/or operator of JR's Premium Trucking, Inc.

54. K.D.E. Trucking Corp. is a domestic business corporation authorized to do business in New York State.



55. Douglas A. Espinal is a resident of Bay Shore, New York. During the relevant time period, Douglas A. Espinal was an owner and/or operator of K.D.E. Trucking Corp.

56. La Americana Car Service, LLC is a domestic limited liability company authorized to do business in New York State and is doing business as La Americana Trucking.

57. Francisco Molina is a resident of East Meadow, New York. During the relevant time period, Francisco Molina was an owner and/or operator of La Americana Car Service, LLC.

58. Logan Trucking, Inc. is a domestic business corporation authorized to do business in New York State.

59. Sham Ram Logan is a resident of Richmond Hill, New York. During the relevant time period, Sham Ram Logan was an owner and/or operator of Logan Trucking, Inc.

60. Defendant Modern Leasing, Inc. is a domestic business corporation authorized to do business in New York State.

61. Michael Lee Heinricks is a resident of Port Jefferson Station, New York. Frank Rotundo is a resident of Northport, New York. During the relevant time period, Michael Lee Heinricks and Frank Rotundo were owners and/or operators of Modern Leasing, Inc. Hereinafter, these defendants will be referred to as the Modern Leasing defendants.

62. Northside Industries, LLC is a domestic limited liability company

authorized to do business in New York State.

63. Michael Francese is a resident of Bayside, New York. During the relevant time period, Michael Francese was an owner and/or operator of Northside Industries, LLC.

64. P.J. Logistics, Inc. a domestic business corporation authorized to do business in New York State.

65. Israel Reyes is a resident of Port Jefferson, New York. During the relevant time period, Israel Reyes was an owner and/or operator of P.J. Logistics, Inc. Israel Reyes also owns defendant River Transportation Services Inc.

66. Richmond Construction Inc. is a domestic business corporation authorized to do business in New York State.

67. Amarjit Dhillon is a resident of Staten Island, New York.

68. Amninder Singh is a resident of New Hyde Park, New York.

69. During the relevant time period, Amarjit Dhillon, Amninder Singh and Rawinder Dhillon were owners and/or operators of Richmond Construction Inc. Hereinafter these defendants will be referred to as the Richmond defendants.

70. As stated above, Rawinder Dhillon is also an owner and/or operator of JK Concrete Ready Mix Inc.

71. River Transportation Services Inc. is a domestic business corporation authorized to do business in New York State. As stated above, during the relevant time period, Israel Reyes was an owner and/or operator of River Transportation Services Inc.

72. T. & R. Construction Corp. is a domestic business corporation authorized to do business in New York State.

73. Teufik Radoncic is a resident of Astoria, New York.

74. During the relevant time period, Teufik Radoncic was an owner and/or operator of T. & R. Construction Corp.

75. Tully Environmental Inc. is a domestic business corporation authorized to do business in New York State doing business as Evergreen Recycling of Corona.

76. David Cinquemani is a resident of West Islip, New York.

77. Peter K. Tully is a resident of Lindenhurst, New York.

78. Thomas E. Tully is a resident of Syosset, New York.

79. James Tully is a resident of Oyster Bay, New York.

80. Ken W. Tully is a resident of Port Washington, New York.

81. During the relevant time period, David Cinquemani, Daniel Scully, Peter Tully, Thomas Tully, James Tully, and Ken Tully were owners and/or operators of Tully Environmental Inc. Hereinafter, these defendants will be referred to as the Tully Environmental defendants.

82. Vigorous Trucking Inc. is a domestic business corporation authorized to do business in New York State.

83. John Devito is a resident of Bayside, New York. During the relevant time period, John Devito was an owner and/or operator of Vigorous Trucking Inc.

84. Way Trucking Corp. is a domestic business corporation authorized to

do business in New York State.

85. Walter Yumbra is a resident of Flushing, New York. During the relevant time period, Walter Yumbra was an owner and/or operator of Way Trucking Corp.

86. Defendant Zewel Transfer LLC is a domestic limited liability company authorized to do business in New York State.

87. Jack Guttman is a resident of Cedarhurst, New York.

88. Sam Sherr, a/k/a Ralph Sherr, is a resident of Brooklyn, New York.

89. Yitzchak (Isaac) Danesh, a/k/a Bahman Panahi Danesh, is a resident of Flushing, New York.

90. During the relevant time period, Jack Guttman, Sam Sherr, a/k/a Ralph Sherr, and Yitzchak (Isaac) Danesh, a/k/a Bahman Panahi Danesh, were owners and/or operators of Zewel Transfer LLC. Hereinafter, these defendants will be referred to as the Zewel defendants.

## **LEGAL BACKGROUND**

### **A. Construction and Demolition Waste**

91. ECL article 27, “Collection, Treatment and Disposal of Refuse and Other Solid Waste,” was enacted to protect the lands and waters of New York from solid waste, a potential source of pollution to the lands and waters of New York (*see* ECL §§ 27-0101, 27-0301, and 27-0703). Pursuant to that authority, DEC has promulgated regulations governing the management, transportation, and disposal of solid waste at 6 NYCRR Part 360 *et seq.* (Part 360) and 6 NYCRR Part 364 *et seq.*

(Part 364).<sup>1</sup>

92. Solid waste is defined broadly to include all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection (*see* ECL 27-0701).

93. Construction and demolition (C&D) debris is one type of solid waste, typically generated during the construction or demolition of structures and roads (*see* 6 NYCRR 360.2 [b] [61], [63], [77]).

94. Solid waste management refers to the transportation, storage, processing, recovery, and disposal of solid waste (*see* ECL 27-0701 [3]).

95. Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment, or the abandonment of any substance (*see* ECL 71-2702 [5]).

96. A solid waste management facility is defined as any facility employed beyond the initial solid waste collection process, including, but not limited to, transfer stations (*see* ECL 27-0701 [2]). A transfer station is a solid waste management facility that receives solid waste for the purpose of subsequent transfer to another facility for further processing, treatment, transfer, or disposal

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<sup>1</sup> On September 5, 2017, DEC adopted comprehensive revisions of the Part 360 and Part 364 solid waste regulations. Those revisions became effective on November 4, 2017. The revisions included a transition rule at 6 NYCRR 360.4. The transition rule provides a compliance deadline of May 3, 2018 (*see* 6 NYCRR 360.4 [a] and [c]). Because some of the conduct alleged in this complaint occurred before May 3, 2018, the complaint references violations under both the former and the revised solid waste regulations as applicable.

(see 6 NYCRR 360.2 [b] [276]).

**B. Transporting Construction and Demolition Debris**

97. DEC regulates the transportation of C&D debris pursuant to Title 3 of ECL Article 27 and 6 NYCRR Part 364. The Part 364 regulations are intended, among other things, to protect the environment from the mishandling and mismanagement of construction and demolition wastes transported from the site of generation to an approved site for treatment, storage or disposal (6 NYCRR 364-1.1).

98. A transporter is “a person engaged in the off-site transportation of waste by means of air, highway, or water conveyance” (6 NYCRR 360.2 [b] [279]).

99. No person shall engage in the transportation of more than ten cubic yards of C&D debris without a waste transporter registration or permit (Part 364 permit or registration) from DEC (see ECL 27-0305 [1]; 6 NYCRR 364-3.1 [d], 364-3.2 [b], and 364-4.1 [a]).<sup>2</sup>

100. Because the type and source of C&D debris is varied, such waste may only be delivered to or disposed at a facility authorized by DEC to accept such waste (see 6 NYCRR 360.9 [b] [3]<sup>3</sup>, [b] [4]), 364-3.3 [e] and 364-4.8 [c]). Therefore, waste

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<sup>2</sup> Pursuant to ECL 27-0305 (1), waste transporters require a permit. However, under DEC’s solid waste regulations certain waste transporters may be eligible for a registration rather than a permit (see 6 NYCRR 360.15 [a] [1]). Whether a waste transporter requires a permit as opposed to a registration generally depends on the type and volume of waste to be handled by the transporter (see 6 NYCRR 364-3 and 364-4).

<sup>3</sup> This provision was previously found in substantially the same form at 6 NYCRR 360-1.5 (a) (1993).

transporters must confirm that the target receiving facility is authorized to receive the load(s) they are hauling (*see id.*).

101. A person must not act as a broker or otherwise arrange for the disposal of waste at a disposal facility unless the facility is exempt from the requirements of 6 NYCRR Parts 360, 361, 362, or 365, or authorized to accept the waste through a registration or permit issued pursuant to 6 NYCRR Parts 360, 361, 362, or 365 (6 NYCRR 360.9 [b] [6]).

**C. Solid Waste Enforcement**

102. Pursuant to ECL 71-2727(2), the Attorney General, on her own initiative, or at the request of the DEC Commissioner, may initiate any appropriate action or proceeding to enforce any provision of ECL article 27 or 71, or any implementing rule or regulation.

103. Pursuant to ECL 71-2703(1)(a), any person who violates any of the provisions of, or who fails to perform any duty imposed by Title 3 or 7 of ECL Article 27, or any implementing rule or regulation, or any term or condition of any certificate or permit issued thereunder, shall be liable for a civil penalty not to exceed \$7,500 for each such violation, which may be imposed by the court in any action or proceeding pursuant to ECL 71-2727. The statute further provides that such person may be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended, or a pending renewal application denied.

104. Pursuant to ECL § 71-2703(1)(b)(ii), any person who violates any of the

provisions of, or who fails to perform any duty imposed by Title 3 or 7 of ECL Article 27, or any implementing rule or regulation, or any term or condition of any certificate or permit issued thereunder and thereby causes the release of more than ten cubic yards of solid waste into the environment, shall be liable for a civil penalty not to exceed \$22,500 for each such violation and an additional penalty of not more than \$22,500 for each day during which such violation continues, which may be imposed by the court in any action or proceeding pursuant to ECL § 71-2727. Further, such person may be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended, or a pending renewal application denied.

**D. Authority of the Office of the Attorney General Under Executive Law § 63(12)**

105. The Attorney General is authorized pursuant to Executive Law § 63(12) to bring an action to enjoin “repeated fraudulent or illegal acts” and “persistent fraud or illegality” in the “carrying on, conducting or transacting of business.”

106. Under Executive Law § 63(12), “repeated” fraud or illegality includes the “repetition of any separate and distinct fraudulent or illegal act” and “persistent” fraud or illegality includes “continuance or carrying on of any fraudulent or illegal act or conduct.” “Illegal” conduct includes the violation of any state, federal or local law or regulation, including the ECL and its implementing regulations.

107. The Attorney General is authorized to seek penalties and injunctive



relief to remedy repeated illegality in the conduct of business, including violations of the ECL and its implementing regulations, pursuant to Executive Law § 63(12).

### **FACTUAL ALLEGATIONS**

#### **A. The Facility - J. Karolys & Son**

108. Joseph Karolys owns J. Karolys & Son, a business advertised as offering various land development services, including dump trucking, excavation and grading, logging and land clearing.<sup>4</sup> Karolys operates the business from property located at 1446 State Route 212, Saugerties, New York, Ulster County. Karolys applied to DEC, on or about July 15, 2016, for a registration to operate J. Karolys & Son as a solid waste management facility.<sup>5</sup> On the application, Karolys indicated that he planned to operate a C&D debris processing facility and that the facility would accept and store up to 1,250 cubic yards of uncontaminated soil, rock,

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<sup>4</sup> See <https://www.angi.com/companylist/us/ny/saugerties/j-karolys-and-son-land-development-reviews-9103521.htm> (last visited 3/27/2023); <https://www.linkedin.com/in/joseph-karolys-4b42b274> (last visited 3/27/2023); <https://www.facebook.com/J-Karolys-Son-568159606704970/services> (last visited on 3/27/2023).

<sup>5</sup> Pursuant to ECL 27-0707 (1), solid waste management facilities, such as C&D debris processing facilities, require a permit. However, under DEC's solid waste regulations, certain C&D handling and recovery facilities are eligible for a registration with DEC rather than a permit. See 6 NYCRR 360.15 (a)(1). The requirements necessary to obtain a registration are easier to meet than are the requirements necessary to obtain a permit, and a registration contains fewer operating requirements than does a permit. Whether a facility requires a permit as opposed to a registration generally depends on the type and volume of waste to be handled at the facility. Under the former Part 360 regulations in effect at the time Karolys applied for a registration, facilities accepting only recognizable, uncontaminated concrete and other masonry waste, asphalt pavement, brick, soil and rock, and uncontaminated, unadulterated wood were eligible for a registration rather than a permit (*see* 6 NYCRR 360-16.1 [d] [1] [i] & [ii] [1993]).

concrete, brick, and block asphalt at the site. Karolys also represented on the application that his hours of operation would be from 7:00 AM to 3:00 PM, Monday thru Saturday, and that the facility would accept the specified materials only from Ulster and Dutchess counties.

109. On July 29, 2016, DEC issued a registration to Karolys and J. Karolys & Son, authorizing the management of certain types C&D debris from Ulster and Dutchess counties, up to the volume specified on the application (1,250 cubic yards of uncontaminated soil, rock, concrete, brick, and block asphalt).

**B. The State's Related Action and Investigation**

110. Karolys subsequently violated the terms of the DEC-issued registration by accepting and disposing of unauthorized solid waste, and by exceeding the volume of waste storage permissible under the registration at the Karolys Facility. Afterwards, Karolys and his wife, Rachel, expanded the unlawful activities by transporting significant quantities of waste from the Karolys facility to two other locations in Saugerties under their ownership and/or control, which are not authorized to accept any solid waste, giving rise to additional violations of New York's solid waste management laws and regulations. When Karolys failed to come into compliance with the law, the State commenced an action against Karolys and his wife, Rachel Karolys, for these violations on June 25, 2020.<sup>6</sup>

111. After issue was joined in that action, the State commenced an

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<sup>6</sup> See *DEC et al. v Joseph Karolys, Rachel Karolys, and Michael S. Cummins, Individually and as Trustee of the J & H Irrevocable Family Trust*, Index No. EF2020-1432 (Supreme Ct., Ulster Co.).

investigation, pursuant to Executive Law § 63(12), of the companies and individuals that brought waste to the Karolys facility. The investigation revealed that the waste transporters and waste brokers unlawfully caused over 3,000 loads of construction and demolition wastes to be transported from multiple construction sites in New York City and Long Island to the Karolys facility, which was not authorized to receive solid waste from outside Ulster and Dutchess counties. Depending on the company and the capacity of the trucks each used, one load was equivalent to between approximately 18-35 cubic yards, with the majority of the loads being closer to 30 cubic yards. Over the course of about 3 years, defendants' illegal conduct resulted in the disposal of approximately 100,000 cubic yards of C&D debris at the Karolys facility.

112. Many of the haulers never read the terms of Karolys' Part 360 registration to determine whether they could deliver C&D debris or any solid waste to Karolys' facility.

113. Defendants knew that they could have delivered their loads to legitimate facilities in the New York City area, but chose, instead, to deliver their loads to Karolys' facility, about 2-3 hours north of the pick-up sites.

114. Defendants' willingness to travel from the New York City area to Saugerties with these materials to dump as opposed to bringing the waste to a New York City area facility or any other closer facility suggests that the defendants knew that Karolys was accepting unlawful materials.

115. Karolys charged these companies a tipping fee many times below what

any legitimate facility in the New York City area would charge.

116. At such a reduced rate, the defendants knew, or should have known that Karolys was not running a lawful business – by both accepting materials beyond his registration authorization and unlawfully disposing of said materials.

**C. Unauthorized Transport, and Disposal of C&D Debris at the Karolys Facility.**

117. During the relevant time period, AGP Industries held a Part 364 waste transporter registration from DEC. In that time, AGP Industries transported, over multiple days, approximately **270 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

118. During the relevant time period, American Recycling Management owned and/or operated a solid waste management facility in Queens, New York, pursuant to a Part 360 permit from DEC. It also held a Part 364 waste transporter permit from DEC. In that time, American Recycling Management transported and disposed, over multiple days, approximately **22 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility.

119. During the relevant time period, Atlas Roll-Off owned and/or operated a solid waste management facility in Brooklyn, New York, pursuant to a Part 360 permit from DEC. Atlas also held a Part 364 waste transporter registration from DEC. In the relevant time period, Atlas Roll-Off transported and disposed, over multiple days, of approximately **135 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility. Atlas Roll-off also brokered or otherwise arranged for the transportation and disposal, over multiple

days, of approximately **133 additional loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

120. During the relevant time period, B & A Trucking held a Part 364 waste transporter registration from DEC. In that time, B & A Trucking transported and disposed, over multiple days, approximately **393 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility

121. During the relevant time period, Depietro Enterprises held a Part 364 waste transporter registration from DEC. In that time, Depietro Enterprises transported and disposed, over multiple days, approximately **130 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

122. During the relevant time period, Dynamic Environmental held a Part 364 waste transporter registration from DEC. In that time, Dynamic Environmental transported and disposed, over multiple days, approximately **275 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

123. During the relevant time period, E&E Commercial held a Part 364 waste transporter registration from DEC. In that time, E&E Commercial transported and disposed, over multiple days, approximately **52 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

124. During the relevant time period, ECC Trucking held a Part 364 waste

transporter registration from DEC. In that time, ECC Trucking transported and disposed, over multiple days, approximately **196 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

125. During the relevant time period, Finest Materials held a Part 364 waste transporter registration from DEC. In that time, Finest Materials transported and disposed, over multiple days, approximately **14 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

126. During the relevant time period, H&P Industries held a Part 364 waste transporter registration from DEC. In that time, H&P Industries transported and disposed, over multiple days, approximately **170 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

127. During the relevant time period, I.E.V. Industries held a Part 364 waste transporter permit from DEC. In that time, I.E.V. Industries transported and disposed, over multiple days, approximately **44 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

128. During the relevant time period, J.B. Trucking held a Part 364 waste transporter registration from DEC. In that time, J.B. Trucking transported and disposed over multiple days, approximately **38 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

129. During the relevant time period, J & D Carrying Construction held a

Part 364 waste transporter registration from DEC. In that time, J & D Carrying Construction transported and disposed over multiple days, approximately **401 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

130. During the relevant time period, JK Concrete **did not** hold a Part 364 waste transporter permit or registration from DEC. In that time, JK Concrete transported and disposed approximately one load of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

131. During the relevant time period, JR's Premium Trucking held a Part 364 waste transporter registration from DEC. In that time, JR's Premium Trucking transported and disposed, over multiple days, approximately **13 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

132. During the relevant time period, K.D.E Trucking held a Part 364 waste transporter registration from DEC. In that time, K.D.E Trucking transported and disposed, over multiple days, approximately **11 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

133. During the relevant time period, La Americana Trucking held a Part 364 waste transporter registration from DEC. In that time, La Americana Trucking transported and disposed, over multiple days, approximately **27 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys

facility.

134. During the relevant time period, Logan Trucking held a Part 364 waste transporter registration from DEC. In that time, Logan Trucking transported and disposed of, over multiple days, approximately **30 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

135. Between July 7, 2017 and April 13, 2018, Modern Leasing transported and disposed, over multiple days, approximately **497 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility. This period of time predates the new Part 360 and Part 364 regulations effective date (May 3, 2018). As such, Modern Leasing was not required to have a Part 364 waste transporter registration or permit from DEC for its known activity at the Karolys facility. However, Modern Leasing was required to comply with all of the former Part 360 regulations, including 6 NYCRR 360-1.5(a) prohibiting the disposal of solid waste except at an exempt facility or a facility authorized by DEC to accept such material.

136. During the relevant time period, Northside Industries held a Part 364 waste transporter registration from DEC. In that time, Northside Industries transported and disposed, over multiple days, approximately **26 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

137. During the relevant time period, P.J. Logistics held a Part 364 waste



transporter registration from DEC. In that time, P.J. Logistics transported and disposed of, over multiple days, approximately **116 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

138. During the relevant time period, Richmond Construction held a Part 364 waste transporter permit from DEC. In that time, Richmond Construction transported and disposed, over multiple days, approximately **4 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility. Richmond Construction also arranged for the transportation of C&D debris from counties other than Dutchess and Ulster to the Karolys facility.

139. During the relevant time period, T. & R. Construction **did not** hold a Part 364 waste transporter registration or permit from DEC. In that time, T. & R. Construction arranged for the transportation and disposal of, over multiple days, approximately **55 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

140. During the relevant time period, River Transportation held a Part 364 waste transporter registration from DEC. In that time, River Transportation transported and disposed of, over multiple days, approximately **150 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

141. During the relevant time period, Vigorous Trucking held a Part 364 waste transporter registration from DEC. In that time, Vigorous Trucking transported and disposed of, over multiple days, approximately **85 loads** of C&D

debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

142. During the relevant time period, Way Trucking held a Part 364 waste transporter registration from DEC. In that time, Way Trucking transported and disposed of, over multiple days, approximately **148 loads** of C&D debris that originated in counties other than Dutchess and Ulster to the Karolys facility.

143. During the relevant time period, Tully Environmental owned and/or operated a solid waste management facility in Queens, New York, pursuant to a Part 360 permit from DEC. In that time, Tully Environmental and/or the Tully Environmental defendants brokered or otherwise arranged for the transportation and disposal of, over multiple days, approximately **130 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility.

144. During the relevant time period, Zewel Transfer owned and/or operated a solid waste management facility in the Bronx, New York, pursuant to a Part 360 permit from DEC. In that time, Zewel Transfer and/or the Zewel defendants brokered or otherwise arranged for the transportation and disposal of, over multiple days, approximately **88 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility.

### **FIRST CAUSE OF ACTION**

#### **REPEATED AND PERSISTENT ILLEGALITY UNDER EXECUTIVE LAW § 63(12)**

#### **Violations of 6 NYCRR Parts 360 and/or 364-Unlawful Disposal and/or Discard of C&D Debris at an Unauthorized Facility**

145. The allegations above are incorporated here by reference.

146. AGP Industries LLC is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

147. By transporting, disposing, and discarding of approximately **270 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility— a facility not authorized to accept such waste, AGP Industries LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3 (e) and/or 364-4.8 (c).

148. As owners and/or operators of AGP Industries LLC, George Fakiris, Peter Fakiris, and Janine Fakiris had control over AGP Industries LLC operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

149. American Recycling Management LLC. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

150. By transporting, disposing, and discarding of approximately **22 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, American Recycling Management, LLC, violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

151. As the owner and/or operator of American Recycling Management LLC., Christopher Hein had control over American Recycling Management LLC.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

152. Atlas Roll-Off Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

153. By transporting, disposing, and discarding of approximately **135 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Atlas Roll-Off Corp. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

154. As owners and/or operators of Atlas Roll-Off Corp., John Vincent Polsinelli, Jr., Paul Polsinelli, Vincent Polsinelli, and Thomas Polsinelli had control over Atlas Roll-Off Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

155. B & A Trucking Corp. is or was a waste transporter as that term is

defined in 6 NYCRR 360.2(b)(279).

156. By transporting, disposing, and discarding of approximately **393 loads** of C&D debris generated in counties other than Dutchess and Ulster the Karolys facility – a facility not authorized to accept such waste, B & A Trucking Corp violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

157. As the owner and/or operator of B & A Trucking Corp., Carlos Bernal had control over B & A Trucking Corp.'s operations related to the transportation, disposal and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

158. James Depietro Enterprises, LLC, is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

159. By transporting, disposing, and discarding of approximately **130 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, James Depietro Enterprises, LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

160. As the owner and/or operator of James Depietro Enterprises, LLC, James Depietro had control over James Depietro Enterprises, LLC's operations related to the transportation, disposal and discard of C&D debris; made decisions or

had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

161. DNA Transport LLC is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

162. By transporting, disposing, and discarding of approximately **213 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, DNA Transport LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

163. As the owners and/or operators of DNA Transport LLC, Allegra Roberts, Nina Roberts, and Damon Roberts had control over DNA Transport LLC's operations related to the transportation, disposal and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

164. Dynamic Environmental Contractors, Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

165. By transporting, disposing and discarding of approximately **275 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys

facility – a facility not authorized to accept such waste, Dynamic Environmental Contractors, Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

166. As the owner and/or operator of Dynamic Environmental Contractors, Inc., Mario Barahona had control over Dynamic Environmental Contractors, Inc.’s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

167. E&E Commercial Corp is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

168. By transporting, disposing, and discarding of approximately **52 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, E&E Commercial Corp violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

169. As the owner and/or operator of E&E Commercial Corp, Elmer Espinal had control over E&E Commercial Corp’s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was

transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

170. ECC Trucking Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

171. By transporting, disposing, and discarding of approximately **196 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, ECC Trucking Corp. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

172. As the owner and/or operator of ECC Trucking Corp., Edgar Wilfredo Cordero had control over ECC Trucking Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

173. Finest Materials LLC is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

174. By transporting, disposing, and discarding of approximately **14 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Finest Materials LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).



175. As the owner and/or operator of Finest Materials LLC, Gerardo Manniello had control over Finest Materials LLC's operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

176. H&P Industries Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

177. By transporting, disposing, and discarding of approximately **170 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, H&P Industries Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

178. As the owner and/or operator of H&P Industries Inc., Henry Pascual Hernandez had control over H&P Industries Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

179. IEV Industries Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

180. By transporting, disposing, and discarding of approximately **44 loads**

of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, IEV Industries Corp.

violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

181. As the owner and/or operator of IEV Industries Corp., Carlos Melgar had control over IEV Industries Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

182. J.B. Trucking of NY Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

183. By transporting, disposing, and discarding of approximately **38 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, J.B. Trucking of NY Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

184. As the owner and/or operator of J.B. Trucking of NY Inc., Mauricio Villalta had control over J.B. Trucking of NY Inc.'s operations related to the transportation, disposal and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent

violations of the environmental laws and regulations, but failed to do so.

185. J & D Carrying and Construction Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

186. By transporting, disposing, and discarding of approximately **401 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, J & D Carrying and Construction Corp. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

187. As the owner and/or operator of J & D Carrying and Construction Corp., Manuel Mayalcera had control over J & D Carrying and Construction Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

188. JK Concrete Ready Mix Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

189. By transporting, disposing, and discarding of approximately ten cubic yards of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, JK Concrete Ready Mix Inc violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6

NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

190. As the owners and/or operators of JK Concrete Ready Mix Inc., Narendra Dhillon, Gurjinder Dhillon and Rawinder Dhillon had control over JK Concrete Ready Mix Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

191. JR's Premium Trucking, Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

192. By transporting, disposing, and discarding of approximately **13 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, JR's Premium Trucking, Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

193. As the owner and/or operator of JR's Premium Trucking, Inc., Christopher Todino had control over JR's Premium Trucking, Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

194. K.D.E. Trucking Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

195. By transporting, disposing, and discarding of approximately **11 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, K.D.E. Trucking Corp. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

196. As the owner and/or operator of K.D.E. Trucking Corp., Douglas A. Espinal had control over K.D.E. Trucking Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

197. La Americana Car Service, LLC is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

198. By transporting, disposing, and discarding of approximately **27 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, La Americana Car Service, LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

199. As the owner and/or operator of La Americana Car Service, LLC, Francisco Molina had control over La Americana Car Service, LLC's operations

related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

200. Logan Trucking, Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

201. By transporting, disposing, and discarding of approximately **30 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Logan Trucking, Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

202. As the owner and/or operator of Logan Trucking, Inc., Sham Ram Logan had control over Logan Trucking, Inc.’s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

203. Modern Leasing, Inc. is or was engaged in the transportation and disposal of solid waste (ECL § 27-0701[3]).<sup>7</sup>

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<sup>7</sup> Modern Leasing was not a “waste transporter” as that term is defined under 6 NYCRR 360.2(279) when it was transporting and disposing of waste at the Karolys facility as its involvement at the Karolys facility predates the new Part 360 and

204. By disposing of approximately **497 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Modern Leasing, Inc. violated Part 360 including 6 NYCRR 360-1.5(a).

205. As the owners and/or operators of Modern Leasing, Inc., Michael Lee Heinrichs and Frank Rotundo had control over Modern Leasing, Inc.'s operations related to the disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

206. Northside Industries, LLC is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

207. By transporting, disposing, and discarding of approximately **26 loads** of C&D debris generated in New York City to counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Northside Industries, LLC violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

208. As the owner and/or operator of Northside Industries, LLC, Michael

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Part 364 regulations effective date, May 3, 2018 (*see supra* par. 134). However, Modern Leasing was required to comply with all of the former Part 360 regulations, including 6 NYCRR 360-1.5(a) prohibiting the disposal of solid waste except at an exempt facility or a facility authorized by DEC to accept such material.

Francese had control over Northside Industries, LLC's operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

209. P.J. Logistics, Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

210. By transporting, disposing, and discarding of approximately **116 loads** of C&D debris generated in New York City to counties other than Dutchess and Ulster the Karolys facility – a facility not authorized to accept such waste, P.J. Logistics, Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

211. As the owner and/or operator of P.J. Logistics, Inc., Israel Reyes had control over P.J. Logistics, Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

212. Richmond Construction Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

213. By transporting, disposing, and discarding of approximately **4 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys



facility – a facility not authorized to accept such waste, Richmond Construction Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

214. As the owners and/or operators of Richmond Construction Inc., Amninder Singh, Amarjit Dhillon, and Rawinder Dhillon had control over Richmond Construction Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility, and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

215. River Transportation Services Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

216. By transporting, disposing, and discarding of approximately **150 loads** of C&D debris generated in New York City to counties other than Dutchess and Ulster the Karolys facility – a facility not authorized to accept such waste, River Transportation Services Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

217. As the owner and/or operator of River Transportation Services Inc., Israel Reyes had control over River Transportation Services Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and

regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

218. Vigorous Trucking Inc. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

219. By transporting, disposing, and discarding of approximately **85 loads** of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility – a facility not authorized to accept such waste, Vigorous Trucking Inc. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

220. As the owner and/or operator of Vigorous Trucking Inc., John Devito had control over Vigorous Trucking Inc.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

221. Way Trucking Corp. is or was a waste transporter as that term is defined in 6 NYCRR 360.2(b)(279).

222. By transporting, disposing, and discarding of approximately **148 loads** of C&D debris generated in New York City to counties other than Dutchess and Ulster the Karolys facility – a facility not authorized to accept such waste, Way Trucking Corp. violated Parts 360 and 364, including 6 NYCRR 360.9(b)(3) and/or 6

NYCRR 360-1.5(a), 6 NYCRR 360.9(b)(4) and 6 NYCRR 364-3.3(e) and/or 364-4.8(c).

223. As the owner and/or operator of Way Trucking Corp., Walter Yumbla had control over Way Trucking Corp.'s operations related to the transportation, disposal, and discard of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

224. Each load transported and/or disposed to the Karolys facility by AGP Industries LLC, American Recycling Management LLC., Atlas Roll-Off Corp., B & A Trucking Corp., DNA Transport LLC, Dynamic Environmental Contractors, Inc., ECC Trucking Corp., E&E Commercial Corp., Finest Materials LLC, H&P Industries Inc., IEV Industries Corp., James Depietro Enterprises, LLC, J.B. Trucking of NY Inc., J & D Carrying and Construction Corp., JK Concrete Ready Mix Inc., JR's Premium Trucking, Inc., K.D.E. Trucking Corp., La Americana Car Service, LLC, Logan Trucking, Inc., Modern Leasing, Inc., Northside Industries, LLC, P.J. Logistics, Inc., Richmond Construction Inc., River Transportation Services Inc., Vigorous Trucking Inc., Way Trucking Corp. and each of their owners and/or operators constitutes a violation of the ECL and applicable Part 360 and Part 364 regulations.

225. At all relevant times, the aforementioned defendants have been persons engaged in the carrying on, conducting, or transaction of business in New York within the meaning of Executive Law § 63(12).

226. By reason of the foregoing, including by failing, refusing and/or omitting to comply with the ECL and corresponding regulations, each of the aforementioned defendants have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

227. Pursuant to ECL 71-2703(1)(a) and Executive Law § 63(12), the State is entitled to a civil penalty not to exceed \$7,500 for each violation of Part 364, including 6 NYCRR 364-3.3 (e) and/or 364-4.8 (c), and disgorgement of all revenues, profits, and gains wrongfully derived in whole or in part by defendants on account of their repeated and unlawful solid waste management activities.

228. Pursuant to ECL § 71-2703(1)(b)(ii) and Executive Law § 63(12), the State is entitled to a civil penalty not to exceed \$22,500 for each violation of Part 360, including 6 NYCRR 360.9(b)(3) and/or 6 NYCRR 360-1.5(a), and 6 NYCRR 360.9(b)(4), and disgorgement of all revenues, profits, and gains wrongfully derived in whole or in part by defendants on account of their repeated and unlawful solid waste management activities.

## **SECOND CAUSE OF ACTION**

### **REPEATED AND PERSISTENT ILLEGALITY UNDER EXECUTIVE LAW § 63(12)**

#### **Violations of 6 NYCRR Part 360, including 6 NYCRR 360.9(b)(6)-Unlawful Arranging for the Disposal of C&D Debris at an Unauthorized Facility.**

229. The allegations above are incorporated here by reference.

230. AGP Industries LLC brokered or arranged for C&D debris from counties other than Ulster and Dutchess to be transported to and disposed of at the Karolys facility.

231. As owners and/or operators of AGP Industries LLC, George Fakiris, Peter Fakiris, and Janine Fakiris had control over AGP Industries operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

232. By brokering or otherwise arranging for the transportation and disposal of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility, AGP Industries LLC and its owners and/or operators violated Part 360, including 6 NYCRR 360.9(b)(6).

233. Richmond Construction Inc. brokered or arranged for C&D debris from counties other than Dutchess and Ulster to be transported to and disposed of at the Karolys facility.

234. As the owners and/or operators of Richmond Construction Inc., Amninder Singh, Amajit Dhillon, and Rawinder Dhillon had control over Richmond Construction Inc.'s operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

235. By brokering or otherwise arranging for the transportation and disposal of C&D debris generated in counties other than Dutchess and Ulster to the

Karolys facility, Richmond Construction Inc. and its owners and/or operators violated Part 360, including 6 NYCRR 360.9(b)(6).

236. T. & R. Construction Corp. brokered or arranged for C&D debris from counties other than Ulster and Dutchess to be transported to and disposed of at the Karolys facility.

237. As the owner and/or operator of T. & R. Construction Corp., Teufik Radoncic had control over T. & R. Construction Corp.'s operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

238. By brokering or otherwise arranging for the transportation and disposal of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility, T. & R. Construction Corp. and its owners and/or operators violated Part 360, including 6 NYCRR 360.9(b)(6).

239. Tully Environmental Inc. brokered or arranged for C&D debris from counties other than Ulster and Dutchess to be transported to and disposed of at the Karolys facility.

240. As the owners and/or operators of Tully Environmental Inc., David Cinquemani, Daniel Scully, Peter Tully, Thomas Tully, James Tully, and Ken Tully had control over Tully Environmental Inc.'s operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about

compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

241. By brokering or otherwise arranging for the transportation and disposal of C&D debris generated in counties other than Dutchess and Ulster to the Karolys facility, Tully Environmental Inc. and its owners and/or operators violated Part 360, including 6 NYCRR 360.9(b)(6).

242. Zevel Transfer LLC brokered or arranged for C&D debris from counties other than Ulster and Dutchess to be transported to and disposed of at the Karolys facility.

243. As the owners and/or operators of Zevel Transfer LLC, Jack Guttman, Sam Sherr, a/k/a Ralph Sherr, and Yitzchak (Isaac) Danesh, a/k/a Bahman Panahi Danesh, had control over Zevel Transfer LLC 's operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

244. By brokering or otherwise arranging for the transportation and disposal of C&D debris generated in counties other than Dutchess and Ulster including Zevel Transfer LLC 's facility in the Bronx to the Karolys facility, Zevel Transfer LLC and its owners and/or operators violated Part 360, including 6 NYCRR 360.9(b)(6).

245. Each load transported to and disposed of at the Karolys facility constitutes a violation of the ECL and applicable Part 360 regulations.

246. At all relevant times, AGP Industries LLC, Richmond Construction Inc., Tully Environmental Inc., T. & R. Construction Corp, Zevel Transfer LLC and their owners and/or operators have been persons engaged in the carrying on, conducting, or transaction of business in New York within the meaning of Executive Law § 63(12).

247. By reason of the foregoing, including by failing, refusing and/or omitting to comply with the ECL and corresponding regulations, AGP Industries LLC, Richmond Construction Inc., Tully Environmental Inc., T. & R. Construction Corp, Zevel Transfer LLC and their owners and/or operators have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

248. Pursuant to ECL 71-2703(1)(b)(ii) and Executive Law § 63(12), the State is entitled to a civil penalty not to exceed \$22,500 for each violation of Part 360, including 6 NYCRR 360.9(b)(6), and disgorgement of all revenues, profits, and gains wrongfully derived in whole or in part by defendants on account of their repeated and unlawful solid waste management activities.

### **THIRD CAUSE OF ACTION**

#### **REPEATED AND PERSISTENT ILLEGALITY UNDER EXECUTIVE LAW § 63(12)**

#### **Violations of the ECL § 27-0305(1) and Part 364-Unlawful Transporting of C&D Debris Without a Waste Transporter Registration or Permit.**

249. The allegations above are incorporated here by reference.

250. During the relevant time period, JK Concrete Ready Mix Inc. did not



have a DEC-issued waste transporter registration or waste transporter permit.

251. As the owners and/or operators of JK Concrete Ready Mix Inc., Gurjinder Dhillon and Rawinder Dhillon had control over JK Concrete Ready Mix Inc.'s operations related to the transportation and disposal of C&D debris; made decisions or had control over decisions about compliance with environmental laws and regulations when C&D debris was transported to the Karolys facility; and had the ability to prevent violations of the environmental laws and regulations, but failed to do so.

252. By transporting and disposing over ten cubic yards of C&D debris to the Karolys facility without a waste transporter permit or registration, JK Concrete Ready Mix Inc. violated ECL § 27-0305(1) and Part 364, including 6 NYCRR 364-3.2(b) and/or 364-4.1(a).

253. Each load transported and disposed to the Karolys facility constitutes a violation of the ECL and applicable Part 364 regulation.

254. At all relevant times, JK Concrete Ready Mix Inc., and its owners and/or operators have been persons engaged in the carrying on, conducting, or transaction of business in New York within the meaning of Executive Law § 63(12).

255. By reason of the foregoing, including by failing, refusing and/or omitting to comply with the ECL and corresponding regulations, JK Concrete Ready Mix Inc., and its owners and/or operators have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

256. Pursuant to ECL § 71-2703(1)(a) and Executive Law § 63(12), the State

is entitled to a civil penalty not to exceed \$7,500 for each violation of ECL § 27-0305(1) and Part 364, including 6 NYCRR 364-3.2(b) and/or 364-4.1(a), and disgorgement of all revenues, profits, and gains wrongfully derived in whole or in part by JK Concrete Ready Mix Inc. and its owners and/or operators on account of their repeated and unlawful solid waste management activities.

WHEREFORE, the State respectfully requests that this Court enter an order and judgment against the defendants as follows:

1) On the First Cause of Action:

- a) Directing that judgment be entered in favor of the State and against AGP Industries LLC, American Recycling Management LLC., Atlas Roll-Off Corp., B & A Trucking Corp., DNA Transport LLC, Dynamic Environmental Contractors, Inc., ECC Trucking Corp., E&E Commercial Corp., Finest Materials LLC, H&P Industries Inc., IEV Industries Corp., James Depietro Enterprises, LLC, J.B. Trucking of NY Inc., J & D Carrying and Construction Corp., JK Concrete Ready Mix Inc., JR's Premium Trucking, Inc., K.D.E. Trucking Corp., La Americana Car Service, LLC, Logan Trucking, Inc., Northside Industries, LLC, P.J. Logistics, Inc., Richmond Construction Inc., River Transportation Services Inc., Vigorous Trucking Inc., and Way Trucking Corp., and each of their owners and/or operators, assessing statutory penalties for violations of the ECL and Parts 360 and Part 364 in an amount not to exceed \$7,500 and/or \$22,500 for each violation.

- b) Directing that judgment be entered in favor of the State and against Modern Leasing, Inc., and its owners and/or operators, assessing statutory penalties for violations of the ECL and Part 360 in an amount not to exceed \$22,500 for each violation.
  - c) Ordering disgorgement of all revenues, profits, and gains wrongfully derived by defendants on account of their repeated and unlawful solid waste management activities.
- 2) On the Second Cause of Action:
- a) Directing that judgment be entered in favor of the State and against AGP Industries LLC, Richmond Construction Inc., T. & R. Construction Corp, Tully Environmental Inc., and Zevel Transfer LLC, and each of their owners and/or operators, assessing statutory penalties for violations of Parts 360 in an amount not to exceed \$22,500 for each violation.
  - b) Ordering disgorgement of all revenues, profits, and gains wrongfully derived by defendants on account of their repeated and unlawful solid waste management activities.
- 3) On the Third Cause of Action:
- a) Directing that judgment be entered in favor of the State and against JK Concrete Ready Mix Inc. and its owners and/or operators assessing statutory penalties for violations of ECL § 27-0305(1) and Part 364 in an amount not to exceed \$7,500 for each violation.

- b) Ordering disgorgement of all revenues, profits, and gains wrongfully derived by JK Concrete Ready Mix Inc. and its owners and/or operators on account of their repeated and unlawful solid waste management activities.
- 4) Granting such other and further relief as the Court deems just and proper.

Dated: Albany, New York  
March 30, 2023

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