

**PEOPLE OF THE STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL**

In the Matter of the Investigation of **ELIOT  
SPITZER**, Attorney General of the State of New York  
of

**WHITEWING ENVIRONMENTAL  
CORPORATION, ADVANCED RECOVERY  
SOLUTIONS, INC., D/B/A/ COMPLETE SPILL  
SOLUTIONS , and Michael Risley, CEO**

**ASSURANCE OF  
DISCONTINUANCE  
PURSUANT TO  
EXECUTIVE LAW  
SECTION 63, SUBDIVISION  
15**

WHEREAS, **WHITEWING ENVIRONMENTAL CORPORATION** and  
**ADVANCED RECOVERY SOLUTIONS, INC., D/B/A/ COMPLETE SPILL  
SOLUTIONS** collectively referred to as “**WHITEWING**” are foreign business corporations,  
licensed by the State of Delaware and authorized to do business in New York State, which  
maintained their principal office at 535 Midland Avenue, Garfield, New Jersey 07026; and

WHEREAS , **ADVANCED RECOVERY SOLUTIONS, INC.** is a wholly owned  
subsidiary of **WHITEWING ENVIRONMENTAL CORPORATION**, and

WHEREAS, Michael Risley was the Chief Executive Officer of “**Whitewing**” for  
the period from May 1, 2004, to the present and

WHEREAS, Whitewing failed to pay wages to a total of twelve employees of it’s  
Watertown New York based factory, “Complete Spill Solutions”, in violation of New York State  
Labor Law §§ 190, 191, and 198-a, for the time period covering June 19, 2004, to August 14,  
2004, in the amount of \$7,188.44 and,

WHEREAS, Whitewing also failed to pay wages to three other employees, one employee based in the State of Minnesota in the amount of \$3,986.30, and two employees based in the State of Washington in the sum of \$2,729.76 , and

WHEREAS, Whitewing in fact issued several payroll checks which were drawn on accounts with insufficient funds, and/or in some cases stopped payment on certain payroll checks after their issuance; and

WHEREAS, Michael Risley had knowledge that Whitewing failed to pay wages to its employees, and in fact ordered the issuance of stop payment orders on several payroll checks during the period in question, and

WHEREAS, failure to pay wages constitutes a violation of New York State Labor Law §§ 190, 191, and 198-a, and constitutes a willful violation of Labor Law Section 198 1-a, giving rise to a 25% penalty due to each of the employees; and

WHEREAS, in or around June of 2004, several employees of Whitewing filed complaints with the Attorney General for the State of New York, Watertown Regional Office, alleging that Whitewing and/or its' officers and directors had violated numerous sections of the New York State Labor Law for the failure to pay wages, and

WHEREAS, several employees left the company's employ, and/or were terminated after complaining about the payroll situation, and

WHEREAS, the Attorney General for the State of New York then conducted an investigation as authorized by Executive Law § 63(12) regarding the allegations that Whitewing had both failed to pay wages, commissions, and benefits or wage supplements; and had engaged in retaliatory termination of several of its' employees who had complained about receiving paychecks that "bounced", and issued subpoenas to Watertown Savings Bank, a local bank on

which the payroll checks were drawn, and to Michael Risley, Chairman and CEO of Whitewing, requiring production of documents and his testimony, and

WHEREAS, Whitewing, and Michael Risley were represented by counsel throughout the investigation, namely, Thomas Cattani, Esq., Whitewing Corporate Counsel and the Corporation and it's CEO elected to cooperate in the Attorney General's investigation into these matter, and to resolve the outstanding payroll, and employee termination issues, and

WHEREAS, Whitewing, Michael Risley, and the Attorney General for the State of New York seek to resolve this matter expeditiously and without resort to civil litigation or criminal prosecution,

IT IS NOW HEREBY AGREED AND STIPULATED, by and between WHITEWING, Michael Risley and the Attorney General for the State of New York, as follows:

1. Whitewing shall agree to offer to reinstate the following hourly employees to their positions with the company: Tom Mynch, Katina Terry, Christopher Hunt, Todd Wetherwax, Carolin Arena, Pamela Forsyth, and Ryan Houser., and proof of such offer shall be presented to the Attorney General's Office on or before 30 days from date hereof;

2. Whitewing, and Michael Risley, shall provide confirmation to the Attorney General for the State of New York on or before October 21, 2004 that checks were issued to all of the employees on the attached Schedule A, which checks include a 25% penalty for willful violation of the NYS Labor Law, and proof that letters were sent to all affected employees, agreeing to reimburse them for any bank fees or out of pocket expenses incurred in conjunction with any payroll check on which a stop payment order had been issued, or which was dishonored by the bank for Insufficient funds.

3. Whitewing, and Michael Risley, shall provide payment to the "Attorney General for the State of New York" in the amount of \$1,500.00 for payment of reasonable costs and disbursements incurred by the Attorney General's office as set forth in New York State Executive Law § 63(15). Payment shall be made on or before November 15<sup>th</sup>, 2004, and mailed to the Office of the Attorney General, 317 Washington Street, Watertown, New York, 13601.

4. Whitewing, and Michael Risley, hereby acknowledge that they failed to comply with the mandates of New York State Labor Law §§ 190, 191, 198-1 a, and agree to refrain from any and all future violations of the New York State Labor Laws.

5. Nothing herein shall be construed to deprive any person of any private right of action under the law.

IT IS FURTHER UNDERSTOOD AND AGREED that the acceptance of this Assurance by the Attorney General of the State of New York shall not be deemed or construed as an approval by the Attorney General of any of the activities or Respondent and he shall not make any representation to the contrary.

IT IS FURTHER UNDERSTOOD AND AGREED that, pursuant to Executive Law § 63(15), evidence of a violation of this Assurance hereafter shall constitute prima facie proof of a violation of the applicable statutes in any civil action or proceeding hereafter commenced by the Attorney General.

IT IS FURTHER UNDERSTOOD AND AGREED that the Attorney General accepts this Assurance pursuant to Section 63, Subdivision 15 of the Executive Law in lieu of commencing civil or criminal judicial proceedings pursuant to article 6 of the New York State Labor Law against Whitewing, its agents officers, directors or employees, and Michael Risley,

Chief Executive Officer. In the event that Whitewing, or Michael Risley, fail to comply with the terms of this Assurance, the Attorney General reserves the right to bring enforcement proceedings regarding the above matter.

Dated: October , 2004

**Agreed and Accepted:**

**Whitewing**

By: 

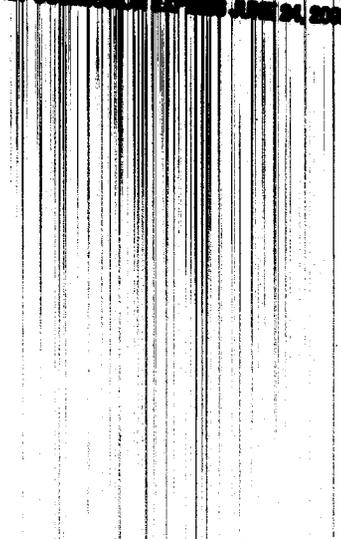
**Michael Risley, individually**  
and as Chief Executive Officer  
and a Director of Whitewing Environmental Corporation

Sworn to before me this  
19 day of October 2004



NOTARY PUBLIC

**THOMAS A. CATTANI**  
**NOTARY PUBLIC OF NEW JERSEY**  
**MY COMMISSION EXPIRES JUNE 24, 2007**



**Agreed and Accepted :**

October \_\_\_\_\_, 2004

**ELIOT SPITZER**

Attorney General of the

State of New York

By: \_\_\_\_\_

John T. Sullivan Jr.

Assistant Attorney General-In -Charge

Watertown Regional Office

(315) 785-2444