

October 27, 2023

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Re: WRITTEN NOTICE OF DISPUTE
Pursuant to Section 7.2 of the Consent Judgment related to
VIOLATION NOTICE DATED OCTOBER 23, 2023

Dear Attorney Rosa:

This responds to the Violation Notice dated October 23, 2023.

The purpose of this correspondence is to serve as a written "Notice of Dispute" pursuant to the Consent Judgment at Section 7.2. This is a request to engage in "Informal Negotiations" of the dispute pursuant to Section 7.2 related to the Violation Notice you issued to Philip Oliver, President Industrial Metal Coating, on October 23, 2023 ("Violation Notice").

The Violation Notice states that, on October 16, 2023, EGLE conducted an odor investigation of IMC relating to an odor complaint dated October, 16, 2023.

The Violation Notice states that, in the professional judgment of the AQD staff, the odors that were detected were of sufficient intensity, frequency and duration so as to constitute a violation of Rule 901. The Violation Notice states that the AQD staff detected nuisance odors in the area surrounding IMC and then visited the facility and verified that the odors were originating from the IMC facility's E-Coat Curing oven. IMC disputes these findings and their accuracy. IMC asserts that these findings are wrong and factually impossible as presented. IMC is contesting the odor.

This correspondence describes the dispute in the following manner and provides IMC's reasoning related to its investigation of this alleged and inaccurate Violation Notice.

KEY FACTS CONFIRMING IMC'S DISPUTE OF THE NOTICE OF VIOLATION

- On October 16, 2023, in the afternoon, an EGLE representative ("EGLE Representative") parked his vehicle and then walked down Mound Road to

the corner of Elmridge and Mound where Progressive is located. The EGLE Representative arrived at the Progressive location just after 2:00 p.m.

- The EGLE Representative was at the corner of Elmridge and Mound, directly in line of the wind which was blowing out of the North, for only a few minutes before he walked North along Mound Road, then East on 18 Mile Road and past the IMC Building.
- The Egle Representative turned around and came to the front door of the IMC Building at 2:16 p.m. on October 16, 2023.
- The E-Coat System was not running at the IMC Building on October 16, 2023 between the hours of 1:00 p.m. and 3:30 P.M.
- The EGLE Representative, while at the IMC Building, observed that the E-Coat oven was off and all of the attendant operations were also off.
- There were no parts located between the pretreatment washer and the exit of the E-Coat oven.
- The EGLE Representative could see -- and did see -- there were no parts located anywhere along the unloading or loading areas of the system.
- The PPG Bulletin for E-Coat states that the cure time is twenty (20) minutes. **(Exhibit 1)**
- When the EGLE Representative entered the IMC Building on October 16, 2023 at 2:16 pm, the E-coat oven had been off for over an hour and fifteen minutes.
- Pursuant to the PPG Bulletin, any curing of the parts was completed for approximately one hour when the EGLE Representative entered the IMC Building.
- The Violation Notice states that the odors were a violation of Rule 901.
- Rule 901 states that a person shall not cause or permit the emission of an air contaminant or water vapor in quantities that cause an unreasonable interference with the comfortable enjoyment of life and property.

“Rule 901. Notwithstanding the provisions of any other rule, a person shall not cause or permit the emission of an air contaminant or water vapor in quantities that cause, alone or in reaction with other air contaminants, either of the following:

- (a) Injurious effects to human health or safety, animal life, plant life of significant economic value, or property.
- (b) **Unreasonable interference with the comfortable enjoyment of life and property.** (R 336.1901)
(Emphasis Added)

- EGLE has not asserted any claims relating to 901(a) -- injuries to human health or safety.
- The claims relate solely to 901(b) -- unreasonable interference with comfortable enjoyment.
- **Rule 901 does not state that there shall be no odor and no interference of any kind.** Rule 901 does not define “unreasonable” in this regard. The dictionary defines the term “unreasonable” as meaning: excessive, immoderate, or exorbitant.
- Given the fact that the E-coat oven was off and the parts had been cured for almost a full hour, it is factually impossible for any odor to exist which caused an unreasonable interference and IMC objects accordingly to the Violation Notice.
- IMC personnel in place and walking the surrounding area of the IMC Building did not detect any such alleged odors at all on October 16, 2023.
- There were no odors in the Progressive Parking lot on October 16, 2023 at and around the time of 2:00 p.m.
- IMC has retained the services of expert Roy Rakiewicz a senior consultant with All4 Inc.
- Roy Rakiewicz has more than 40 years of combined environmental management experience, 35 of which were dedicated to air quality management with a focus on E-Coat facilities and systems. (**Exhibit 2**)
- Roy Rakiewicz will provide testimony on the issues if necessary at Trial on these matters.

LACK OF INFORMATION REGARDING THE ALLEGED COMPLAINT

- The Notice of Violation fails to state who made the complaint on October 16, 2023 and/or their location.
- The Notice of Violation fails to state that the EGLE Representative went to the location of the complainant and detected an odor causing an unreasonable

interference with the comfortable enjoyment of life and property at that location.

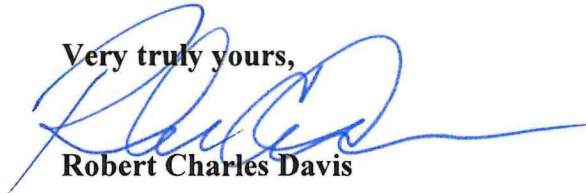
- The Violation Notice fails to state that the EGLE Representative was inside of the Progressive Facility on October 16, 2023 and while inside of the Progressive Facility detected an odor which caused an unreasonable interference with life and property.

All of the factual statements made herein on behalf of IMC will be supported at Trial by affidavit and witness testimony.

Pursuant to Section 7.2 of the Consent Judgment, IMC requests that EGLE and/or its counsel send an email to IMC's attorney Robert Davis acknowledging receipt of this written notice of dispute providing three dates to conduct informal negotiations between EGLE and IMC to informally resolve this dispute.

If the parties cannot resolve this dispute by informal negotiations, IMC intends to invoke "Formal Dispute Resolution" pursuant to Section 7.3 of the Consent Judgment. If the Formal Dispute Resolution does not create a satisfactory resolution, IMC intends to file for judicial review of the dispute pursuant to Section 7.5 of the Consent Judgment.

Very truly yours,



Robert Charles Davis