

# **Proposed Administrative Consent Agreement Background Summary**

**Subject:** Mark Hamilton  
Hands of Thyme  
PO BOX 12  
Boothbay, Maine 03911

**Date of Incident(s):** June 22, 2005

**Background Narrative:** Hands of Thyme is a nursery/landscape company located in Boothbay. Board staff documented their commercial use of Roundup Herbicide at a senior citizen hospice facility affiliated with St. Andrews Hospital in Boothbay Harbor.

**Summary of Violation(s):** 22 M.R.S.A. § 1471-D (1)(A), No commercial applicator may use or supervise the use of any pesticide within the state without prior certification from the Board....

**Rationale for Settlement:** The Company was doing commercial pesticide work without a license. The owner was aware of the licensing requirements. The unlicensed application at the hospice led to the facility receiving a demerit by a state agency that audits hospitals. The company owner was not forthright with Board staff in the course of the follow-up inspection. The volume and types of pesticides found in the company storage area suggested the routine, commercial application of pesticides.

**Attachments:** Proposed Consent Agreement

**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES**  
**BOARD OF PESTICIDES CONTROL**

Mark Hamilton )  
Hands of Thyme )  
PO BOX 12 )  
Boothbay, Maine 04537 )

ADMINISTRATIVE CONSENT AGREEMENT  
AND  
FINDINGS OF FACT

This Agreement by and between Hands of Thyme (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol adopted by the Board on September 19, 1984.

The Board of Pesticides Control alleges as follows:

1. That the Company provides grounds care services for compensation.
2. That on June 22, 2005, the Company applied Roundup Herbicide to St. Andrews Village, an affiliate of St. Andrews Hospital, at 145 Emery Lane in Boothbay Harbor.
3. That application of any pesticide under contract or for which compensation is received is considered a custom application in accordance with 22 M.R.S.A. § 1471-C (5)(A).
4. That the application described in paragraph two was a custom application pursuant to 22 M.R.S.A. § 1471-C (5-A).
5. That commercial pesticide applications may only be conducted by certified commercial applicators pursuant to 22 M.R.S.A. § 1471-D (1) (A).
6. That no one employed by the Company was certified as a commercial pesticide applicator at the time of the application described in paragraph two.
7. That on July 26, 2007, during a follow-up inspection with Board staff, Mark Hamilton, the Company owner, stated orally and in writing, that the Company was aware of licensing requirements and hires commercial applicator companies to make any pesticide applications to their clients' property.
8. That the actions described in paragraphs one through six constitute a violation of 22 M.R.S.A. § 1471-D (1)(A).
9. That the Maine Department of Health and Human Services Division of Licensing & Regulatory Services, cited the application made in paragraph 2, in their Summary of Deficiencies document completed on 6/23/05 against St. Andrews Village.

While the Company does not admit the violations, the Company does agree to enter into this Consent Agreement for the purpose of resolving the alleged violations.

Wherefore, the parties to this Agreement agree as follows:

1. That the Board has regulatory authority over the activities described herein.
2. That the Company expressly waives:
  - A. Notice of or opportunity for hearing;
  - B. Any and all further procedural steps before the Board; and
  - C. The making of any further findings of fact before the Board.
3. That this Agreement shall not become effective unless and until the Board accepts it.
4. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation alleged to in paragraph eight, the Company agrees to pay to the State of Maine \$1000.00. (Please make checks payable to Treasurer, State of Maine.)

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

HANDS OF THYME

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Henry Jennings, Director

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Randlett, Assistant Attorney General